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Abortion deal breaks impasse over budget, lawmakers adjourn

A months-long standoff between the House and Senate reached its apex Thursday, resulting in a late-hour trade-off that led the bodies to compromise on the budget, Gov. Bill Lee's abortion ban, and a host of other bills. An acrimonious end to the 111th General Assembly appeared in the cards until leaders finally struck a deal.

As recently as Thursday morning, House Speaker Cameron Sexton (R-Crossville) was suggesting a stalemate might result in lawmakers simply adjourning without passing a new budget and thus allowing the emergency spending plan passed in March to stand. In other words, much of the wrangling over the last three weeks would have been for naught.

The skirmish, which came months after Republicans claimed unity on such signature issues as guns and abortion, took center stage against a backdrop of a series of nationwide protests over racism and police misconduct that carried over into the General Assembly.

The breakthrough came when the Senate agreed to make an exception to its stated policy of addressing only time-sensitive bills or those related to COVID-19 by taking up the abortion legislation. In return, the House relented on most of its budget demands. The back-and-forth between the chambers dragged deep into the night Thursday, with dozens of state troopers called in to keep protesters from interrupting proceedings.

Budget differences. When the House approved its initial version of the budget, it featured a multitude of proposals not included in the Senate's funding document. The upper chamber had relied on recommendations from Gov. Bill Lee's administration to incorporate cuts over a three-year period while drawing on one-time reserves to make up for lost recurring revenues. The House sought to restore a structurally balanced budget within two years, relying on deeper cuts to agencies but also adding \$100 million for various sales tax holidays.

The Senate roundly rejected the House's plan, questioning the effectiveness of tax holidays. But the chambers later settled on spending an additional \$15 million to create a sales tax holiday for food purchased at restaurants over the last weekend of July and the first

weekend of August. The plan also doubles the caps on purchases for the state's back-to-school sales tax holiday. Gone is the \$50 million the House wanted to dedicate toward waiving the sales tax for new and used automobile purchases over the Labor Day weekend.

The House also dropped its floor amendment to tap the state's Rainy Day Fund for \$70 million to provide \$1,000 bonuses to teachers. Teachers had been in line for a 4% pay hike when Lee first introduced his budget in February. When the pandemic struck, lawmakers voted to cut that increase in half. The remaining 2% went out the window once they returned in June.

Hall tax. While the Senate rebuffed an initial proposal by the Lee administration to delay the planned repeal of the last vestige of the Hall tax on earnings from stocks and bonds, the House got behind the idea of putting off the phaseout until 2025. The House wanted to use the \$49 million generated each year from the tax to fund other initiatives. Delaying the phaseout flew in the face of the longtime Republican mantra that Tennessee is not truly an income tax-free state while the Hall tax remains on the books.

The House plans were criticized by traditional GOP allies. The Beacon Center's Stephanie Whitt likened the Hall plan to a tax hike, while Tori Venable, head of the state chapter of Americans for Prosperity, derided tax holidays as a gimmick. After negotiations, the chambers agreed on keeping the previously scheduled phaseout of the remaining 1% of Hall tax on Jan. 1, 2021.

A \$210 million question. Among the most notable divisions between the chambers was a question about how to distribute \$200 million to the state's 345 municipalities and 95 counties. The Senate sought to divide the unrestricted fund in half, with municipalities getting \$100 million and the remainder to be split up among the counties. The House instead designated \$80 million to municipalities and \$120 million to counties.

But the largest divide came over a House plan to reduce the amount Nashville and Memphis could receive. The administration and the Senate initially wanted to give each \$15 million and \$14 million, respec-

tively. The House tried to cap the amount at \$5 million each, with Majority Leader William Lamberth (R-Portland) arguing “small town USA” needed the money more than the state’s two most populous cities, which were already getting federal coronavirus relief funds.

Sen. Ferrell Haile (R-Gallatin), who represents a sliver of Nashville, pushed back at what he called an “unfair” move to cut funding for the large cities. The chambers ultimately settled on an arrangement that boosts the fund to \$210 million, returning \$10 million to Memphis and Nashville.

Abortion bill. It was after midnight when the Senate finally took up the abortion bill, which would ban the termination of pregnancies as early as when the first heartbeat is detected. The measure includes a severability “ladder” aimed at keeping provisions of the law in place if other components are found unconstitutional. Senate Minority Leader Jeff Yarbro (D-Nashville) criticized the decision to take up the bill while the public was barred from attendance and after leaders had stated the measure wouldn’t be addressed this session. The bill, which both chambers overwhelmingly approved, is almost certain to draw a swift court challenge.

Retroactive immunity. A bill to provide businesses immunity from COVID-19 lawsuits failed among House misgivings that backdating the effective date to the start of the pandemic might run afoul of the Tennessee Constitution’s ban on enacting retroactive laws.

