Approved for tabling. [signature] SNA 25/7/19

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 25 JUL 2019
DAY: THURSDAY
TABLED BY: Hon. Kimani Ichungwah
CLERK-AT THE-TABLE: Lemuria Moss

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT

THIRD SESSION

BUDGET AND APPROPRIATION COMMITTEE REPORT

REPORT ON THE DIVISION OF REVENUE BILL (NO. 2)

(NATIONAL ASSEMBLY BILL NO. 59 OF 2019)

JULY, 2019

TABLE OF CONTENTS

CHAIRPERSON'S FOREWORD

The Budget and Appropriations Committee is a select Committee established under Article 221 (4 and 5) of the Constitution, Section 7 of the Public Finance Management Act, 2012 and Standing Order 207. The Committee is mandated to be taking the lead in budgetary oversight by the National Assembly.

The Division of Revenue Bill (National Assembly Bill No. 59 of 2019) was read a first time during the afternoon sitting of Tuesday, July 23rd, 2019. Pursuant to Standing Order 127(2), the Bill stood committed to Budget and Appropriations Committee. The Bill seeks to provide for sharing of revenue raised nationally between the national government and county governments for the financial year 2019/20 in accordance with Article 202, 203,205 and 218 (2) of the Constitution. The Committee has had deliberations on this matter as hereby contained in this report.

To this end, **Mr. Speaker**, the enactment of the Division of Revenue Bill (No.2), 2019 is critical in setting the stage for the preparation of the County Allocation of Revenue Bill, 2019, which will inform the firming up and completion of preparation of the annual budget estimates for the forty-seven (47) county governments. Indeed, Article 224 of the Constitution which requires that County Government prepare and adopt their annual budgets and appropriations bills based on the approved DoRB, hence the urgent need to dispense with this bill as soon as possible.

On behalf of the Committee and Pursuant to the Standing Orders 199(6) of the National Assembly, it is therefore my pleasant duty and privilege, to lay this report on review of the proposed the division of revenue bill (No.2)(National Assembly bill no.59 of 2019) for consideration and approval by the House.

Hon. Kimani Ichung'wah, CBS, M.P.
Chairperson, Budget & Appropriations Committee

MANDATE OF THE COMMITTEE

Mr. Speaker, Article 221 (4 and 5) of the Constitution and the Public Finance Management Act, 2012 provides for the establishment of a Committee of the National Assembly whose main role is to take the lead in budgetary oversight by the National Assembly. In this regard, Standing Order 207 establishes the Budget and Appropriations Committee with specific mandates among which is to:

i. Examine Budget Policy Statement, Medium Term Debt Strategy Paper and Division of Revenue Bill (DORB) presented to the House Investigate, inquire into and report on all matters relating to coordination, control and monitoring of the national budget;
ii. Discuss and review the estimates and make recommendations to the House;
iii. Examine Bills related to the national budget, including Appropriations Bill; and
iv. Evaluate tax estimates, economic and budgetary policies and programs with direct budget outlays.

Mr. Speaker, the Budget and Appropriations Committee as currently constituted comprises of the following Honorable Members of Parliament:

MEMBER OF PARLIAMENT	CONSTITUENCY	PARTY
1. Hon. Kimani Ichung'wah, CBS, M.P- Chairperson	**Kikuyu**	**Jubilee**
2. Hon. Moses Lessonet, M.P- Vice Chairperson	**Eldama Ravine**	**Jubilee**
3. Hon. CPA John Mbadi, EGH, CBS, M.P.	Suba South	ODM
4. Hon. Richard Onyonka, M.P.	Kitutu Chache South	Ford Kenya
5. Hon. Samwel Moroto, M.P.	Kapenguria	Jubilee
6. Hon. Millie Odhiambo, M.P.	Suba North	ODM
7. Hon. Twalib Bady, M.P.	Jomvu	ODM
8. Hon. (Dr.) Gideon Ochanda, M.P.	Bondo	ODM
9. Hon. James Mwangi Gakuya, M.P.	Embakasi North	Jubilee
10. Hon. (Dr.) Makali Mulu Benson, M.P.	Kitui Central	Wiper
11. Hon. Moses Kiarie Kuria, M.P.	Gatundu South	Jubilee
12. Hon. Benard Masaka Shinali, M.P.	Ikolomani	Jubilee
13. Hon. John Muchiri Nyaga, M.P.	Manyatta	Jubilee
14. Hon. Jude Njomo, M.P.	Kiambu Town	Jubilee
15. Hon. (Dr.) Korei Ole Lemein, M.P.	Narok South	Jubilee
16. Hon. Sarah Paulata Korere, M.P.	Laikipia North	Jubilee
17. Hon. Naisula Lesuuda, OGW, M.P.	Samburu West	KANU
18. Hon. Sakwa Bunyasi, M.P.	Nambale	ANC
19. Hon. Danson Mwashako, M.P.	Wundanyi	Wiper

