

The Tennessee Journal

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Devastated restaurants the ‘tip of the spear’ on economic impact

If you want to see what doom looks like for Tennessee restaurants, just go to Open Table.

The online reservation app released a data set for year-over-year reservations by date, and it’s rough: Beginning on March 6, what begins with a trickle at -1% for the state quickly becomes a flood (-34% a week later) and then worse. By St. Patrick’s Day, with some localities issuing mandatory dining room closures due to the coronavirus, reservations were off by 86%. Within the week, many were closed, and those that remained open were scrambling to convert to takeout or delivery.

For Rob Mortensen, President and CEO of Hospitality Tennessee, “restaurants are the tip of the spear” for what is coming for the economy as a whole. And they’re a sizable tip at that — in 2018, there were more than 11,000 restaurants and bars in Tennessee accounting for nearly \$14 billion in sales and a big chunk of the state’s sales tax. In 2019, more than 330,000 people were employed in restaurants or food service, or 11% of the state’s total jobs. In Nashville alone, more than 44,000 people are employed in the industry.

Restaurant owners in Memphis, Knoxville and Nashville reveal that many laid off between 80% and 90% of their staffs as they throttled down their operations and attempted to preserve some business through carryout and delivery systems. Many employees, particularly managers, are working with reduced pay.

Social distancing has exerted similar pressures on hotels and tourist attractions around the state. The sprawling Gaylord Opryland Hotel in Nashville has closed its doors, as have Graceland, Rock City, and even the Great Smoky Mountains National Park.

There’s been little uniformity with how the sector has approached furloughing workers: Some slashed pay but kept providing health benefits, others paid entire staffs to stay on for at least a week, while many shuttered and told staff to file for unemployment. Hospitality layoffs accounted for a big chunk of jobless claims: Tennessee received 39,000 requests for new claims, a 14-fold increase over the 2,700 filings the previous week. Gov. Bill Lee described the flood as “overwhelming.”

For Karl Worley, a co-owner of the Biscuit Love chain of restaurants, the collapse was sudden. Business was up on Sunday, down 20% on Monday, and then cratered by 80% on Tuesday. Like many dine-in places, Worley and others count on being able to control his guests’ experience as well as the food. They’ve spent years marketing to customers to come to their places and overnight have switched to a method of service where they control almost nothing. That model can’t be changed overnight because “your customers aren’t trained for delivery,” he said.

In response to lobbying by the restaurant industry, Lee temporarily relaxed rules regarding off-premise alcohol sales with an executive order. Booze can be sold only in conjunction with a food order, and it must be in a secure container with a lid designed to prevent customers from consuming while driving. Wine and beer may be bought by the bottle, but spirits can be sold only by the drink.

Meanwhile, Mortensen’s organization along with the Tennessee Grocers Association and the Tennessee Retail Association have partnered with the state to help shift out-of-work service employees into temporary grocery and delivery jobs as employers like Kroger and Amazon staff up amid rising demand.

But with restaurant demand dropping to as little as 10% of previous output, reverberations are beginning to be felt down the supply chain. Creation Gardens, one of the industry’s premium suppliers, cut down to just a skeleton staff and ended up donating several million dollars’ worth of produce that would have gone to waste.

Restaurant owners tell *The Tennessee Journal* farmers with individual relationships with restaurants are asking for cash on delivery instead of extending credit. Meanwhile, well-known producers like Madisonville’s Benton’s Smoky Country Hams or Leiper’s Fork’s Bear Creek Farms are turning to retail outlets just to move product they have in inventory after losing 80% or more of their restaurant business. The coming stimulus package may provide some relief, but only if federal funds are more in the form of grants than loans. The latter

would merely shift the crunch a few months, said Carey Bringle of Nashville's Peg Leg Porker, who called his own income secondary to the bigger picture. "I need to get my people paid and make them whole," he said.

From the campaign trail

House Commerce Chairman Hill is giving up seat to run for Congress

With less than a week remaining until the filing deadline, candidates are having to make the tough decisions about whether to stand for election — and for which races. State Rep. Timothy Hill (R-Blountville) took the plunge this week, announcing he would join the growing field seeking the GOP nomination to succeed retiring U.S. Rep. Phil Roe (R-Johnson City).

Hill told WJHL-TV he would give up his seat in the General Assembly, where he has served as chairman of the powerful House Commerce Committee, even though state law technically allows candidates to run for state and federal offices at the same time.

Playing into the decision may have been the uncertainty about whether Hill would retain a prominent chairmanship next session. He had strongly supported brother Matthew Hill (R-Jonesborough) in his unsuccessful bid for speakership last year against eventual winner against the eventual winner and current speaker, Cameron Sexton (R-Crossville).

