

The Tennessee Journal

The weekly insiders newsletter on Tennessee government, politics, and business

Vol. 46, No. 22
May 29, 2020

House GOP seeks return to situation normal, but Senate balks

For House Republicans, it was almost as if nothing had changed. Members returned to the legislative office complex this week to kick off a full array of committee hearings, meeting deep into the night to debate and advance bills covering familiar topics like abortion restrictions, gun rights, and transgender issues.

The Senate has limited its attention to the fallout from the coronavirus pandemic — an approach leaders plan to maintain when they formally return into session next week. Senate leaders have let it be known they have no intention of taking up most of the measures being advanced with aplomb in the House.

Talks between the two chambers have yet to lead to an accord, leaving them on a collision course about how to wrap up their business for the year. House leaders appear to be confident the Senate will back off its hard line and agree to take up certain key bills. But the Senate has been just as resolute about sticking to its approach.

Speculation has moved toward whether the House will refuse to agree to budget revisions unless the Senate relents, or whether the Senate is keeping a nuclear option of sorts in reserve — simply adjourning without adopting an updated spending plan.

Gov. Bill Lee has tried to keep from taking sides in the dispute. While he has spoken about prioritizing the state's finances and coronavirus-related bills over his original legislative agenda, Lee has also said he will leave it to lawmakers to decide which measures they take up now that they are coming back into session.

Two measures the House has made major priorities started out as administration bills: banning most abortions and getting rid of training and background check requirements to carry handguns in public. If the Senate drops its resistance to enacting those bills, the reasoning goes, other Lee agenda items — such as his childhood reading initiative — might also have a chance.

Criminal justice reform, another top Lee priority dating back to his time as a candidate, was jettisoned by the House on its first day back for committee meetings on Tuesday. Attempts at sweeping changes had already been set aside in a nod to the law-and-order sensibilities

of many Republican lawmakers (especially those facing re-election challenges this year), and even the governor's watered-down efforts proved too much of a lift.

Just about every legislative session tends to feature a showdown between the two chambers over the budget, but it's usually about how to spend extra money. With the prospect of having to cut hundreds of millions of dollars from both the current and upcoming spending plans, the expectation in the Senate had been that the House would be quick to agree to reductions and leave town. But the lower chamber appears intent on having more to show for its efforts than just deep budget cuts. What the endgame will look like is anybody's guess.

Deep cuts. Finance Commissioner Butch Eley this week asked department heads to come up with plans to cut 12% out of their budgets starting on July 1. Eley told the Senate Finance Committee other steps to shore up state finances could include canceling planned raises for state employees and teachers, delaying the Jan. 1 repeal of the remainder of the Hall tax, drawing down reserves, and cutting capital expenditures. The state could also resort to bonding some previously approved building projects, a break with the longstanding GOP preference.

Eley said the governor wants to avoid a “slash and burn” approach by spreading cuts over several years while the economy rebounds. To that end, the administration is proposing to draw on nonrecurring money to cover recurring costs in the upcoming spending year. A detailed proposal for budget cuts is expected soon.

Revenue projections. The State Funding Board met this week to hear economists' projections about how deeply the pandemic will affect state tax collections. The most optimistic scenario was presented by University of Tennessee's Bill Fox, who forecast a combined \$987 million drop in general fund revenue for the current and upcoming budget years. On the other end of the spectrum was ETSU's Jon L. Smith, who predicted a nearly unimaginable \$2.25 billion reduction from what lawmakers budgeted for in March.

While each of the forecasts included major caveats about the unknown trajectories of the national and state

economies in the coming months, the economists were also forced to do without even limited data about franchise and excise tax collections. Lee early in the crisis issued an executive order pushing back the deadline on corporate tax filings from April to July 15. That left the economists to project wildly different decreases in F&E collections for the upcoming year, ranging from the Revenue Department's -4.9% to Fox's -12.2%.

Sales taxes, which made up three-fourths of general fund collections in 2019, could post a 2.8% growth rate next year, according to the Fiscal Review Committee. But the other three economists projected sales taxes to post decreases, including Fox's -0.6%, the Revenue Department's -2.6%, and Smith's -4.8%.

Preliminary data for sales taxes submitted to the state in May (which reflect economic activity the previous month) show collections plummeted by 15% compared with last year. But Fox said even those dire figures give some reason for hope as April was the first full month of the pandemic, and the period with the most extensive lockdown procedures in place. By his reasoning, the economy can only improve in subsequent months.

Shopping habits have changed significantly during the pandemic, with homebound Tennesseans' spending more on groceries and building materials, but less on big-ticket items like vehicles and home furnishings. Fox pointed out that counties appear to be benefiting. While state sales tax collections on purchases made in March fell 6% compared with the previous year, local-option sales tax revenue grew in 89 of 95 counties. The only counties posting declines were Clay, Davidson, Moore, Perry, Putnam, and Sevier.

