



Final Report on the 107th General Assembly **2012 Legislative Session**

Budget, tax cuts, government efficiency, jobs, drug abuse, anti-crime bills highlight year

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DOE = date of enactment / PC = Public Chapter in TN law

(*NASHVILLE, TN*), May 30, 2012 -- The second session of the 107th General Assembly ended on Tuesday, May 1, 2012 after passage of various important initiatives including a fiscally responsible and balanced state budget, legislation providing tax relief instead of tax burdens, and major initiatives to curb prescription and synthetic drug abuse. The 2012 legislative session will also be known for legislation to streamline government in order to make it more efficient and effective; court reform; key public safety measures to attack violent crime; a complete rewrite of Tennessee's school accountability system to complement the state's waiver from the federal No Child Left Behind law; and two bills to ensure transferability of college credit to increase the student graduation rate.

It was Tennessee's budget and jobs creation, however, that were the predominant drivers for legislative action in 2012. Lawmakers passed several new laws to make Tennessee's business climate more inviting to create jobs. Another key task tackled by the General Assembly this year was the redistricting of the state's congressional, House of Representatives and State Senate districts which was completed during the first week of legislative action.

The General Assembly worked very diligently and efficiently to get their work done on time this year. It is the earliest adjournment date in 14 years (since 1998), which results in a tremendous savings to taxpayers.

Following please find a list of key issues:

BUDGET / LAWMAKERS TAKE FINANCIALLY PRUDENT APPROACH TO STATE'S FINANCES

Revenues -- Although Tennessee's revenues for the past few months have been promising, it is important to note that the state is still not back to the pre-recession 2008 collection levels on sales taxes. Tennessee has worked hard to 'resize' state programs and services to reflect a much smaller budget, especially with the uncertainty of potential cuts from Washington.

Budget -- The 2012-2013 budget, which begins July 1, 2012, spends \$31 billion, nearly \$1 billion less than the almost \$32 billion estimated for the current budget year. It incorporates \$50 million in tax cuts for Tennesseans. It also provided funding for several key public safety initiatives, including tougher sentences for certain gang-related crimes and gun possession by those with prior violent felony convictions, along with mandatory incarceration for repeat domestic violence offenders.

Highlights of the budget include:

- \$50 million increase in the Rainy Day fund
- \$50 million in reduced taxes (\$15 million in inheritance tax cuts, \$15 million in gift tax cuts and \$22 million in food tax cuts)
- \$160 million in salary improvements, including a 2.5 percent raise for all employees, \$30 million for salary market adjustments and \$5 million for step raises
- \$84 million for economic development
- \$80 million for public safety and corrections programs
- \$561 million for capital outlay, including \$335 million for higher education, the first significant investment in 5 years
- Restores \$125 million of the core services that were scheduled to go away July 1
- Full funding for the Basic Education Program.
- In addition, the budget provides \$335,000 for maintenance of the West Tennessee River Basin Authority; \$4 million to increase the daily per diem payment to local jails by \$2 from \$35 to \$37; \$375,000 to fund a poison control center that provides statewide services; and \$5 million for Tennessee career centers to address the past practice of funding annual operating expenses with non-recurring federal dollars.
- It also provide \$122,000 to fund legislation that requires unemployment recipients to verify their job search efforts and \$115,500 to fund an online system to send businesses unemployment insurance notices electronically and to allow employers to submit relevant information electronically.
- A continued commitment to the West Tennessee Megasite with \$25 million.

Senate Bill 3768 / House Bill 3835 / Appropriations / Norris / PC 1029 / DOE: 7/1/12

Senate Bill 3769 / House Bill 3836 / Bond / Norris / PC 1024 / DOE: 5/15/12

Senate Bill 3770 / House Bill 3837 / Index / Norris / PC 1025 / DOE: 5/15/12

Tax Cuts – The 2012 legislative session included passage of an estimated \$164.1 million in tax cuts set to take place by 2016 through lowering the sales tax on grocery food, eliminating the state's gift tax and phasing out the state's inheritance "death" tax. The

legislation builds on tax cut action taken by the General Assembly last year to raise the Hall Tax exemption levels to allow more senior citizens to qualify for relief. That law, which began in the 2012 tax year, raised the annual Hall Income Tax standard income exemption for taxpayers 65 years of age or older from \$16,200 to \$26,200 for single filers and from \$27,000 to \$37,000 for joint filers.

Reduction of Sales Tax on Food – Among the three tax cut bills approved this year was legislation to reduce the state portion of the sales tax on grocery food from 5.5 percent to 5.25 percent, with the goal of lowering it to 5.0 percent in three years. [Senate Bill 3763](#) has been a goal of many Republicans in the General Assembly over the past several years. This year it was included in Governor Bill Haslam’s legislative package and was funded in the budget, which gave it a major boost towards passage.

[Senate Bill 3763](#) / [House Bill 3761](#) / [Norris, Crowe, Ketron, Yager, Kelsey, Beavers, Massey, Bell, Faulk, Campfield, Gresham, Johnson, Roberts, Southerland, Summerville, Tracy, Watson](#) / [PC 1058](#) / DOE: 7/1/12

Inheritance Tax Relief -- Major tax cut legislation was approved by the General Assembly this year. [Senate Bill 3762](#) takes a first step towards phasing out the inheritance or estate tax relief, which is also called the death tax, in three years. The measure increases the exemption level from \$1 million to \$1.25 million in 2013, \$2 million in 2014, \$5 million in 2015 and eliminates the death tax entirely in 2016.

Retirees have told lawmakers that the death tax is a key reason for them relocating outside Tennessee. There is also great concern that the inheritance tax places a heavy financial burden on family farms and family businesses.

Tennessee currently has a higher inheritance tax when compared to its neighbors, which range from 5.5 percent to 9.5 percent. It is one of only two states that has both an inheritance and a gift tax. From 2001 to 2010, states without gift or estate taxes experienced overall economic growth that was eight percentage points higher than in states without an estate tax. Financial experts predict that the bill will increase local revenue by approximately \$207,000 since roughly fifty percent of the savings in raising the inheritance tax exemption level will be spent in the economy on goods and services.

[Senate Bill 3762](#) / [House Bill 3760](#) / [Norris, Crowe, Ketron, Kelsey, Beavers, Massey, Bell, Faulk, Overbey, Southerland, Campfield, Gresham, Johnson, Ramsey, Roberts, Summerville, Tracy, Watson](#) / [PC 1057](#) / DOE: See in text above on implementation / 5/21/12

Gift Tax Relief -- A third tax relief bill passed during the 2012 legislative session repeals the state’s gift tax. Present law imposes a tax on gifts made in a particular tax year to close relatives that exceed \$10,000 in value and on gifts that exceed \$5,000 in value that are made to other persons or corporations. Only two other states have a stand-alone gift tax. The gift tax law was enacted in the 1930s as a protective matter to minimize inheritance tax avoidance.

[Senate Bill 2777](#) / [House Bill 2840](#) / [McNally, Overbey, Ketron, Kelsey, Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Johnson, Massey, Ramsey, Roberts, Southerland, Summerville, Yager, Norris](#) / [PC 1085](#) /

DOE: Upon becoming law / the gift tax is repealed and would not apply to any transfer by gift made on or after 1/1/12

No State Income Tax Resolution -- A “No State Income Tax” amendment resolution was approved by the House of Representatives in 2012 and the State Senate in 2011. The resolution would clarify that an income tax and a payroll tax are prohibited by the Tennessee Constitution if voters agree to amend the Constitution in a vote in 2014. This Resolution specifies that the legislature as well as Tennessee counties and cities shall be prohibited from passing either an income tax or payroll tax, which is a tax on employers measured by the wages they pay their workers.

In order for a constitutional amendment to pass, it must first be approved by a simple majority in both the House and the Senate this year. Then, it must be approved by a two-thirds vote in each chamber during the next General Assembly in 2013-2014 before it goes to voters for final consideration.

Senate Joint Resolution 221 / Kelsey, Berke, Johnson Gresham, Beavers, Stewart, McNally, Ramsey, Tracy, Southerland, Watson, Crowe, Yager, Ketron, Bell, Campfield, Summerville, Faulk, Norris, Woodson, Overbey, Roberts / Signed by House Speaker on 1/25/12 and by Senate Speaker on 1/25/12

Tax Relief / Storm Victims -- Legislation which helps storm victims who received damage due to the March storms was passed this year. The relief measure allows for citizens affected by the storms to apply for tax rebates on household appliances and furnishings up to \$3,200 per item and on building materials up to \$500 per item. The rebates are capped at \$2,500 per household. It is similar to tax relief enacted over the past two years for victims of flooding and tornadoes. Those who suffered damages between March 23, 2011, and May 12, 2012 who qualify for Federal Emergency Management Agency assistance are eligible for tax rebates under this new law.

Senate Bill 2701 / House Bill 2889 / Bell Barnes, Beavers, Berke, Burks, Campfield, Crowe, Faulk, Finney L, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, Massey, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager, Ramsey / PC 1013 / DOE: 5/15/12

STREAMLINING GOVERNMENT / LEGISLATURE PASSES NEW LAWS TO MAKE TENNESSEE GOVERNMENT MORE EFFICIENT AND EFFECTIVE

Efficient, Effective Government / Top to Bottom Review -- Lawmakers passed several bills this year to streamline state government to make it work more efficiently and effectively. At the same time, an emphasis is being placed on customer service for Tennesseans who must access a wide array of state services, from driver's licenses to TennCare.

The action comes after Governor Bill Haslam conducted a “Top to Bottom Review” of state government departments last year. Haslam instructed the commissioners of the state's 22 departments to analyze operational and organizational efficiency upon taking

office to see if they are functioning effectively and accomplishing their core mission. Each department listed recommendations in the report to improve use of public resources. Some of the recommendations were included and passed in the Governor's legislative package.

TEAM ACT / State Government -- Major legislation was passed in 2012 to implement a system that will attract, select, retain and promote the best applicants and employees in Tennessee state government. The "**TEAM Act**" (Tennessee Excellence Accountability and Management Act), aims to give state government agencies greater flexibility in personnel management with the goal of increasing customer-focused effectiveness for citizens who access a wide variety of state government services.

The bill, as passed, was endorsed by the Tennessee State Employee Association who provided input as it went through the legislative process.

A report released by the Comptroller's Division of State Audit suggested Tennessee's civil service system was inefficient, unfair and outdated. The system was also identified as cumbersome and inefficient by all departments in the Top to Bottom Review report ordered by Governor Bill Haslam.

Tennessee has just over 40,000 employees, of which 6,000 are executive service who do not have civil service protection, with the remainder as career service who do have certain protections under the system. Approximately 40 percent of Tennessee's state employees will be eligible for retirement in the next five years.

The TEAM Act calls for two divisions of state service: preferred service and executive service. Executive service employees remain "at-will" as they currently serve. Preferred service replaces the traditional "career service" designation and preserves a streamlined appeals process along with other considerations.

Some of the changes to the state employment system made by the legislation include:

- A new hiring system that requires agencies to define minimum qualifications and to identify specific knowledge, skills, abilities and competencies required for each position.
- Veterans and their spouses will receive interview preference for both appointments and promotions, and if there are two candidates with equal qualifications, knowledge, skills, etc., preference will be given to the veteran.
- An overhaul of the state's performance evaluation system to provide for performance standards and expected outcomes that are Specific, Measurable, Achievable, Relevant and Time sensitive (SMART goals).
- Establishes methods for rewarding merit pay.
- In the event of a layoff, job performance becomes the primary consideration followed by seniority, abilities and disciplinary record, which also must be considered.

- A new nine-member board of appeals to conduct a streamlined, three-step appeals process.
- All preferred employees would have the right to appeal a dismissal, demotion or suspension identifying the law, rule or policy concerning the employee.
- The appeal process would have three steps, each with a time limit, ending with a 9-member Board of Appeals

Senate Bill 2246 / House Bill 2384 / Norris, Johnson, Massey / PC 800 / DOE: 4/24/12; 7/1/13; 10/1/12

Boards and Commissions -- The 2012 legislative session saw passage of legislation to improve the accountability and effectiveness of several Tennessee boards and commissions. Currently, Tennessee has more than 200 boards and commissions, many of which have independent hiring and spending authority with little oversight. The Top to Bottom review conducted by the Haslam administration last year proposed efficiencies which were incorporated in the new law to the structure of 20 boards and commissions. The measure is the first step of an ongoing comprehensive review process to make state government more effective and customer friendly.

Senate Bill 2249 / HB 2387 / Norris, Bell / PC 986 / DOE: The provisions of the bill regarding the statewide community services agency would take effect on 7/1/12, and all other provisions of the bill would take effect on 10/1/12.

Tennessee Regulatory Authority -- Legislation reconstituting the Tennessee Regulatory Authority (TRA), which regulates utilities across the state, advanced through the General Assembly this year. The TRA is currently governed by four full-time members, called directors, with salaries of \$152,000 per year. [Senate Bill 2247](#) replaces them with five part-time members who are paid \$36,000 and a full-time executive director to manage the agency's day to day operations.

The legislation follows deregulation of many industries previously governed by the TRA, including the trucking and phone industries and most electric utilities. The TRA does not regulate the Tennessee Valley Authority (TVA) or other utilities owned by local government. As a result, only 19 rate cases have come before the agency since 2003. The legislation also follows a comptroller report which showed that the TRA needs a better management structure to optimize functions of the agency.

The legislation requires monthly meetings unless waived by a majority vote. It also creates an executive director position to be appointed by joint agreement among the governor and the speakers of the House and Senate for the initial three-year term and establishes the minimum qualifications to ensure a high level of competency. Afterwards the board would appoint the director.

Thirty one other states have an Executive Director at the helm of similar agencies. The new Executive Director would also do a top to bottom review of the TRA to see where further savings can be realized, while emphasizing a more effective agency for Tennessee rate-payers and the industries who come before them.

