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Bredesen won't let income tax be an issue — except in his favor

It wasn't a bad day's work.

First, Gov. Phil Bredesen neutralized a potential issue against him by declaring that he wouldn't support a state income tax in a second term. Then, the governor deftly suggested that his biggest political vulnerability — fallout from the enrollment and benefit cuts in TennCare — exists because of his determination to block new taxes.

With these pronouncements last Monday, Bredesen in effect donned his reelection armor.

His campaign war chest is swelling from a series of fund-raisers throughout the state. By New Year's Eve, he is counting on being the Six Million Dollar Man. He will have an incredible head start over any Republican challenger, and he'll be able to raise — or if need be, contribute himself — still more millions in the 2006 election year.

An incumbent governor hasn't lost a reelection bid in the last 50 years. And since the state constitution was amended in 1978 to permit two consecutive four-year terms, no challenger has received more than 40% of the vote.

Yet, despite the obvious advantages of incumbency, Republicans are modestly upbeat about their chances in 2006 because Bredesen, who two years ago looked invincible, lately has taken some lumps. While the odds strongly favor his reelection, it's likely that he'll face a more serious opponent than did his two immediate predecessors.

State Rep. Beth Harwell (R-Nashville), the former state Republican chairman who recently decided against a U.S. Senate race, is giving the gubernatorial contest a hard look and is the best bet to run. Indeed, Bredesen's remark about the income tax may well have been timed to send her a message. Harwell is gauging her financial support and likely will make a decision soon. One potential reason for hesitation: Some moderate GOP money men don't particularly want Bredesen to face a strong challenge.

State Senate Majority Leader Ron Ramsey (R-Blountville) also is weighing the race but would like to see Harwell run. They will not run against each other.

The Republican nominee cannot expect to match Bredesen in campaign spending. In his last campaign report, through December 2004, the governor already

showed \$2.5 million in his '06 reelection fund. He had another \$211,000 in his still-open 2002 campaign account, which also showed an unpaid loan of nearly \$3 million — reflecting money the candidate himself threw into his '02 race against Republican Van Hilleary.

The \$6 million target by year's end, after about 20 fund-raisers this year, is not unrealistic. Bredesen could well have more. He spent more than \$11 million in 2002, counting personal funds, and in a serious race he might spend \$15 million in 2006. In a best-case scenario for Harwell, she likely would be outspent at least two to one, and it could be much worse. But Democrats worry that outside organizations might help the well-connected Republican.

Chinks in armor? TennCare has to be the biggest concern for Bredesen as he prepares for 2006. The disenrollment of 191,000 people and benefit cuts for three times that many have eroded his public approval. A September poll by SurveyUSA, the automated polling service that tracks the Tennessee governor's performance ratings for WBIR-TV in Knoxville, shows 48% of Tennesseans approve of the job Bredesen is doing and 48% disapprove. The survey probably understates Bredesen's popularity. But the poll is conducted the same way each time, and it has shown a fairly steady decline in the governor's ratings — though he may have bottomed out. Once much higher, Bredesen's approval dipped to 52% last May, with 40% of citizens then disapproving.

Another potentially explosive issue is the ethics scandals in state government, which could put some voters in a mood to throw all the bums out, regardless of culpability. From almost the time that five current and former legislators were indicted last May, the governor has positioned himself as an advocate for reform. Thursday, he received the report of his citizens advisory group on ethics, and he is still contemplating calling a special session of the legislature to enact a package of ethics laws, either later this fall or in January.

The base. The governor has had some problems with his Democratic political base — especially organized labor and trial lawyers, who were dismayed by his 2004 workers' compensation reforms. But the TennCare cuts

have had a far bigger political impact within the base. Republicans have had trouble containing their glee over the situation, but it's not as if the governor's disaffected constituency will be inclined to vote Republican. Bredesen does have to worry, though, whether they will vote at all. If U.S. Rep. Harold Ford Jr. of Memphis is the Democratic nominee for U.S. senator, there could be an unusually strong African-American turnout, which could help Bredesen — assuming most of those turning out for Ford would also vote in the governor's race.