House battles. Heading into what was expected to be the final week of the 111th General Assembly, expectations were centered around the widely anticipated budget showdown between the House and Senate. But as the week unfolded, the House took center stage as its proceedings devolved into an ugly two-day squabble following a Republican rejection of a resolution to honor the life of a slain African-American teenager.

The rancor began on Monday when protesters attempting to enter the Capitol were blocked by law enforcement officials, who cited the building’s closure due to COVID-19. Republican leaders expressed reluctance to allow demonstrators inside, eventually conceding to grant access to a small number amid accusations they were being treated differently than other visitors such as Republican U.S. Senate candidate Bill Hagerty.

Conditions reached a fever pitch on Tuesday after Lamberth announced he could not support the resolution memorializing Ashanti Nikole Posey, a 17-year-old high school student from Nashville who was killed in April when she was allegedly involved in a small marijuana sale. Lamberth said after doing “research” about Posey, he could not support the resolution because of her “behavior” and “choices that she was involved in.”

Rep. Harold Love (D-Nashville), the resolution’s sponsor, argued Posey had not been convicted of a crime. The House erupted into chaos after a 45-1 vote on the resolution, with 39 Republicans abstaining to deny the measure the 50 votes needed to pass.

Rep. Antonio Parkinson (D-Memphis) yelled profanities on the floor in frustration, leading Speaker Sexton

to urge Democrats to maintain decorum. Protesters were removed from the gallery after breaking out in chants and jeers. They included Justin Jones, who was just coming off of a ban from the Capitol after throwing a partial cup of fluid at then-House Speaker Glen Casada (R-Franklin). Rep. Andy Holt (R-Dresden) chastised his colleagues for the expletives on the floor.

On Wednesday, the chamber’s tense tone continued, with Sexton proactively ordering a meeting between party leaders to address the lingering tension. The meeting lasted about two hours, with representatives of both parties calling it productive.

But as the chamber considered its version of the budget, frustrations once again reached a boiling point. Parkinson leveled a charge that the spending plan forced members to “fund and promote racism and slavery” because it did not include proposals from black lawmakers. House Republican Caucus Chairman Jeremy Faison (R-Cosby) took issue with the assertion, saying Parkinson’s suggestion was racist in its own right. Rep. Matthew Hill (R-Jonesborough) noted the chamber’s finance committee includes several black lawmakers.

During the budget debate, protesters were once again ordered to be removed from the gallery after an impromptu recitation of the Lord’s Prayer when the chamber rejected an amendment to fund the removal of the Nathan Bedford Forrest bust.

While heated end-of-session battles have long been commonplace, Rep. Rick Staples (D-Knoxville) noted the tension in the air over racial matters was so thick it could be cut with a knife. In one of its final acts of the session, the Senate — one day after having a moment of silence — voted again to honor the life of Ashanti Nikole Posey, though this time it was in the form of a Senate resolution that didn’t require a vote by the House.

From the courts

State GOP stunned by U.S. Supreme Court ruling on LGBTQ protections

A U.S. Supreme Court decision this week extended legal protections to lesbian, gay, and transgender workers from being fired, disciplined, or rejected for a job based on their sexual orientation. While the high court’s 6-3 decision was quickly heralded by LGBTQ advocates, reaction from Tennessee’s top Republicans was muted.

In recent years, conservative members of the General Assembly have introduced an array of legislation critics said would discriminate against members of the LGBTQ community. Last year saw the introduction of bills seeking to require the attorney general to defend schools that enforce policies requiring students to use bathrooms that correspond with their sex at birth and two separate proposals aimed at ignoring the court’s gay marriage precedent. In January, Gov. Bill Lee signed off on a law that allows adoption agencies to deny service to same-sex couples based on religious grounds.

The Supreme Court’s decision most notably flies in the face of a bill approved in the House just last year, which critics said would undercut LGBTQ antidiscrimi-

Tennessee News Digest

- The merger of Memphis-based First Horizon National Corp. and IberiaBank Corp. has received regulatory approval from the Federal Reserve System's board of governors. The merger, which is expected to be completed in July, would make the company one of the top 25 banks in the country.
- QTC, a disability and occupational health examination service company, announced plans to invest \$5 million to

create an operations center that will bring 410 jobs to Nashville.

- NASCAR announced its All-Star Race will be moved from Charlotte to Bristol Motor Speedway. The July 15 event will be the first time fans will be allowed at a race since the start of the COVID-19 pandemic. Race organizers said Gov. Bill Lee and Sullivan County officials will allow 30,000 fans to attend the event. The speedway has a capacity of 146,000.

