

# The Tennessee Journal

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## With green light, Bredeesen ponders next move on higher ed

When Gov. Phil Bredeesen met with nine legislators over lunch March 12 to discuss higher education reform, he said a better system could be designed on the spot by those in the room. The hard part is the politics.

The question on the governor's mind was whether the legislature would be receptive to a reform initiative.

The feedback he received — in the luncheon at the governor's residence and in subsequent conversations — was that legislators are willing to consider big changes in the higher education system.

Any such undertaking is fraught with political peril, though, and there's been some tiptoeing on the issue. The governor is interested if legislators are interested, and legislators are interested if the governor is interested. As with any major reform, nothing can get done without the commitment of the governor. But the governor can't succeed without the backing of key senators and representatives.

If Bredeesen spends the considerable political capital that reform will require, he wants to be sure it genuinely improves education in the state. He's made it clear he's not inclined to tinker with the subject. If he gets involved, he wants to see significant change.

Specifically, he's interested in elevating the University of Tennessee-Knoxville to the upper tier of national research universities. And he wants other institutions to focus on their core mission of educating undergraduates. Bredeesen believes too many of the state's universities are offering duplicative degree programs. And he especially believes too many are draining the state's finite resources on graduate programs.

In an interview last week with the editorial board of the *Chattanooga Times Free Press*, he suggested that the state's other four-year schools are "mostly trying to be mini-UTKs or mini-Vanderbilts."

The comment created a stir in university communities throughout the state, especially in Memphis, where the University of Memphis has a large graduate program and a law school, and in Murfreesboro, where Middle Tennessee State University's undergraduate enrollment now surpasses UT-Knoxville's.

Reform has been pursued before. Gov. Don Sundquist appointed a task force, chaired by retired Nashville banker Denny Bottorff, that moved toward reshaping higher education's governance structure — until higher ed officials, led by UT's Joe Johnson, shot down the idea.

Bredeesen and his staff have met with education experts from several states, with varying governance structures, and reconfiguring the higher ed boards isn't his primary focus, though it's something he may well want to do. In terms of money, the biggest savings would come in reducing duplication and reining in graduate programs.

One of the reasons Bredeesen and others believe there is an opportunity to make substantial changes is that the top positions in both the UT system and the Board of Regents are vacant. Both systems have interim chiefs.

The governor doesn't believe the choice is between a total merger of the two systems and doing nothing. More likely, he'll consider something in between.

**How to proceed?** A couple of weeks ago, Senate Democratic Leader Jim Kyle of Memphis, one of the participants in the luncheon meeting, wrote the governor to say it was his sense that legislators are ready to consider reform but would like Bredeesen to suggest the next step.

Bredeesen earlier considered the possibility of proposing action in this legislative session. But it's already April, and that probably isn't practical.

One option would be for a legislative study committee or a blue ribbon citizens committee to undertake a study and present a report by next January. But there seems to be a consensus that the issue already has been well studied. Bredeesen, in fact, has consulted with Jim Guthrie, who staffed the Sundquist higher education study. Guthrie is director of the Peabody Center for Education Policy at Vanderbilt University.

Another possibility is for the governor and his staff to work with the vice chairmen of the two governing boards — the governor himself technically chairs both boards — and develop a recommendation or at least some options for the legislature to consider next year. Bredeesen has close ties with both the Board of Regents vice chairman,

Bobby Thomas, and the UT board's vice chairman, Jim Murphy. The two are law partners at Bradley Arant Boult Cummings in Nashville.

If this approach is taken, it will be in consultation with key legislators, and there likely will be a public component to the process.

**Politics.** The higher education system has evolved as it has partly because of politics. The 13 community colleges scattered throughout the state may have been placed for strategic educational reasons, but political influence also entered the equation. Every community, and every legislator, wants a college. Likewise, the leaders of every college, and the community around it, want their school to grow and offer more and more programs.

The Tennessee Higher Education Commission was created partly to serve as a referee between the Board of Regents schools and the UT schools. For example, THEC prioritizes the capital requests that come from both systems. Even so, governors occasionally have put lower-ranked projects in the budget ahead of the THEC list, and legislators sometimes have been able to get special appropriations for their schools.

Any reform that seeks to take existing programs away from universities will encounter heated opposition. It will be hard enough simply to stop the growth and addition of programs deemed inappropriate for certain schools. One idea under discussion is changing the higher ed funding formula to create stronger incentives for sticking to the core mission, such as improvement in graduation rates.

**UT-Knoxville.** The UT system encompasses the main campus in Knoxville and branches in Chattanooga and Martin. It also operates the UT Space Institute, which is a graduate program in Tullahoma, and the Health Science Center in Memphis, which includes a medical school.

