

TENNESSEE GOVERNMENT

Update

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

Tax Revenue

Tennessee's sales tax revenue declined by 1.36 percent in December. State Finance Commissioner Dave Goetz reported to the House Finance Committee that pre-Christmas collections declined compared to last year, the first year-to-year decline in December sales tax revenue since such records have been kept. Business taxes for the same period, however, were \$37.8 million more than had been budgeted. Combined tax revenue is below budget by \$182 million. Commissioner Goetz, on the surprise bump in business tax revenues, said, "We can thank our lucky stars for that."

Pre-K

The Senate and House Education Committees heard an interim report on the effectiveness of the state's pre-kindergarten program, presented by Dr. Melissa Beers of Strategic Research Group based in Ohio. The most favorable results are short-term advances made by non-white females. Other race/gender groups do not show significant benefits. Representative Beth Harwell (R-Nashville) suggested that rather than expanding pre-K further, at a cost of \$25 million, the money might be better spent on reading specialists and math tutors for students struggling academically in later grades.

Governor Bredesen announced his desire to spend an additional \$25 million to expand pre-K by 245 classrooms in his state-of-the-state address last week. Republicans have been cool to the idea, citing the weak growth in revenue and philosophical objections to providing what they consider to be a middle-class entitlement.

Shipping Wine

Wine is produced all over the country but in Tennessee it may be sold only to wholesale distributors who may sell it only to retailers. Only state-licensed retailers may sell to consumers. The Wine and Spirit Wholesalers of Tennessee would like to maintain the status quo, arguing that the regulations provide for a safe and controlled method of distribution as well as maximum state tax revenues. Others, including small vineyards, wine enthusiasts and niche retailers, say that the market should be free. In the age of the Internet, we should have more convenience, lower prices and greater selection.

A 2005 U.S. Supreme Court case led to an increase of Internet wine sales across the nation as two dozen states responded with a loosening of restrictions. Tennessee is one of 11 states with pending legislation that would liberalize the existing state regulatory regime. Senator Paul Stanley (R-Germantown) is the sponsor of legislation that would enable consumers to have up to two cases of wine shipped directly to them and allow in-state vineyards to ship directly to consumers in other states. The fight will provide fodder for the press, but the likelihood of the bill passing is remote.

Prescriptions: West Virginia Passes Tennessee as Nation's Leader

The Mountain State has taken the lead from the Volunteer State when it comes to per capita prescription drug use, but both states are well above the national average. West Virginia had a

rate of 17.4 prescriptions per person in 2006 compared to Tennessee's rate of 16.9 per person. The national average is 11.8 per person. The study, from Blue Cross/Blue Shield of Tennessee, showed that per capita spending on drugs grew by 7.2 percent in Tennessee in 2006 to \$1,272.94, while the national average rate of growth for the same year was 18.8 percent to \$948.72.

In 2005, TennCare, the state's Medicaid program, limited adults to five prescriptions per month. Hydrocodone, a painkiller, is the most popular drug by volume. TennCare paid for 1.35 million Hydrocodone prescriptions in 2005 and only 610,000 the next year, after the limits went into effect. However, some of the decrease was attributable to the new Medicare Part D prescription benefit. Russ Miller, a senior vice president of the Tennessee Medical Association, added that the doctors' association was developing a prescription safety program to combat abuse. The program would enable physicians and pharmacists to access patients' prescription history via a swipe card. A pilot program is set to begin this spring.

New Education Commissioner

Tim Webb will be the acting commissioner of the Tennessee Department of Education. The former commissioner, Lana Seviars, left to lead an education foundation in Mississippi.

The materials contained herein have been abridged from the statutory sources and should not be construed or relied upon for legal advice. Readers are urged to consult legal counsel concerning particular situations and specific legal questions. To ensure compliance with requirements imposed by the IRS, we inform you that this message is not intended to be used, and cannot be used, by the addressee or any other person for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code.

J. Richard Lodge, Jr.

PHONE: (615) 742-6254

FAX: (615) 742-2754

E-MAIL: dlodge@bassberry.com



Leslie K. Hafner

PHONE: (615) 259-6342

FAX: (615) 742-2801

E-MAIL: lhafner@bassberry.com