Senate Bill 2247 / House Bill 2385 / Norris, Faulk / PC 1070 / For purpose of setting the compensation of existing directors who are serving unexpired terms, Section 7 shall take effect 1/1/13, For all other purposes, this act shall take effect 7/1/12

Government Accountability / Reporting Fraud -- The State Senate and House of Representatives gave final approval to legislation to require officials of any state agency to notify the Comptroller of the Treasury upon having knowledge of any act of theft, forgery, credit card fraud or other unlawful act regarding public money, services or property. [Senate Bill 3331](#) also provides for state agencies to establish guidelines for the reporting of fraud to the Comptroller of the Treasury.

Senate Bill 3331 / House Bill 3522 / Ketron, Berke / PC 946 / DOE: 5/10/12

Cooperative Purchasing / Local Governments -- A bill authorizing counties and municipalities to utilize pricing discounts offered from any nationwide or regional competitive bid cooperative purchasing program was approved this year. [Senate Bill 2289](#) helps local governments when purchasing supplies and equipment by ensuring that when it is required by charter or private act to purchase by competitive bidding, the procuring governmental unit is authorized to consider the price given by the cooperative purchasing program as a bid or quotation.

Senate Bill 2289 / House Bill 2425 / Faulk / PC 914 / DOE: 5/10/12

False Claims Act -- Legislation putting Tennessee into conformity with the federal False Claims Act received approval during the 2012 legislative session. The federal False Claims Act imposes liability on persons and companies who defraud governmental programs. Claims under the law have typically involved health care, military or other government spending programs. [Senate Bill 2240](#) ensures that Tennessee continues to receive federal funds covered by provisions of the federal act, which are estimated at \$5 million. TennCare has recovered approximately \$143 million in false claims from providers.

Senate Bill 2240 / House Bill 2378 / Norris, Crowe, Burks, Overbey / PC 806 / DOE: 4/23/12

Local Government / Retirement for New Hires -- A new law giving local governments several new retirement options for new hires within the Tennessee Consolidated Retirement System received approval this year. The changes would not affect K-12 teachers, state employees or higher education employees who are covered under the Tennessee Consolidated Retirement System (TCRS).

The options include:

- Maintain the current Tennessee Consolidated Retirement System defined benefit plan
- Maintain the current TCRS defined benefit plan provisions but requires each new hire to contribute either zero percent of the employee's salary, 2.5 percent of the employee's salary or 5.0 percent of the employee's salary

- Adopt an alternative benefit plan, similar to the current plan, which provides a reduced retirement benefit formula of 1.4 percent.
- Adopt a hybrid defined benefit plan similar to the alternate defined benefit plan, except for a retirement benefit formula of 1.0 percent and the local government must also offer a defined contribution plan to the employee. A cost-of-living adjustment based on changes in the consumer price index is also required in the defined benefit plan.

The legislation was developed by Tennessee Treasurer David Lillard following meetings held throughout Tennessee with more than 200 local government representatives last fall.

Senate Bill 3216 / House Bill 3603 / McNally, Kelsey / PC 939 / DOE: 7/1/12

Electronic Fraud Hotline – A new law that establishes an electronic hotline for citizens to email any reports of fraud or abuse in state government spending passed this year. The measure adds electronic notifications to the current telephone hotline authorized under the Advocacy for Honest and Appropriate Government Spending Act.

Senate Bill 2259 / Massey, Faulk, Overbey / PC 548 / DOE: 3/14/12

Drug Test / Welfare Recipients – In major action, the General Assembly voted in favor of legislation which calls for drug testing for welfare applicants. The new law applies to testing for illegal use of marijuana, cocaine, methamphetamine, amphetamine and opiates such as morphine, with the possibility that other drugs could be added later by rules set forth under the bill. [Senate Bill 2580](#) applies to adult recipients of the Temporary Assistance to Needy Families (TANF) program but does not affect those who need pre-natal care.

Under the federal Welfare Reform Act passed in 1996, states were authorized to conduct drug testing for TANF recipients. The bill does not affect aid provided to children under the program.

The implementation will occur in phases over a two-year period under the bill, with status reports regarding the matter being sent to the General Health and Welfare Committees in the legislature on a quarterly basis. It calls for the Department of Human Services to develop appropriate screening techniques and processes to establish reasonable cause that an applicant for TANF is using a drug illegally. The applicant could then be required to undergo a urine-based drug test to be conducted by a drug testing agency. If the applicant tests positive, the drug test would have to be verified by a confirmation test before TANF benefits could be denied. No drug for which an applicant has a current valid prescription could be used as a basis for denial of benefits.

The drug testing plan also includes a referral process for any applicant who tests positive to be referred to an appropriate treatment resource for drug abuse. If the applicant is otherwise eligible during the treatment period, he or she can receive TANF benefits during the treatment period for up to six months. If the applicant refuses treatment, he or

she would be disqualified. After six months of disqualification, the applicant can reapply, but upon testing positive again he or she would become ineligible for one year.

Senate Bill 2580 / House Bill 2725 / Campfield, Ramsey, Tracy, Bell / PC 1079 / DOE: 7/1/12

JOBS AND UNEMPLOYMENT / WORKING TO LESSEN REGULATION AND GROW JOBS

Bringing new and better paying jobs to Tennessee was “job one” this year as the General Assembly worked diligently to create a business climate that enhances economic growth. Republicans have fought “job killer bills” which have come before the legislature during the past several legislative sessions. The Top to Bottom Review also looked at removing any unnecessary bureaucratic barriers which have stymied entrepreneurship.

Unemployment -- The state’s jobless rate has steadily declined to 7.8 percent as of May, the lowest rate since November 2008. The unemployment rate in the same month in 2008 was 10.6 percent. It is also under the U.S. unemployment rate of 8.1 percent.

Job Creation -- A report released by the Tennessee Department of Economic and Community Development (ECD) revealed good news on Tennessee’s job front. The Department’s [2011 Annual Report](#) showed 28,535 new jobs were created in Tennessee last year, accounting for more than \$4 billion in investment. This is the state’s highest mark in job creation in the last five years.

The state’s best economic drawing cards are the quality of life, low taxes, business-friendly environment, central location, good infrastructure and newly reform-minded education system. Some of these factors were also among the reasons cited by Chief Executive Magazine for ranking Tennessee the 4th best State in the nation for business in 2012.

The goal is to develop strategies which help make Tennessee the No. 1 location in the Southeast for high quality jobs. Legislation passed by the General Assembly this year builds on our assets and works to remove bureaucratic barriers to job growth in Tennessee.

FastTrack -- A plan to enhance the Department of Economic and Community Development’s FastTrack program was passed during the 2012 legislative session. The Governor had proposed budgeting more for grants and giving the department more flexibility in utilizing them to attract and grow Tennessee jobs.

Senate Bill 2206 / House Bill 2344 / Norris, Gresham, Massey / PC 1038 / DOE: 5/21/12

Jobs / Amazon -- The General Assembly approved legislation in the 2012 session to solidify a jobs agreement reached last year between Governor Bill Haslam, legislative leaders and Amazon officials. Currently, Tennessee law requires that consumers pay use tax to the Tennessee Department of Revenue when making an online purchase from any

retailer that does not collect sales tax. The new law establishes requirements for determining whether certain business affiliates have a physical presence in Tennessee sufficient to establish nexus for sales and use tax purposes. Nexus is a legal term referring to connection or jurisdiction within a State.

After 2013, responsibility for collecting and remitting the Tennessee tax will shift to the company. In the event that the U.S. Congress acts before January 1, 2014, all online retailers will collect sales tax at the time federal legislation is enacted.

When all five centers are built and staffed, Amazon will have a \$350 million investment and 3,500 full-time workers in Tennessee, in addition to thousands of seasonal employment opportunities.

Senate Bill 2232 / House Bill 2370 / Norris, McNally / PC 624 / DOE: March 23, 2012

Small Business Incentives Act -- State legislators voted to provide small business entrepreneurs with a “one stop opportunity” webpage to help incentivize and encourage small business activity throughout Tennessee. [Senate Bill 2496](#) directs the Department of Economic and Community Development, in conjunction with the Office of the Comptroller’s Small Business Advocate, to develop a web page to aid job creators desiring to form a small business in obtaining information concerning state laws, regulations and requirements that apply to the specific type of small business the user desires to form.

The web page must contain hyperlinks to relevant laws, regulations and requirements, including:

- Forms or documents which a state department or agency requires to be filed for that type of business to operate in the state;
- Contact information and web sites for boards and commissions which regulate the specific type of entity to be formed; and,
- Notices regarding potential and pending rule making hearings for the various boards and commissions.

Senate Bill 2496 / House Bill 2612 / Tracy, Ketron, Barnes, Roberts, Yager, Ramsey / PC 810 / DOE: Upon becoming law 4/23/12

Posting / Right to Work -- Legislation passed this year that authorizes employers to post notice of the state’s Right to Work Law for employees. The new law requires the Commissioner of the Department of Labor and Workforce Development to assist private employers in informing their employees of their rights by creating model notice language which may be used by private employers.

Senate Bill 2821 / House Bill 2924 / Kelsey / PC 826 / DOE: Upon becoming law 4/25/12

Cutting Red Tape / Electronic Notification – Legislation inspired by conversations that Lieutenant Governor Ramsey had with business owners during his Red Tape Road Trips was approved. The legislation is designed to keep license holders apprised of changes in

government regulation and their status as license holders. [Senate Bill 3644](#) allows a license holder to “opt in” to receive electronic notification from an overseeing board or commission 45 days in advance of a meeting. License holders who opt-in may also receive notice of renewal of their license, certification or registration as well as any fee increases or changes in state law that may impact the license holder.

[Senate Bill 3644](#) / [House Bill 3688](#) / [Watson, Ramsey, Ketron](#) / [PC 952](#) / DOE: 1/1/13

Commercial Code -- Legislation which makes substantive changes in Tennessee’s Uniform Commercial Code (UCC) was approved this year. The UCC is a comprehensive code addressing most aspects of commercial law, including the sale of goods, banking and security interests. It is generally viewed as one of the most important developments in American law due to the increasingly cumbersome legal and contractual requirements of doing business from state to state. This new law tracks changes made nationally to avoid unnecessary conflicts and confusion in interstate transactions that become effective simultaneously with other states. What may be of most importance to many Tennesseans regarding this legislation are revisions put forth under the bill removing a barrier to the extension of credit to individuals by clarifying the process for perfecting and searching for certain security interests.

[Senate Bill 2931](#) / [House Bill 3150](#) / [Overbey, Faulk](#) / [PC 708](#) / DOE: 4/11/12 and 7/1/13.

Unemployment / Accountability -- Major legislation, known as “The Unemployment Insurance Accountability Act of 2012,” was passed this year to give job creators some much-needed certainty for unemployment compensation rules. Unemployment insurance is meant to provide a source of income for jobless workers, who have lost their jobs by no fault of their own, until they are able to find employment.

Currently, Tennessee law requires those receiving unemployment benefits to make an effort to secure work. The state, however, did not have a good system in place to verify those efforts.

The new law defines what comprises “making a reasonable effort to secure work” for the purposes of unemployment insurance eligibility. Moreover, it specifies that “making a reasonable effort to secure work” means a claimant must provide detailed information regarding contact with at least three employers per week, or they must access services at a career center managed by the Department of Labor. The legislation requires a claimant to be disqualified for benefits for a minimum of eight weeks for providing any false work information. The Department will conduct audits of 1,000 claimants per week to determine whether or not they are complying with the law.

During the first 13 weeks of unemployment, the terminated employee is eligible for benefits if they do not obtain a job that pays 100 percent of what they were earning at the individual's prior job. From that point the standard decreases to 75 percent during the 14th through the 25th week and 70 percent from the 26th the 38th week. Thereafter, and through the termination of the benefits, the standard is 65 percent of the claimant’s prior wages in order to be eligible for benefits.

The legislation clarifies the definition for misconduct as it effects unemployment insurance compensation so that a claimant who is consciously insubordinate, knowingly violates state regulations, has been caught stealing, or is chronically absent cannot receive benefits.

The legislation calls for disqualification of unemployment benefits for anyone who has been incarcerated for four or more days during any week of unemployment. The state's vague unemployment law was previously written in such a manner that allowed persons who were incarcerated to receive benefits.

The separating employer, under the bill, may also supply information to the state's agency administering unemployment benefits prior to a request for information being mailed from a claimant. This allows employers to proactively remit information regarding the termination to the Department of Labor in anticipation of a claim for benefits being filed.

The bill addresses severance packages or wages in lieu of notice to ensure that if an employee is given either of those benefits that they are not eligible for unemployment benefits until it is paid out.

Finally, the legislation says that if an employee is laid off and offered the same job or a similar job at the same wages and he or she refuses that job, they are not eligible for benefits. If a laid-off worker is offered a job back with an employer but the new position requires a drug test, whereas the previous job did not, they must take and pass it or he or she is not eligible for benefits.

The unemployment insurance reform legislation benefits the customers and taxpayers who ultimately pay the price for abuse of the system. This legislation was also written as a result of Lt. Governor Ramsey's "Red Tape Tour."

Senate Bill 3658 / House Bill 3431 / Johnson, Ramsey, Watson, Ketron, Bell, Tracy / PC 1050 / DOE: 5/21/12 for all parts except with respect to sections 4 & 5 which are effective 9/1/12

In February, Tennessee's Department of Labor announced that all claimants receiving Emergency Unemployment Compensation benefits will be required to conduct documented work searches. Work search activity for each week must be recorded and submitted to the Department for review upon request. Failure to return the completed work search log as directed, or returning an incomplete work search log, will result in a disqualification for benefits. Failure to perform an adequate search for work will also result in a disqualification of benefits.

Unemployment Insurance / Seasonal Workers -- Similarly, lawmakers approved [Senate Bill 3657](#) which establishes qualifications and criteria for determining benefit amounts paid to seasonal employees. The bill allows an employer to qualify as a "seasonal employer" for purposes of unemployment insurance benefits, and establishes the benefits an employee a seasonal worker will receive beginning in 2016. The bill also addresses

benefits paid to seasonal workers who have a brief, defined work period. It requires employers (such as certain tourism businesses and farming operations) to request seasonal status annually, which would be subject to state approval.

