

The Tennessee Journal

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

Vol. 46, No. 26
July 3, 2020

Alexander calls outdoors bill ‘most satisfying’ of lengthy career

More than four decades ago, Lamar Alexander made a highly publicized 1,022-mile campaign hike from Mountain City to Memphis that launched his first stint in public office. Now in his final months as an officeholder, Alexander is making a relatively quiet trek through the labyrinth of today’s Washington political jungle on behalf of what he calls the “most satisfying” legislative endeavor of his long political career. It relates to hiking for fun, not political gain.

The Great American Outdoors Act passed the Senate on a 73-25 vote last month with all the no votes coming from Alexander’s fellow Republicans, including Tennessee Sen. Marsha Blackburn. And, insofar as national media reporting goes, most of the credit went to two other Republicans who were designated as lead sponsors of the measure, Sens. Cory Gardner of Colorado and Steve Daines of Montana, both up for reelection this year and deemed vulnerable to Democratic challenges.

Alexander, who marks his 80th birthday on Friday, is retiring rather than seek a fourth six-year term in the Senate. In an interview with *The Tennessee Journal*, Alexander said that over the years, he has learned a politician does not achieve a successful agreement “by leading the parade,” but by “setting up the right route and getting everything in order” through organized negotiation. And that appears to have been his role in getting the Great American Outdoors Act through the Senate.

Given unanimous Democratic support in the GOP-controlled Senate, the bill would appear to be assured of passage in the House, where Republicans are in the minority. But Alexander says the compromise deal he helped negotiate is “so fragile” that the addition of any House amendments would “collapse the whole thing.” Four of Tennessee’s nine House members are cosponsors: Democrats Steve Cohen of Memphis and Jim Cooper of Nashville, and Republicans Chuck Fleischmann of Chattanooga and David Kustoff of Memphis.

Two into one. The Great American Outdoors Act essentially combines two bills that have been pushed by environmentalists and outdoor enthusiasts for many years. Each has passed either the House or Senate in one form or another on occasion, but neither has ever

made it through both chambers to become law. One facet would lock into law a guaranteed \$900 million in annual spending under the Land and Water Conservation Fund (LCWF), a goal set when Congress enacted the law in 1964. But that funding level has been achieved only twice since then as the money — derived from royalties received by the federal government from offshore drilling for oil and gas — was diverted elsewhere by various presidential administrations and congressional budget maneuvering. LCWF money, as available, is allocated to federal agencies, states, and local governments to preserve lands for public use.

The other is known as the “Restore Our Parks Act,” an Alexander pet project in recent years. As incorporated into the current bill, it would provide \$9.5 billion over five years to eliminate at least half of the backlog of deferred maintenance at the nation’s 419 national parks, including a \$224 million backlog at the Great Smoky Mountains National Park, ranging from repairs to the Sugarlands Visitor Center to patching eroded hiking trails, roads, and campgrounds.

After an Alexander meeting with President Donald Trump, it will also include funding — \$3 billion of the \$12 billion total — for maintenance in national forests, federal wildlife management areas, and properties held by the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the Bureau of Indian Education.

Going big. Alexander, who was designated the point man for approaching Trump, met with the president in March during a tour of tornado-ravaged portions of Middle Tennessee — “he was in the dressing room, combing his hair” — and, after Alexander’s pitch, Trump agreed, declaring “Well, let’s go big!”

Alexander’s pitch included tales of citizens sufferings from closures of restrooms, roads, and camping facilities at the Cherokee National Forest in East Tennessee, where the maintenance backlog is estimated at \$27 million. Trump’s past budget proposals have called for slashing LCWF annual funding; ergo the move amounted to a shift in administration positioning. According to *The New York Times*, Senate Majority Leader Mitch McConnell — supporting the bill himself,

but generally very reluctant to allow a Senate floor vote on matters where Republicans are split on an issue — told Gardner and Daines he would go along with authorizing it only if Trump was on board. They met with the president who pledged to sign the bill if it reached his desk. Alexander, more quietly, also talked with McConnell on getting the bill to a floor vote. In a subsequent tweet, the president declared: “When I sign it into law, it will be HISTORIC for our beautiful public lands.”