Access issues. Apart from disagreements over legislative priorities, the House and Senate remain at odds about access to the Capitol complex. Decisions about the legislative office building and the second floor of the Capitol are supposed to be made in concert between the speakers of either chamber, meaning either one essentially has veto power over proposed changes.

While the Senate has kept its policy of closing off public access to committee meetings to anyone but members, staff, and the media, the House has pushed for opening the doors to its proceedings. Senate Speaker Randy McNally agreed to the House plan to essentially split the Cordell Hull Building and let the public and lobbyists attend the lower chamber's committee hearings and visit representatives' offices.

But the deal with House Speaker Cameron Sexton (R-Crossville) does not extend to the tunnel connecting the Cordell Hull Building with the statehouse, nor to the legislature's floor in the Capitol itself. As far as the Senate is concerned, no visitors will have access to floor sessions or to lawmakers outside. The House disagrees.

Could it happen here? Democratic lawmakers in Pennsylvania were outraged this week by what they called a cover-up of a Republican member testing positive for COVID-19. The lawmaker and at least three others were told to self-quarantine, but Democrats weren't informed. So what would happen if the same occurred

in Tennessee? Connie Ridley, the director of legislative administration, said CDC guidelines would be followed if someone at the Cordell Hull Building were to test positive, and anyone in contact with them would be identified and informed. But there would be no plans to alert all members or the public about a positive case.

Vouchers. Democratic Rep. Bo Mitchell (D-Nashville) proposed legislation to delete the school voucher law from the code after a Nashville judge recently found the measure unconstitutional. The state is asking the Supreme Court to directly take up its appeal. Mitchell had 30 co-sponsors for his bill, including seven Republicans: Kent Calfee, Dale Carr, Jim Coley, Bruce Griffey, Kelly Keisling, Bob Ramsey, and Terri Lynn Weaver. But the measure died for lack of a second in a subcommittee of the House Education Committee.

A separate resolution sponsored by Ramsey sought to urge the Department of Education to put off the implementation of the voucher program until the school year starting in August 2021. It, too, failed to receive a second in the Curriculum, Testing & Innovation Subcommittee, even though three of seven members voted against the voucher bill on the floor last year.

The next fight over vouchers is likely to be over funding. The Lee administration has fought to keep more than \$40 million in the budget to get the Education Savings Account program off the ground in August. But with the law in legal limbo and the legislature facing deep spending cuts for the upcoming budget year, the money is likely to become another flash point.

Restaurants on the ropes. Restaurants and bars last year contributed more than \$1 billion in sales and liquor-by-the-drink taxes to state coffers. The budget impact of the collapse of the hospitality business amid the coronavirus pandemic has only begun to become quantifiable. Nearly half of those working in the sector were unemployed in April. Sales tax collections from what the economists call "eating and drinking places" dropped 30% in March, and liquor-by-the-drink collections plummeted to 88% below budgeted estimates.

While the lockdown on in-person dining is being lifted around the state, the bounce-back doesn't look like it will be easy or swift. A partner in a prominent Nashville restaurant group told *The Tennessee Journal* its restaurants are operating at only 40% percent of expected revenues so far. Restrictions on capacity and the state of the economy mean the company expects to reach only 75% of last year's revenues before the end of 2020, and it will be another year before sales return to where they stood before the pandemic.

That slow return is hampering restaurants like James Beard nominee Julia Sullivan's Henrietta Red, which received a federal PPP loan but is struggling to hit what she calls "totally unrealistic" requirements to bring back three-quarters of full-time employees.

Sullivan has been active in coordinating the response by Tennessee independent restaurants to the pandemic, including the launch of "A Fund for Us" to give grants to struggling hospitality workers. Tax deferment and lia-

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- Unemployment reached 14.7% in April, the highest rate on record in Tennessee. The previous high was 12.9% in January 1983. The highest jobless rates were in Sevier (29.5%), Cocke (25.6%), and Grundy (25.3%) counties. Only three counties avoided double-digit unemployment rates: Fayette (9.4%), Weakley (9.6%), and Hardeman (9.7%).
- The state Supreme Court issued an order allowing jury trials to resume as of

July 3 if social-distancing guidelines can be met. The order allows for six-member juries in civil cases as long as neither side asks for the full 12.

- Nissan plans to resume vehicle production in Smyrna on June 8. The Decherd plant will also start making Nissan engines on Monday after being limited to Infiniti powertrains since May 1. Volkswagen, which reopened its Chattanooga plant earlier this month, con-

firmed four employees had been diagnosed with COVID-19.

- Krystal, the fast-food chain founded in Chattanooga in 1932, has emerged from Chapter 11 bankruptcy following its acquisition by a subsidiary of the Soft-Bank Group of Japan.