Senate Bill 3657 / House Bill 3430 / Johnson, Ramsey, Watson, Ketron, Burks, Bell, Tracy / PC 1107 / DOE: 5/21/12

Employers / Electronic Service -- The Senate and House voted to implement a much needed Internet-based system in state government that will allow employers to receive claim notices and submit separation information electronically. This will benefit small businesses that often lack the manpower to track and respond to claims.

Senate Bill 3659 / House Bill 3429 / Johnson, Ramsey, Watson, Ketron, Bell, Tracy, Ramsey / PC 904 / DOE: 5/9/12

Unemployment Benefits / Contracts / Conditions of Licensure -- Legislation was approved this year which allows a contract to be entered into between employer and employee that make it a condition that their continued employment and the ability to draw unemployment benefits require them to gain a particular certification or licensure. The new law provides an incentive for employers to hire employees seeking licensure or certification by not holding the business responsible for unemployment benefits if they fail to obtain it, as long as it is written as a condition of his or her continued employment. Currently, there are many employers that are reluctant to hire employees under those conditions because if they fail to pass the license or get certification, he or she can get unemployment compensation despite a contract requiring it to be obtained by a specified time. The legislation is expected to save the state's unemployment trust fund \$21 million per year.

Senate Bill 3241 / House Bill 2193 / Barnes / PC 940 / DOE: 7/1/12

Reduction in fees / Workers' Compensation Exemption Registry -- Legislation that decreases by 50 percent the registration and renewal fees associated with the Workers' Compensation Exemption Registry for construction contractors was approved during the final days of the 107th General Assembly.

The reduction in fees was part of [Senate Bill 2923](#) which also clarifies that either party in a workers' compensation dispute may bring suit in the county in which the employee resided at the time of the injury rather than where the employee resides at the time of filing suit. The bill, as amended, reduces the registration and renewal fee because of the fund balance in the Registry after the first year of implementation.

Present law allows workers' compensation cases to be filed in the chancery or circuit court in the county where the employee resides or the county where the alleged injury occurred. This bill changes that to the county where the employee resided at the time of the alleged injury or the county where the alleged injury occurred.

This legislation simply changes the venue from where the employee resides at the time suit is brought to where the employee resided at the time of the injury. The purpose of

the bill is to discourage forum shopping. At the same time, the bill decreases by one-half for contractors to place themselves on the Workers' Compensation Exemption Registry. Fees are currently double the amount needed for proper regulation.

The fee reduction comes after the state's financial experts predicted that \$712,500 would be generated from licensed and non-licensed contractors every two years through registration with the Workers' Compensation Exemption Registry. The assumption was well below what actually occurred as renewal fees will still yield \$1,341,550 after the 50 percent reduction is implemented. The exemption allows a business owner to exempt him or herself from the requirement to carry workers' compensation insurance on him or herself.

The Registry is composed of individuals who are sole proprietors and own 100% of the assets of the business, or an officer of a corporation, or a member of a limited liability company with at least a 20% ownership interest, or a partner in a partnership with at least a 20% ownership interest. Registration is only available to individual business owners engaged in the construction services industry.

In addition, an applicant may qualify for the exemption if the applicant and members of the same family of the applicant hold at least 95% ownership of the business. Each corporation, Limited Liability Company, Limited Liability Partnership, Limited Partnership, General Partnership and family owned business may have up to 5 individuals who can qualify to be exempt. A sole proprietor can only have 1 exemption.

Senate Bill 2923 / House Bill 2808 / Overbey, Ketron, Bell / PC 1030 / DOE: For the purposes of the secretary of state taking necessary actions for the implementation of Section 2 it is effective upon becoming law on 5/21/12. For all other purposes, Section 2 shall take effect 1/1/13 and shall apply to all registrations or renewals filed on or after that date. All other sections of this act shall take effect 5/21/12

Loser Pays Tort Reform -- Parties and their counsel will now have financial incentive not to file frivolous claims under legislation passed by the General Assembly this year. When a trial court grants or denies a motion to dismiss for a claim deemed invalid under Tennessee law, reasonable and necessary attorney's fees up to \$10,000 can be paid to the prevailing party under the new law. This "loser pays" legislation, which encourages parties not to file lawsuits until they have confirmed they have a claim that is valid, is an important protection for small businesses.

Senate Bill 2638 / House Bill 3124 / Johnson, Ketron / PC 1046 / DOE: 7/1/12 / The bill applies to claims filed on after 7/1/12.

REAPPORTIONMENT / ELECTIONS / GENERAL
ASSEMBLY REDISTRICTS STATE'S CONGRESSIONAL,
SENATE AND HOUSE OF REPRESENTATIVES DISTRICTS TO
MEET 2010 CENSUS STATS

Redistricting -- The legislature wasted no time in getting down to business as lawmakers passed redistricting plans for the Tennessee Senate, House of Representatives and U.S. Congress. It is an arduous task that is required every 10 years after the census is completed. Early passage of the redistricting plans was designed to give potential candidates sufficient time to review district lines before the April 5 filing deadline.

The purpose of redistricting is to assure citizens equal representation. This right is rooted in both the federal and state constitutions and has been repeatedly ruled upon by the courts over the years, setting additional standards that must be followed regarding minority district representation. The most famous of these rulings is the landmark U.S. Supreme Court decision in the *Baker v. Carr* case, which set the "one man - one vote" standard used in redistricting nationwide.

Tennessee has a total population of 6.34 million citizens (up from 5.6 million in 2000), making the number of citizens per district to strive for 192,306 for each of the 33 State Senate districts and 64,102 for each of the 99 districts in the House of Representatives. In dividing the districts to fit the population, the General Assembly must strive to keep counties from being split into multiple districts. The U.S. Congressional districts are simply divided by 9 among the state's total population for an ideal number of 705,123 citizens in each district.

The plans adopted can be viewed on the General Assembly's website at:
<http://www.capitol.tn.gov/senate/redist/redistricting.html>

Senate Bill 1513 / House Bill 1555 (House of Representatives) / PC 511 / DOE (on all three): Upon becoming law for the November 2012 elections and thereafter, Senate Bill 1514 (Senate) / PC 514 / Senate Bill 1515 (Congressional) / PC 512

Voting / Driver Licenses -- [Senate Bill 2267](#) passed the State Senate and House requiring all driver licenses issued on or after January 1, 2013 to have a photo of the applicant. This legislation removes the current exemption given to persons 60 years of age or older. The bill grandfathers in those currently over age 60 who have already elected to have a non-photo license.

Senate Bill 2267 / House Bill 2287 / Tracy, Faulk / PC 1071 / DOE: 1/1/13

Voting / Absentee Ballot -- The General Assembly approved a bill this year to allow persons age 60 and older to vote absentee upon request. Previously the law limited it to those age 65 and over.

Senate Bill 2128 / House Bill 2174 / Ketron, Tracy, Faulk, Yager / PC 1037 / DOE: 5/21/12

HEALTHCARE

Hospital Coverage Assessment Fee -- Lawmakers voted to continue the hospital assessment adopted for the past two years to prevent potentially catastrophic cuts to Tennessee hospitals through passage of Senate bill 2766.

The hospitals asked the General Assembly to enact the coverage assessment for another year in order to raise \$450 million in state funds to draw down \$870.5 million in matching federal funds. The assessment is used to draw down federal funds available through a Medicaid match program approved by the Centers for Medicare and Medicaid Services (CMS). It will continue to provide the critical dollars necessary to provide hospitals a portion of their unreimbursed TennCare costs.

A few examples of programs that would be affected without the assessment, in addition to the reduction in payments to hospitals and health professionals, are: critical access hospitals; the Graduate Medical Education program; 8-visit limit imposed on outpatient services, x-rays, and physician office procedures; various therapies; and, the enrollment cap for the medically needy. The bill's language ensures that the coverage assessment cannot be passed along to patients.

Senate Bill 2766 / House Bill 3446 / Overbey, Yager, Massey, Ramsey, Faulk, Crowe, Ketron, Harper, Marrero / PC 645 / DOE: 7/1/12

Name Change / Department of Mental Health and Substance Abuse Services – The General Assembly voted this year to change the name of the Department of Mental Health to the Department of Mental Health and Substance Abuse Services. The change in the name was made to reflect the services provided by the Department and its staff.

Senate Bill 2229 / House Bill 2367 / PC 575 / Norris, Watson, Yager / DOE: 7/1/12

DNR Orders / Support Staff -- The legislature has approved a bill that authorizes direct support personnel to follow the same Do Not Resuscitate (DNR) orders as licensed professionals in a healthcare facility. The new law ensures that other direct care staff honors the person's or their family's directive for end of life decisions by observing DNR orders.

Senate Bill 2227 / House Bill 2365 / Crowe, Ketron, Faulk, Massey / PC 541 / DOE: 3/8/12

Heart Screenings / Newborns -- Legislation to help detect serious heart defects in newborns before they cause permanent harm or death to the child was approved in the 2012 session. The new law requires the state's Genetic Advisory Committee to develop a program to screen newborns for critical cyanotic congenital heart disease (CCCHD) using pulse oximetry on or before January 1, 2013. Cyanotic heart disease is a congenital heart defect present at birth which results in low blood oxygen levels, causing the skin to look blue. Congenital heart disease is responsible for more deaths in the first year of life than any other birth defect. Research shows that children who are diagnosed with CCCHD later in life tend to require more hospital care, greater resources and have worse long-term health outcomes.

Senate Bill 65 / House Bill 373 / Overbey, Burks, Marrero, Barnes, Harper, Ford / PC 556 / DOE: 3/13/12.

Women's Health / Abortion -- Legislation was passed to create a safer climate for abortion-vulnerable women by requiring that physicians performing abortions have hospital admitting privileges in the same community. The bill would help women who have complications following an abortion to receive better post-abortion care if they need to be hospitalized by making sure the physician responsible and knowledgeable of her specific condition and health history can care for her there after she is admitted.

The bill follows testimony that patients are left to fend for themselves for emergency follow-up care. Experts maintain that complications of any procedure are best managed by those providers with the most experience in the particular field.

Senate Bill 3323 / House Bill 3808 / Beavers, Bell, Gresham, Roberts / PC 1008 / DOE: 7/1/12

Embryo / Fetal Homicide -- A bill has been approved to broaden the offenses for assault and criminal homicide committed against pregnant women to include an embryo in addition to a fetus as passed in 2011. The bill ensures that perpetrators are punished regardless of the viability of the victim.

Senate Bill 3412 / House Bill 3517 / Beavers, Bell, Gresham, Roberts / PC 1006 / DOE: 7/1/12

Nursing homes / Physicians -- A new law was passed which provides a monumental change to the way medical care is delivered to nursing home patients. The measure allows a nursing home facility to directly hire a doctor. The bill was modeled after the corporate practice law that was passed in 1996 to allow hospitals to hire doctors. This action should lead to better care and shorter, less frequent trips to hospitals for nursing home patients.

Senate Bill 65 / HB 373 / PC 649 / Overbey, Burks, Marrero, Barnes, Harper, Ford / DOE: 7/1/12

CRIME / DRUG ABUSE / LEGISLATURE TACKLES ***GROWING PROBLEM WITH PRESCRIPTION SUBSTANCE*** ***ABUSE, METH AND SYNTHETIC DRUGS***

Prescription Drug Abuse -- The General Assembly continued its war on drug abuse in the 2012 legislative session, focusing on curbing prescription drug abuse, synthetic drugs and meth. The number of deaths attributed to drug overdoses in Tennessee has now surpassed the number of deaths to car accidents, homicides or suicides. According to statistics provided by the Health Department, 887 people died in Tennessee in 2010 due to drug overdoses, with the vast majority due to abuse of prescription drugs.

Tennessee ranks second in the nation in regard to the overutilization of prescription pain medications, with an average of 20 Tennesseans losing their lives each week from drug overdose. Young adults ages 18 to 25 have the highest annual rates of prescription drug abuse. Last year, lawmakers passed legislation cracking down on prescription drug abuse at pain clinics in Tennessee. However, efforts to monitor the prescribing and dispensing of Schedule II, III, and IV & V controlled substances goes back further than that with

“The Controlled Substance Monitoring Act of 2002.” The prescription drug abuse legislation approved this year calls for utilizing the state’s Controlled Substance Monitoring Database system more effectively by ensuring that healthcare professionals tap into the system when prescribing certain scheduled drugs.

With few exceptions, any health care practitioner that dispenses controlled substances to their patients for them to take home and any pharmacist who dispenses controlled substances must submit information regarding that transaction to the database. The database includes basic patient information, the identity of the prescribing practitioner, the pharmacy that filled the prescription, and the name, amount and form of medication that the patient received. Although the database requires doctors, pharmacists or their designees to report, there is currently no requirement that they check the database before prescribing or dispensing scheduled drugs to patients.

[Senate Bill 2253](#) requires doctors or their designees to check the state’s Controlled Substance Monitoring Database for patients’ prescription history before initially prescribing an opioid or benzodiazepine substance or at every six months thereafter for the same episode of treatment. Opioids are painkillers such as morphine, methadone, buprenorphine, hydrocodone and oxycodone. Statistics from the Tennessee Drug Diversion Task Force show that 56 percent of patients who receive opioid prescriptions have filled another opioid prescription within the previous 30 days. Benzodiazepines are depressant drugs such as alprazolam, clonazepam, diazepam, lorazepam and triazolam.

The legislation, which was included in Governor Bill Haslam’s legislative package, requires pharmacies to collect a patient’s prescription information and report that information to the database within seven days. Currently it must be reported within 40 days. The bill also enhances penalties for doctor shopping from a Class A misdemeanor offense to a Class E Felony offense when it involves 250 or more pills. The stiffer penalties allow law enforcement officials to go after dealers who distribute the drugs illegally.

Last year, there were more deaths in Tennessee due to drug overdoses than motor vehicle accidents, homicide or suicide. It is hoped that this legislation will curb this major public health and safety epidemic.