GOP support. The SurveyUSA polls have consistently shown that the Democratic governor has stronger approval ratings among Republicans than among either Democrats or independents. In September, 53% of Republicans approved of Bredesen's job performance, 43% disapproved. A breakdown by stated ideology showed moderates thinking most highly of the governor, followed by conservatives, who narrowly approved of his performance, while a majority of liberals disapproved. Indeed, other polling has shown that Bredesen is especially strong among moderate Republicans.

The great Republican hope is that even if the party faithful like Bredesen, they'll vote for a good Republican candidate over him next November. But a GOP challenger may struggle to raise money from a party establishment that's happy with the work of the incumbent.

Republicans probably stand a better chance of gaining control of the state House than of the governor's office, needing to pick up only four seats to do so. Even that goal, of course, benefits from a strong gubernatorial bid. The party would like Bredesen to be busy watching out for his own hide instead of helping Democratic legislators.

Income tax. In his 2002 campaign, Bredesen promised during a debate with Hilleary to oppose an income tax during his first term, but he would not go so far as to commit himself to that position for as long as he was governor. Hilleary tried to exploit this by arguing that it showed the Democrat wasn't as committed to the anti-income tax stance as he. But Bredesen said then, and had said many times since, that if he changed his mind about opposing an income tax he would let people know before they voted in the 2006 governor's election.

In August, the group Tennessee Tax Revolt asked the governor and legislators to sign a written pledge not to support an income tax. Bredesen refused, terming the crusade "pure political posturing."

But last Monday, during a speech to the Nashville Rotary Club, the governor observed that Tennessee has "carved out a niche as a low tax state, and I feel that's a good place to be." Afterward, he told reporters he was flatly ruling out an income tax in a second term.

With any significant opposition, as Harwell or Ramsey could provide, Bredesen probably would have been forced to make such a statement sooner or later. If he were truly convinced the state needed an income tax — which he appears not to be — only if he were riding a wave of popularity and facing just token opposition could he afford to make tax reform part of his reelection campaign.

TennCare. While he is paying a political price for his TennCare cuts, Bredesen probably would have paid a bigger price had he not reined in the health care program, which has been growing faster than state revenues. Without the drastic action this year, he likely would have been forced in the election year to make draconian cuts, perhaps bigger than the recent ones, or else to raise taxes. Politically, there was no good way to deal with the TennCare issue, but he probably chose the least bad.

Bredesen received letters from nine legislators calling for a special legislative session on TennCare, and patients' advocates say as many as 32 are supporting one. Monday, the governor sent a letter and supporting material to all members of the General Assembly explaining why he felt a special session would be a bad idea. His briefing material argued that the real reason protesters are clamoring for a session is to seek passage of an income tax, a health care provider tax, or other new taxes to fund a bigger TennCare program.

Outlook. Suburban population growth, especially in the Memphis area and around Nashville, has made it difficult for a Democrat to win a statewide race without some conservative credentials. Bredesen certainly has earned his, though in his first three years in office he has angered factions on both the left and right, pro-life groups being a prime example of the latter. He has weathered a political storm this year, but next year, if things go right for him, he should be able to recover some ground. He might even be able to rebuild the reduced TennCare program a little.

With an intimidating campaign treasury, he is a solid favorite for reelection. But he has just enough problems, and there are just enough uncertainties, that a good opponent may be able to give him a serious race. A referendum scheduled on the constitutional amendment to prohibit homosexual marriages — while being challenged in court by the ACLU — promises to increase the turnout of social conservatives to the benefit of the GOP. It's pretty obvious that whether anyone else is or not, Bredesen himself is taking the election seriously.