- The Sarah and Ross Perot Jr. Foundation has committed \$8 million to fund a new Vanderbilt scholarship named after former Chancellor Nicholas Zeppos.
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bility protection, as well as a fix in the PPP terms to give restaurants more time, are high on her list of priorities.

Randy Rayburn, owner of Cabana and Midtown Cafe (and no stranger to local and state politics), predicts a lot of restaurant owners could take advantage of the new “subchapter 5” rules under Chapter 11 bankruptcy protection unless the state moves quickly to shore up tourism. One tactic could be to send funds to convention and visitor bureaus and destination marketing organizations in order to focus on the lowest-hanging fruit — visitors from within a 250-mile drive of Tennessee. Hospitality industry lobbyists have been scrambling to get more tourism funds into the governor’s budget.

Restaurant owners around the state are urging Lee to extend his emergency order allowing the sale of alcohol in takeout orders — a step that avoids liquor-by-the-drink taxes because they apply only to on-premise consumption. Many fine-dining restaurants have generated cash flow by selling off bottles from their wine stocks and pre-mixing cocktails. An extension is likely to raise opposition from liquor store owners, though.

From the campaign trail

Republican bill could give ousted Democrat another chance at seat

When the executive committee of the Tennessee Democratic Party voted to remove longtime state Rep. John DeBerry from the primary ballot, the action appeared to signal the end of the lawmaker’s streak of winning 13 straight elections. Because the vote came after the filing deadline, DeBerry was left without a chance to try to regain his seat through other means. That could change under a bill being run on his behalf.

Sen. Ferrell Haile (R-Gallatin) plans to amend one of his bills to allow the filing deadline to be extended for any candidates removed from the primary ballot by party executive committees so they can run in another primary or as an independent. *The Tennessean* reported the bill would require booted candidates to seek to run under another party banner within 90 days of the primary (meaning it would be too late for DeBerry to run as a Republican) or to run as an independent 90 days before the general election.

Running as an independent would present a tougher path for DeBerry in his heavily Democratic district in Memphis. But it’s not entirely without precedent.

Republicans booted then-Rep. Kent Williams of Elizabethton for voting with Democrats to have himself elected House speaker over the GOP nominee in 2008. But he ran for re-election as an independent, winning two more terms before retiring from the House.

DeBerry’s removal from the Democratic primary left two candidates vying for the nomination to replace him: Torrey Harris, an AIDS activist who lost to DeBerry by 21 percentage points in 2018, and Anya Parker, a hair salon owner who has fought legislative efforts to deregulate cosmetology licensing requirements. Harris was endorsed this week by the Tennessee Voter Project political action committee and its co-founder, Shelby County Mayor Lee Harris.

RINO Hunt? Harvey Durham, the father of ousted state Rep. Jeremy Durham, has registered a political action committee called the Blue RINO Hunting Club with the Federal Election Commission. The PAC’s website, AnyoneButHagerty.com, gives a hint at its target, though it hadn’t gone live yet as of this week. The younger Durham was drummed out of the General Assembly in 2016 amid allegations of serial sexual misconduct. He has since been engaged in a drawn-out effort to reduce a record \$465,000 civil penalty for campaign finance violations. The next hearing is June 10.

1st District. Former U.S. Sen. Rick Santorum of Pennsylvania, who carried Tennessee in his bid for the 2012 Republican presidential nomination, endorsed state Rep. Timothy Hill in the crowded GOP primary to succeed retiring U.S. Rep. Phil Roe (R-Johnson City). Former state Senate Speaker Ron Ramsey and Sen. Jon Lundberg were named chair and co-chair of Sen. Rusty Crowe’s campaign for the GOP nod. Former Kingsport Mayor John Clark launched his first TV ad highlighting his family’s flight from Cuba when he was 2 years old and his opposition to the spread of socialism.

Chattanooga mayor. Auto dealer Tim Kelly joined the race to succeed term-limited Chattanooga Mayor Andy Berke. Kelly said he doesn’t identify with either political party and is running on a platform of bringing a nonpartisan approach to the office. Kelly’s past political contributions include \$1,000 to Democrat Joe Biden’s presidential campaign in April and \$500 to Republican John Kasich two weeks before the state’s 2016 GOP presidential primary won by Donald Trump. He also donated \$1,500 to Randy Boyd’s bid for the Republican gubernatorial nomination in 2018.