[Senate Bill 2253](#) / House Bill 2391 / Norris, Yager, Crowe, Burks, Herron, Massey, Overbey / [PC 880](#) / DOE: For purposes of rulemaking 5/9/12. For all other purposes, except the requirements of subdivision (e)(1) in Section 20, this act shall take effect on 1/1/13. The requirements of subdivision (e)(1) in Section 20 shall take effect on 4/1/13. Sunset on June 30, 2016 and on 7/1/16 unless revived and reenacted.

Prescription Drug Abuse / Hospital Employees – Lawmakers also approved [Senate Bill 2407](#) to authorize the Controlled Substance Database Committee to provide a hospital an employee’s prescribing information. Under current law, a hospital’s Quality Improvement Committee exists to evaluate the safety and quality of care provided to patients as well as qualifications and competency of healthcare providers in a confidential and privileged environment. The bill would give hospitals more information about any potential for prescription abuse by their own employees.

Senate Bill 2407 / House Bill 2569 / McNally, Burks, Overbey, Yager, Massey / PC 915 / DOE: 5/10/12 for rulemaking, 1/1/13 for requirement to search database

Meth -- Two bills aiming to curb the use of methamphetamines were approved by the General Assembly this year. One bill deals with the purchase of amphetamines for the purpose of making meth. [Senate Bill 2235](#) makes it a misdemeanor to “attempt to purchase” and “attempt to sell” amphetamines for a non-medical use or unlawful purpose, including the manufacture of meth, leaving a felony as the punishment for completing the act. The second measure adds numerous opiates, depressants, stimulants and narcotics to Schedule I through V of the Controlled Substances Schedule. [Senate Bill 2230](#) also adds Tramadol and Carisoprodol to Schedule IV of the Controlled Substances Schedule. A controlled (scheduled) drug is one whose use and distribution is tightly controlled because of the potential for abuse.

Senate Bill 2235 / House Bill 2373 / Norris, McNally, Crowe, Beavers, Herron, Yager / PC 764 / DOE: 4/24/12 Senate Bill 2230 / House Bill 2368 / Norris, McNally, Crowe, Burks / PC 812 / DOE: 4/25/12

Meth Registry -- In similar action, the General Assembly passed legislation to tighten a loophole in the state’s Meth Registry. [Senate Bill 2190](#) adds those convicted of promoting the manufacture of methamphetamine and those who initiated a process intended to result in the manufacture of meth to the state’s Registry. In addition, the legislation requires the Tennessee Bureau of Investigation (TBI) to collect a driver’s license number or another identification number from those listed on the Registry so innocent citizens with similar names and birthdates do not run into a roadblock when they purchase pseudoephedrine.

Senate Bill 2190 / House Bill 2333 Beavers, Burks, Crowe, Tracy, Faulk, Gresham, Overbey, Yager / PC 911 / DOE: 5/10/12

Statewide Anti Meth Campaign -- In other action on Tennessee’s war on illegal drugs this year, Governor Bill Haslam rolled out a comprehensive “Meth Stops Now” campaign designed to inform Tennesseans about consequences of violating the “I Hate Meth Act,” which took effect on July 1, 2011. The campaign specifically addresses the portion of the anti-meth law that increases the penalties for making or using meth in the presence of children and for purchasing pseudoephedrine products for non-medical uses.

Meth / Budget -- The governor also placed \$750,000 in his budget amendment for the Tennessee Bureau of Investigation (TBI) to assist local governments with training and equipment costs related to meth clean-up. This funding was originally appropriated for the current fiscal year but required matching funds from local governments of 25 percent. The measure eliminates the matching requirement.

Synthetic Drugs -- Major legislation attacking the growing problem of synthetic or “designer” drug abuse passed through the State Legislature this year. The products are often sold under the guise of “bath salts” or “plant food” but are comprised of a class of chemicals perceived as mimics of cocaine, LSD and methamphetamine. The effects include impaired perception, reduced motor control, disorientation, extreme paranoia and

violent episodes. Experts say the long-term physical and psychological effects of the drug are unknown but warn they could be severe.

The General Assembly has passed laws previously to ban the chemical compound used in synthetic drugs; however, unscrupulous chemists manufacturing the drugs continue to modify molecules in the organic compound to avoid prosecution. By the time a new synthetic drug is discovered and banned, another altered form of the compound has taken its place.

Synthetic drug products, which have become increasingly popular among teens and young adults, are sold at a variety of retail outlets like convenience stores, smoke shops and over the Internet. They commonly feature cartoon characters on package labels. Some law enforcement authorities have said that due to the huge increase, the dangerous substance has the potential to eclipse methamphetamine as the most dangerous drug in Tennessee. Poison centers, hospitals and law enforcement officers in Tennessee report a sharp increase in the number of persons who have suffered harmful effects from using various synthetic drug products.

Senate Bill 3018 attacks synthetic drug abuse by defining it to capture any analogues, which are chemical compounds having a similar structure to the banned drug. This legislation creates a new Class D felony offense for a person to knowingly manufacture, deliver, dispense or sell a controlled substance analogue. The proposal elevates penalties upon a second or subsequent violation to a Class C felony. If the violation involves the delivery, dispensing or sale of a controlled substance analogue to a minor, the offender will be punished one classification higher than the punishment for delivering, dispensing or selling to an adult. The bill also creates a new Class A misdemeanor offense for a person knowingly possess or casually exchange under a gram of a controlled substance analogue.

Senate Bill 3018 / House Bill 3175 / Beavers, Stewart, Crowe, Burks, Tate / PC 848 / DOE: 5/14/12

A second bill, [Senate Bill 2280](#), makes it a Class E felony to possess, use or sell synthetic substances intended to imitate controlled substances. The bill is modeled after laws currently in place in Florida and Virginia.

Senate Bill 2280 / House Bill 2286 / Faulk, Crowe, Johnson, Massey, Overbey, Southerland, Yager, Ramsey, Burks, Tate / PC 843 / DOE: 7/1/12

Another bill was approved this year which adds chemical compounds considered to be derivatives of methcathinone to the Class A misdemeanor offense of production, manufacture, distribution, possession or sale of synthetic derivatives or analogues of methcathinone. This drug is a Schedule I psychoactive stimulant which is highly addictive and illegal in the United States for clinical use. The legislation removes the intent requirement from the offense of possession of synthetic derivatives or analogues of methcathinone.

Senate Bill 2507 / House Bill 2645 / Tracy, Overbey, Yager, Burks, Faulk, Massey / PC 838 / DOE: 7/1/12

CRIME / ANTI-CRIME PACKAGE TAKES MULTI-YEAR APPROACH TO FIGHTING VIOLENCE

In addition to fighting drug abuse, Governor Haslam joined with lawmakers to push forward a public safety package that includes legislation to curb violent crime and lower the rate of repeat offenders. Several bills passed this year are part of a package of public safety bills included in Governor Bill Haslam's legislative agenda. The bills were recommended by a Public Safety Subcabinet Working Group composed of more than 10 government agencies which held meetings with over 300 leaders in law enforcement, substance abuse and corrections. The group developed 11 objectives and 40 action steps in their multi-year safety action plan with the goal of significantly reducing drug abuse and drug trafficking; curbing violent crime; and lowering the rate of repeat offenders in Tennessee.

Curbing Domestic Violence -- Legislation which strengthens penalties for domestic violence met the approval of lawmakers this year. The "Repeat Domestic Violence Offender" bill prescribes mandatory jail time and enhanced fines for repeat offenders.

Tennessee is ranked fifth in the nation for women murdered by men as a result of domestic violence.

[Senate Bill 2251](#) provides at least 30 days in jail and a fine ranging from \$350 to \$3,500 for those convicted of a second offense for domestic violence when bodily injury occurs. Upon a third or a subsequent conviction, the mandatory jail time would increase to 90 days and a fine ranging from \$1,000 to \$5,000. In counting prior convictions, the bill provides for a ten-year look back provision for domestic violence due to serious bodily injury similar to the one used in the state's drunk driving law.

Senate Bill 2251 / House Bill 2389 / Norris, Overbey, Kyle, Yager, Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney L, Ford, Gresham, Harper, Haynes, Herron, Johnson, Ketron, Marrero, Massey, McNally, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Ramsey / [PC 987](#) / DOE: 7/1/12

Gangs / Violence -- Among the anti-crime bills passed this year is a measure to address gang violence in Tennessee. [Senate Bill 2252](#) bumps up penalties by one classification if "a crime of force or violence is committed while acting in concert with two or more other persons." The bill addresses certain types of serious crimes not covered by the state's "Crooks with Guns" law. A person robbed by a gang has a much greater chance of suffering severe injury or death than a person robbed by an individual attacker.

The "Crooks with Guns" laws were designed to curb gun-related violence and focus resources on keeping these criminals behind bars longer to protect the public. This is a continuation of those efforts to give law enforcement authorities stronger tools to curb violence in Tennessee.

Senate Bill 2252 / Norris, Kyle, Finney L, Beavers, Berke, Burks, Herron, Johnson, Tate, Watson, Yager, Crowe / PC 725 / DOE: 7/1/12

Gangs / RICO -- A separate bill attacking gang violence was approved this year that expands the definition of racketeering activity under the state's RICO statute to include the commission of or attempt to commit, solicit or coerce a criminal gang offense. [Senate Bill 3005](#) makes it easier to prosecute gang members and increases penalties for gang-related activities to a Class B felony punishable by a fine of up to \$250,000 and/or imprisonment of up to 20 years. The bill specifies that, for the purposes of the above offense, a person commits "racketeering activity" who commits, attempts or conspires to commit, or solicits or coerces another person to commit a criminal gang offense.

Under the state's RICO law, law enforcement authorities would have to show that those arrested are gang members through previous convictions and that they have profited by their affiliation and illegal activity.

Senate Bill 3005 / House Bill 2868 / Watson, Burks, Faulk, Ketron, Massey, McNally, Norris, Overbey, Tate / PC 1090 / DOE: 7/1/12

Felons with Firearms – Legislation was enacted prescribing tougher sentences for gun possession by those with prior violent felony convictions. Before, illegal possession of a firearm for convicted violent felons was punishable as a Class E felony, which carries a one to six-year sentence and up to \$3,000 in fines. The new law increases the offense to a Class C felony, which is punishable by a 3 to 15-year sentence and up to \$10,000 in fines for convicted felons carrying a firearm whose crime involved the use of force, violence or a deadly weapon. The punishment is a Class D felony, under the new law, for felons whose conviction involved a drug offense.

Over the last 10 years, approximately 19,000 people arrested in Memphis possessed a firearm when charged. About thirty percent of those arrested had been previously convicted. The scope of the problem has increased due to a rise in drug trafficking and gang activity. The proliferation of crimes involving firearms pointed to the need for a "more effective hammer" to deter felons from going armed.

Senate Bill 2250 / House Bill 2388 / Norris, Kyle, Finney L, Beavers, Bell, Berke, Burks, Herron, Johnson, Yager / PC 726 / DOE: 7/1/12

Corrections -- Legislation that gives the State Department of Corrections the authority to supervise probation and parole services has passed. The new law aims to provide a seamless one person contact for offenders throughout the entire criminal justice system. This bill was part of the administration's top to bottom review of departments and agencies conducted last year. The consolidation of these agencies will reduce the competition for providers and allow for continuity of a single point of contact. Forty states operate under a consolidated system, which is widely recognized as the best practice in corrections. The existing organizational structure that actually performs under the Board of Pardons and Parole will remain intact upon transfer to the Department of Corrections.

[Senate Bill 2248](#) / [House Bill 2386](#) / [Norris, Faulk, Yager, Kelsey](#) / [PC 727](#) / DOE: 7/1/12

Jaclyn's Law / 911 Responders – In other action on anti-crime bills this year, lawmakers voted to make it clear that emergency responders have immunity if they force entry into a home after someone calls 911 and then doesn't answer the door. The measure was named “Jaclyn's Law” for a California woman who died after first responders failed to use forcible entry because of liability concerns. The legislation was brought to lawmakers by the woman's sister who is a Tennessee resident. The bill seeks to clear up any gray area regarding the right of first responders to force entry after receiving a 911 call to render emergency medical assistance if no one answers the door, without fear of criminal or civil charges.

[Senate Bill 2480](#) / [House Bill 2215](#) / [Johnson, Ketron, Bell, Burks](#) / [PC 844](#) / DOE: 4/27/12

Kelsey Smith Act -- Among bills approved this year to aid crime victims was legislation to help law enforcement in locating a missing person believed to be the victim of a crime. [Senate Bill 2413](#) requires wireless providers to “ping” the victim's cell phone at the request of law enforcement authorities to help locate the missing person when there is sufficient information to believe there is a risk or threat of death or serious physical harm. The “Kelsey Smith Act” is named after an 18-year old Kansas woman who was abducted, sexually assaulted and murdered in 2007. The tragedy resulted in a nationwide movement by her parents, Greg and Missey Smith, and other advocates to ensure that law enforcement authorities can receive assistance from a cell phone provider to help find the missing person.

[SB 2413](#) / [HB 3432](#) / [McNally, Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney L, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, Massey, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager](#) / [PC 815](#) / DOE: 4/25/12

Ponzi Schemes / Stiffer Punishment – Legislation was approved during the 2012 legislative session that allows District Attorneys in Tennessee to more effectively prosecute and punish those who defraud multiple victims through Ponzi schemes or other fraudulent investment practices. Before, Tennessee law would only have allowed criminals like Bernie Madoff who defraud multiple victims to be punished by 8 to 30 years in prison and a fine of up to \$25,000.

This bill allows prosecutors to aggregate the sum in order to provide stiffer punishment when it totals \$250,000 or more. The new law makes the crime a Class A felony subject to 15 to 60 years in prison and a fine of up to \$50,000.

[Senate Bill 2606](#) / [House Bill 2655](#) / [Beavers, Burks](#) / [PC 1080](#) / DOE: 7/1/12

Theft / Scrap Metal — Legislation designed to reduce the growing problem of metal theft in Tennessee was signed into law this year. Stolen metals can have great value when sold to a scrap metal dealer who arranges for the metal to be melted and reshaped for other uses. This legislation puts stiffer penalties into place on both the selling and the

purchasing ends of transactions involving stolen metals. It also gives the Department of Commerce and Insurance more enforcement authority over its scrap dealer registration program.