- The Tennessee Department of Transportation will receive \$11 million in federal funding to install fiber optic communications, including closed-circuit cameras and message signs, along 143 miles of Interstate 40.
 - Cineworld, the parent company of Knoxville-based Regal Cinemas, announced plans to reopen its theaters in July. The company closed its 543 locations in 42 states in March.
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nation protections. The bill, sponsored by Rep. Jason Zachary (R-Knoxville), sought to bar cities and state agencies from taking discriminatory action against businesses that have internal policies complying with state law. Critics said the measure would have let employers adopt policies that would discriminate against LGBTQ people. Despite the House passing the bill on a 68-22 vote, the bill failed in the Senate.

In recent years, lawmakers have approved a host of laws aimed at members of the LGBTQ community. Most famously, the legislature spearheaded an effort to initiate a constitutional amendment banning same-sex marriage. The 2006 referendum was approved by 81% of voters but was overturned after the Supreme Court's landmark 2015 *Obergefell v. Hodges* decision.

In 2011, lawmakers approved a bill to forbid municipalities from passing inclusive, nondiscrimination ordinances. In 2016, a law was enacted that let Tennessee therapists deny counseling services to anyone on the grounds of religious values. In 2017, the legislature approved a law to mandate state code be interpreted by a "natural and ordinary" meaning. The legislation, which faced an unsuccessful legal challenge, was viewed as a way to prevent same-sex couples from being treated the same as heterosexual families.

This week's ruling was written by Justice Neil Gorsuch, President Donald Trump's first appointee to the high court, and was supported by Republican Chief Justice John Roberts. Tennessee Republicans largely remained quiet on social media, with a notable exception. Speaking to reporters on Tuesday, U.S. Sen. Lamar Alexander (R-Maryville) said all Americans are entitled to dignity and respect, adding the "Supreme Court has spoken and now it's the law of the land."

Immigration. Just as the dust was settling on the LGBTQ decision, the high court issued another Roberts-authored opinion declaring the president couldn't immediately dismantle the Deferred Action for Childhood Arrivals, or DACA, program for 700,000 children living in the United States without legal authorization. The state legislature has long debated whether to provide in-state tuition to DACA students who grew up in Tennessee, but bills along those lines have failed to date.

Third time a charm? Attorney General Herbert Slatery is once again asking the state Supreme Court to fast-track an appeal of a case lost on the trial court level. This time it's for his appeal of Nashville Chancellor Ellen

Hobbs Lyle's ruling that the state must make mail-in ballots available to anyone who fears being infected by COVID-19 if they were required to vote in person.

The high court turned down other recent calls by Slatery to bypass the intermediate Court of Appeals, including for a challenge of another Nashville chancellor's finding that the state's school voucher law is unconstitutional and for his effort to undo a plea agreement exchanging an inmate's death sentence for life in prison.

From the campaign trail

Hagerty doubles down on calling for military response to demonstrations

Former U.S. Ambassador to Japan and Republican U.S. Senate candidate Bill Hagerty criticized a planned demonstration around the state Capitol in Nashville, doubling down on his call for President Donald Trump to mobilize the military to respond to civil unrest.

Hagerty's main opponent, Nashville trauma surgeon Manny Sethi, has opposed the move to bring in active-duty troops, saying the role is better suited for the National Guard. But that hasn't kept Sethi from engaging in some strong rhetoric about the protests in his ads. In his latest spot, Sethi called the death of George Floyd in Minneapolis tragic, but he argues the "radical left" wants to use the killing to "start a race war."

Sethi announced endorsements this week by two state lawmakers, Rep. Jay Reedy (R-Erin) and Sen. Janice Bowling (R-Tulahoma).

The Darden difference? Former Johnson City Mayor Steve Darden is touting his experience as an attorney, mediator, and councilman as reasons why he is the best pick for the congressional seat being vacated by U.S. Rep. Phil Roe (R-Johnson City). Darden is dubbing his qualifications as the "Darden Difference" while on the campaign trail. It remains to be seen whether that will be enough to help him rise above the 15 other aspirants for the GOP nomination in the heavily Republican district, including state Sen. Rusty Crowe, pharmacist Diana Harshbarger, former Kingsport Mayor John Clark, and state Reps. David Hawk and Timothy Hill.

Hill fight. Hill's brother, Rep. Matthew Hill, was incensed this week when his plans to include a \$10,000 appropriation for a veterans memorial in Washington County were thwarted when Crowe announced in the Senate he would pay for it out of his own pocket.

Tennessee Notes & Quotes

■ “I think it’s a good idea from time to time to review the people and the places that we honor with names and make sure that we are honoring people that fit the context of the times.” — *U.S. Sen. Lamar Alexander (R-Maryville) about efforts to rename military bases honoring Confederate leaders.*

■ The Nashville Metro Council approved a budget for the upcoming fiscal year that relies on a 34% property tax increase while bolstering funding for police and increasing teacher pay. The tax hike is the largest in the city’s history and the first Nashville has had since 2012. The size of the increase sparked outrage among opponents, but supporters said the move was necessary for the city to close a growing budget gap. An effort to boost revenues by allowing the city to impose an impact fee on new construction in the booming city was shot down in the General Assembly. And the threat of legislation to limit how much local governments can increase their property tax rates helped force the hand of Mayor **John Cooper**, who as a candidate ruled out any increase.