Bredesen wants the state to have a top-quality research university, one ranked in the top 10 public universities, and considers UT-Knoxville the obvious candidate — because of its link to the Oak Ridge National Laboratory and because it's the state's flagship university.

Achieving that goal won't be easy or cheap. The 2009 ranking of private and public national universities by *U.S. News & World Report* puts UT at 108. The 50 or so public universities ahead of it won't hold still while it improves. Kiplinger's list of best values in public universities, incidentally, shows UT at 64.

**Memphis.** Much as there is consensus among policy-makers that UT is the top choice to become a top-tier public university, one that will attract first-rate students and researchers, there is general agreement that if there's room for a second research university, the University of Memphis is best positioned to assume the role — probably with an emphasis on the bio-sciences. Bio-science establishments in Memphis, including St. Jude Children's Research Hospital and major operations by four pharmaceutical companies, employ about 40,000 people.

**Med school?** While hardly a point of emphasis, the question of the UT medical school has come up in the reform discussions. If emphasis were placed on elevating

UT-Knoxville as a standalone school, and if the University of Memphis were designated a bio-science research university, it would make sense, some have observed, to attach the medical school, already located in Memphis, to the University of Memphis.

While it might be perfectly logical to do this if the higher ed system were starting from scratch, doing so within the existing system could be the political equivalent of taking a mother's baby and telling her it makes more sense for someone else to rear it. Then again, politics often is about trade-offs.

**Thomas remark.** A *Chattanooga Times Free Press* article last weekend about Bredesen's comments to its editorial board also included a comment from Thomas, the vice chairman of the Board of Regents, which governs all the state's four-year schools outside the UT system, as well as the community colleges and vocational-technical schools. He told the newspaper that the Regents and the UT board should be merged and that it's hard for the state to support "two top-level institutions." UT's association with Oak Ridge National Laboratory, he said, gives it "an advantage over the University of Memphis, period." UT operates ORNL in partnership with Battelle.

The University of Memphis is one of six four-year schools governed by the Board of Regents. In his first race for governor in 1994, Bredesen publicly suggested that the urban university, distinct from the other Regents institutions, should have its own board.

**Meeting.** At the luncheon meeting to gauge the legislature's appetite for a difficult initiative, Bredesen met with the House and Senate finance and education committee chairmen as well as Sens. Kyle, Jamie Woodson (R-Knoxville), and Andy Berke (D-Chattanooga), and Reps. Les Winningham (D-Huntsville) and Beth Harwell (R-Nashville). Comptroller Justin Wilson, who in the Sundquist administration helped negotiate the *Geier* higher ed desegregation settlement, also took part. In separate conversations, other legislative leaders were consulted.

As the saying goes, the devil is in the details. Every congressman favors slashing waste from the federal budget until a project or agency in his district is targeted for cuts. And every state legislator wants a more efficient, effective higher education system — until, perhaps, the plan adversely affects his hometown school.

A big question is whether Bredesen can push through a serious reform bill in an election year and his last year in office. He isn't the first governor to worry about duplicative efforts in the higher ed system. Nor was Sundquist.

In the early 1970s, Gov. Winfield Dunn vetoed a bill establishing a medical school at East Tennessee State University in Johnson City, arguing the state couldn't afford to fund two medical schools. The veto, which infuriated citizens in Northeast Tennessee and was overridden, may have cost Dunn the election when he ran for governor again in 1986.

From that standpoint maybe the last year in office, in the last term for which he's eligible, is the perfect time for Bredesen to pursue higher education reform.

- Lt. Gov. Ron Ramsey (R-Blountville), a candidate for governor, complained that the ban on fund-raising by state lawmakers during legislative sessions is unfair, though he said he has no specific plan for repealing it. He said it would be fairer if it applied to mayors, congressmen, and district attorneys — examples “out of the wild blue.”
- Shelby County Commission Chairman Deidre Malone, a Democrat, publicly urged commissioners Monday to

contact the county’s legislators and urge them to act on the commission’s legislative agenda, which has been caught up in a brouhaha over the commission’s decision in February to fill a GOP vacancy on the body with a Democrat. Reina Reddish, lobbyist for the county, presented a list of the bills, some of which have been put on notice, to the county legislative delegation at its weekly meeting Wednesday, but there was no discussion of the dispute.

- Exide Technologies announced it will lay off 567 workers at its Bristol battery plant starting May 1. That’s 69% of the workforce, currently at 817 people.
- The Weakley County school board unanimously selected Gleason School principal Randy Frazier as the new schools director Monday night. State Rep. Mark Maddox (D-Dresden), technology coordinator for the school system, was among five applicants interviewed Monday.