Ethics blueprint focuses on lobbying

Gov. Phil Bredesen's citizens advisory group on ethics, which met with him Thursday to present its recommendations, is calling for extensive reporting by lobbyists and their clients of money spent to influence legislation.

Lobbyists are virtually united in opposition to any disclosure requirement that would make public their fees and salaries. And the group's recommendation, while not specifically targeting salaries, likely would have that effect for many lobbyists — individuals hired directly by a client, for example, as opposed to being part of a government relations firm. While the report appears to anticipate that fees and expenses would be lumped together, it also seeks to end a whole lot of the expenses by calling for a total ban on gifts by lobbyists to legislators — including food, drinks, and entertainment.

Such a ban actually was enacted in 1995 — the so-called Cup of Coffee Law — but it exempted receptions held for the entire General Assembly and events to which

- The TVA board approved a deal in which Chattanooga developer John “Thunder” Thornton will trade the agency 1,100 acres from nearby sites for 578 acres of TVA property in Marion County, which he’ll develop into 600 or more homes, a hotel and meeting facility, a golf course, campground, and boat slips.
- Nashville Chancellor Carol McCoy ruled against *The Tennessean* Thursday in its lawsuit seeking access to state workplace harassment case files that the Bredeesen administration contended were confidential under law.

- The Tennessee Supreme Court set a Nov. 1 deadline for applications to succeed Justice Connie Clark as director of the Administrative Office of the Courts. Applicants must be licensed to practice law in Tennessee. Clark held the position for six years before Gov. Phil Bredeesen appointed her to the Supreme Court Sept. 19.
- Ted Fellman, previously the Tennessee Housing Development Agency’s chief financial officer, was named executive director by the THDA board Sept. 22. He succeeds Janice Myrick, who is retiring from state government.

- Shelby County Commissioner Marilyn Loeffel announced she’ll run for county clerk next year. Also running in the May Republican primary is Debbie Stamson, a longtime administrative assistant in the county clerk’s office and the wife of Juvenile Court Clerk Steve Stamson. County Clerk Jayne Creson is retiring.
- Gov. Phil Bredeesen was honored at a ceremony in Washington by the national literacy organization Reading Is Fundamental for a state-wide children’s reading initiative and the launching of a voluntary pre-kindergarten program.

an entire committee or delegation was invited. Over time, this has come to include subcommittees and to mean that once a committee is invited — even if it’s the three-member Late Bills Committee of either House — then anyone else can be invited too, regardless of whether the committee members even show up. In other words, there are so many loopholes, the law is a sham.

For this reason, the 13-member advisory group, co-chaired by former state attorney general Mike Cody and former Senate Republican leader Ben Atchley, decided not to recommend any exceptions at all — though members acknowledged that the legislature may want to consider keeping the one involving receptions for the entire legislature. The panel’s approach in almost all of its recommendations was to draw a bright line and leave any consideration of exceptions to lawmakers. For instance, it suggests banning cash campaign contributions outright, even though a case could be made that people shouldn’t have to write \$5 checks at bean suppers for candidates. The one case in which it did seem to leave wiggle room was in its call to ban lobbyists from serving on state boards and commissions “involving any conflict of interest.”

Among other things, the panel also recommended:

- Creation of an independent ethics commission with strong enforcement powers.
- A “cooling off period” of at least a year before legislators, constitutional officers, and senior executive service employees who leave office could lobby state government.
- A ban on contingency fees in lobbying.

House Republicans were quick to note that many of the panel’s recommendations had been pushed by GOP legislators this year, only to be bottled up in committees controlled by Democrats. Of course, there were Democratic proposals — from Rep. Frank Buck of Dowlletown and Sen. Steve Cohen of Memphis, for example — that also were blocked. During the meeting with Bredeesen, Atchley urged both parties to avoid politicizing the issue, arguing that doing so would “trivialize” ethics reform.

Bredeesen promised to expend whatever effort and political capital was required to enact changes.