20. Hon. Fatuma Gedi Ali, M.P.	Wajir County	PDR
21. Hon. Florence Chepng'etich Koskey Bore, M.P.	Kericho County	Jubilee
22. Hon. James Gichuki Mugambi, M.P.	Othaya	Jubilee
23. Hon. (Dr.) John K. Mutunga, M.P.	Tigania West	Jubilee
24. Hon. (Eng.) Mark Nyamita, M.P.	Uriri	ODM
25. Hon. Paul Abuor, M.P.	Rongo	ODM
26. Hon. Qalicha Gufu Wario, M.P.	Moyale	Jubilee
27. Hon. Wangari Mwaniki, M.P.	Kigumo	Jubilee

Parliamentary Budget Office

1. Ms. Phyllis Makau, OGW	Director, Parliamentary Budget Office
2. Mr. Martin Masinde	Senior Deputy Director, PBO
3. Ms. Millicent Makina	Fiscal Analyst I

Committee Secretariat

4. Mr. DansonKachumbo	Fiscal Analyst II/ Clerk
5. Mr. ChachaMachage	Fiscal Analyst II/Clerk
6. Mr. BenardOmondi	Sergeant at Arms III
7. Mr. James Kimiti	Audio Officer
8. Mr. JoramBaraza	Office Assistant II

THE DIVISION OF REVENUE BILL No. 2 (NATIONAL ASSEMBLY BILL NO. 59 OF 2019)

The Division of Revenue Bill (National Assembly Bill No. 59 of 2019) was read a first time during the afternoon sitting of Tuesday, July 23rd, 2019. Pursuant to Standing Order 127(2), the Bill stood committed to Budget and Appropriations Committee. The Bill seeks to provide for sharing of revenue raised nationally between the national government and county governments for the financial year 2019/20 in accordance with Article 202, 203,205 and 218 (2) of the Constitution. The Committee has had deliberations on this matter as hereby contained in this report.

To this end, **Mr. Speaker**, the enactment of the Division of Revenue Bill, 2019 is critical in setting the stage for the preparation of the County Allocation of Revenue Bill, 2019, which will inform the enactment of County appropriation bills for the forty-seven (47) county governments. This is in line with the spirit and letter of Article 224 of the Constitution which obligates County governments to prepare and adopt their annual budgets based on Division of Revenue Bill approved by Parliament.

Acknowledgements

Mr. Speaker, the committee is grateful to your Office, the Office of the Clerk of the National Assembly and the Parliamentary Budget Office for the support received as it discharged its mandate of reviewing the Division of Revenue Bill (National Assembly Bill No. 59 of 2019).

Mr. Speaker, it is therefore my pleasant undertaking, on behalf of the Budget and Appropriations Committee to table this report and recommend it to the House for adoption.

Signed: ....

HON. KIMANI ICHUNG'WAH, CBS, M.P.
CHAIRPERSON, BUDGET & APPROPRIATIONS COMMITTEE

Date: 25/7/2019.

A. INTRODUCTION:

1. **Mr. Speaker,** the Division of Revenue Bill (National Assembly Bill No. 59 of 2019) provides for sharing of revenue raised nationally between the national government and county governments for the financial year 2019/20 in accordance with Article 202, 203, 205 and 218 (2) of the Constitution. The Bill therefore sets out the total sharable revenue, national government share of revenue, county equitable share of revenue, conditional grants and the Equalization fund.
2. **Mr. Speaker,** Article 202 of the Constitution, provides that the nationally raised revenue must be shared equitably among the national and county governments. Article 203 (2), guarantees that county governments get not less than 15 percent of the equitable share. In addition, the revenue shared shall be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.In this case, the latest audited revenue and approved by Parliament relates to FY 2014/15 and stood at Kshs. 1,038.04 billion.

3. **Mr. Speaker**, I would like to inform this house in calculating the equitable share that is reflected in the Division of Revenue, the 15 percent constitutional requirement was met. The proposed allocation in the bill stands at 30.5 percent of the last audited revenues that were approved by this House. Mr. Speaker, this figure is more than double the constitutional threshold.
4. **Mr. Speaker**, The Constitution sets out the criteria in determining the equitable shares and it recognizes that the national government is in charge of meeting all matters that related to national interest as well provide for public debt and other national obligations. Thus, in evaluating the DoRB (No.2), 2019 the committee took cognizance of the set-out criteria under Article 203 (1) of the Constitution. In particular, the Committee made sure that the National interest and the provision of public debt obligations were considered. **Mr. Speaker**, in this regard, the first Division of Revenue Bill, National Assembly Bill No. 11 of 2019, was published on 6th March, 2019, passed by the National Assembly without amendments on 26th March, 2019 and transmitted to the Senate. The Senate passed the Bill with amendments on 30th April, 2019. However, the National Assembly rejected the

amendments proposed by the Senate and the Bill was referred to a Mediation Committee in accordance with Article 112(2)(b) of the Constitution.

