

PARLIAMENT
OF KENYA
LIBRARY



REPUBLIC OF KENYA

MEMBERS LAID No 157

Speaker N.A.	Clerk Assys
Deputy Speaker	C. H. Editor
Clerk N.A.	Reporters
Deputy Clerk	Library
	Press

THE DEPARTMENTAL COMMITTEE ON

FINANCE, PLANNING AND TRADE

REPORT ON THE VISIT TO THE UNITED STATES OF
AMERICA TO STUDY THE BUDGET PROCESS AND
ASPECTS ON MONEY LAUNDERING

MAY 29 - JUNE 16, 2006

KENYA NATIONAL ASSEMBLY
Accession: 10013509

Call No: 352 4973 KNA



Preamble

The Departmental Committee on Finance, Planning and Trade was constituted at the commencement of the Ninth Parliament pursuant to the provisions of Standing Order No. 151 and has executed its mandate in accordance with the provisions of the said Standing order, 151(1) 4 which mandates the Committee to;

- (a) Investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- (b) Study the programme and policy objectives of the Ministries and departments and the effectives for the implementation;*
- (c) Study and review all legislation after First Reading subject to the exemptions under Standing Order 101A (4);*
- (d) Study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with its stated objectives;*
- (e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they deem necessary and as may be referred to them by the House or a Minister; and*
- (f) Make reports and recommendations to the House as often as possible including recommendation of proposed legislation.*

The Committee oversees the following Ministries:

- i. Ministry of Finance*
- ii. Ministry of Planning*
- iii. Ministry of Trade and Industry*
- iv. Ministry of Tourism and Wildlife*

The Committee comprises of the following Members:-

The Hon. Dr.Oburu Oginga, MP - Chairman

The Hon. Martin Nyaga Wambora, MP
The Hon. Wycliffe Oparanya, MP
The Hon. Chrysanthus Okemo, MP
The Hon. Dr Adhu Awiti, MP
The Hon. John Mutinda Mutiso, MP
The Hon. Simon K.Kanyingi, MP
The Hon. Washington Jakoyo Midiwo, MP
The Hon David Mwiraria, MP
The Hon. William Gitau Kabogo, MP
The Hon. Lukas Chepkitony, MP

Mr. Speaker Sir

The visit was undertaken by:

The Hon. Oburu Oginga - Leader of Delegation
The Hon. Martin Nyaga Wambora, MP
The Hon. Chrysanthus Okemo, MP
The Hon. John Mutinda Mutiso, MP
The Hon. Washington Jakoyo Midiwo, MP

Mrs. Lucy Wanjohi was the delegation secretary.

Mr. Speaker Sir

The Committee visited the states of Georgia, Texas, California and the District of Columbia (Washington D.C) to study matters related to Budget management, money laundering and proceeds of crime recovery. This report contains the Committees findings and recommendations therein.

The Committee is grateful to you and the Liaison Committee for the opportunity to undertake the visit and to the office of the Clerk for providing the requisite technical support.

The Committee is further grateful to the Embassy of the Republic of Kenya in Washington D.C for the arrangements made towards facilitating appointments for the Members.

Mr. Speaker Sir,

It is now my pleasant duty, on behalf of the Committee, to lay on the Table of the House the Report of the Committee pursuant to standing order 162.

THE HON. (DR) OBURU OGINGA, MP
CHAIRMAN AND LEADER OF THE DELEGATION

Date:

INTRODUCTION

The Committee's principle objective of the visit to the various states was to apprise itself on the operations of public finance with particular emphasis on the Budget process.

Atlanta - Georgia

Atlanta is the capital and most populous city of Georgia, in the United States. It is the county seat of Fulton County.

According to the latest census estimates (as of December, 2004), the city has a population of approximately 419,122 and the Atlanta metropolitan area totaled 4,708,297. Atlanta has long been considered the economic powerhouse of the Southern United States and is arguably a poster-child for cities worldwide experiencing rapid urban sprawl, population growth, and commercial development. As a result, Atlanta is a common case study for college students who study Urban Geography around the globe.

Atlanta has such a great economic impact on the state and the surrounding region that cities and towns up to 45 miles away are considered 'exurbs', defined by the fact that people depend on their livelihoods by commuting to work in the city, rapidly growing what is called Metro Atlanta. Atlanta is one of the most prosperous cities in the United States and is often referred to as the unofficial "capital of the South." The city is also an especially important cultural and economic center for African-Americans; Atlanta has not had a non-black mayor since 1974, and in recent decades nearly all Fire Chiefs, Police Chiefs, and other government officials have been African-American.