Within Tennessee, Pew Charitable Trusts, a national nonprofit organization that lists protection of public lands among its advocacy efforts, has retained Nashville-based Cooley Public Strategies to promote the bill. A spokeswoman says this is a “raising public awareness” effort that does not involve lobbying. Some state affiliates of the 800 national endorsing organizations — the Tennessee Wildlife Federation (TWF), for example — have emailed members urging them to contact congressmen and ask their support for the bill.

Who’s against. Opposition to the measure has largely focused on a provision in the LCWF portion allowing federal agencies to acquire properties without congressional approval and over concerns it would add to a federal budget deficit that has already ballooned dramatically amid the coronavirus pandemic.

Sen. Mike Lee (R-Utah) said during debate the bill was “written behind closed doors” and “walled off from amendments” while it “enables the federal government to purchase new lands in perpetuity without any measures to assure it can care for the land it actually owns.” Alexander noted that authority dates back to the original LCWF law of 1965 and is thus nothing new. Blackburn, through a spokeswoman, declined any on-the-record comment about her vote against the bill, but apparently sympathized with Lee and other Republican opponents concerned about federal agencies being able to acquire new lands without congressional oversight.

Blackburn’s no vote has drawn some criticism from state conservation groups. Mike Butler, executive director of the Tennessee Wildlife Federation, was “deeply disappointed,” and Barbara Futter, president of Tennessee Conservation Voters, said a no vote “deprives many Tennesseans of much-needed economic opportunities” through jobs continued or created by preservation projects. Alexander declined comment on Blackburn’s vote.

The worm turns. Alexander does a lot of recreational hiking — no more campaign marches since walking across New Hampshire in his run for the Republican presidential nomination in 1996 — and occasionally goes fishing or, much less frequently, hunting (he once shot a Cape buffalo in Africa). Alexander’s career efforts on behalf of conservation have won bipartisan plaudits, including the naming of a newly discovered species of bug in his honor in 2006. University of Tennessee professor Earnest Bernard said he christened the worm-like critter *Cosberella lamaralexanderi*, or the Lamar Alexander springtail, because of the senator’s support for the Smokies and the likeness of its red-and-black coloration to his trademark plaid campaign shirt.

Perhaps more substantively, President Ronald Reagan in 1985 appointed Alexander as chairman of the Commission on Americans Outdoors, a group charged with reviewing public and private recreational resources nationwide and recommending policy changes to assure preservation of outdoor-oriented activities for future generations. Guaranteed LWCF funding was the top priority of the recommendations that were presented in a 1987 final report. Back when he was governor, Alexander also set up a Tennessee Outdoors Forum with a similar purpose. As a senator, he led efforts to stop a Corps of Engineers move to block fishing below major dams.

Seeds to shotgun shells. While the current legislation, if enacted, may provide a long-term federal financial backbone for assuring places for outdoor pursuits in the future, state-level efforts along the same lines remain at what might be considered the wishful-thinking level — some talk but little action. Four years ago, there was an effort to set up a Tennessee Commission on the Outdoors. It failed in the final moments of that session, though Butler — the TWF spearheaded lobbying for the measure — says there may be a renewed effort in the future.

In the recently concluded 111th General Assembly, Sen. Mike Bell (R-Riceville), chairman of the Senate Judiciary Committee and co-chair of the Tennessee Legislative Sportsmen’s Caucus, proposed a state constitutional amendment to require the General Assembly to create “a dedicated revenue allocation to be used to protect and conserve forests, fish, wildlife habitats, and state and local parks” and similar purposes.