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## ***Expiration of commissions looms***

### **Plan forming to save retention ballot**

Rep. Joe McCord (R-Maryville) is trying to move legislation in the House reestablishing the Judicial Selection Commission, with the House and Senate speakers to appoint members without being confined to lists of nominees from legal interest groups.

This mirrors a plan of Lt. Gov. Ron Ramsey, who also wants to initiate a constitutional amendment permitting retention elections for appellate judges so voters can have a say whether to continue the practice. Discussions were under way this week on how to accomplish that.

Both the selection commission and the Judicial Evaluation Commission, essential components to the retention system, are due to expire June 30. McCord’s measure would extend the evaluation commission. It also would require the selection commission to give the governor four nominees for vacancies instead of the present three.

The legislation, an amendment to HB 1448, which McCord has taken over from Judiciary Chairman Kent Coleman (D-Murfreesboro), is in the House Civil Practice Subcommittee. It is on Tuesday’s calendar, but it’s not clear the panel will get to it. Chairman Brian Kelsey (R-Germantown) has scheduled a public hearing on all bills dealing with the issue, including those that aren’t scheduled.

McCord’s amendment is a work in progress. Saving the current judicial selection and retention system is a priority of Gov. Phil Bredesen, who for now is watching to see what McCord and Ramsey can work out. It is also a priority of the state judiciary, the bar association, the trial lawyers association, and other legal groups. The district attorneys general are neutral on the issue.

Kelsey isn’t convinced that retention elections are constitutional. A champion of the argument that they aren’t, two-time Democratic gubernatorial nominee John Jay Hooker, is scheduled to speak at Tuesday’s hearing.

Ramsey also questions the constitutionality, though it’s been upheld by a special supreme court. He essentially wants to reform the system for now as a bridge to an eventual referendum on a constitutional amendment.

The earliest a public vote on such a proposal could take place would be November 2014, since the proposition must be passed by two consecutive general assemblies, with the second one doing so by two-thirds votes in each house.

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## **Forrester trying to recover from victory**

To win the election for Democratic Party chair Jan. 24, Chip Forrester not only had to beat his opponent, Nashville lawyer Charles Robert Bone; he had to overcome opposition from the governor, four congressmen, and former congressman Harold Ford Jr., all of whom signed a letter of support for Bone after Forrester had received enough commitments to assure him of victory.

Forrester won. But the political leaders he defeated, not the state executive committee that elected him, essentially control the party. And much of the party establishment has been disinclined to cooperate with the new chairman. There are, after all, other options. Donors can give to Democratic caucuses and political action committees.

The selection of Nashville real estate developer Bill Freeman as party treasurer brought more than a little criticism. Freeman, while a heavy Democratic contributor, also has given to Republicans, including the GOP opponents of Bredesen in two gubernatorial races.

With the governor displeased, Freeman encountered obstacles in the volunteer position. So last Friday, he resigned. Forrester hopes eventually to smooth relations with Bredesen and others. He will take his time in finding a new treasurer.

In the meantime, he’s staying in touch with party leaders in the legislature and potential 2010 gubernatorial candidates. He has a standing Thursday breakfast with House Democratic Caucus Chairman Mike Turner of Nashville and Senate Democratic Caucus Chairman Roy Herron of Dresden. He’s launched a new website and is making preparations for a party summit May 2 and 3 in Monteagle, as he promised when he was elected.

He has studied the possibility of moving the state headquarters from the Freedom Center near the Capitol to a less expensive location but has no current plan to do so. He is operating with a skeleton crew — office manager Vionne Williams and fund-raising coordinator Meredith Puleo — and volunteers.

The party took in \$61,000 in March, with former chair Doug Horne, who built the Freedom Center, donating \$10,000. The Jackson Day dinner, the party’s biggest fund-raiser, is set for May 30 at the Factory in Franklin.

The 2010 election is a critical one. Democrats hope to regain control of the House before the legislature redraws congressional and legislative districts after the census.

## Tennessee Notes & Quotes

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■ In the 1975 movie *Rooster Cogburn*, **John Wayne** tries to persuade a bad guy to surrender by promising “a fair trial and a fine hanging.” Critics of AT&T Tennessee’s deregulation bill argue that’s the sort of deal the phone company is offering. “I’m telling you rates will go up,” said Tennessee Regulatory Commission director **Sara Kyle** in testimony Tuesday to the Senate Commerce Committee. But AT&T officials suggest opponents to the bill are caught in a time warp. The company is losing 20,000 customers a month to wireless and Voice Over Internet Protocol competitors, which would make more inroads if AT&T jacked up its prices, company president **Gregg Morton** told lawmakers. The real concern of competitors, he said, is just the opposite: They fear a deregulated AT&T will offer sweeter deals and steal their business.