5. **Mr. Speaker,** however, the Mediation Committee was unable to reach an agreeable conclusion on a version of the Bill within the thirty days as contemplated under Article 113(4) of the Constitution and the Bill was defeated. The National Assembly proposed equitable share of Kshs 316.0 billion to the County governments whereas the Senate proposed Kshs 327.0 billion as equitable share.

B. THE CONTENTS OF THE DIVISION OF REVENUE BILL (No.2), 2019

6. **Mr. Speaker,** The republished Division of Revenue (No. 2) Bill, 2019 maintains the same fiscal framework of the total shareable revenue at Kshs 1,878 trillion. While the national government share of equitable share remains unchanged at Kshs. 1.561 trillion, the Bill proposes that the equitable share of revenue to county government should increase by Kshs 6.5 billion to Kshs 316.5 billion.
7. **Mr. Speaker,** furthermore in light of revenue underperformance trends, the Division of Revenue (No. 2) Bill, 2019 has revised the baseline of equitable share of revenue to county governments from Ksh. 314 billion to Ksh. 304.96 billion in the financial year 2018/19. However, the shortfalls do not affect resource flows to counties as the shortfall has already been borne by the National Government in FY 2018/19.
8. Furthermore, **Mr. Speaker**, from the National Government share of revenue the in DoRB, 2019 has provided for additional conditional allocations to the counties which amount to Kshs. **13.91 billion**. These allocations have been earmarked for the following purposes:
    a. *Leasing of Medical Equipment (Kshs. 6.2 billion);*
    b. *Compensation for user fees forgone (Kshs. 900 Million);*
    c. *Level 5 hospital (Kshs. 4.33 billion);*
    d. *Supplement for construction of county headquarters (Kshs. 485 Million) and;*
    e. *Rehabilitation of Youth Polytechnics (Kshs. 2 billion).*

9. **Mr. Speaker,** the DoRB, 2019 therefore proposes to allocate Kshs **378.1** billion to County Governments as follows:
    i. *County equitable share (Kshs 316.5 billion);*
    ii. *Additional conditional allocations from the share of the National Government (Kshs. 13.9 billion);*

iii. *Allocation from Fuel levy Fund Kshs. 8.98 billion; and*

iv. *Conditional allocations from loans and grants (Kshs. 38.7 billion).*

C. THE CONDITIONAL ALLOCATIONS TO THE COUNTY GOVERNMENTS:

10. In accordance with Article 202(2) of the Constitution, the national government may allocate additional conditional allocations to the county governments from the national government share of revenue raised nationally, whose main object is intended to finance national strategic interventions to be implemented by the county governments. During the current FY 2019/20 the total additional conditional allocations from the revenue raised nationally, stands at Kshs. 22.9 billion. These conditional grants are transferred to county governments and included in the budgets of county governments to be approved by the respective county assemblies.

    a) **Level 5 Hospital (Kshs. 4,326 M):** During the financial year 2019/20 the national government proposes to allocate Kshs. 4.3 billion. The objective of the conditional grant to level 5 hospitals is to sustain service delivery in designated Level 5 hospitals mainly former Provincial General Hospitals. This is to be achieved by targeting medical and surgical subspecialties, inter-county referral services and medical training. This conditional allocation is based on the previous year's bed occupancy rate.

    b) **Supplement for Construction of County Headquarter (Kshs. 485 M):** The grant was introduced as part of conditional grant during financial year 2017/18 whose purpose is to support construction of offices in five (5) County Governments which, in 2013/14, did not inherit adequate facilities from defunct Local Authorities that could accommodate the new County Governments' administration both County Executive and the County Assemblies.

    c) **Compensation for User Fees Forgone (Kshs. 900 M):** This conditional grant was introduced during the financial year 2015/16 with the objective of compensating public dispensaries and health centers for lost revenue on abolishment of user fees. The grant has been set at Kshs 900 million since its inception and it's shared among Counties based on population.

    d) **Road Fuel Levy Fund (Kshs. 8,984 M):** The main objective of the Road Maintenance Fuel Levy Fund is to maintain county roads. The allocation has grown over time from Kshs 3.4 billion in 2015/16 to the current Kshs 8.98 billion. The allocation to this conditional grant is based on collections from the Roads Maintenance Fuel Levy Fund at 15 percent of total projected collections. The allocation caters for the maintenance of public roads, including the former local authority unclassified roads. The funds from this allocation are shared among the counties on the basis of the approved Commission of Revenue Allocation formula approved by Parliament in accordance to Article 217 of the Constitution.

e) **Development of Youth Polytechnics (Kshs. 2,000 M):** The conditional grant was introduced in FY 2017/18 with the initial allocation of Kshs 2.0 billion and has been maintained at the level of Kshs 2.0 billion. The main objective of this targeted grant to the county governments is to improve Access, Quality, Equity and Relevance in Vocational Training. It is geared towards development and rehabilitation of the village and youth polytechnics. The current allocation during FY 2019/20 has been allocated total of Kshs 2.0 billion.

f) **Leasing of Medical Equipment (Kshs. 6,200 M)*:*** The programme has been running since FY 2015/16 with initial allocation of Kshs 4.5 billion and grown to Kshs 9.4 billion in FY 2018/19 but has been scaled down to Kshs 6.2 billion in current allocation. The objective is to equip at least two medical facilities at each county and upscale the referral system at the county level thereby easing congestion at national referral hospitals and at the same time reduce distances in seeking medical health care.