According to the Census Bureau's daytime population estimate, over 250,000 more people are in Atlanta on any given workday, boosting the city's daytime population to 676,431. This is an increase of almost 60% over Atlanta's normal population total.

Budget Process

The city of Atlanta is famed for operating a surplus budget. It operates a budget of \$ 34,575,181,578 with the Federal Government giving \$ 12,293,449,824.

The Committee established that Atlanta city has a budget law that governs the planning of the Budget thereby making transparent.

The Budget process commences in September when the different departments make their requests to the Governors office for funds.

Between September and December, the Governor and the staff analyses the requests and prepare estimates which must be balanced so as to comply with the Law.

In December, the Governor makes courtesy calls on the House of Representatives to campaign for the Budget.

In January the Governor recommends the budget to the public.

Between January and March of every year the Senate and the House of Representatives make recommendations on the Budget.

The legislators have a chance of influencing preferred projects although the room to maneuver is slim since the Governors proposal allocates funds to specific proposals like Education, health care, public safety, Road transportation and general services.

According to the Constitution, the House of Representatives must see the budget ahead of the Senate.

By the end of March the Budget is adopted unless there are outstanding issues.

Between April to August the Budget goes to the Executive arm of the Government for implementation.

In most cases about 95% of the Governors budget remains intact.

Committee of Conference

Since the Budget Law guides the implementation of the budget proposes the Committee usually harmonizes issues relating to locations of schools or such other small matters.

It comprises of six legislators who make recommendations on any outstanding budget issues. They recommend that both the House of Representative and the Senate recede from their positions to allow the budget to be adopted.

The members of the conference Committee comprise of:-

House of Representatives

- Chair- Appropriations Committee
- Majority Leader
- Speaker PRO.Tempore

The Senate

- Chair - Appropriations Committee
- Majority Leader
- Speaker

The Constitution allows the Legislators to organize the Budget within forty (40) days .This is in addition to making other state laws and local regulation.

The Legislators who work part time come to the city from January to March and can only be recalled by the Governor on a 2/3 majority concurrence.

Sources of Funds

The committee established that most of the state funds were derived from sales tax in respect lottery, tobacco, state motor fuel and state general funds.

Staffing

The Governors Budget office is made up of about fifty professionals made of financial analysts, public administrators who must be thorough in with their respective areas of discipline.

The Committee further established that the budget office held consultation meetings with the legislators to exchange views on the budget or any other matter.

Disaster Preparedness

It was established that the State maintains a 5%-10% of its five (5) year budget to a strategic reserve for any eventuality. For instance, the state endured an economic low in the years 2003, 2004 and 2005 dropping the reserve to below 1%.

AUSTIN-TEXAS

Austin is the state capital of Texas and the county seat of Travis County. Situated in the region of Central Texas, it is the fourth-largest city in Texas and the 16th-largest in the United States. As of the 2005 U.S. Census estimate, Austin had a population of 690,252. The city is the core cultural and economic center of the Austin-Round Rock metropolitan area with a population of 1.4 million.

The first documented settlement of current day Austin occurred in 1835 and the site was named Waterloo in 1837. In 1839, Mirabeau B. Lamar renamed the city in honor of Stephen F. Austin. Its original name is honored by local businesses such as Waterloo Ice House and Waterloo Records. Austin is situated on the Colorado River and on the Balcones Fault, which in much of Austin runs roughly the same route as the MoPac expressway.

Residents of Austin are known as *Austinites* and include a mix of university professors, students, politicians, lobbyists, state employees and high-tech workers. The city is home to enough large sites of major technology corporations to have earned the nickname, "*Silicon Hills*". Austin's official slogan is *The Live Music Capital of the World* and many try to follow one of its unofficial mottos of "Keep Austin Weird".

Office of the Attorney General

The State of Texas borders Mexico and is reputed as having the best Laws in Money-laundering and firm policies on matters relating to proceeds of crime. The Money Laundering Law was enacted in 1993. The idea was conceptualized because of incidences of corrupt

activities with Mexico. Criminals hide the money through small businesses. It is therefore necessary to ensure that Banks cooperate on these matters. Penalty is levied on the Bank should a suspicious transaction be detected.

Money Laundering

The Money Laundering Unit in the Criminal Investigations Division in the office of the Attorney General, Mr. Greg Abbot continues its mission to disrupt and dismantle the complex money laundering efforts of well organized criminal organizations. The transportation of bulk currency, either domestically or cross borders is still a preferred method to at least initially move large sums of cash from one point of collection to money laundering sources in and outside the country.