Timothy Hill joins a field of GOP candidates that includes former Kingsport Mayor John Clark, state Sen. Rusty Crowe of Johnson City, former Johnson City Mayor Steve Darden, and Kingsport pharmacist Diana Harshbarger. Former state Rep. Charles Allen no longer appears to be interested in running.

Former state Rep. Scotty Campbell (R-Mountain City), whom Timothy Hill succeeded in 2012, announced he will run for the open state House seat.

Van Huss challenger. Johnson City homebuilder Tim Hicks announced he will challenge state Rep. Micah Van Huss of Jonesborough in the Republican primary in House District 6. Hicks said in his campaign announcement his major differences with the incumbent won't be so much about the conservative policies they both espouse, but rather in their "attitude and approach to public office."

Hicks said his campaign will be themed around the concept of a "fresh start," citing his own recovery from drug and alcohol abuse two decades ago. Addiction issues have particular resonance in Northeastern Tennessee because of the opioid epidemic's concentration in the region, he said. Hicks' father, Bobby, served two terms in the state House in the mid-1990s.

Obituaries

Former state Sen. Cooper, Treasurer Wiseman, Judge Franks pass away

When Jerry Cooper was first elected to the state Senate in 1984, he had only a vague notion of what would be involved with the job. As the Morrison Democrat recalled later, he was invited into the office of a senator

named John Wilder who began to ramble about how "Speaker thinks Jerry Cooper's going to be a good senator" and "Speaker wants to be speaker."

Not knowing anything about the speaker, Cooper said: "Mr. Wilder, I've never heard anything bad about you." That response caused Wilder to pop out of his seat, thank him heartily, and stroll out of the office. Cooper was left sitting alone in the suite, asking himself, "What in the hell have I gotten into?"

But Cooper, who died Saturday at age 71, proved to be a quick study when it came to exerting influence within the corridors of power. Over the course of his 23-year legislative career — almost all of it with enigmatic Wilder at the helm of the upper chamber — Cooper rose to become chairman of the powerful Senate Commerce Committee. Over that time, he was often a prominent swing vote and brokered deals on several major bills.

Cooper's intelligence, personality, and charm often allowed him to get away with maneuvers that might have blown back on other lawmakers. For example, Cooper in 2000 half-jokingly proposed to fill an \$18 million funding gap by simply raising revenue estimates to account for the difference. Much to his surprise (and to the outrage of budget hawks like the late Senate Finance Chairman Douglas Henry), lawmakers approved the adjustment and adjourned.

Cooper was known for his roguish sense of humor, including the time he came into possession of then-House Clerk Burney Durham's filched car keys and moved the vehicle into then-Gov. Phil Bredesen's parking spot at the Capitol. Troopers traced the car's owner by its tags, leading them to the unwitting Durham.

When he was making an unsuccessful bid for Congress in 1998, Cooper was fond of jokingly asking lobbyists: What do you call a defeated congressional candidate? Answer: Chairman. When he didn't have a reelection opponent in 2004, he sent lobbyists a fundraising letter anyway, saying he was lonely and that it would help if they sent money.

As Commerce chairman, Cooper introduced the concept of weekly pre-meetings and fostered a cozy relationship with lobbyists. While he was thought of as friendly to business, he also had strong ties to organized labor. Cooper's committee vote in 1993 to advance the so-called "fair share" bill — which would have required all employees working under collective bargaining agreements to pay union dues — presented one of the last serious threats to the state's "right to work" law (the measure was eventually killed by the House speaker at the time, Democrat Jimmy Naifeh of Covington).

Amid the 2002 budget crisis that followed an unsuccessful four-year battle to enact a state income tax, it was Cooper who proposed the compromise plan to bridge a nearly \$1 billion shortfall by raising the state sales tax by 1 percentage point along with other hikes on business income, cigarettes, beer, and vehicles — plus a doubling of the professional privilege tax to \$400.

Republicans gained their first Senate majority since Reconstruction in 2004, though Wilder was able to hold

Tennessee News Digest

- Tennessee's share of the \$2.2 trillion congressional coronavirus relief package is expected to total nearly \$3 billion.
- The Tennessee Valley Authority has shut down the aging Paradise Fossil Plant in western Kentucky despite efforts by President Donald Trump and U.S. Senate Majority Leader Mitch McConnell (R-Ky.) to keep the facility running.
- Researchers at Austin Peay State University developed a prototype for a 3D

printed face shield for medical workers to wear while addressing the coronavirus outbreak. Other state schools joined the effort to produce the shields, with the first batch of 1,500 designated for the state Emergency Management Agency.

- The Tennessee Education Lottery Corp. has closed claim centers around the state in response to social distancing guidelines issued by the state. Prizes of less than \$600 can still be claimed at

retail locations, while larger winnings must be submitted by mail. Lottery officials remind players to sign the back of winning tickets and recommend sending them in via certified mail.