Perp Waltz. On the very day the report was issued, a ninth person — Hamilton County Commissioner William Cotton — was arrested in the Tennessee Waltz undercover operation that netted five present and former state legislators last May. And the House Ethics Committee took up a

complaint lodged against Speaker Pro Tem Lois DeBerry (D-Memphis) for accepting a \$200 gift for gambling at a Tunica casino from an FBI undercover agent during an outing with Rep. Kathryn Bowers (D-Memphis), who later was indicted for taking bribes. DeBerry hasn’t been charged with any criminal violation, and the committee unanimously agreed to investigate only whether the influential representative violated House ethics rules.

Political roundup

Ophelia Ford sworn in as senator

Although Republican Terry Roland is challenging the special election, Democrat Ophelia Ford was sworn in Thursday as the new senator from district 29 in Memphis — shortly after Secretary of State Riley Darnell, Attorney General Paul Summers, and Gov. Phil Bredeesen certified her election. Three days earlier, on a 3-2 vote along party lines, the Shelby County Election Commission certified her as the winner of the Sept. 15 special election.

Citing irregularities, Roland has filed a challenge in chancery court in Memphis and with the state Senate, which under the constitution has sole power to determine who may be seated in the body. Lt. Gov. John Wilder (D-Somerville) will appoint a committee soon to review the challenge. Ford’s swearing in will not affect that process.

Ford, 55, succeeds her brother John Ford, who resigned in May shortly after his arrest for bribery.

House election. In the solidly Republican House district 22, where the predominantly Democratic Polk County Commission named attorney Sally Love as interim successor to Republican Chris Newton, Gov. Phil Bredeesen first intended to set a special general election for shortly after New Year’s. Then, saying he wanted to avoid having early voting during the holidays, he decided to wait until November to issue the writ of election, so that the general election would fall in early March.

But Thursday, he was advised that under a 1978 attorney general’s opinion, he must issue the writ within 20 days of a vacancy. Friday, he was setting the primary for late November and the general election for early January. Newton resigned Sept. 1 after pleading guilty to bribery.

Bredeesen said the earlier plan to hold the election after the start of the legislative session wouldn’t have given Love an advantage, since she’d have to spend valuable campaign time in Nashville and incumbents are prohibited from raising campaign funds during session.

Tennessee Notes & Quotes

■ “I’m saying, ‘Not interested. Do not intend to offer an income tax in my second term.’ . . . I’m more convinced today than when I took office that it’s not needed.” — Gov. **Phil Bredesen**, to reporters. His predecessors, Democrat **Ned McWherter** and Republican **Don Sundquist**, both proposed an income tax in their second term.

■ “Never have we said that the solution to the problem is an income tax. I just resent the governor throwing that out as a diversion to try to scare people into refusing to straighten out TennCare.” — **Tony Garr**, executive director of the Tennessee Health Care Campaign, denying that the push by TennCare advocates for a special legislative session is a ploy to enact a state income tax.

■ Unlike the first eight persons charged in the Tennessee Waltz sting operation, Hamilton County Commissioner **William Cotton** was not indicted before his arrest. Cotton, 58, who left a Thursday commission meeting early complaining of the flu, was followed home by a convoy of unmarked law enforcement vehicles. He was arrested on charges of taking \$4,750 in bribes from E-Cycle, the FBI’s bogus recycling company, passed to him by bagman **Charles Love**, at the time a Hamilton County school board member, who pleaded guilty in August to taking bribes and relaying bribes to two legislators.

■ Well before the sting operation that became public with a roundup of seven persons May 26, it was believed that at least one federal grand jury was looking into then-Sen. **John Ford’s** consulting deals. The Senate Ethics Committee examined his arrangements with TennCare contractors Doral Dental and OmniCare, among others. In fact, the committee was releasing a report of a special counsel’s investigation about the time the senator was arrested in the unrelated sting. There is no reason to believe federal authorities have forgotten about all this. Without going into detail, a federal prosecutor recently stated in court that former senator **Roscoe Dixon**, awaiting trial for bribery, faces additional unrelated charges. Friday, the *Chattanooga Times Free Press* quoted a TennCare Bureau spokesman as saying the agency is cooperating with the FBI and TBI in an unspecified investigation. Dixon, who has close ties to Ford, is a former TennCare Oversight Committee chairman.