The new law prohibits a person from selling scrap metal that he or she knows to be stolen. It prescribes that the knowing sale of stolen scrap metal shall be punished as theft and graded according to the value of the metal. The legislation creates a Class E “fine only” felony, punishable by a fine of up to \$5,000, for selling or attempting to sell metal to a scrap metal dealer if the aggregate value of the metal in its original condition and the costs incurred in repairing and recovering any property damaged in the theft exceeds \$500.

Similarly, the law makes it a Class A misdemeanor for a dealer to knowingly or intentionally violate the law, unless the metal is in its original and undamaged condition. If the value of the metal, in addition to any costs for repairs exceeds \$500, it is a Class E “fine only” felony.

In addition, the new law makes it a misdemeanor offense for someone to engage in the business of buying scrap metal without being registered unless the metal is in its original and undamaged condition. Unregistered dealers convicted of violating this provision face a Class A misdemeanor under the statute.

Finally, the bill authorizes the Department of Commerce to investigate a verified, written complaint against any scrap metal dealer alleged to have committed a violation when evidence is presented. The Department must provide notice regarding any hearings and sanctions involving scrap metal dealers.

Senate Bill 2895 / House Bill 3246 / Tracy, Burks / PC 969 / For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on July 1, 2012.

Illegal Aliens / Public Benefits -- Legislation authorizing state departments or agencies to verify the lawful status of an alien in Tennessee passed during the 2012 session of the Tennessee General Assembly. Under the “Eligibility Verification for Entitlements Act,” the agency could prohibit an unlawful alien who is an adult from receiving any “non-emergency” taxpayer-provided benefits in Tennessee. The new law does not apply to pre-natal care.

Senate Bill 1325 / Johnson, Southerland, Beavers, Tracy, Roberts, Bell, Campfield, Ketron, Ramsey / Conference Committee Report was adopted / PC 1061 / DOE: For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, for all other purposes, this act shall take effect 10/1/11 and shall apply to all applications for benefits submitted to agencies or political subdivisions of this state on or after 10/1/11.

Illegal Aliens / Risk of Flight -- The General Assembly voted to approve a measure that allows the court clerk to set bail for traffic violations at a higher amount than normally permitted for a defendant who is unlawfully present in the U.S. and is deemed a risk of flight.

Senate Bill 2604 / House Bill 2678 / Beavers, Roberts / [PC 1011](#) / DOE: 7/1/12

Illegal Aliens / Risk of Flight – Similarly, the legislature passed a bill requiring an officer to arrest a driver involved in an accident that results in serious bodily injury or death when the driver lacks a valid driver's license and evidence of financial responsibility. [Senate Bill 2350](#) prohibits the issuance of a citation in lieu of an arrest in such circumstances due to the risk of flight. The bill is named the "Ricky Otts Act." Mr. Otts was killed by an unlicensed driver who was suspected of being in the country illegally and failed to appear in court after the deadly crash.

Senate Bill 2350 / House Bill 2466 / Beavers, Roberts, Tracy / [PC 737](#) / DOE: 7/1/12

Aggravated Rape / Multiple Offenders – The General Assembly approved major sex offender legislation which requires a person convicted of aggravated rape on or after July 1, 2012 to serve 100 percent of the sentence imposed by the court undiminished by any sentence reduction credits the person may be eligible for or earn. The new law redefines "multiple rapist" to mean a person convicted two or more times of rape, or a person convicted of at least one time of aggravated rape and at least one time of rape.

Senate Bill 2349 / House Bill 2311 / Beavers / [PC 1073](#) / DOE: 7/1/12

Sex Offenders / DNA -- State lawmakers voted to approve [Senate Bill 2922](#) which provides for a procedure to ensure law enforcement has a DNA sample for a sex offender when that person is on the Registry but is not incarcerated.

Senate Bill 2922 / House Bill 2854 / Overbey, Ketron, Burks, Crowe / [PC 996](#) / DOE: 5/10/12

Sex Offenders / Indecent Exposure -- [Senate Bill 3076](#) was approved by the General Assembly this year revising the punishment for the offenses of public indecency and indecent exposure. It specifies that indecent exposure would be a Class E felony if the defendant is 18 years of age or older and the victim is under 13 years of age and the offense occurs on the property of any public school, private or parochial school, licensed day care center or other child care facility during a time at which children are likely to be present. It also provides that if a person is charged with such Class E felony offense and the court grants judicial diversion, the court must order, as a condition of probation, that the person be enrolled in a satellite-based monitoring program for the full extent of the person's term of probation in a manner consistent with the requirements of the Tennessee Serious and Violent Sex Offender Monitoring Pilot Project Act.

Senate Bill 3076 / House Bill 3257 / Johnson, Burks / [PC 885](#) / DOE: 7/1/12

Sexual Exploitation of Children – State legislators voted to remove the statute of limitations in certain cases involving child rape and sexual exploitation. The bill provides that a person may be prosecuted, tried and punished for producing obscene material, sexual exploitation of a minor, aggravated sexual exploitation of a minor or especially aggravated sexual exploitation of a minor, no later than 25 years from the date the child becomes 18 years of age.

Senate Bill 2182 / House Bill 2278 / Watson, Burks / PC 1027 / DOE: 7/1/12

Sex Offenders / Registration -- Legislation was passed calling for judicial forfeiture of a registered sex offender's automobile if he or she is found to be in violation of the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act. [Senate Bill 3635](#) allows judges to consider forfeiture when the registered offender violates the terms of the Registry Act by being at a day care, school or other place in which he or she is banned.

Senate Bill 3635 / House Bill 3998 / Roberts / PC 882 / DOE: 7/1/12 applicable to offenses committed on or after that date

Minor Victim / Undercover Officer -- Members of the General Assembly passed legislation to correct an error in current law to ensure that prosecution and conviction is authorized for displaying sexual activity to a minor via electronic communication. The law would apply regardless of whether the victim is a minor or an undercover police officer posing as a minor.

Senate Bill 2605 / House Bill 2856 / Beavers, Burks, Overbey / PC 876 / DOE: 7/1/12

Solicitation of a Minor / Electronic Means -- [Senate Bill 2675](#) was passed on final consideration adding new definitions to the offenses of soliciting sexual exploitation of a minor and exploitation of a minor by electronic means to ensure it is covered under Tennessee law.

Senate Bill 2675 / House Bill 656 / Faulk, Overbey / PC 732 / DOE: 4/16/12

Human Trafficking -- Several bills regarding sex trafficking were approved by the General Assembly this year. Human traffickers target vulnerable victims which most often include immigrants, children and runaways. A report ordered by the General Assembly and released by the Tennessee Bureau of Investigation (TBI) last year revealed disturbing findings about human trafficking in Tennessee. Seventy-eight of the 95 counties in Tennessee, representing 85 percent of the total counties in the state, reported at least one case of human sex trafficking in the last 24 months. Sixty-eight counties, representing 72 percent of the total counties in the state, reported at least one case of human sex trafficking involving a minor child, while Shelby, Davidson, Coffee and Knox Counties reported more than 100 cases.

Human Trafficking / Victim's Defense -- [Senate Bill 2590](#) states that it is a defense to prosecution when a person charged with prostitution is charged for conduct that occurred because a person was a victim as defined under the federal Trafficking Victims Protection Act.

Senate Bill 2590 / House Bill 2823 / Marrero, Burks, Harper, Kyle, Yager / PC 891 / DOE: 7/1/12

Human Trafficking / Sexual Servitude -- Similarly, [Senate Bill 2371](#) was approved which replaces the existing Class B felony offense of “trafficking for sexual servitude” with “trafficking a person for a commercial sex act” and adds the attempt to subject, benefit from, or attempt to benefit from another person’s provision of a commercial sex act. The bill clarifies that the offense of trafficking a person for a commercial sex act would be a Class A felony if the victim is a child under 15 years of age and adds that the offense is a Class A felony if the offense occurs on the grounds or facilities or within 1,000 feet of a public or private school, secondary school, preschool, child care agency, public library, recreational center or public park.

The National Center for Missing and Exploited Children reports that one in four children who run away are approached for commercial sexual exploitation within 48 hours of leaving home.

This new law also adds the offense of advertising commercial sexual abuse of a minor, which is committed when a person knowingly sells or offers to sell an advertisement that would appear to a reasonable person to be for the purpose of engaging in what would be a commercial sex act with a minor. The bill prescribes a violation would be a Class C felony upon conviction. In addition to any authorized period of incarceration, advertising commercial sexual abuse of a minor would be punishable by a minimum fine of \$10,000 under the new state statute. In a prosecution for advertising commercial sexual abuse of a minor, the legislation says it is not a defense that the defendant did not know the age of the minor depicted in the advertisement.

[Senate Bill 2371](#) / [House Bill 2493](#) / [Marrero, Harper, Summerville, Summerville, Burks, Ford, Yager](#) / [PC 1075](#) / DOE: 7/1/12

Human Trafficking / Civil Recourse -- Legislation was approved during the 107th General Assembly that gives victims of human trafficking a civil cause of action to sue the person who has victimized them. The purpose of this new law is to help restore trafficking victims financially at the expense of the trafficker.

[Senate Bill 2369](#) / [House Bill 2489](#) / [Marrero, Harper, Berke, Ford, Herron, Overbey](#) / [PC 613](#) / DOE: 7/1/12

Finally, human trafficking legislation was passed which calls for a plan to be developed in the Department of Human Services for the delivery of state services to victims of human trafficking passed this year. The bill seeks to give victims assistance in identifying any services the state offers which will help them recover from this crime.

[Senate Bill 2370](#) / [House Bill 2492](#) / [Marrero, Harper, Berke, Ford, Herron, Overbey, Burks](#) / [PC 963](#) / DOE: 5/10/12

FGM / Abuse – The State Legislature voted to strengthen current law banning female genital mutilation (FGM) by approving a bill that requires healthcare providers to report it to law enforcement authorities in the same way gunshot wounds or meth fires are reported. Female genital mutilation is practiced on young girls and women in the Middle

East, Africa and Asia, as well as locations in the United States where FGM-practicing immigrants reside, including Tennessee. Last year, 21 cases were reported in Tennessee hospitals without specific reporting requirements for FGM in place.

Current law requires healthcare providers and facilities to report injuries to patients that are a result of violence to local law enforcement personnel, and failure to do so is a Class A misdemeanor. Likewise, [Senate Bill 2559](#) requires health care providers to report injuries that result from illegal FGM to the appropriate law enforcement officials and the district attorney general.

The World Health Organization (WHO) estimates that between 100 and 140 million girls and women worldwide have been subjected to FGM. The practice, which has serious health risks, is widely acknowledged as a human rights violation against women.

[Senate Bill 2559](#) / Ketron, Ford / [PC 817](#) / DOE: 7/1/12

HIGHER EDUCATION / *LEGISLATORS WORK TO ENSURE TRANSFERABILITY OF COLLEGE CREDIT*

In action on post-secondary education this year, the 2012 legislative session made it easier for students to transfer credits between community colleges, private colleges and state universities. The new law authorizes community colleges within the Tennessee Board of Regents (TBR) to enter into reverse articulation or reverse transfer agreements with four year institutions within the TBR system and institutions within the University of Tennessee, as well as private colleges accredited by the Southern Association of College and Schools (SACS).

Articulation agreements are arrangements between higher education institutions that facilitate the transfer of course credits from one school to another. Agreements outline specific courses and letter grades completed at the community college that will transfer to a university or private college. They help students begin more defined curriculums so that students understand exactly which courses will and will not transfer as they move between colleges.

According to the Tennessee Higher Education Commission (THEC), articulation agreements between public higher education institutions are currently in development as part of the state's Complete College America Act of 2010. The articulation agreements between public institutions and private SACS-accredited institutions will be completed if the private institutions approve the agreements.

The agreements could also work to give students attending a four-year college who do not complete their degree the opportunity to transfer their credits to a community college if they choose to earn an Associate's Degree instead.

The articulation agreement makes sure a student has a clear understanding of what courses to complete at a community college to transfer to a university or private college

successfully. This saves them from taking repetitive courses on the university level that might lengthen their time to degree completion.

Senate Bill 2431 / House Bill 2827 / Gresham / [PC 662](#) / DOE: 4/4/12

Dual Credit Courses -- Likewise, a bill to ensure students will receive college credit for dual credit courses that they complete successfully in high school was approved by the Tennessee General Assembly. Dual credit is a type of college credit by assessment that occurs when a high school student passes a course that has been created in collaboration with a higher education institution. The student then takes a test to prove their proficiency.

Dual credit courses allow high school students to receive college credit for certain courses with a more rigorous college level curriculum. These courses are becoming more common in Tennessee high schools and are exceptional tools in preparing and encouraging high school students to attend college. However, many students have not been able to get the credit in college because of the transferability issue.

[Senate Bill 2809](#) requires public postsecondary institutions to accept for credit any dual credit course developed by another public postsecondary institution in collaboration with a high school if the student passes the course and a college proficiency test. The legislation specifies credit would only be provided when the student enrolls in college.

Senate Bill 2809 / House Bill 2613 / Tracy, Marrero, Stewart, Crowe / [PC 967](#) / DOE: 7/1/12

Lottery Scholarship Fund / Adequate Reserves -- The House and State Senate approved [Senate Bill 2515](#) as recommended by a bi-partisan Lottery Scholarship Task Force. The measure requires the general lottery subaccount be maintained at \$100 million instead of \$50 million. A “red flag” would be brought up if the subaccount reaches the \$100 million dollar amount. If the subaccount drops below the \$50 million threshold, the bill would require five percent of the lottery revenues to be placed into the subaccount until it is brought back to a balance of \$50 million. It also requires the comptroller to make an annual report on the adequacy of the reserves to ensure stability of the fund for students in the future.

Since it began in 2004, the lottery has provided nearly \$2.1 billion in scholarships.