- The University of Tennessee board of trustees was scheduled to hold a special meeting Friday afternoon to approve a five-year contract for Randy Boyd, who has served as the system's interim president since 2018.
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on as speaker until finally losing to Republican Sen. Ron Ramsey of Blountville in 2007. Cooper's relationship with Wilder had soured by then, not least because of a business deal gone bad.

Cooper was indicted in 2006 for allegedly conspiring to defraud BankTennessee, which was part-owned by Wilder, by submitting a false appraisal of his property to show a rail spur that didn't exist. Cooper and Wilder, a potential witness in the federal case, were advised not to speak to each other while the trial was pending. Cooper broke with the legal guidance to tell Wilder before the 2007 speaker's election it was time to "go home," though he ended up voting for him anyway. Wilder, who died in 2010, later claimed he had been the "prime target" of the federal probe.

While Cooper beat the charges in court, trial testimony by a federal agent outlining how the lawmaker had transferred \$95,000 from his campaign fund to his personal account would spell the end to his Senate career. The Tennessee Registry of Campaign Finance hit Cooper with a then-record civil penalty of \$120,000.

Knowing he wouldn't be able to pay it off in time to qualify for re-election the following year, Cooper resigned in December 2007 (though he submitted about \$57,500 of the penalty in the years after leaving office).

Tom Wiseman. Cooper in 1984 defeated longtime incumbent state Sen. Ernest Crouch of McMinnville in the Democratic primary to launch his political career. Sixteen years earlier, idealistic young state Rep. Tom Wiseman of Tullahoma fell short in his own primary challenge of Crouch. For Wiseman, who died last week at age 89, the setback was temporary.

Wiseman prevailed in a three-way battle for state treasurer in 1970 against incumbent Charlie Whorley and banker Jake Butcher. The position is elected by a joint convention of the legislature, which had just seen the House return to Democratic control despite Republican Winfield Dunn's victory in the governor's race.

Wiseman was heavily criticized by Dunn and then-Rep. Victor Ashe (R-Knoxville) for initially saying he wouldn't give up his position as treasurer while running for governor in 1974. Though he ultimately relented, Wiseman's supporters felt that "anyone attacked so vigorously by Victor Ashe is bound to rise in stature with Tennessee Democrats," *The Tennessean* reported at the time. But it wasn't enough. Wiseman ended up with 14%

in the 12-candidate Democratic primary, finishing third behind Ray Blanton's 23% and Butcher's 20%.

Before and during the 1977 constitutional convention, Wiseman led the lobbying effort on behalf of lenders and the business community to repeal a 10% limit on interest rates. After a high-profile campaign, 56% of voters approved the change the following year to leave it up to the General Assembly to set interest rate caps.

President Jimmy Carter in 1978 appointed Wiseman to a federal judgeship in Nashville, where he presided over numerous notable lawsuits. Those included long-running desegregation cases involving Tennessee State University and Nashville public schools, along with the *John B.* class action against TennCare over screening and treatment of children covered by the program. Wiseman in 2012 vacated a 14-year-old consent decree in the latter case. He retired from the bench in 2015.

Herschel Franks. As a Hamilton County Chancery Court judge in 1976, Herschel Franks ruled that Tennessee's ban on ministers serving the General Assembly violated the 14th Amendment of the U.S. Constitution. The decision was overruled by the state Supreme Court, which was itself reversed by the U.S. Supreme Court. Franks, who died last week at age 89, was appointed to the state Court of Appeals in 1978, where he eventually served as chief judge until his retirement in 2012.

Franks was the preferred choice of the legal community to fill a state Supreme Court vacancy in 1987, but then-Gov. Ned McWherter instead selected Criminal Appeals Court Judge Charles O'Brien, the husband of state Sen. Anna Belle Clement O'Brien (D-Crossville). Franks two years later sought the Democratic nomination for another Supreme Court seat, but the party's executive committee instead chose Riley Anderson.

Franks gained national attention for a 1990 ruling reversing a circuit court decision granting a Knoxville woman "custody" of seven fertilized ova held in cryogenic preservation at a fertilization clinic. Franks found doing so would violate the constitutionally protected right of her former husband not to beget a child where no pregnancy had taken place.

Franks and his colleagues on the three-judge panel ordered the divorced couple to be given equal control over the fertilized ova, meaning nothing could be done with them unless both parties agreed. The state Supreme Court later upheld the decision.

Tennessee Notes & Quotes

■ Gov. **Bill Lee** named Finance Commissioner **Stuart McWhorter** to lead a new “unified command” to combat the spread of the coronavirus in Tennessee. McWhorter named retired Army Brig. Gen. Scott Bower, a former acting commander of the 101st Airborne Division at Fort Campbell, as his chief of staff. While it’s unclear how long the special role will be needed, Lee’s office said McWhorter does not plan to return to his role as chief of the Department of Finance and Administration. **Eugene Neubert**, a deputy commissioner at the agency since 2015, will take over on an interim basis. A permanent replacement is expected to be decided in the next few weeks.