D. ADDITIONAL CONDITIONAL ALLOCATIONS FINANCED FROM PROCEEDS OF LOANS AND GRANTS FROM DEVELOPMENT PARTNERS

11. **Mr. Speaker,** besides the conditional grants from the national government's share of revenue, county governments also benefit from proceeds from loans and grants from the development partners, which are disbursed through state departments according to respective financing agreements and in fulfilment of the set conditions. During the FY 2019/20, the following additional conditional allocations will also be channeled to the counties;

i) **Kenya Devolution Support Program (KDSP) County Capacity Building ("level 1") Grant of Kshs. 1.4 billion.** In its third year of implementation, this is a conditional grant financed by a World Bank credit to support county government's capacity building.

ii) **Kenya Devolution Support Program (KDSP) Performance ("level 2") Grant amounting to Kshs. 4.9 billion.** Also financed by a World Bank credit, is a performance grant intended to incentivize county governments that achieve good results in the PFM Reforms.

iii) **Transforming Health Systems for Universal Care Project conditional allocation of Kshs. 2.99 billion (World Bank credit): -** This conditional allocation through the Ministry of Health is meant for continued improvement in delivery, utilization and quality of primary health care services with focus on reproductive, maternal, new-born, child and adolescent health (RMNCAH) at the county level.

iv) **DANIDA Grant (Universal Healthcare in Devolved System Program) Kshs. 986.5 M** which is intended to increase access to quality of primary health care and Reproductive, Maternal, Newborn, Child and Adolescent Health (RMNCAH) services at the county level and is implemented through Ministry of Health.

v) **National Agricultural and Rural Inclusive Growth Project (NARIGP) of Kshs. 7.2 billion (World Bank credit)** which is meant to compliment efforts by counties to increase agricultural productivity and profitability of targeted rural communities in selected counties, and to provide immediate and effective response in case of crisis or emergency.

vi) **EU-Instruments for Devolution Advice and Support (IDEAS) grant of Kshs. 492.7 million:** This grant, which is in its third year of implementation, is expected to decrease from Ksh 1.04 billion in financial year 2018/19 to Kshs. 492.7 million in financial year 2019/20. The allocation is meant for disbursement of the 2nd tranche of the grant to facilitate implementation of projects identified in financial year 2018/19 for the achievement of Local Economic Development (LED) in the county respective contracts.

vii) **IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP) – Kshs. 3.6 billion:** This conditional grant to the counties is implemented through the State Department of Agriculture. Purpose of the grant is to increase agricultural productivity and build resilience to climate change risks in targeted smallholder farming and pastoral communities. It covers 24 counties. The allocation criteria are based on financing agreement between the IDA and the Government of Kenya and approved work plans.

viii) **Kenya Urban Support Program (KUSP) - Urban Development Grant (UDG) additional conditional allocation of Kshs. 11.5 billion:** - is to be utilised in the establishing and strengthening of urban institutions to deliver improved infrastructure and services in participating counties in Kenya. It is in its second year of implementation and is meant to ensure provision of capacity building and institutional support to 47 counties.

ix) **Kenya Urban Support Project (KUSP) - Urban Infrastructure Grant Allocation (UIG) - Kshs. 396 million** – The main purpose of this programme is to provide support to participating County Governments for the formulation of urban development plans including the establishment and operation of urban institutional arrangements such as charters, boards, administrations and operation of Urban Institutional arrangements and for the initial preparation of urban infrastructure investments.

x) **IDA – Water and Sanitation Development Project (WSDP) World Bank Credit of Kshs. 3.5 billion is intended to** improve water supply and sanitation services in six select counties located in the coastal and north eastern regions of Kenya. This will be achieved by investing in water supply and sanitation infrastructure in urban centers in these counties.

xi) **Agricultural Sector Development Support Programme (ASDSP) II- Kshs. 849.6 million** which is in its second year of implementation, is part of the implementation strategy of the Agricultural Policy (AP) for the national and county governments. The Programme intends "to Develop Sustainable Priority Value Chains (PVCs) for improved income, food and nutrition security", which will contribute to achievement of the "BIG FOUR" agenda of the Government.

xii) **EU- Water Tower Protection and Climate Change Mitigation and Adaptation Programme (WaTER) - Kshs. 495 million**, which is in its second year of implementation, and meant is to facilitate the implementation of the national climate change action plan and the master plan for the conservation of water catchment areas of Cherangany Hills and Mount Elgon.

xii) **Drought Resilience Programme in Northern Kenya (DRPNK) worth Kshs. 350 million** which is a program financed by proceeds of loans and grants from the German Development Bank in Turkana and Marsabit counties designed to facilitating increased access to water, market infrastructure and rural transportation in the two counties.

