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Testifying at Congress, Bryan Calls for Major Changes to How USVI is Treated Under U.S. Tax Code

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Governor Albert Bryan testifies before the U.S. House of Representatives Committee on Natural Resources

Gov. Albert Bryan seized a moment during a Congressional budget hearing Tuesday in Washington D.C. to make the case for sweeping changes in the way the Virgin Islands is treated under the U.S. tax code.

“The Virgin Islands believes the time is right for a comprehensive revision of the territory’s economic relationship with the United States, one that will place the territory on a path to true and sustainable fiscal health,” Mr. Bryan told members of the U.S. House of Representatives Committee on Natural Resources oversight hearing on FY2021 budget priorities.

The rum tax cover-over was the key point.

“As part of its longstanding tax relationship with the Virgin Islands, Congress has historically provided that all federal taxes on all products, including rum manufacturered in the Virgin Islands be returned – or covered over – to the local treasury.

“Rum tax revenue covered over to the Virgin Islands constitute a major source of funding for the territory, and are used to finance essential public services and to securitize the territory’s bonds and to facilitate the territory’s future access to the capital markets," the governor said before the U.S. lawmakers.

He said the timing of these temporary extensions often causes budget planning problems and uncertainties for the territory.

"The Virgin Islands request that OIA (Office of Insular Affairs) and the committee support the Virgin Islands efforts in Congress to make the temporary rate permanent and thereby avoid the need for periodic, last-minute increases," Mr. Bryan said.

Under the Revised Organic Act of the Virgin Islands, a portion of excise taxes collected on territory-made rum imported into the U.S. is sent back, or “covered-over,” to the V.I.

The federal government estimates cover-over payment in advance each fiscal year. An initial advance payment of $251 million for FY 2019 was paid in September 2018, for example. But the actual amount certified for 2019 rum excise taxes collected amounts to $256 million.

This week’s payment of $4,466,642 makes up the difference.

The House passed a bill Tuesday that would repeal the cap on the rebate of federal tax revenue collected on distilled spirits produced in the territory, known as the rum cover-over. But that measure, which was tied into a wider bill calling for $4.7 billion in disaster aid to mostly Puerto Rico, was not expected to pass the Senate and President Donald Trump has vowed to veto any such measure over concerns of how federal funds are expended in Puerto Rico.

The governor also called on changes to the U.S. tax code that would see the territory recouping taxes from gasoline made in the territory and shipped to the US. For decades HESS and later HOVENSA operated a refinery on St. Croix, and shipped much of the gasoline to the US and other jurisdictions. However, unlike the rum cover-over funds returning to the treasury of the VI government, the fuel taxes were not returned the same way. If the U.S. government were to return those tax dollars that were never remitted to the USVI, the financial boost to the local government could be enormous.

And with Limetree Bay refinery soon coming online, those dollars could continue flowing and could serve as a lifeline to many longstanding problems of the local government, including the Government Employees' Retirement System.

"The Virgin Islands request that the Office of Insular Affairs (OIA) and the committee work with the committees to effect passage of an amendment that finally seals and returns Section 7652 to its intended function and requires that fuel excise taxes be included in the cover-over program," Mr. Bryan said.

He went on to talk about other unfair tax programs that benefit the mainland states but affect the U.S. territories.

"The Federal Earned Income Tax Credit and the Child Tax Credit are intended to encourage and foster work among low income individuals. The federal government effectively funds the program for all states and the District of Columbia through the IRC (Internal Revenue Code). While a worthy goal, these tax credits have unintended and unfair consequences in the Virgin Islands as well as other territories due its status as a mirrored tax code system. Unlike in the states and D.C., the cost of the Earned Income Tax Credit is borne solely by the fiscally stressed Virgin Islands and Guam, a cost which neither territory can bear," Mr. Bryan said.

He added, "As a matter of fairness and to avoid imposing onerous financial burden on the local treasury, Congress should provide for federal reimbursement."

Mr. Bryan also spoke of the territory's contention with the U.S. on how it provides Medicaid support to the USVI. The territory recently received an increase in rate of the federal matching funds for Medicaid from 55 percent to 83 percent for the remainder of fiscal 2020 and all of fiscal year 2021. However, the increase is temporary and could drop to levels that have been historically lower that what the federal government provides to the U.S. states.

Additionally, the governor requested that Congress work with the V.I. Government on providing visa waivers that would make it easier for tourists from a variety of jurisdictions — including the Caribbean — to visit the territory.

In closing, the governor spoke on the issue of requiring a local match to secure federal disaster funding. The matter has long been a problem but was brought to the fore following Hurricanes Irma and Maria. Governor Kenneth Mapp complained about it, and so did Mr. Bryan during his visit to Congress last year. During his testimony on Tuesday, the governor called for an end to FEMA's request that a local match for most categories for public assistance be provided by the local government. The governor contends that the policy requires the local government to come up with "millions of dollars that are stilling being supplied by a federal mandate under the Community Development Block Grant (CDBG)", even though the OIA has leverage to waive the match.

"The GVI proposes that the Act be amended to provide a statutory presumption in favor of waiving the local share to foster economic development and stability," Mr. Bryan said.

Mr. Bryan testified along with Gov. Lou Leon Guerrero of Guam and Northern Mariana Islands Lt. Gov. Arnold I. Palacios.