The money laundering unit disseminates detailed financial dossiers utilizing the Financial Crimes Enforcement Network's (FinCEN) Gateway System. This system provides financial intelligence and investigative support products to Texas Law enforcement agencies and prosecutor offices through the dissemination of financial information under provisions of the Bank Secrecy Act (BSA) and U.S. Department of the treasury regulations implementing the BSA. The financial information provided is vital to law enforcement efforts to combat terrorist financing and money laundering alike.

The Penal Code allows the authorities to use the law to obtain records relating to money laundering including investigating private accounts.

The Committee observed that for the money laundering Law to be effective it must be accompanied by a forfeiture statute so that any person charged with an offence in money laundering should lose anything bought by the dirty money.

The Law provides for benefits to countries that assist in seizing laundered money but the laundered money is never taken back to the country of origin unless it belongs to a civil servant.

SACRAMENTO - CALIFORNIA

Sacramento is the capital of the U.S. state of California and county seat of Sacramento County, California. It is the 6th largest city in California. It was founded in December, 1848 by John Sutter. Sacramento grew from Sutter's Fort, which was established by Sutter in 1839, and the city is now a quickly growing metropolis. During the gold rush, Sacramento was a major distribution point, a commercial and agricultural center, and a terminus for wagon trains, stagecoaches, riverboats, the telegraph, the Pony Express and the First Transcontinental Railroad.

The California State Legislature named Sacramento as the permanent home of the state capital in 1854 by law, but the city did not physically hold that honor until January 1, 1855. Previously, the capital was located in San Jose, Vallejo, and Benicia successively.

The city's current charter was adopted by voters in 1920, establishing a city council-and-manager form of government, still used today. As a charter city, Sacramento is exempt from many laws and regulations passed by the state legislature.

Despite a devolution of state government in recent years, state bureaucracy remains by far Sacramento's largest employer. The City of Sacramento expends considerable effort to keep state agencies from moving outside the city limits. In addition, many federal agencies have offices in Sacramento.

There are 154,581 households out of which 30.2% have children under the age of 18 living with them, 38.4% are married couples living together, 15.4% have a female householder with no husband present, and 41.0% are non-families. 32.0% of all households are made up of individuals and 9.2% have someone living alone who is 65 years of age or older. The average household size is 2.57 and the average family size is 3.35.

In the city the population is spread out with 27.3% under the age of 18, 10.4% from 18 to 24, 30.7% from 25 to 44, 20.2% from 45 to 64,

and 11.4% who are 65 years of age or older. The median age is 33 years. For every 100 females there are 94.5 males. For every 100 females age 18 and over, there are 91.0 males.

The Budget Process

If California were a nation it would have the sixth largest economy in the world. The budget is arguably the most important document in the state government. It spells out how much money will be available for education, medical assistance, tax, relief, fire protection and other public services. With so much at stake it is important to understand how the budget process works and how you can influence it.

The State budget is an expression of the values of our society. There are always more demands for programs and services than can be funded with the tax dollars collected. At the same time, there is a desire to pay fewer taxes. The final decisions of which services are provided and who pays for them are a reflection of what Californians value.

The Governor's Budget proposal

Legislative review of the budget begins in early January and runs through June. The State Constitution requires the Governor to submit a balanced budget proposal to the Legislature by January 10 of each year. The proposal details his or her spending plan for the fiscal year beginning July 1.

The Constitution requires that the Governor's proposal be introduced in both the Assembly and the Senate as identical bills. A large portion of state spending is locked into place and is outside the influence of either the Governor or the Legislature. Many of these constraints have been imposed by the voters through the initiative process. Proposition 13 limits the amount of property tax that can be levied and increases state control over local finances; proposition 4 of 1979 limits the amount of money that the state can appropriate.

Proposition 98 mandates funding levels for K-14 education.

Proposition 98 mandates funding levels for K-14 education.

A new budget is proposed for the state every year. The fiscal year runs from July 1 through June 30.

After the budget's introduction, the legislature has until June 15, to pass the budget. This five month period - a comparatively short period for consideration and passage of state's \$ 100 billion budget is the critical period for providing comment on the state's spending priorities.

The Legislative Analyst's Office (LAO), the Legislature's nonpartisan fiscal advisor publishes an extensive review of the Governor's Budget proposal in mid-February. The LAO'S analysis of the Budget becomes the starting point for discussion of the legislature.

Department Directors and agency heads initiate detailed reviews and develop proposals for their programs. These requests for changes are then sent to the Department of Finance for review.

October-January 10

The Governor evaluates the requests reviewed by the Department of Finance and sends his or her proposed budget to the Legislature.