Bell says the proposal — filed “just to get the conversation started” — is modeled after laws in Arkansas and Missouri, taking effect after state constitutional amendments approved years ago, that allocate one-eighth of 1% of general sales tax revenues to conservation purposes. Bell says his thought is to have a Tennessee allocation based only on sales related to outdoor recreation, “everything from bird seed to shotgun shells.”

From the governor’s office

Lee extends state of emergency in response to spread of coronavirus

As lawmakers were wrapping up their business last month, the word was put out that Gov. Bill Lee did not plan to extend the state of emergency amid an improving COVID-19 outlook. That changed this week, when the governor abruptly renewed his emergency declaration through Aug. 29 amid a spike in infections. The decision retains Lee’s power to issue sweeping executive orders, including a new one seeking to provide immunity from lawsuits to hospitals, nursing homes, and health care workers — a proposal that fell apart amid legislative squabbling last month. Lee said he still plans to call a special session on the matter.

Distressed no more. Fentress, Jackson, McNairy, and Morgan counties are no longer designated as distressed by the Appalachian Regional Commission. That leaves Tennessee with 11 distressed counties.

Tennessee News Digest

● Gov. Bill Lee has made several recent economic development announcements even though the revised state budget reduced the amount of available incentive money. The deals include a \$52 million expansion of financial adviser Dave Ramsey's Franklin headquarters, creating 600 jobs; a \$20 million investment by vacuum maker TTI Floor Care involving 500 new jobs in Putnam County; a decision by roadside assistance service

provider Agero to invest \$2 million and hire 900 people in Clarksville; and Amazon's plans to build a \$23 million shipping hub in Nashville.

● The Great Smoky Mountains National Park welcomed nearly 830,000 visitors in the 23 days after reopening on May 9. That's nearly on pace with the 1 million who visited over 31 days in May 2019.

● Serious criminal incidents were down 5% in the state last year compared with

2018, according to an annual report by the Tennessee Bureau of Investigation.

● General Motors is eliminating the third shift at its Spring Hill plant, laying off 680 workers starting on July 31.

● The Tennessee State Museum has reopened. Temperature checks are required, and capacity is limited to 75%.

● Travelers from Tennessee will have to quarantine for 14 days when visiting New York, New Jersey, or Connecticut.

From the courts

Outlook for sweeping abortion ban dimmed by Supreme Court decision

The dust had barely settled on Tennessee lawmakers' end-of-session passage of a sweeping anti-abortion bill when a ruling by the nation's highest court raised serious questions about the measure's legal prospects.

The U.S. Supreme Court in a 5-4 decision this week struck down a Louisiana law requiring abortion doctors to have admitting privileges at nearby hospitals. A similar Texas law had been thrown out in 2016, but abortion foes had hoped President Donald Trump's appointments of Justices Neil Gorsuch and Brett Kavanaugh might lead to a different result. But Republican Chief Justice John Roberts sided with the court's liberal wing.

The 2016 ruling caused Tennessee to halt enforcement of its own laws covering admitting privileges and inspection and licensing rules for abortion facilities. This week's decision raises concerns among advocates that this year's measure — which seeks to ban most abortions once a fetal heartbeat is detected — may not turn out to be the vehicle to overturn the landmark *Roe v Wade* decision under the current makeup of the Supreme Court. For both supporters and opponents of abortion rights, the outcome of the November elections for president and control of the U.S. Senate will be key.

Not until it's law. Planned Parenthood, the Center for Reproductive Rights, and the American Civil Liberties Union filed a federal lawsuit seeking to block the Tennessee measure the same day the bill gained final approval in the General Assembly. But U.S. District Judge Chip Campbell said he won't rule on a temporary injunction until after Gov. Bill Lee has signed the legislation into law. The House and Senate speakers signed the enrolled bill on Wednesday, and the governor will have 10 days, excluding Sundays, to sign, veto, or allow it to become law without his signature.

