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D.C. Council Committee on Finance and Revenue Holds Hearing on Fiscal Year 2012 Budget Support Act

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The Council of the District of Columbia Committee on Finance and Revenue held a hearing April 21, 2011, on the [Fiscal Year 2012 Budget Support Act of 2011](#), Mayor Vincent Gray's proposed budget legislation introduced April 1, 2011. The proposed legislation would implement combined reporting, adopt a double-weighted sales factor, and make other tax changes ([click here](#) for a summary of the tax proposals included in the Mayor's budget).

Committee Chairman Jack Evans opened the meeting with a list of concerns regarding the proposed budget, calling the District's fiscal outlook "good news with challenges." Of note, Chairman Evans raised concerns over the impact of proposed new taxes, which would "hit hard" small businesses operating in the District. In addition, Evans expressed frustration regarding two recent studies, including the *COST 2011 State Tax Burden Study - Competitiveness of state and local business taxes on new investment*, which ranks the District 50 out of 51 on its competitiveness index and emphasized the importance of remaining competitive with the District's closest neighbors, Maryland and Virginia. Evans also expressed concerns regarding the use of an "accounting technique" to create revenue, referring to the increased withholding requirements set out in the budget, that merely shift revenue from one year to another.

Tax issues take center stage. Government witnesses at the hearing included D.C. Chief Financial Officer Dr. Natwar Gandhi and Deputy Chief Financial Officer, Office of Tax and Revenue, Stephen Cordi ([click here](#) for the witnesses' written testimony). While witness testimony generally focused on fiscal year 2012 budget requests and performance objectives, Chairman Evans did pose questions regarding some of the tax proposals included in the Mayor's budget. Specifically, Chairman Evans asked about the impact on businesses of a shift to double-weighted sales factor apportionment. Fitzroy Lee, Deputy Chief Financial Officer, Office of Revenue Analysis, indicated that a double-weighted sales factor would positively impact businesses that have a majority of their sales outside the District.

Speaking on a hotel occupancy tax on "additional" charges received by an online travel company, Dr. Gandhi testified that, even though the tax is included in the proposed budget, no income has been booked against it as the matter is currently in litigation. Gandhi noted that the District is awaiting the outcome of the pending court case

before moving forward with imposing the tax ([click here](#) for a copy of the complaint).

In addition to taxes, government witnesses discussed a budget proposal that would allow online gaming, which is estimated to generate \$2 million in revenue during the 2012 fiscal year. The proposal would allow individuals physically located within the District to engage in online gaming via a debit card account. While many of the details are yet to be worked out, government witnesses suggested that gaming terminals could be set up at various bars, restaurants and hotels in the District.

Chairman Evans closed the session by asking Dr. Gandhi and his team at the Office of the Chief Financial Officer to put together a report exploring what it would take for the District to improve its rankings with respect to business competitiveness and other ways in which revenue might be generated. In particular, the Chairman asked Dr. Gandhi to look into how much tax revenue the District could collect by

enacting an "Amazon" law as well as a possible net operating loss deduction limitation. Lastly, Chairman Evans sought the help of the Office of the Chief Financial Officer in calculating estimations of revenue that the District could potentially raise if it were to impose a "jock tax." If enacted, such a law would allow the District to tax the income of non-resident professional athletes who play in Washington, D.C. While not discussed, given the comparisons made to similar taxes imposed by other states, it appears that the tax would also apply to non-resident entertainers.

Of particular note during the hearing was the absence of public discussion on the Mayor's combined reporting proposal. Updates on the state of combined reporting in the District, as well as other tax changes included in the Mayor's proposed budget, will be made as developments arise. The Council of the District of Columbia will take a final vote on the Fiscal Year 2012 budget on June 7, 2011.

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