■ “Frankly this is reckless, fiscally imprudent and will impair the County’s financial standing.” — *Shelby County Mayor Lee Harris blasting the County Commission’s decision to approve a budget that uses \$16 million in reserves to cover expenses.*

■ **Margaret Dolan**, who served as CEO and president of LaunchTN, is exiting her role in the public-private partnership providing resources for startup companies. **Van Tucker**, who worked alongside Dolan at LaunchTN, will take over as president.

■ “We must not tolerate white supremacy, anti-Semitism, or any other type of hate and discrimination in the state of Tennessee.” — *State Rep. John Ray Clemmons (D-Nashville) during the “Welcoming and Honoring” portion of a House floor session about an anti-Semitic message found on the walls of the Nashville Holocaust Memorial over the weekend.*

■ “Reminder to members, this is Welcoming and Honoring, not political announcements.” — *House Speaker Cameron Sexton (R-Crossville) in response.*

■ Pulitzer Prize-winning author and Belle Meade resident **Jon Meacham’s** next book will focus on the life of civil rights leader and U.S. Congressman **John Lewis**, who organized sit-in demonstrations at segregated lunch counters while he studied at Fisk University. Meacham met Lewis in the 1990s, when he was a *Chattanooga Times* reporter. The book is scheduled to be published by Random House in October.

■ Telecommunications industry pioneer **James Bass** died on June 5, two weeks shy of his 99th birthday. Bass in 1954 helped form the National Telephone Cooperative Association, now known as NTCA-Rural Broadband Association, and its political action committee. Bass was a native of Carthage and fought in World War II

■ Internal Nissan Motor Co. emails shed light on former executive **Carlos Ghosn’s** claims that charges

against him stemmed from efforts by former colleagues to set him up. Bloomberg News reported senior managers at Nissan were concerned about Ghosn’s efforts to more tightly tie Nissan together with French automaker Renault. Ghosn and former top aide **Greg Kelly** of Franklin have maintained their innocence over charges related to underreporting income. Ghosn famously fled Japan and is now holed up in Beirut, Lebanon.

■ A new audit by state Comptroller **Justin Wilson’s** office found Cleveland, Tenn.-based Health Services Management Group reported \$1 million in improper expenses in 2016 and 2017. The company, which operates nursing homes in four states, wrongfully submitted “home office” reports that covered expenses for alcohol, parties, travel, a traffic ticket, a retirement vacation package, flowers, and trips abroad.

■ NBC will not renew Memphis-based show *Bluff City Law*. The 10-episode first season starred **Jimmy Smits** and **Caitlin McGee** as a father-daughter legal pair. The series failed to live up to local officials’ hopes it would serve as a similar boon as the show *Nashville*.

■ Retiring longtime state Rep. **Bill Dunn** (R-Knoxville) appeared at a Finance Committee meeting carrying a manila envelope with “Need Job” written on it.

■ “Do we have any questions for the sponsor on the amendment? We do. Um, chairman — I was going to say Chairman Crawfish. Chairman **Crawford.**” — *House Finance Chair Susan Lynn (R-Mt. Juliet).*

■ “Thank you madam chairlady, whatever.” — *Rep. John Crawford (R-Kingsport) in response.*

■ The Tennessee Bar Association awarded the *Bristol Herald Courier* its Fourth Estate Award for a series of stories on overcrowding in Sullivan County’s jail. The 13,000-circulation daily newspaper last year examined the issue in an eight-part series dubbed “Critical Mass.”

■ The Memphis City Council approved an ordinance requiring masks to be worn in businesses, public buildings, and while seeking medical care as part of an effort to halt the spread of COVID-19. The ordinance, which immediately took effect, included an exception that permits people to forgo facial coverings when seated at a bar or restaurant. State Sen. **Brian Kelsey** (R-Germantown) requested an attorney general’s opinion about the constitutionality of the ordinance.

■ Nashville Police Chief **Steve Anderson** announced plans to retire after 10 years in charge of the department. The decision came after 15 of 40 Metro Council members signed on to a resolution calling for Anderson’s resignation. Nashville Mayor **John Cooper** said Anderson will remain on the job while a national search for a successor is conducted.

■ “Polysomnography is the study of sleep.” — *Rep. Martin Daniel (R-Knoxville) on the House floor.*

■ It was all in reference to a sunset bill, which ... zzzzzz.

■ The *Tennessee Journal* is on summer break next week. The next edition appears on July 2.