Tennessee Notes & Quotes

■ “The administration’s national testing strategy correctly recognizes that governors do not want President **Trump** telling them what their state testing plans should be. Governors know best the differences between New York City and rural Tennessee and how to test and find and isolate those who have been infected and exposed.” — *U.S. Sen. Lamar Alexander (R-Maryville) on Trump’s COVID-19 testing plan.*

■ Retiring U.S. Rep. **Phil Roe** (R-Johnson City) in early March unloaded stocks in dozens of companies that later experienced steep declines in share prices as the seriousness of the coronavirus pandemic came into focus. *The Tennessean’s Joel Ebert* combed through the disclosures to reveal that while Roe sold holdings in companies like Delta Air Lines, Disney, and Royal Caribbean Cruises, he purchased shares in videoconferencing provider Zoom and Moderna, a company working on a coronavirus vaccine. Roe disclosed 680 transactions in the first quarter of 2020 with a total value ranging between \$4 million and \$18.4 million.

■ A **Roe** spokesman declined to answer a series of specific questions posed by the newspaper, saying only that the congressman uses a third-party investment manager to handle his transactions. After the story received considerable attention in the state and around the U.S. Capitol, Roe launch a media blitz to denounce the report, saying it included transactions made on behalf of both himself and his wife and that he never instructed his broker to make deals based on virus developments.

■ “This is a total, 100% political hit job.... They knew that I did not make any of the trades — they knew that, and so, then you create a scenario to make ‘fake news.’” — *Roe to WJHL-TV about the Tennessean story.*

■ Federal prosecutors charged Memphis native **Henry Gindt II** with fraud for allegedly selling stolen coronavirus testing kits through his telemedicine company and never providing customers with results. Gindt, who has yet to enter a plea in the case, was an aide to current U.S. Senate candidate **Bill Hagerty** when he was commissioner of the state Department of Economic and Community Development under then-Gov. **Bill Haslam**.

■ **Keeda Haynes**, a former public defender who previously spent nearly five years in federal prison for a drug conviction, has received the endorsement of former presidential candidate **Marianne Williamson** for her Democratic primary challenge of U.S. Rep. **Jim Cooper** of Nashville in the 5th District.

■ A series of news stories by the *Jackson Sun* has raised questions about financial arrangements between city officials and the Jackson Generals minor league baseball team. According to the newspaper, former Mayor **Jerry Gist** and owner **David Freeman** had a deal under which the city would reimburse the team money it said was spent on advertising and services. The paper found at least \$1 million of that amount came in the form of in-kind deals between businesses and the team under which no money had changed hands. Gist, who

didn’t seek re-election last year, said he was unaware the team had been invoicing the city for in-kind deals. Long-time City Recorder **Al Laffoon**, who approved the reimbursements to the team, plans to resign next week, according an item on the Jackson City Council’s agenda.

■ Gov. **Bill Lee** appointed Circuit Judge **Kristi Davis** of Knoxville to serve out the term of retiring state Court of Appeals Judge **Charles Susano Jr.**

■ A bill seeking to declare that property assessments under appeal would no longer be eligible for equalization could run afoul of the Tennessee Constitution’s uniformity requirements, according to a legal opinion issued by Attorney General **Herbert Slatery’s** office this week. Efforts by Sen. **Kerry Roberts** (R-Springfield) to pass the bill in March were scuttled following a furious lobbying campaign by the state Chamber of Commerce and the NFIB. Roberts at the time denounced the “tremendous amount of misinformation” spread about the bill, but withdrew it from a vote.

■ Police blocked a major traffic artery in Midtown Memphis after protesters rallied outside a police station to express their anger at the death of **George Floyd** after being pinned under a Minneapolis police officer’s knee. Gov. **Bill Lee** spoke out about the “horrific” incident in a conference call with reporters on Thursday.

■ “The officers that are involved in that should be brought to justice for the loss of that life. I spoke with African American leaders today, and I spoke with law enforcement leaders today. And in our conversations we all agree the situation there represents a very disturbing trend across the country and that we have to be committed to recognizing and calling out police brutality where it exists. I have a great deal of respect for, and have long supported law enforcement, and continue to do so.... But police brutality is not law enforcement. And police brutality should not be accepted in this state, and it shouldn’t be tolerated.” — *Lee.*

■ Memphis Democratic operative **Kevin Gallagher**, who managed U.S. Rep. **Steve Cohen’s** first successful congressional bid in 2006, died last week after a five-year battle with brain cancer. Gallagher also worked on **A C Wharton’s** campaign for Shelby County mayor in 2002 and later served as his public affairs director.

■ “I ask you to not engage in conjecture, anecdotes, or general thoughts or beliefs.” — *Rep. Martin Daniel (R-Knoxville) to a witness speaking against a bill to do away with handgun carry permit requirements.*

■ It’s a good thing **Daniel** is retiring, otherwise he might try to apply the same standards to fellow lawmakers. And then what would they have left to talk about?

■ The Knox County Health Department released an array of guidelines for reopening businesses, including for adult entertainment businesses. Under those rules, strip clubs can resume operations, though if dancers are consistently within six feet of patrons, they must wear masks. If nothing else.