On or before January 10, the Governor delivers a state-of-the-state speech and proposes his/her budget.

January-February

The budget committee chairs in each house introduce the governor's budget proposal in bill form on January 10. The Legislature Analyst prepares extensive reviews of the budget bill.

March-May

Each house refers its budget bill to their respective budget committees. The bills are subject and assigned to the appropriate subcommittees by subject areas. After completion of the hearing, each subcommittee votes and then sends its report to the full budget committee.

Late May-June 15

The budget committee of each house considers the subcommittees' reports and sends a revised budget bill to the floor for evaluation by the full body. Each house discusses and then votes on its version of the budget bill. The differences between the Assembly and Senate versions of the budget bill are worked out in a conference committee three members from each house. Upon completion of its review the committee submits a single version of the budget bill to both houses.

The houses also vote on trailer bills statutory changes are necessary to implement provisions of the budget bill.

June 15-July 1

The bill becomes law as soon as it is signed by the Governor due to its status as an urgency measure.

District of Columbia (Washington D.C)

Facts and Statistics about DC

In 1790, a survey of the land for the District of Columbia was undertaken by Andrew Ellicott and Benjamin Banneker. Forty stones, laid at one-mile intervals, established the boundaries.

The Potomac River was known to Native Americans as the "Co-hon-ho-roo-ta." The first English explorers called it "Elizabeth."

The Residence Bill of July 16, 1790, established a site along the Potomac to be the capital. This federal district was first called the Territory of Columbia and the federal city the City of Washington. The name changed to the District of Columbia in 1793.

The most popular museum in DC-and on the planet-is the National Air and Space Museum, which had 219 million visitors in its first 25 years. Of adults, 25 and older in DC, 42% have at least a bachelor's

degree. Washington, DC, is second only to the Silicon Valley, CA region in educational attainment.

DC		STATISTICS
2000	population:	572,059
Male:	269,366	(47.1%)
Female:	302,693	(52.9%)
Black:	343,312	(60.0%)
White:	176,101	(30.8%)
Asian:	15,189	(2.7%)
American Indian and Alaska Native:	1,713	(0.3%)
Other race:	21,950	(3.8%)
Two or more races:	13,446	(2.4%)
Hispanic/Latino:	44,953	(7.9%)
Percentage of population 18 and over:		79.9%
65 and over:		12.3%
Median age:		34.6
Median household income in 2000: \$41,000		

Public Hearings(Senate Finance Committee)

The Committee had an opportunity of attending a public hearing on corporate Taxation .

At the said hearing the Committee established that for any tax system to succeed it must be enforced. Consequently there are elaborate provisions for negotiations and agreements on tax payable in addition to the tax process being very transparent.

Government Accountabilty office

The Government Accountablity Office is an agency in the legislative branch that helps the Congress carry out its constitutional responsibilities to help improve the performance and ensure the accountability of the federal government for the benefit of the American people.

It has board authority to investigate all matters relating to the receipt, disbursement, and application of funds.

The agency is authorized to make recommendations for greater economy or efficiency in public expenditure.

International Monetary Fund

In keeping with its mandate the Committee visited the International Monetary Fund offices and held useful discussions with the officials of the Fund including the Alternate Executive Director Mr. Gakunu who emphasized the need to be steadfast, firm and focused on our programmes to the World Bank.

RECOMMENDATIONS:

Arising from the findings of the visit the Committee recommends that:

1. The House consider and adopt this Report.
- 2 .The necessary frameworks be put in place to ensure that the Budget process is participatory and the general public is involved.
- 3 .The Budget Office be established to enable Members of Parliament participate effectively in the budget process.
- 4 .The relevant ministry should introduce legislation on money-laundering and proceeds of crime recovery.
- 5 . The Law should be amended to ensure that the budget is prepared and all stakeholders including the public given sufficient time to contribute.
- 6 .The Budget should be a compromise document incorporating the views of the Government and the opposition.
- 7.The relevant Ministry should set up a fund to cater for any disasters like famine, floods etc.
- 8.The borders should be secured but legitimate movement should be allowed.

9 .The Attorney -General should ensure that the laws introduced to the House were homegrown and relevant to the issues at hand.

10.The Government should negotiate with the World Bank on projected programmes to ensure equitable treatment

11.The Government should be swift in decision-making to avoid loss of opportunities in International Trade.

12.The Legislature should be apprised on any intended legislation to avoid confrontations/defeats of crucial bills on the floor of the House.

13. An agency within the legislature and accountable to Parliament should be established to oversee expenditure by the Executive.

-----end-----