■ AT&T officials and negotiators from the TRA and other parties worked into the night Monday on compromise language, and the Senate Commerce Committee, after a lengthy discussion in the “pre-meeting” Tuesday morning and a three-hour hearing in the afternoon, approved the amended bill. The House Commerce Committee adopted the amendment and is set to act on the bill Tuesday. Under the compromise, TRA retains its authority in complaints by residential phone customers and will continue to handle carrier-to-carrier disputes. AT&T will remain regulated in rural areas for a year, after which it may petition TRA to deregulate it on grounds there is adequate competition. Regardless of TRA’s action, the company would be fully deregulated in 2015.

■ Lt. Gov. **Ron Ramsey** (R-Blountville) noted Thursday that the House is “way behind” the Senate in disposing of legislation, but he said he’s still shooting for an adjournment by Memorial Day. Ramsey is eager to get on the gubernatorial campaign trail and fund-raising circuit. If no target is set, he said, the House will still be in session “the Fourth of July.” He said leaders in both parties, in both houses, would like to meet the Memorial Day target. But don’t be surprised if the session goes into June.

■ Hoping to speed up the process in the House, Majority Leader **Jason Mumpower** (R-Bristol) delivered cupcakes to members on Wednesday with a note about not being an April fool, and following the House rule, or some such rhyme, and getting bills on notice in time.

■ The House Agriculture Committee deferred consideration until April 21 on a bill by Rep. **Charles Curtiss** (D-Sparta) making it illegal to sell sausage in quantities of a pound or greater unless it’s frozen. So everyone has time to brace for jokes that Curtiss’ bill is pure pork and this proves the legislative process is like watching sausage being made. Sen. **Eric Stewart** (D-Winchester) has the bill in the Senate, where ham jokes would be easier.

■ Our story on the budget last week should have said the governor proposes to increase the tax on HMOs to 5.5%. Also, **Victor Ashe** isn’t a “former” ambassador to Poland. He was asked by **President Obama** to stay on in Warsaw a few months until a successor is in place.

■ The state attorney general’s aggressive opposition to a bill changing the way natural gas companies’ rates are adjusted has irked some Republican lawmakers. Rep. **Phillip Johnson** (R-Pegram) jumped all over Assistant Attorney General **Joe Shirley** in the House Utilities and Banking Subcommittee, where Shirley argued the bill was bad for consumers. Thursday, in the House Finance Committee’s budget hearing for the attorney general, Rep. **Charles Sargent** (R-Franklin), sponsor of the bill, told Attorney General **Bob Cooper** he’d “been here 13 years, and I have never seen you get involved in legislation. Is it your new position that you’re going to be up here lobbying?” Cooper defended the actions of his office, which includes a consumer advocate division, pointing out state law authorizes it to take such positions.

■ The gas bill, which provides for annual rate reviews by the Tennessee Regulatory Authority, leaving the current rate case process in place only for large increases, was approved by the House subcommittee and is scheduled Tuesday in the House and Senate commerce committees.

■ With Rep. **Ben West** (D-Nashville) recovering from heart surgery, the committees and subcommittees on which he serves suddenly have one-vote GOP advantages. To restore balance, Rep. **John Litz** (D-Morristown) will serve on the Local Government Subcommittee and Rep. **Bill Harmon** (D-Dunlap) on the Public Safety Subcommittee until West returns.

■ The House passed a bill Monday, 74-21, that lets a divorced parent with visitation rights assign those rights to a relative if he’s out of state for 90 days because of military service. The bill, in the Senate Judiciary Committee, is noteworthy not so much because of what it does. It’s the first bill by Rep. **Stacey Campfield** (R-Knoxville), now in his third term, that the House has ever passed.

■ Rep. **Brian Kelsey** (R-Germantown) thought he’d found a way to avoid a \$20,000 fiscal note, the cost of statewide public notice for a constitutional amendment, by providing for online notice of his proposed ban of an income tax. But members of the House Budget Subcommittee would have none of it Wednesday, declaring that some of their constituents don’t have computers. The tax-ban proposal was deferred “behind the budget.”

■ The bill to ban text-messaging while driving was deferred in Senate Finance, but not before Sen. **Douglas Henry** (D-Nashville) gave a demonstration in support of it with a device borrowed from Sen. **Jamie Woodson** (R-Knoxville). “This is a twittering? What do you call it?” he asked. “Blackberry,” said Woodson.

■ In the House Agriculture Committee Tuesday, Rep. **Ty Cobb** (D-Columbia) made a presentation on Saturday’s Mule Day in Columbia. He told members about a 29-year-old mule that poses every year with the Mule Day court.

■ “If that mule makes it one more year, he’ll be old enough to run for the Senate. Might be an improvement over there.” — Rep. **Frank Niceley**.