E. COMMITTEE OBSERVATIONS:

Mr. Speaker, after deliberations, the following issues were observed by the committee:

12. That cumulatively from financial year 2013/14, a total of Kshs. 1,767.3 billion (equitable share worth Kshs. 1,572.8 billion and conditional grants worth Kshs. 194.5 billion) has been allocated to the county governments from the nationally raised revenue.
13. That despite this allocation of substantial resources there has been no commensurate improvement in the livelihoods of Kenyans in the counties. The bulk of the funds are utilized for recurrent spending leaving a small fraction for the wealth creation and capital generation.
14. The Committee considered submission by Commission on Revenue Allocation (CRA) of allocating Kshs. 335.7 billion to county governments but the Committee resolved to rationalize this to Kshs. 316.5 billion. The Kshs. 6.5 billion will be met by additional collection of revenue when this House will be considering the Finance Bill, 2019 which will be amended to meet the resource increase.
15. The Committee evaluated the bill against Article 203 as detailed below:

Ordinary revenue	**Kshs.1,877,176 million**
a) National interest	*Kshs.94,168 million*
b) Public debt	*Kshs.585,703 million*
c) Other national obligations	*Kshs.491,269 million*
d) Emergencies	*Kshs.6,418 million*
e) Balance shared by the 2 levels of Government	*Kshs.693,854 million*
f) County Government allocation	*Kshs.330,411 million*
Equitable share	*Kshs.316,500 million*
o/w Grants from Nationally raised revenue	*Kshs.13,911 million*

From the foregoing, after providing for Kshs.330 billion for county governments, the National government remains with a pantry Kshs.363,443 million to deliver the remaining National Government functions.

16. The Committee observed that revenue underperformance has been persistent in the past and therefore FY 2019/20 will not be a unique year and revenue shortfall remains a risk to be well anticipated.
17. The Committee is aware that National Treasury had submitted a proposed legislation to amend the Division of Revenue Act, 2018, following the adjustments made to the Finance Bill affecting the projected revenue collection. The committee has taken this into account in determining the base line revenue allocation for FY 2019/20 to counties.
18. That there is Fiduciary risks emanating from expenditure by both National and county governments and therefore should be considered when determining the basis for revenue allocation by the Commission on Revenue Allocation.
19. That counties have access to donor financing for project financing but the allocation keeping changing. We are in receipt of amendments and the committee will be proposing amendments to the bill.
20. The committee issued a gazette notice to the public to submit their views for the division of revenue bill and that no memorandum has been received and therefore the House proceeds with the committee's recommendations.

F. COMMITTEE RECOMMENDATION

21. Mr. **Speaker,** the Committee therefore recommends that this House to approve the Bill as follows:

    a) *The National Government, Kshs. 1.561 trillion*
    ***(This also includes additional conditional allocations to counties Kshs. 13.91 billion financed from revenues raised nationally)**;*
    b) *Equalization Fund, Kshs. 5.76 billion; and*
    c) *County Allocations Kshs. 316.5 billion.*

22. **That,** any increase in allocation to counties over and above what is proposed in the Bill must be met by specific reduction in Judiciary, Parliament,various Ministries, Departments and Agencies (MDAs) or clear and quantifiable revenue measures.

23. **Mr. Speaker,** the Committee requests the House approves the Division of Revenue Bill, (No.2) 2019, with the proposals therein and allow it to be read a second time.

MINUTES OF THE 115TH SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD ON THURSDAY, 25TH JULY 2019, AT SMALL DINING, NEW WING, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT:

1) **Hon. Kimani Ichung'wah, CBS, M.P. – Chairperson**
2) **Hon. Moses Lessonet, M.P. – Vice Chairperson**
3) Hon. (CPA) John Mbadi, EGH, CBS, M.P.
4) Hon. Richard Onyonka, M.P.
5) Hon. Millie Odhiambo, M.P.
6) Hon. Samwel Moroto, M.P.
7) Hon. Naisula Lesuuda, OGW, M.P.
8) Hon. (Dr.) Makali Mulu, M.P.
9) Hon. (Dr.) Gideon Ochanda, M.P.
10) Hon. (Dr.) Korei Ole Lemein, M.P.
11) Hon. John Muchiri Nyaga, M.P
12) Hon. Sarah Korere, M.P.
13) Hon. (Dr.) John K. Mutunga, M.P.
14) Hon. James Gichuki Mugambi, M.P.
15) Hon. Florence C. K. Bore, M.P.
16) Hon. Danson Mwashako, M.P.
17) Hon. Fatuma Gedi Ali, M.P
18) Hon. Qalicha Gufu Wario, M.P.