Senate Bill 2515 / House Bill 2650 / Gresham, Tate, McNally, Henry, Watson / [PC 896](#) / DOE: 5/9/12

K-12 EDUCATION / *LEGISLATION WAIVES NO CHILD LEFT BEHIND GIVING GREAT AUTONOMY AND FLEXIBILITY TO SCHOOLS*

Several important education proposals were approved during the 2012 legislative session, including a bill that amends current law to reflect Tennessee’s waiver from provisions of the federal No Child Left Behind Act (NCLB). The new law acknowledges Tennessee’s

own ambitious but achievable goals. It was part of Governor Bill Haslam's legislative priorities and comes after Tennessee received approval from the U.S. Department of Education to waive certain provisions of the federal NCLB law.

The bill matches Tennessee law with Tennessee goals, moving away from the barriers created by the federal NCLB Adequate Yearly Progress (AYP) standards. It removes the over-identification of failing schools under the NCLB provisions to a system where schools are recognized for achieving the individual student progress benchmarks set though the state's successful Race to the Top application.

The AYP standard applied under No Child Left Behind would have designated hundreds of progressing Tennessee schools as failing to meet the federal law's definitions and timelines, making them subject to state takeover. In place of the annual AYP designation for Local Education Agencies (LEAs) and schools, the bill establishes a state accountability system requiring significant growth in student achievement in core subjects. It also contains provisions designed to cut the achievement gap between the poorest students and racial minorities with their counterparts, whose scores are higher.

The bill gives greater autonomy and flexibility for schools and LEAs with proven success in turning student scores around, rather than applying a state takeover for all schools eligible for state intervention under NCLB provisions. By doing so, it narrowly tailors the most significant state sanctions to focus on the bottom five percent of schools. This allows local school districts to apply their own concentrated measures to improve student scores, as the state focuses on those schools which need help the most, particularly those who are under state intervention in the Achievement School District (ASD).

The Achievement School District was created by Tennessee's "First to the Top" law. The legislation clarifies the authority, obligations and operations of the ASD to ensure meaningful intervention in the state's lowest-performing schools as required by federal waiver provisions. It clarifies funding, property rights and procurement processes to ensure the ASD's ability to manage schools effectively and create dramatic change and improvement. In addition, it clarifies the transition of a school from the ASD back to the local school district, removing references put into place under the No Child Left Behind law and implanting parental decision-making opportunities.

Under the waiver, Tennessee proposes to raise overall achievement by 3 to 5 percent each year and to cut achievement gaps in half over an 8-year period.

Senate Bill 2208 / House Bill 2346 / Norris, Gresham, Johnson / PC 962 / DOE: 5/10/12

On the Right Track with Reforms -- The major education reform efforts in Tennessee are on the right track in terms of addressing issues identified by researchers a new study by the Comptroller's Offices of Research and Education Accountability (OREA) released recently said. Last year, the General Assembly asked OREA to review major education initiatives in Tennessee, including Race to the Top and No Child Left Behind, and efforts of education-focused groups such as the Hyde Foundation and Tennessee State Collaborative on Reforming Education.

Flexibility / New Teacher Evaluation System -- The Legislature also discussed the state's new teacher evaluation system. Reforming the state's teacher evaluation process was a critical part of Tennessee's receiving \$500 million in federal Race to the Top funds which was based on four pillars: enhancing standards and assessments, improving the collection and use of data, increasing teacher effectiveness and turning around struggling schools. The changes to the evaluation system were made during the administration of former Governor Phil Bredesen and approved by the Legislature in January 2010.

Governor Haslam announced in December that there will be both an external and internal review of the new teacher evaluation system. He has charged the State Collaborative on Reforming Education (SCORE) with conducting an independent, third-party evaluation and is asking the state Department of Education to formalize a review process, which the department has already begun. Tennessee teachers and members of the public were invited to attend and participate in eight regional roundtables on the state's new teacher evaluation process. SCORE will gather feedback on challenges and concerns, identify what is working well, and report back to the state Board of Education and Department of Education on June 1. The Department of Education anticipates making additional modifications to the evaluation system from the reviews of the program.

Teachers / Discipline in the Classroom -- The State House and Senate approved legislation giving teachers more authority to relocate a student who poses a safety threat without fear of being found liable. The new law requires local education boards to adopt a policy authorizing a teacher's ability to temporarily move a student to a different location for the student's safety or for the safety of others. The bill also requires principals to fully support the authority of teachers in taking the action when it is done according to the policy.

The genesis of the bill came as lawmakers listened to teachers who were concerned about liability while performing assigned duties or that a lawsuit could be brought against them if they try to remove a student during an altercation. The legislation was supported by the Tennessee School Board Association, the Tennessee Education Association and the Professional Educators of Tennessee.

The policy required under the measure also covers teachers' authorization to intervene in a physical altercation between two or more students or between a student and Local Education Agency (LEA) employee. It also allows for the use of reasonable or justifiable force upon a student if the student is unwilling to cooperate and it becomes necessary to end the altercation by relocating the student to another area. If steps beyond the use of reasonable or justifiable force are required, the student would remain in place until law enforcement officers or school resource officers arrive.

The bill applies to acts committed on school property, as well as those at official school functions, including sporting events and approved field trips. In addition to teachers, it applies to administrators, school support staff, bus drivers, cafeteria workers, school resource officers and others working in the school who interact with students.

Teachers must file a brief report with the principal detailing the situation that required the relocation of the student. If it is found that the student's behavior violated the LEA's zero tolerance policy, the report would become part of the student's permanent record. The student is then subject to additional disciplinary action that may include suspension or expulsion from the school. The principal or their designee must notify the teacher involved of the actions taken to address the behavior of the relocated student. It does not apply to special needs students.

Senate Bill 3116 / House Bill 3241 / Gresham, Summerville, Burks, Tracy, Campfield, Tate, Crowe, Bell, Roberts, Southerland; Ramsey; Watson, Ketron, Massey, Beavers, Faulk, Norris, Yager / PC 701 / DOE: 4/11/12

Reasonable Force by School Personnel / School Bus Drivers – Similarly, [Senate Bill 3640](#) was passed into law this year which regulates student conduct on school buses. The bill authorizes any teacher, principal, school employee or school bus driver, in exercising the person's lawful authority, to use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another person. This measure expands present law to include assaulting a school bus driver or other school personnel with vulgar, obscene or threatening language as conduct for which it is appropriate to suspend a student. The legislation also creates a defense against a civil action for damages when the action is based on intentional assault, personal injury or injury to the personal property of a student or school personnel that a teacher, principal, school employee or school bus driver, in the exercise of the person's lawful authority, used reasonable force that was necessary to restrain the student or to prevent bodily harm or death to another person.

Senate Bill 3640 / House Bill 2789 / Roberts, Barnes, Yager / PC 687 / DOE: 7/1/12

Teacher Evaluation / Public Records -- Legislation that keeps teacher evaluations from being subject to publication was also approved this year. The measure keeps access to the data limited to school officials and the teacher. The evaluations were designed to be a tool used by school authorities to help the teacher improve his or her instruction, rather than one to publicize a teacher's performance. The action comes after it was reported that education officials could be obliged to release evaluations in response to a request under the state's open records act.

Senate Bill 1447/ House Bill 1908 / Tracy / PC 811 / DOE: 4/25/12

7th and 8th Grade Teachers / Loan Forgiveness – General Assembly members approved legislation which would allow 7th and 8th grade teachers to apply for up to \$17,500 in loan forgiveness funds available for secondary school teachers. The new statute changes the definition of elementary school so 7th and 8th grades can be classified as secondary schools.

Senate Bill 2579 / House Bill 2653 / Southerland, Ford, Kyle / PC 551 / DOE: 3/8/12

Teachers / College Professors -- State Senators approved [Senate Bill 2302](#) which calls for the Department of Education to issue a license to individuals who have taught in an eligible college or university to teach in Tennessee schools in grades nine through twelve. The bill applies to those with two or more years of full-time experience during the last five years either as a faculty member or as an adjunct faculty member, or three of the last five years part-time experience as long as they have good moral character and are in good standing with the higher education institution. They must submit for review at least three years of documented teaching evaluations that rate the applicant for licensure as proficient or better in the subject area.

The legislation also requires applicants to provide a notarized statement from the college or university in which they were employed regarding their standing, a list of courses taught, and any disciplinary action taken, including sexual harassment or dishonest behavior. The license would contain an endorsement that specifically authorizes the individual to teach only in the subject area previously taught at the postsecondary institution. In addition, the applicant must successfully complete all exams required for the licensure of the subject area. They must attend in-service training sessions and participate in a mentoring program to be established by the State Board of Education.

[Senate Bill 2302](#) / [House Bill 3098](#) / *Summerville, Gresham, Kelsey, Johnson* / [PC 1072](#) / DOE: For rules promulgation 5/21/12 for all other sections effective date is 7/1/12

Science / Teachers -- The Legislature approved a new law that makes it clear that teachers can help their students develop critical thinking skills regarding scientific evidence, allowing discussion on the strengths and weakness of various scientific theories. The discussion, however, must be within the framework of the curriculum.

[Senate Bill 893](#) / [House Bill 368](#) / *Watson, Beavers, Johnson* / [PC 670](#) / DOE: 4/10/12

Teachers First Amendment Rights Protected -- The State Senate and House of Representatives passed a law this year protecting the First Amendment rights of school personnel, including teachers and administrators. The bill seeks to ensure educators can participate in programs that take place either before or after school hours and do not interfere with their school duties, including those of a religious nature as long as they are initiated by students. The action comes after reported incidents where teachers and coaches were admonished for participating in such activities as the “Meet Me at the Pole” prayer event and prayer before sporting events, both of which are outside of school hours.

[Senate Bill 3060](#) / [House Bill 3266](#) / *Summerville, Crowe, Bell, Campfield, Johnson, Massey, Yager, Ford* / [PC 690](#) / DOE: 4/17/12

Parental Involvement -- Legislation that encourages school districts to develop and implement voluntary parental involvement contracts with parents of students passed this year. It has been found that when parents collaborate with teachers, educators hold higher expectations of students and higher opinions of the parents. Findings also show that children from diverse cultural backgrounds tend to do better because parents and professionals are bridging the gap between the culture at home and the learning

institution. The bill is designed to encourage and facilitate a parent's involvement in his or her child's education.

Senate Bill 3588 / House Bill 3636 / Kelsey, Crowe, Overbey / PC 762 / DOE: 4/17/12

Charter School / Student Promotion -- State Senators gave final approval to [Senate Bill 2156](#) that clarifies charter schools can promote students based on test scores or grades.

Senate Bill 2156 / House Bill 3269 / Kelsey / PC 909 / DOE: 5/10/12

Charter Schools / Recruitment of Foreign Workers with H1B Visa -- The House and Senate gave final approval to legislation to enhance transparency in the use of public funds by charter schools. This new statute provides additional information for families who might be exploring a charter school option for their student.

Public charter schools, like public schools, use taxpayer money. The funding disclosure provision of the bill is intended to provide transparency in the use of public funds so that parents have information and can make informed decisions about where they want to send their children to school.

The bill addresses a situation where a charter school would direct its recruitment overseas at workers who are neither present in the U.S. nor eligible to apply for a H1B visa. The limit for foreign worker recruitment is only applied at the discretion of the chartering authority, typically the local school district.

Senate Bill 3345 / House Bill 3540 / Ketron, Summerville, Tate, Tracy, Crowe / PC 879 / DOE: 7/1/12

Municipal School Districts -- Legislation was passed this year that lifts the ban on municipal school districts in Shelby County. The new law applies if a majority of the voters participating in a referendum on the matter elect to raise local funds to support a proposed city school system. A ban was placed on creation of municipal school district in 1998.

Senate Bill 1923 / House Bill 1105 / Gresham / PC 905 / DOE: 9/9/12

Kindergarten Age -- Legislation that requires children entering kindergarten be five years of age on or before August 31 for the 2013-2014 school year and on or before August 15 for all school years thereafter was passed into law this year. Before, Tennessee law required that children entering kindergarten be five years of age on or before September 30 of the current kindergarten term.

[Senate Bill 2630](#) allows for the Director of Schools to waive the new requirement if they find through evaluation and testing that a child who is five years of age on or before September 30 is sufficiently mature emotionally and academically. The evaluation will be conducted upon the request of the parent or legal guardian. Children who participate in an LEA (Local Education Agency)-administered pre-kindergarten program during the

2012-2013 or 2013-2014 school years may enter kindergarten in the 2013-2014 or 2014-2015 school years respectively. The bill will take effect on October 1, 2012.

Senate Bill 2630 / House Bill 2566 / Johnson / PC 991 / DOE: 10/1/12

Civics Education -- A key bill implementing a new emphasis on civics education in Tennessee was approved by the General Assembly in the 2012 legislative session. [Senate Bill 2066](#) aims to give students the skills they need to be better informed about the workings of their own government by requiring civics education be included in the public school curriculum assessed by Local Educational Agencies (LEAs).

The legislation prescribes that the assessment be done on a “project-based” approach. This approach engages students in choosing issues of concern to them, followed by investigative research and development of plans for improving their communities. It moves away from testing memorization of facts and puts the focus on the academic skills needed for engaging in social issues and governance.

The most recent study of the National Assessment of Educational Progress reported that students perform worse in civics and U.S. history than in any other subjects. This legislation works to address this so students get the hands-on knowledge they need to fully participate in our democratic system of government.

The state’s recent waiver of the No Child Left Behind law enhances implementation of the bill. This bill ensures that civic knowledge and skills are not afterthoughts in education, as more emphasis is often placed in subject areas where students are at risk of failing subjects which are tested.

Senate Bill 2066 / House Bill 2114 / Norris, Summerville, Kelsey, Crowe, Ketron / PC 1036 / DOE: 5/21/12

Family Life Education -- State lawmakers voted to clarify that sex education curriculum in Tennessee is to be abstinence-based and abstinence-centered. The action comes after reports that some curriculum has been centered on risk avoidance which is in conflict with Tennessee’s current law. The new state statute empowers parents to file a civil action if a public school or third party provider promotes “gateway sexual activity.” It calls for the State Board of Education to develop curriculum that can be used by local boards of education to help the teen understand the wide range of effects of early sexual activity on the student and encourages communication with parents or guardians. The Family life education would begin in the ninth grade under the bill unless the most recent health statistics for a county indicates that pregnancy rates exceed 19.5 pregnancies per 1,000 females aged 15 through 17, in which case family life education may begin in the fifth grade. Tennessee has the 7th highest pregnancy rate and 11th worst HIV infection rate in the nation among teens.