■ The state Workers’ Compensation Advisory Council on Thursday recommended an average increase of 1.6% in loss cost effective March 1. Because the proposed changes would affect various worker groups differently, the impact on premiums would vary, but the overall increase would be about 1.6%. Since the National Council on Compensation Insurance recommended the same increase — a recommendation in which actuaries for the Department of Commerce and Insurance and the advisory council concurred — Commerce and Insurance Commissioner **Paula Flowers** must implement the recommendation unless she requests a new NCCI filing.

■ The Securities and Exchange Commission began a formal investigation of Sen. **Bill Frist’s** sale of HCA stock. Frist directed a trustee to sell his shares a month before the

value dropped nearly 9% on news of weaker-than-projected earnings. In a public statement last Monday, the senator said his decision to get rid of the stock, to eliminate charges and perceptions of a conflict of interest, was made three months before it was actually sold, and after contacting the Senate Ethics Committee to clear the action. He said he had no information that wasn’t publicly available.

■ “Unfortunately, the ones who really got hurt in this situation are the rank-and-file shareholders who bought or failed to sell HCA stock when Senator **Frist** sold his. They had no access to insider information. Senator Frist shouldn’t either. It’s not legal, and it’s not right.” — Tennessee Democratic Party Chairman **Bob Tuke**, in a statement issued three days before Frist made his.

■ U.S. Rep. **Zach Wamp** (R-Chattanooga) is pursuing the position of House whip — the job held by Rep. **Roy Blunt** (R-Mo.) until Rep. **Tom DeLay** (R-Texas) stepped down as majority leader following his indictment Wednesday in Texas. Meanwhile, U.S. Sen. **Lamar Alexander** (R-Maryville) has discussed with colleagues his interest in assuming the post of Senate whip after the 2006 elections, when the leadership will change with the departure of Majority Leader **Bill Frist** (R-Nashville), who isn’t seeking reelection.

■ “I predict it will be more partisan. The Democrats will be itching for a fight no matter who the nomination is.” — U.S. Senate Majority Leader **Bill Frist**, on President Bush’s next Supreme Court nomination. The Senate last week confirmed **John Roberts** as chief justice 78-22.

■ The Shelby County Democratic Party’s executive committee is not pleased with one of its members, Memphis lawyer **Richard Fields**, who is helping Republican **Terry Roland** contest **Ophelia Ford’s** victory in the Sept. 15 special election for district 29 state senator. The committee is scheduled to take up a resolution on the matter Oct. 6.

■ “I should have voted in that referendum. It was just a matter of me getting busy and not paying attention to something I should have been paying attention to.” — Gov. **Phil Bredesen**, apologizing for not voting in Nashville’s Sept. 13 referendum on a half-cent sales tax hike. The proposal failed. According to *The Tennessean*, U.S. Rep. **Jim Cooper** and Sen. **Bill Frist** also didn’t vote.

■ You know things are going south when gasoline prices discourage gambling. Tennessee Lottery President **Rebecca Paul** says ticket sales actually are up, “but we believe they’d be up more if it weren’t for the gas prices.”

■ After months of discussion of possible names for a new criminal justice building in Nashville, the Metro Council decided last week to name the facility for Justice **Adolpho A. Birch**. Before serving on the state Court of Criminal Appeals and the Supreme Court, Birch, 73, worked in Nashville’s criminal court system as a prosecutor, public defender, general sessions judge, and criminal court judge. The new facility won’t be called the A.A. Birch Justice Building. It will be the Justice A.A. Birch Building.