ABSENT WITH APOLOGY:

1) Hon. Moses Kiarie Kuria, M.P
2) Hon. James Mwangi Gakuya, M.P.
3) Hon. Bady Twalib Bady, M.P.
4) Hon. Jude Njomo, M.P.
5) Hon. Benard Masaka Shinali, M.P.
6) Hon. Sakwa Bunyasi, M.P.
7) Hon. Paul Abuor, M.P.
8) Hon. (Eng.) Mark Nyamita, M.P.
9) Hon. Wangari Mwaniki, M.P.

COMMITTEE SECRETARIAT

1)	Mr. Danson Kachumbo	Fiscal Analyst II & Clerk
2)	Mr. James Chacha	Fiscal Analyst II & Clerk
3)	Mr. James Kimiti	Audio Officer
4)	Mr. Joram Barasa	Office Assistant

AGENDA

1. Preliminaries & Confirmation of Agenda
2. Confirmation of Previous Minutes
3. ***Adoption of the Budget and Appropriations Committee report on the Division of Revenue Bill (No.2) (National Assembly Bill No. 59 of 2019)***
4. Any Other Business (A.O.B)

MIN BAC /115/2019/01: PRELIMINARY

The Chairperson welcomed the committee members to the meeting and called the meeting to order at 10.30 A.M. This was followed by a prayer by Hon. Fatuma Gedi Ali, M.P Thereafter, the Parliamentary Budget Office was called upon to brief members on the draft report.

MIN BAC/115/2019/02: CONFIRMATION AND ADOPTION OF THE PREVIOUS MINUTES

114th Sitting on Tuesday, 23rd July, 2019 was proposed by Hon. Florence C. K. Bore, M.P. and seconded as true reflection by Hon. Sarah Korere, M.P.

MIN BAC/115/2019/3: ADOPTION OF THE OF THE BUDGET AND APPROPRIATIONS COMMITTEE REPORT ON THE DIVISION OF REVENUE BILL (NO.2) (NATIONAL ASSEMBLY BILL NO. 59 OF 2019)

Members were taken through the draft report by Parliamentary Budget Office. After deliberations, the Committee adopted the report with the following recommendations:

A. COMMITTEE OBSERVATIONS:

The following issues were observed by the committee:

1. That cumulatively from financial year 2013/14, a total of Kshs. 1,767.3 billion (equitable share worth Kshs. 1,572.8 billion and conditional grants worth Kshs. 194.5 billion) has been allocated to the county governments from the nationally raised revenue.
2. That despite this allocation of substantial resources there has been no commensurate improvement in the livelihoods of Kenyans in the counties. The bulk of the funds are utilized for recurrent spending leaving a small fraction for the wealth creation and capital generation.
3. The Committee considered submission by Commission on Revenue Allocation (CRA) of allocating Kshs. 335.7 billion to county governments but the Committee resolved to rationalize this to Kshs. 316.5 billion. The Kshs. 6.5 billion will be met by additional collection of revenue when this House will be considering the Finance Bill, 2019 which will be amended to meet the resource increase.
4. The Committee evaluated the bill against Article 203 as detailed below

Ordinary revenue	Kshs.1,877,176 million
a) National interest	*Kshs.94,168 million*
b) Public debt	*Kshs.585,703 million*
c) Other national obligations	*Kshs.491,269 million*
d) Emergencies	*Kshs.6,418 million*
e) Balance shared by the 2 levels of Government	*Kshs.693,854 million*
f) County Government allocation	*Kshs.330,411 million*
Equitable share	*Kshs.316,500 million*
o/w Grants from Nationally raised revenue	*Kshs.13,911 million*

From the foregoing, after providing for Kshs.330 billion for county governments, the National government remains with a pantry Kshs.363,443 million to deliver the remaining National Government functions.

5. The Committee observed that revenue underperformance has been persistent in the past and therefore FY 2019/20 will not be a unique year and revenue shortfall remains a risk to be well anticipated.
6. The Committee is aware that National Treasury had submitted a proposed legislation to amend the Division of Revenue Act, 2018, following the adjustments made to the Finance Bill affecting the projected revenue collection. The committee has taken this into account in determining the base line revenue allocation for FY 2019/20 to counties.
7. That there is Fiduciary risks emanating from expenditure by both National and county governments and therefore should be considered when determining the basis for revenue allocation by the Commission on Revenue Allocation.
8. That counties have access to donor financing for project financing but the allocation keeping changing. We are in receipt of amendments and the committee will be proposing amendments to the bill.
9. The committee issued a gazette notice to the public to submit their views for the division of revenue bill and that no memorandum has been received and therefore the House proceeds with the committee's recommendations.