Senate Bill 3310 / House Bill 3621 / Johnson / PC 973 / DOE: 7/1/12

Virtual Capitol Tour -- Tennessee's Secretary of State is authorized to produce a virtual tour of the state capitol, capitol annexes and grounds and to publish it on the General Assembly and Secretary of State's websites under legislation passed this year. The legislation also authorizes the state's librarians to distribute to any public or private elementary, middle, junior high or senior high school the virtual tour on electronic media. It aims to give students and others who cannot go to the Capitol for a variety of reasons an opportunity to see where their government is housed via remote access.

Senate Bill 3194 / House Bill 3200 / Yager, Overbey, Burks, Faulk, Gresham, Massey / PC 557 / DOE: 3/13/12

Schools / Extracurricular Activities -- State legislators approved a measure calling for local education agencies to put the names of all clubs or school-associated extracurricular activities and their purpose in the student handbook. The bill would give parents the opportunity to prohibit membership through written notice to the school.

Senate Bill 2488 / House Bill 2548 / Gresham / PC 990 / DOE: 7/1/12

CPR / Education -- Legislation calling for schools to include hands-on practice in cardiopulmonary resuscitation (CPR) programs was adopted this year. The current wellness curriculum in schools requires CPR training. This new law ensures that this training includes hands-on practice as well. The training for CPR is often provided by local emergency personnel who give demonstrations for the students and the opportunity to practice the life-saving skill.

Senate Bill 1680 / House Bill 1519 / Tracy, Gresham, Tate, Kelsey, Berke, Burks, Campfield, Crowe, Summerville, Barnes, Faulk, Ford, Harper, Kyle, Marrero, Overbey, Massey / PC 579 / DOE: 3/13/12

Cyberbullying -- The General Assembly approved legislation that revises a law passed last year regarding cyberbullying through the use of electronic devices. [Senate Bill 2556](#) removes the words "frighten, intimidate, or cause emotional distress" to a victim in the state's current cyberbullying law and replaces them with the word "threaten." The revision limits the offense of harassment by display of an image to cases in which the defendant communicates without legitimate purpose with the intent that it will be viewed by the victim with the malicious intent to threaten them. It must also be in a manner in which the defendant knows or reasonably should know, would threaten a similarly situated person.

The bill requires each Local Education Agency (LEA), at the beginning of the school year, to provide teachers and school counselors with a copy of the bullying policy and its implementation process, information on prevention and strategies to address bullying and harassment when it happens, as well as relevant training on the issue. Teachers and parents would also be given information relative to bullying prevention and programs to promote awareness of its harmful effects. In addition, the bill requires annual reports regarding the number of bullying cases brought to the attention of school officials and the manner in which they were resolved or the reason they are pending.

The action comes after two children within a thirty-mile radius of metro Nashville committed suicide over the past six months, with indications pointing to cyberbullying. Minors who are found guilty under the cyberbullying law would be subject to 30 days of public service work.

Senate Bill 2556 / House Bill 2641 / Ketron, Ford, Burks / PC 992 / DOE 7/1/12:

COURTS / ETHICS / JUDICIAL CONDUCT AND COURT **REFORM ADDRESSED IN 2012 LEGISLATIVE SESSION**

Board of Judicial Conduct / Replaces Court of the Judiciary – Legislation that dissolves Tennessee’s Court of the Judiciary on July 1, 2012 and replaces it with the Board of Judicial Conduct has been approved. The Court of the Judiciary was created by the legislature to investigate and, when warranted, act on complaints against judges. The Court has broad jurisdiction to internally investigate, hear and determine charges sufficient to warrant discipline or removal of a judge.

The action to reconstitute the body comes after the Court of the Judiciary received criticism for ineffectiveness in disciplining judges and for secrecy in its proceedings. The Senate Judiciary Committee held hearings last year regarding discipline of judges after it was reported there were 344 complaints leveled against Tennessee judges in 2010, with only one resulting in a public reprimand. One of the most frequent concerns was that judges did not recuse themselves from hearing a case where there was a conflict of interest or possible bias against one of the parties.

The new Board will consist of 16 members that will serve for a term of three years and be eligible for reappointment to one additional term. This legislation requires the board, on a quarterly basis, to file a report with the chairs of the judiciary committees of each house detailing at least the number of complaints against judges filed during the previous quarter and the disposition of each complaint. This bill also changes the burden of proof to investigate a judge to probable cause that misconduct occurred instead of substantial likelihood that it did and revises other provisions regarding complaints against judges.

The law aims to provide transparency and fairness to both complainants and judges. It also gives the Board a mechanism to use the new Rules of Judicial Conduct, which are nationally recognized as a model for other states, adopted by the Tennessee Supreme Court.

Senate Bill 2671 / House Bill 2935 / Faulk, Beavers, Ramsey, Overbey, Tracy, Johnson, Ketron, Ford, Gresham, Kelsey / PC 819 / DOE: For purposes of appointing the members of the board of judicial conduct created by this act, it shall take effect upon becoming a law. For all other purposes, it shall take effect on 7/1/12.

Judicial Selection -- Action in the State Legislature in 2012 was highlighted by passage of a resolution that would allow Tennesseans to vote on whether or not they want to use a merit-based appointment system for selecting the state’s Supreme Court and intermediate appellate judges, followed by a retention vote of the people.

The action follows an announcement made earlier by Governor Bill Haslam, Lt. Governor Ron Ramsey and House Speaker Beth Harwell that legislative action is needed under the present system for selecting appellate judges in order to be constitutionally correct. Article VI, Section 3 of Tennessee's Constitution requires that Supreme Court justices "shall be elected by the qualified voters of the state," which concerns many lawmakers who believe the current system does not fully satisfy that mandate.

Under the state's current Tennessee Plan for selecting Supreme Court and other appellate judges, a 17-member Judicial Nominating Commission reviews applicants and sends the governor a panel of three nominees for consideration. The governor must then appoint one of the nominees or reject the panel and request a second panel. After being appointed through this process, the appellate judges must stand for approval by the voters after completion of their term, with the people deciding whether to "retain" or "replace" them.

[Senate Joint Resolution 710](#) calls for appointment of state appellate judges in a manner similar to the federal model by allowing Tennessee's Governor to appoint judges to the Supreme Court and state appellate courts, subject to confirmation by the General Assembly, for eight year terms. Confirmation by default occurs if the Legislature fails to reject a nominee within sixty calendar days of either the date of nomination, if made during the annual legislative session, or the convening date of the next annual legislative session, if made out of session.

The change set out in the resolution would only go into effect if the Constitution is amended by a vote of the people. The resolution must be approved by a simple majority of the legislature this year after three readings and must receive a two-thirds majority of both chambers in the following General Assembly. Then it would go to a vote of the people in 2014.

[Senate Joint Resolution 710](#) / Kelsey, Bell Beavers / Signed by the House and Senate Speakers

Judicial Diversion -- The State Senate and House of Representatives unanimously approved legislation which makes state or local officials who have committed a crime during their term of office ineligible for consideration of either pre-trial or judicial diversion. The new law simply adds a criminal offense committed by officials in the executive, legislative or judicial branch to the list of those which are ineligible for judicial diversion, if the crime was committed in their official capacity or involved the duties of their office.

Judicial diversion is a process in criminal law where a person pleads guilty to a crime and can later have the charge removed (or expunged) from their record following a period of probation. It is granted by the judge, hence its name "judicial." A person is eligible for judicial diversion in Tennessee if the person does not have a previous class A misdemeanor, felony conviction, or has never received diversion or had his or her record expunged before.

[Senate Bill 2566](#) / [House Bill 2763](#) / Yager, Barnes, Massey, McNally / [PC 766](#) / DOE: 7/1/12

Public Officials / Insider Trading -- The General Assembly approved [Senate Bill 2788](#) which further clarifies Tennessee law regarding official misconduct for public servants who used their office for personal gain. Under present law, a public servant commits a Class E felony who, with intent to obtain a benefit or to harm another, intentionally or knowingly receives any benefit not otherwise authorized by law.

This new law further specifies that it is a crime for public servants to use non-public information derived from their position to profit from their official duties if they use that knowledge to purchase or sell tangible or intangible personal property. It also applies to using non-public knowledge to liquidate personal property with intent to make a profit. In addition, the new law allows for the ouster of any person convicted of such an offense and that he or she will be disqualified from holding any office under the laws or constitution of the state of Tennessee.

[Senate Bill 2788](#) / [House Bill 3141](#) / Kelsey, Beavers, Johnson, Barnes / [PC 966](#) / DOE: 7/1/12

CHILDREN / LEGISLATURE PASSES BILLS TO PROVIDE HELP FOR NEGLECTED YOUTH AS THEY TRANSITION TO ADULTHOOD

Children / Abused and Neglected Youth / Transition -- A bill to help ensure that abused and neglected youth in state custody get the chance they deserve to become healthy and productive adults was approved during the 2012 legislative session. [Senate Bill 2199](#) bridges the gap for those in foster care from the teenage years to adulthood by assuring the Transitioning Youth Act continues to remain in effect for years to come. This critical program, which was set to expire in June, provides assistance to youth in foster care between the ages of 18-21 - after they age out of the foster care system.

The Jim Casey Youth Opportunities Initiative Organization reports that 40 percent of young people who were in foster care became homeless or without a stable living situation at least once since exiting foster care, and many were homeless multiple times. Those remaining in care until age 21 were twice as likely to be working or in school at age 19. Young women remaining in care until age 21 experienced a 38 percent reduction in the incidence of pregnancy before age 20.

[Senate Bill 2199](#) / [House Bill 2337](#) / Norris, Overbey, Burks, Ford, Harper, Marrero , Massey, Tracy, Watson / [PC 653](#) / DOE: 4/4/12

Sportsman's License / Intellectually Disabled -- Lawmakers gave unanimous approval to a measure that creates a sport combination license for individuals who are under the age of 18 and are permanently disabled as certified by a licensed physician. [Senate Bill 3655](#) authorizes the Tennessee Wildlife Resources Agency to discount the annual fee to \$5.00 for this license to encourage these outdoor activities for citizens with intellectual disabilities.

Senate Bill 3655 / House Bill 3690 / Southerland, Ramsey, Ketron, Overbey, Yager / PC 954 / DOE: 5/10/12

Motorcycle Safety / Children -- The Senate and House of Representatives approved [Senate Bill 74](#) which prohibits the operator of a motorcycle from transporting a child whose feet cannot reach the foot pegs as a passenger. The safety legislation prescribes a \$50 fine for violation.

Senate Bill 74 / House Bill 153 / Overbey, Barnes, Finney L, Kyle, Marrero / PC 907 / DOE: 7/1/12

Alcohol / Underage Drinking – Legislation making it a Class C misdemeanor offense for a visibly intoxicated person between the ages of 18 and 21 to go into a retail package store passed the General Assembly during the 2012 legislative session. The bill applies to those who know that intoxicating liquors are sold there and do not leave the premises when asked to do so by the owner or an employee of the establishment. [Senate Bill 2544](#) also makes it a delinquent act for a minor to knowingly go into a retail package store and remain on the premises despite being asked to leave.

Senate Bill 2544 / House Bill 2459 / Massey, Overbey, Faulk / PC 899 / DOE: 5/9/12

TRANSPORTATION / DUI / GENERAL ASSEMBLY ***STRENGTHENS STATE'S DRUNK DRIVING LAWS***

DUI / Implied Consent -- Legislation was approved in the 2012 legislative session requiring blood alcohol testing or a breath sample for a suspected drunk driver who violates the state's implied consent law if a court order or search warrant is issued. Under present law, a person is charged with violating the state's "implied consent" law if they refuse to be tested, but they must give up the right to drive, unless they are being charged for the first time in which an exception can be made for travel to and from work for a period of one year. This applies even if the suspect is found not guilty.

The implied consent legislation passed this year clarifies that the provision regarding not administering the blood alcohol content (BAC) test if the person refuses to submit does not apply if testing is mandated by a court order or search warrant. The new law also applies to testing mandated if a law enforcement officer has probable cause to believe that the driver of a motor vehicle involved in an accident resulting in the injury or death of another is driving under the influence of drugs or alcohol.

The Tennessee Department of Safety and Homeland Security reported 2,241 drivers were convicted for rejecting the tests during the last one-year reporting period.

Senate Bill 2914 / House Bill 2752 / Overbey, Faulk / PC 892 / DOE: 5/9/12

DUI / Ignition Interlock -- A new law was approved which authorizes judges to order the use of an ignition interlock device for any person granted a restricted driver license.

The order may be with or without geographical restrictions, but if the device is ordered, then it must remain on the vehicle during the entire period of the restricted license.

The Department of Safety reported a total of 22,119 DUI convictions during the last one-year reporting period.

Senate Bill 2913 / House Bill 2749 / Overbey, Bell, Burks / PC 1040 / DOE: 7/1/12

DUI / Prescription Drugs -- State legislators approved [Senate Bill 2915](#) which brings clarity to Tennessee's law regarding driving while under the influence of prescription drugs. The legislation ensures that state law does not provide an excuse or a defense for offenders who do not have physical control of their vehicles due to them being under the influence of an intoxicant drug prescribed lawfully.

Senate Bill 2915 / House Bill 2750 / Overbey, Faulk / PC 893 / DOE: 7/1/12

DUI / Child Endangerment -- A new law was passed that ensures a multiple DUI offender receives the appropriate punishment when he or she endangers a child in their vehicle by driving under the influence. Currently, multiple offenders do not receive an enhanced sentence like first offenders due to ambiguity in the language of a 2005 law which enhanced penalties for child endangerment for DUI offenders. [Senate Bill 2607](#) makes sure state law is clear for multiple DUI offenders that the punishment for child endangerment, which is 30 days, runs consecutively with any other sentence received.