■ **McWhorter**, the chairman of a healthcare venture capital firm who had served on the board of the Lee Co., was an early backer of **Lee’s** long-shot gubernatorial bid. He eventually served as the campaign’s finance chairman and was one of Lee’s first appointments following the 2018 election. The finance commissioner is traditionally the governor’s chief Cabinet officer, though McWhorter has appeared at his least comfortable when pressed by reporters about controversies ranging from school vouchers to the **Nathan Bedford Forrest** bust at the Capitol. He has been more content to focus on the budget planning elements of the job, in which he has presided over a wild roller-coaster ride from the days of overflowing tax coffers to having to cut about \$1 billion of the upcoming spending plan to account for the expected economic fallout from the coronavirus.

■ **Lee** announced the deadline to file and remit franchise and excise taxes would be postponed from April to July 15. The corporate taxes accounted for \$2.74 billion in state revenues last year, or about 22% of general fund collections. Sales taxes made up \$9.43 billion, or 74%.

■ “Each time when I talk about the budget, the last thing I talk about is the ‘Black Swan’ event — something that we don’t know that will come but that all of us need to be prepared for. And unfortunately this year we had two, the tornado and the coronavirus.” — *Senate Speaker **Randy McNally** (R-Oak Ridge)*.

■ “Should my generation be willing to have a degree of sacrifice and risk so that younger generations can have a better life? I think so.” — *Former U.S. Sen. **Bob Corker** to The Tennessean about his call for the country to quickly get back to work despite the pandemic.*

■ “If we drop our societal commitment to social distancing at this time, today, I believe it will lead to catastrophic overload of our hospitals with unnecessary deaths.” — *Former U.S. Sen. **Bill Frist** (R-Nashville)*.

■ The truncated legislative agenda last week included a bill to create a Tennessee Rare Disease Council within the Division of TennCare. The measure sponsored by Sen. **Shane Reeves** (R-Murfreesboro) and **David Hawk** (R-Greeneville) passed both chambers unanimously. Rare diseases are defined as those affecting fewer than 200,000 people. About 10% of Tennesseans are estimated to suffer from one of 7,000 rare diseases,

many of which have genetic origins. The bill was supported by Life Science Tennessee, an association of biopharma companies and research institutions.

■ Differing approaches to the COVID-19 response led to a tense meeting between Knox County Mayor **Glenn Jacobs** and Knoxville Mayor **Indya Kincannon** last week, the *Compass* reported. Jacobs had disagreed with the greater restrictions the city had put into place last week. But by Monday, the county had followed suit.

■ Brentwood-based Takl, a marketplace platform for home improvement and handyman services, has shut down operations and permanently laid off 150 employees amid the spread of COVID-19, the *Nashville Business Journal* reported. The company’s vice president for public affairs is state Senate Majority Leader **Jack Johnson** (R-Franklin), who told the paper executive leadership plans to return when the company restarts.

■ “It is sad and it’s painful because we had to send a lot of people home. We’re just one of the many victims of this coronavirus.” — ***Johnson** about Takl’s closure.*

■ Gov. **Bill Lee** issued an executive order to allow local governing bodies to meet electronically amid the coronavirus pandemic after a breakdown in negotiations between the House and Senate caused legislation to fall short before the start of a 75-day recess last week. Lee’s order largely tracked the upper chamber’s version of the bill, calling for the meetings to be limited to “essential business” and requiring a reasonable effort to be made to accommodate live public access.

■ When state Rep. **Martin Daniel** (R-Knoxville) announced last week he wouldn’t seek another term in the House, the lawmaker said he had made the decision after narrowly winning re-election in 2018. Martin, who had picked up his petition to run again in early February, is getting divorced. A trial date has been scheduled for July 6, and the lawmaker acknowledged to **Georgia Vines** of the *Knoxville News Sentinel* the split had weighed on his re-election decision “a little bit.”

■ A recent poll of Middle Tennessee Republicans included a question about whether they would be more or less likely to support Rep. **Glen Casada** (R-Franklin) if they knew he exchanged sexually explicit text messages with an aide. Just 7% said they’d support the former House speaker, 82% said they’d oppose him. Another 9% were undecided. Maybe if they could have a look at the text messages, they’d have a better idea?

■ The Cordell Hull Building has been closed to lawmakers, staffers, and the press for two weeks following the suspension of the legislative session to clean the facility and to further social distancing goals. So it came as a bit of a surprise when a photo was posted Tuesday on Twitter of House Speaker **Cameron Sexton** and Senate Speaker **Randy McNally** sitting at the latter’s desk in the legislative office complex signing bills.

■ What, too soon for a drive-thru station for signing bills on the horseshoe around the state Capitol?