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Bryan's Two-Year Budget Proposal Meets Dead Wall: Senators Say it Violates Revised Organic Act and is Untimely

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Picture of US Dollar bill showing President George Washington wearing a surgical mask. The territory has been buttressed by Covid-19 and disaster recovery funds from the federal government. By. GETTY IMAGES

Governor Albert Bryan's two-year \$2.9 billion budget proposal hit a dead wall at the Senate on Thursday, as lawmakers rejected the proposal on the grounds of unconstitutionality and bad timing. The governor had pointed to more time being spent on the management, oversight and implementation of spending programs as benefits of [the biennial submission](#), along with a bright outlook for the territory's economic standing.

The governor's team fielded questions during a Finance Committee hearing Thursday, among them Office of Management and Budget Director Jennifer O'Neal, with senators stating that the two-year budget measure violates the Revised Organic Act in relation to the separation of powers doctrine.

Ms. O'Neal said legislation was passed that allowed for a two-year budget. However Senator Kurt Vialet, who chairs the Committee on Finance, said the law had since been repealed. "So before this body we don't have any enabling legislation that has been passed to be able to have a two-year budget cycle... There is currently no enabling legislation that has been passed by this body that would allow us to pass a two-year budget," he said.

Additionally, Mr. Vialet expressed reservation with approving a two-year budget when the territory, he said, is still on unstable footing relative to its core financial dynamics — even as it is experiencing a surge in economic activity as the economy reopens from Covid-induced lockdowns and from federal dollars tied to disaster relief.

"We are concerned about the times we are in," he said. "Things are looking good for the Virgin Islands but we are in a time of flux because we are still in the middle of a pandemic. The cruise ship industry still hasn't resumed on the island of St. Thomas; we have environmental issues with Limetree; and we as a Senate really believe that we need to closely monitor the economic situation of the Virgin Islands and our ability to spend the disaster recovery funds and to have access to the American Rescue Act before, as a body, we can be able to consider a two-year cycle."

Mr. Vialet encouraged his colleagues to focus on the 2022 budget. "At this particular juncture and with all the uncertainties we are facing in the Virgin Islands, and the lack of enabling legislation that has been passed, we are considering fiscal year 2022."

Senate President Donna Frett-Gregory shared similar sentiments. "Of course, with every challenge we should see opportunities, but we have to make sure we guard ourselves. We have to guard ourselves for the people of the Virgin Islands."

Ms. Frett-Gregory pointed to Ms. O'Neal's testimony, which spoke of the territory's "higher revenue collections" as being "mostly due to the ongoing hurricane-related disaster projects."

The Senate president said since that's the case, perspective is needed. "...We have to keep that in mind, so while we may want to move forward with a two-year budget at this particular time, we must also have perspective. Perspective on why we are where we are and we also have to ensure that we are considering the future of the Virgin Islands. So as we build this budget, with all of these positions and all of these new things that we are talking about, we have to ensure that we are able to sustain our budgets."

She added, "Let it not be lost on us what occurred in the Virgin Islands prior to 2017. We were sinking and those project funds have saved us."

Mr. Vialet agreed that an approved budget must be sustainable for the long term. "As we proceed on, colleagues, I caution at the end of the process, whatever we approve we must be able to sustain. And not just next year but the year after and the year after."

Senator Janelle Sarauw spoke on the two-year budget's contravening of the Revised Organic Act and the separation of powers doctrine. "The governor shall submit at the opening of each regular session of the Legislature a message of the state of the Virgin Islands and a budget of estimated receipts and expenditures, which shall be the basis of the appropriation bills for the ensuing fiscal

year — key word is ensuing — which shall commence on the first day of July or such date as the Legislature of the Virgin Islands may determine,” she said, quoting the Revised Organic Act of 1954.

She added, “You all can’t [take us to court on a board bill](#) and then send a budget bill and violate the separation of powers statute... I’m just highlighting that the Revised Organic Act binds you to an annual budget until the Legislature sends or approves legislation for a two-year budget. ”

Senator Dwayne DeGraff, the Minority leader, stated, “I am offended that the governor submitted a two-year budget in violation of the law.”

In her closing remarks, Ms. O'Neal said the biennial proposal was pursued to help departments and agencies better run their operations. "It is for planning purposes," she said. "It is to allow departments to know how they're going to move forward and also to allow them an opportunity to focus more on the management of their departments, which is an issue, versus having people taking six months or so every year focusing on putting another budget together."