Senate Bill 2607 / House Bill 2751 / Beavers, Overbey, Berke, Faulk, Norris, Stewart / PC 919 / DOE: 7/1/12

Safety information / Car crashes -- The General Assembly has approved a new law requiring local law enforcement agencies to send information regarding car crashes in their jurisdiction to the Tennessee Department of Safety and Homeland Security through an electronic reporting system by 2015. Currently, there are 500 police agencies of which 260 use the Department's electronic TITAN system which is provided to them free of charge. Tennessee Highway Patrol Colonel Tracy Trott told lawmakers the measure would give them complete data so they can take a proactive approach to reduce the number of crashes and reduce fatalities.

Senate Bill 2236 / House Bill 2374 / Norris, Tracy / PC 531 / DOE: 1/1/15

Voluntary Yellow Dot Program / Emergency on the Highways -- Lawmakers voted this year to establish a voluntary "Yellow Dot" program in Tennessee to alert emergency medical personnel to important health information of the driver or a passenger. [Senate Bill 2277](#) is designed to assist citizens and first responders in the event of an automobile crash or other medical emergency involving the participant's vehicle. Participants of the program will receive a "Yellow Dot" decal, a "Yellow Dot" folder and an information form with the participant's name, an identifying photo, emergency contact information, personal physicians' information, medical conditions, recent surgeries, allergies and medications being used. A "Yellow Dot" decal on the driver's side rear window of a

vehicle alerts first responders to check in the glove compartment for the corresponding “Yellow Dot” folder.

The program can help save lives during the critical “golden hour” by improving communication at a time when accident victims may be unable to communicate for themselves. Having this information following a crash helps first responders positively identify the person, get in touch with family or emergency contacts and ensures that the person’s current medications and pre-existing medical conditions are considered when treatment is administered for injuries.

Senate Bill 2277 / House Bill 2296 / Tracy, Ketron, Burks / PC 804 / DOE: 4/23/12

AGRICULTURE / ENVIRONMENT

Grape Farmers -- Tennessee's growing grape farming industry will be helped by legislation approved this year. [Senate Bill 3552](#) improves the market for Tennessee grape farmers by allowing them to contract with wineries in the state to custom crush the farm’s produce, turning it into wine labeled with the farm’s and winery’s logo. Tennessee wineries currently pay a premium of 240 percent for Tennessee grapes compared to similar grapes from out-of-state.

Senate Bill 3552 / House Bill 2679 / Faulk, Ketron, Yager, Johnson, Crowe, Overbey, Ramsey / PC 691 / DOE: 4/11/12

Family Farms / Child Labor Laws -- The General Assembly approved legislation which prohibits state or local funds from being used to enforce any change to the United States Department of Labor’s Hazardous Occupations Orders for Agricultural Employment relating to children. The revisions proposed by the Department of Labor are vague and encompassing and are a detriment to children in the agriculture industry. The passage of this bill ensures that children, who often begin learning agricultural practices at age 14, will continue to be able to “learn by doing” in Tennessee’s agriculture industry.

Senate Bill 2565 / House Bill 2669 / Ketron, Burks, Gresham, Norris / PC 757 / DOE: 4/16/12

Tennessee Fish and Wildlife Commission -- Legislation that keeps in place a citizen board to ensure the state’s natural habitat is protected through sound management practices has been approved by the General Assembly. The Tennessee Wildlife Resources Commission is the board which sets policy for the Tennessee Wildlife Resources Agency (TWRA). The Commission was in “wind down” after sunset legislation to continue it failed last year.

Without action by the legislature, the Commission was set to expire on July 1, leaving management of the state’s natural resources in limbo. The new legislation reconstitutes a body called the Tennessee Fish and Wildlife Commission to direct the TWRA. It also addresses some of the concerns expressed regarding the current Commission.

The new Commission will be comprised of 13-members, including nine citizens appointed by the governor, two citizens appointed by the Speaker of the Senate and two citizens appointed by the Speaker of the House. The governor, the commissioner of environment and conservation and the commissioner of agriculture, or their designees will serve as nonvoting advisory members of the Commission.

The governor will be required to appoint three citizens from each grand division to the new commission, which is presently a requirement for gubernatorial appointees to the TWRC. Commissioners can be removed for being absent for four regular or special called meetings during a period of one year. The initial appointees will serve staggered terms ranging from two years and eight months to six years and eight months. All subsequent gubernatorial appointees will serve terms of six years and all subsequent appointees of a speaker will serve terms of four years.

The TWRA is funded largely through the monies generated by licenses and permits purchased by hunters, anglers, and other outdoor enthusiasts. The new law requires that the governor strive to ensure that the concerns of the typical hunter and angler are represented in appointments made to the commission. The new law requires that at least one person who is appointed to the commission be a qualified farmer or nurseryman.

The Agency's stated mission is to preserve, conserve, manage, protect, and enhance the fish and wildlife of the state and their habitats for the use, benefit, and enjoyment of the citizens of Tennessee and its visitors. In doing so, they are also responsible for implementation of the state's hunting, fishing and boating laws.

Senate Bill 3590 / House Bill 2776 / Faulk / PC 993 / DOE: 6/30/12

Agriculture / Swine -- [Senate Bill 2879](#) was passed by state lawmakers in 2012. This legislation makes it a Class A misdemeanor to knowingly transport wild-appearing swine into or within the state without appropriate documentation from the department of agriculture to keep diseases from spreading in Tennessee.

Senate Bill 2879 / House Bill 3383 / Southerland, Burks / PC 866 / DOE: 7/1/12

VETERANS

Tennessee National Guard Day -- March 3 has been declared "Tennessee National Guard Day" under legislation which met the approval of lawmakers this year. [Senate Bill 2231](#) honors and recognizes Tennessee National Guard personnel each year on that date for their service and sacrifices in defense of our nation and for responding to domestic missions within the borders of our state.

Senate Bill 2231 / House Bill 2369 / Norris, Gresham, Ketron, Faulk, Overbey, Yager, Crowe, Herron, Barnes, Beavers, Bell, Berke, Burks, Campfield, Finney L, Ford, Harper, Haynes, Henry, Johnson, Kelsey, Marrero, Massey, McNally, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Ramsey / PC 574 / DOE: 3/13/12

Tennessee State Guard / Civil Air Patrol / Employees -- [Senate Bill 3282](#) has been approved which adds to the existing list of job protections for Tennessee State Guard and Civil Air Patrol members who are called to active duty. The bill prohibits any loss of positions, supplemental pay or other job related benefit if a member, under competent orders, was engaged in guard or patrol duty.

[Senate Bill 3282](#) / [House Bill 2295](#) / Gresham, Ketron, Stewart, Bell, Burks, Crowe, Faulk, Overbey / [PC 803](#) / DOE: 4/23/12

Veterans / Higher Education -- [Senate Bill 3115](#) was passed in the 2012 legislative session to allow active military or honorably discharged veterans who are residents of the state of Tennessee and students at public institutions of higher education to register for classes prior to the general student population. The bill affects current Tennessee residents whose home of record for military duty is in Tennessee and applies to those who served in the U.S. Armed Forces on active duty, active National Guard or active reserves. The bill requires early registration to occur using the same procedure that is currently used by student athletes, disabled students and honor students if these groups are allowed to register early.

[Senate Bill 3115](#) / [House Bill 2961](#) / Yager, Summerville, Ford / [PC 788](#) / DOE: 4/23/12

Impersonation of U.S. Armed Forces -- Legislation that would make it a Class B misdemeanor offense for a person to falsely represent they are a member of the U.S. Armed Forces advanced through the legislature to become law. [Senate Bill 2287](#) creates a Class B misdemeanor offense for a person falsely representing to be or to have been a member of the United States Armed Forces when their intentions are fraudulent.

[Senate Bill 2287](#) / [House Bill 2491](#) / Massey, Barnes, Faulk, Ford, Overbey, Crowe / [PC 612](#) / DOE: 7/1/12

Veterans / Charitable Funds -- A resolution seeking to amend Tennessee's Constitution to allow 501 (c) (19) charitable veterans groups to raise funds, in the same manner as other 501 (c) (3) charitable organizations, has been approved upon third reading by House and Senate members. Veterans groups were left out of the Constitutional Amendment approved by voters in 2002 that allowed charitable groups registered with the Internal Revenue Service as 501 (c) (3) organizations to conduct an annual fundraising event. [Senate Joint Resolution 222](#) requires that any funds raised by the games go to purposes that benefit the community, veterans or retired veterans. It must be approved by both the 107th General Assembly, currently in session, and the 108th, which will take office in 2013, before going to voters in a statewide referendum in November 2014, where it must receive a plurality of votes cast in the race for governor.

[Senate Joint Resolution 222](#) / Crowe, Faulk, Gresham, Overbey, Ford / Signed by Speakers

OTHER ISSUES

Multi-County Utility Districts -- Legislation which modernizes Tennessee's Utility District Law of 1937 for multi-county utility districts has passed the General Assembly. Last year the General Assembly made changes in reporting requirements for Utility Districts as well as the method of selection of board members. [Senate Bill 2170](#) changes the governance of 12 multi-county utility districts in Tennessee from self-appointing to mayoral appointment, which is the same system used for other utility districts across the state. Utility Boards are vital to the citizens of Tennessee, and their service includes providing the means to run water, sewer and gas lines.

[Senate Bill 2170](#) / [House Bill 2225](#) / [Yager, Henry](#) / [PC 538](#) / DOE: 3/6/12

Home Improvement Contractors / Consumers -- The full Senate and House voted to clarify legislation passed in 2010 that required home improvement contractors to provide a physical mailing address to homeowners utilizing their services. [Senate Bill 2486](#) closes a loophole in that law to ensure homeowners are notified if the home improvement contractor changes their address to ensure that homeowners can send any needed correspondence by certified mail.

[Senate Bill 2486](#) / [House Bill 3098](#) / [Johnson, Burks, Harper](#) / [PC 802](#) / DOE: 7/1/12

Roofing / Storm Chasers / Consumers -- Roofing contractors operating in Tennessee will have to provide residents whose homes are damaged due to tornadoes and other storms with more information about their company and about their rights to cancel contracts under a new law passed by the General Assembly this year.

Tennessee has suffered from several major storm outbreaks causing widespread roof damage in recent years. As a result, there have been complaints from homeowners who have had problems dealing with out-of-state roofing contractors that have reportedly taken advantage of homeowners.

Senate Bill 2714 requires that roofing contractors whose work is covered by an insurer must provide a homeowner with their address, phone number, email address, any applicable professional license number(s), and a detailed description of the damage to be claimed or covered by the provider's contract with the consumer.

The contract must also contain a form notifying homeowners that there is a three day window of opportunity within which a contract for roofing services can be cancelled if notified by their insurance company that the repairs are not covered in whole or part by the insured's homeowner's policy. The new law requires the roofing services provider to return any payments made by the insured consumer within ten days of a valid cancellation. Finally, it prevents roofing contractors or their agents from telling homeowners they can negotiate a claim with an insurer unless they are also a licensed public adjuster. Any violations of these laws would be covered under Tennessee's Consumer Protection Act of 1977.

[Senate Bill 2714](#) / [House Bill 2915](#) / [Ketron, Burks](#) / [PC 821](#) / 7/1/12

Tennessee's Day of Prayer -- The first Thursday during the month of May will become "Tennessee's Day of Prayer" under [Senate Bill 2516](#) approved this year.

[Senate Bill 2516](#) / House Bill 2321 / Beavers, Barnes Burks, Roberts / [PC 566](#) / DOE: 3/13/12

Equal Access to Public Property Act -- Legislation designed to create order in the use of Tennessee's public lands received final approval by the General Assembly this year. The new law makes it a misdemeanor offense to engage in the activity of camping on property owned by the state knowing that the area is not designated for that use. The "Equal Access to Public Property Act of 2012" comes after reports of potential health threats, theft, lewd behavior and other crimes on the Capitol's War Memorial Plaza in association with the "Occupy Nashville" encampment.

[Senate Bill 2508](#) / House Bill 2638 / Gresham / [PC 535](#) / DOE: 3/9/12

Historic Documents / Ten Commandments -- Legislation authorizing local governments to display replicas of historic documents such as the Magna Carta, Declaration of Independence, U.S. Constitution and Ten Commandments has passed the Senate State and Local Government Committee. The new law applies to county or municipal public buildings or grounds and would allow replicas to be displayed in the form of statues, monuments, or any other display that respects the dignity of the documents.

[Senate Bill 2641](#) / House Bill 2658 / Bell, Crowe, Yager / [PC 686](#) / DOE: 4/10/12

Highway Patrol / Death Benefit -- Legislation was passed this year to extend a \$25,000 death benefit currently provided to local police officers or sheriffs' deputies to state employees engaged in the detection and prevention of crime. [Senate Bill 2204](#) provides a death benefit to Tennessee Highway Patrol, Tennessee Bureau of Investigation (TBI) agents, Tennessee Wildlife Resources Agency officers, Park Rangers employed by the Department of Conservation and Environment, and bomb and arson officers in the Department of Commerce and Insurance. The death benefit would apply to employees who are killed in the line of duty.

Before, state law limited the \$25,000 death benefit to sheriff's deputies or any police officer employed by a municipality whose primary responsibility is the prevention and detection of crime and apprehension of offenders. The bill simply adds law enforcement officers employed by the state to those covered under that law.

[Senate Bill 2204](#) / House Bill 2342 / Norris / Faulk, Overbey, Campfield, Barnes, Burks, Gresham, Harper, Marrero, Tracy / [PC 532](#) / DOE: 2/28/12

Red Cedar / State Evergreen -- The red cedar has been designated Tennessee's official state evergreen tree under a new state law passed in 2012. [Senate Bill 2362](#) states the eastern red cedar is indigenous to the entire state of Tennessee and was one of the earliest landscape trees used by early pioneers of the state like Andrew Jackson at the Hermitage. Cedar Knob was the original name of the land upon which the state capitol was built in Nashville.

Senate Bill 2362 / House Bill 2490 / Faulk, Overbey / PC 567 / DOE: 3/13/12

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