B. COMMITTEE RECOMMENDATION

10. The Committee therefore recommends that this House to approve the Bill as follows:
    a) *The National Government, Kshs. 1.561 trillion*
       (This also includes additional conditional allocations to counties Kshs. 13.91 billion financed from revenues raised nationally);
    b) *Equalization Fund, Kshs. 5.76 billion; and*
    c) *County Allocations Kshs. 316.5 billion.*

11. That, any increase in allocation to counties over and above what is proposed in the Bill must be met by specific reduction in Judiciary, Parliament, various Ministries, Departments and Agencies (MDAs) or clear and quantifiable revenue measures.

12. The Committee requests the House approves the Division of Revenue Bill, (No.2) 2019, with the proposals therein and allow it to be read a second time.

MIN BAC/115/2019/4: ANY OTHER BUSINESS & ADJOURNMENT

There being no other matters to consider, the meeting was adjourned at 1.00 P.M. The next meeting will be communicated later.

SIGNED

....

HON. KIMANI ICHUNG'WAH, CBS, M.P.
CHAIRPERSON, BUDGET AND APPROPRIATIONS COMMITTEE

25/7/2019.
....
DATE

MINUTES OF THE 114TH SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD ON TUESDAY, 23rd JULY 2019, AT SMALL DINING, NEW WING, MAIN PARLIAMENT BUILDINGS AT 11.00 A.M.

PRESENT:

1) **Hon. Kimani Ichung'wah, CBS, M.P. – Chairperson**
2) **Hon. Moses Lessonet, M.P. – Vice Chairperson**
3) Hon. James Mwangi Gakuya, M.P.
4) Hon. Richard Onyonka, M.P.
5) Hon. Bady Twalib Bady, M.P.
6) Hon. (Dr.) Makali Mulu, M.P.
7) Hon. (Dr.) Gideon Ochanda, M.P.
8) Hon. (Dr.) Korei Ole Lemein, M.P.
9) Hon. Samwel Moroto, M.P.
10) Hon. Jude Njomo, M.P.
11) Hon. Benard Masaka Shinali, M.P
12) Hon. Sakwa Bunyasi, M.P.
13) Hon. Sarah Korere, M.P.
14) Hon. (Dr.) John K. Mutunga, M.P.
15) Hon. Florence C. K. Bore, M.P.
16) Hon. Danson Mwashako, M.P.
17) Hon. Qalicha Gufu Wario, M.P.

ABSENT WITH APOLOGY:

1) Hon. (CPA) John Mbadi, EGH, CBS, M.P.
2) Hon. Millie Odhiambo, M.P.
3) Hon. Moses Kiarie Kuria, M.P
4) Hon. Naisula Lesuuda, OGW, M.P.
5) Hon. James Gichuki Mugambi, M.P.
6) Hon. Paul Abuor, M.P.
7) Hon. John Muchiri Nyaga, M.P
8) Hon. Fatuma Gedi Ali, M.P
9) Hon. (Eng.) Mark Nyamita, M.P.

10) Hon. Wangari Mwaniki, M.P.

SPONSOR OF LEGISLATIVE PROPOSAL

i. Hon. Caleb Amisi, M.P.
ii. Hon. Cpt (Rtd.) Didmus Wekesa, M.P.

PARLIAMENTARY BUDGET OFFICE

1) Ms. Amran Yunis	Fiscal Analyst III
2) Mr. Robert Ngetich	Fiscal Analyst III

COMMITTEE SECRETARIAT

1) Mr. Danson Kachumbo	Fiscal Analyst II & Clerk
2) Mr. Jonathan Lemurt	Fiscal Analyst III & Clerk
3) Mr. James Kimiti	Audio Officer
4) Mr. Joram Barasa	Office Assistant

AGENDA

1. Preliminaries & Confirmation of Agenda
2. Confirmation of Previous Minutes
3. Consideration and Discussion of the following Legislative proposals:

    iii. ***The Social Assistance (Amendment) Bill, 2019 by Hon. Caleb Amisi, M.P.***

    iv. ***The Employment (Amendment) Bill, 2018 by Hon. Cpt (Rtd.) Didmus Wekesa, M.P.***

4. Contents of the Division of Revenue Bill (N0.2), 2019
5. Any Other Business (A.O.B)

MIN BAC /114/2019/01: PRELIMINARY

The Chairperson welcomed the committee members to the meeting and called the meeting to order at 11:15 A.M. This was followed by a prayer by Hon. (Dr.) Gideon Ochanda, M.P. Thereafter, the Parliamentary Budget Office was called upon to brief members on the Social Assistance (Amendment) Bill, 2019 by Hon. Caleb Amisi, M.P.

MIN BAC/114/2019/02: CONFIRMATION AND ADOPTION OF THE PREVIOUS MINUTES

113rd Sitting on 18th July, 2019 was proposed by Hon. Moses Lessonet, M.P. and seconded as true reflection by Hon. (Dr.) Makali Mulu, M.P.