From the campaign trail

Surge in absentee ballots presents direct mail challenges to campaigns

A heavy increase in absentee voting due to the pandemic is causing headaches for campaigns trying to target primary voters. While information about who has cast ballots in person during the early voting period is made available to campaigns for the purposes of updat-

ing their mailing and door-knocking lists, the same info is not released about who has sent in absentee ballots. That means campaigns might be spending resources to contact people who have already voted.

Mail pieces are traditionally timed to arrive at the start of early voting, or July 17 for this year's primary election. But the uncertainty surrounding absentee ballots has led some campaigns to move up the start of their direct mail efforts in the hope of catching absentee voters before they send their ballots back in.

Trump card? Republican U.S. Senate candidate Bill Hagerty's biggest selling point during the primary campaign has been his endorsement by the president. But a widely expected Trump appearance in Tennessee has failed to materialize so far amid the pandemic. Trump's return to in-person campaigning in Oklahoma late last month was poorly attended and widely panned. The president remains popular in Tennessee, but rival Republican Manny Sethi's supporters will take heart from the results of Republican congressional primaries in which Trump-backed candidates have fallen short.

In the race for the North Carolina seat vacated by GOP Rep. Mark Meadows' appointment as White House chief of staff, the Trump-backed candidate, real estate agent Lynda Bennett, lost to 24-year-old investor Madison Cawthorn. In Kentucky, Republican Rep. Thomas Massie easily turned back a GOP challenge despite being labeled a "disaster for America" by Trump. And in Colorado, political novice Lauren Boebert, a gun-rights advocate who defied pandemic restrictions on her restaurant, beat five-term incumbent Rep. Scott Tipton, who had the president's support.

Hagerty landed the endorsement of the U.S. Chamber of Commerce, though there has been no sign of independent expenditures by the national group in Tennessee. Hagerty also touted the endorsements of state House Majority Leader William Lamberth (R-Portland) and Senate Majority Leader Jack Johnson (R-Franklin). Sethi received endorsements from Sen. Frank Niceley (R-Strawberry Plains), who lauded the candidate for having "always stood up against moderate Republicans and the left," and former Rep. Joe Carr (R-Lascassas).

5th District. State Sen. Brenda Gilmore endorsed Keeda Haynes, who is challenging longtime U.S. Rep. Jim Cooper in the Democratic primary in the 5th District comprising Davidson, Dickson, and part of Cheatham counties. The AFL-CIO endorsed Cooper.

Tennessee Notes & Quotes

■ Nashville prosecutor **Glenn Funk** announced his office will no longer file charges for possession of less than a half-ounce of marijuana. Lawmakers in 2017 nullified similar ordinances in Nashville and Memphis.

■ Gov. **Bill Lee** is calling the State Capitol Commission to meet next week to vote on the removal of the **Nathan Bedford Forrest** bust. The governor also appointed **Logan Hampton**, president of historically black Lane College to the panel. A late-session bill giving the General Assembly two more appointees to the commission, which could deadlock a vote, was just signed by the House and Senate speakers this week. The governor will have 10 days to decide whether to sign it into law once it reaches his desk, a deadline that will fall well after the scheduled vote on the contentious historical figure.

■ Protesters toppled the District of Columbia's only outdoor Confederate statue. The 11-foot monument to **Albert Pike**, an unsuccessful Civil War general who became the editor of the *Memphis Appeal* following a pardon from President **Andrew Johnson**, was erected by the Freemasons in 1901. Nashville protesters in May tore down a statue of **Edward Ward Carmack**, another former Memphis newspaper editor who like Pike espoused racist views. Carmack ran the *Commercial* before embarking on a political career in 1896. He went on to edit *The Tennessean* in Nashville until he was gunned down by a political rival in 1908. The cost of restoring of the Carmack statue is estimated at between \$140,000 and \$170,000. The state is planning to submit an insurance claim for the damage.

■ “As I came in today, I saw a gentleman running on the sidewalk. There was no one within 100 yards of the guy, yet he was wearing a mask while running. This speaks to the irrational fears this dishonest representation of the data by the media has caused.” — *U.S. Rep. Mark Green (R-Ashland City) in a House hearing.*

■ **Bill Purcell**, a former Nashville mayor and state House Democratic leader, has joined the Frost Brown Todd government practice group. The firm's Tennessee lobbying team also includes **Tom Lee** and former state House Republican Caucus Chair **Debra Maggart**.

■ “We should have forced our Tennessee legislators to expand Medicaid when the fed offered to pay for it. Too much politics. Now we wish we had.” — *Former U.S. Sen. Bill Frist (R-Nashville) a few days before Oklahoma voters narrowly approved Medicaid expansion.*

■ The Nashville office of Greenlight Media Strategies was involved in direct mail efforts on behalf of **Jamaal Bowman**, who was running well ahead of longtime U.S. Rep. **Eliot Engel** of New York in the Democratic primary, though absentee ballots had yet to be counted. Greenlight's Nashville staff includes partner **Emily Passini** and former state Senate Democrats' spokesman **Matt Anderson**. The firm's state clients include **Keeda Haynes**, who is challenging U.S. Rep. **Jim Cooper** (D-Nashville), and state Reps. **Gloria Johnson** of Knoxville and **Vincent Dixie** of Nashville.

■ Cleveland Mayor **Kevin Brooks**, a former Republican state representative, was hospitalized this week with double pneumonia. Rep. **Mike Carter** (R-Ooltewah) said Brooks tested positive for COVID-19 when he was admitted, though subsequent tests have come back negative. Brooks was the chaplain of the day for the closing House floor session on June 18.

■ “Getting this matter resolved will remove a burden from me and allow me to focus on my family, my practice and on continuing to set good public policy for our state.” — *State Sen. Steve Dickerson (R-Nashville) about his undisclosed settlement with federal prosecutors to drop him as a defendant in a lawsuit over alleged fraud at a medical company he co-founded.*

■ Seven of 12 judges on the Court of Workers' Compensation Claims have been reappointed to six-year terms by administrator **Abbie Hudgens**, including Chief Judge **Kenneth Switzer** of Nashville. The remaining five judges are on a different appointment schedule.

■ “Belmont University is honored, excited, and fully committed to serve as host site for the third and final Presidential Debate on October 22, 2020.” — *The Nashville school in a statement after the University of Michigan withdrew as a debate host because of COVID-19.*

■ Knoxville Mayor **Indya Kincannon** named **LeKenya Middlebrook** as the new executive director of the city's Police Advisory and Review Committee.

■ **Jennifer Roberts**, the first director of Tennessee's sports betting program within the Tennessee Education Lottery Corp., has left for a job in the private sector. The Lottery has hired **Danielle Boyd**, who previously headed government relations for the William Hill sportsbook, as vice president for sports gaming operations, and former Secret Service agent **Danny DiRienzo** as sports gaming investigator.

■ President **Donald Trump** announced he will appoint former Gov. **Bill Haslam** as chair of the Woodrow Wilson International Center for Scholars.

■ Acting on advice of the state attorney general's office, the Tennessee Registry of Election Finance plans to hold another vote at its meeting next week to approve slashing state Rep. **Joe Towns'** \$65,000 in civil penalties for serial reporting violations to \$22,000. The move essentially acknowledges the panel made an unlawful vote via email (also blessed by the AG's office) on the eve of the April candidate filing deadline, by which time all fines must be paid off in order to qualify for the ballot. More than 13 weeks later, the Registry re-vote is aimed at legitimizing the original agreement. Even though the filing deadline has long passed, the Secretary of State's office says the outcome won't affect Towns' ability to run because absentee ballots are already being mailed with the Memphis Democrat's name printed on them.

■ The end-run on Tennessee's open meetings and campaign finance laws will thus be complete. We know it's not much of a punchline. But it's very much a joke.