MIN BAC/114/2019/03: THE SOCIAL ASSISTANCE (AMENDMENT) BILL, 2019 BY HON. CALEB AMISI, M.P.

The presentation from Parliamentary Budget Office highlighted the following:

The legislative proposal seeks to amend the Social Assistance Act, 2013 in order to provide for payment of hardship allowance payable in every four months to qualified unemployed youth. The hardship allowance is to be gazetted annually by the Cabinet Secretary.

The draft Bill amends the definition of financial Assistance to include a hardship allowance. For an unemployed person to qualify for social assistance, the Bill requires that one must be registered with the National Employment Authority.

SITUATIONAL ANALYSIS

The unemployed people in Kenya are not provided unemployment allowance or any social assistance as it is the case in some countries. A big number of unemployed youths are unable to sustain living in urban areas where opportunities are found. Most of them lack the necessary support and facilitation to be able to make job applications on job vacancies and even to attend interviews in some areas. The cost of living including renting houses for accommodation, food, and other basic items can be out of reach for them which forces them to retreat to rural areas.

The youth unemployment situation is particularly serious in Kenya as it may be in Africa. According to the 2015/16 Basic Labour Force report released in March 2018, it estimated there were 1.52 million unemployed Kenyans aged 15 to 34 in the year from September 2015 to August 2016, when the survey was carried out.

According to the United Nations Human Development Report 2018, Youth unemployment in Kenya has risen to 22.2 per cent, surpassing neighboring Tanzania, Uganda and Ethiopia. According to the report, it is estimated that there are 11.8 million youths aged between 18 and 34 years old.

Government Initiatives

The government has launched several initiatives aimed at empowering the youth and reducing unemployment. These include the Youth Enterprise Development Fund and the Uwezo Fund. Other measures adopted by the government include access to 30 percent of all government contract opportunities.

Social Assistance Act, No. 24 of 2013

The Social Assistance Act, 2013 provides for the provision of social assistance to persons in need of social assistance. The Act establishes the National Social Assistance Authority whose role among others is to identify and provide social assistance programs to persons in need.

The Act identifies the person in need to include: orphans and vulnerable children; poor elderly persons; unemployed persons; persons disabled by acute chronic illnesses; widows and widowers; persons with disabilities; and any other persons who may be determined by the Cabinet Secretary.

The Act establishes the National Social Assistance Fund whose money is used in providing assistance to persons in need of social assistance.

National Safety Net (Inua Jamii) Programme

There is the National Safety Net (Inua Jamii) Programme, which seeks to cushion vulnerable groups to meet basic human needs. Under the programme, the National Government supports four unconditional cash transfer programmes: Hunger Safety Net Programme (in four poorest and Arid Counties of Turkana, Wajir, Mandera and

Marsabit); Cash transfers to Older Persons (OPCT); Orphans and Vulnerable Children Cash Transfers (OVC-CT); and Persons with Severe Disabilities (PWSD-CT).

In the FY 2019/20, the plans to extend cash transfers to vulnerable groups as follows: Ksh 7.9bn for Orphans and Vulnerable Children; Ksh 16.6bn Cash Transfer to elder persons; Ksh 1.1bn Cash Transfer to persons with severe disability; and Ksh 2.3bn for Hunger Safety Net Programme.

INTERNATIONAL EXPERIENCE

Argentina

In Argentina, there is an unemployment assistance (UA) program called Program for Unemployed Heads of Households (*Plan Jefas y Jefes de Hogar Desocupados*). The program consists of a monthly cash transfer for eligible unemployed household heads for an unlimited duration. To ensure that the program is self-targeted and reaches those who are most in need, a key aspect of the Plan is the requirement that participants provide a labor contribution (a counterpart of work) which typically assumes the form of a community work.

Participants are required to work for a minimum of four hours daily in community services and small construction or maintenance activities, or are directed to training programs (including finishing basic education).

According to United Nations Development Programme, unemployment rate in Argentina as at March 2019 was 10.10 percent.

Australia

According to Australian Government Department of Human Service, there are two types of payment available to those experiencing unemployment. The first is Youth Allowance and is paid to full-time students aged 16–24, and to full-time Australian Apprenticeship workers aged 16–24.

The second kind of payment is called Newstart Allowance and is paid to unemployed people over the age of 21 and under pension eligibility age. To qualify for Newstart Allowance, one must be unemployed, looking for paid employment, under the income and assets test limits, be Australian resident, and be prepared to meet mutual obligation requirements.

Apart from the Newstart allowances, the unemployed people can also get Energy Assistance Payments, rent assistance and family tax benefit for those with children.

Unemployment rate in Australia as at May 2019 was 5.19 percent. Youth unemployment is at 12.6 percent.

Lessons learned

In order to attract genuine and needy unemployed youth, the beneficiaries can be engaged on community services like the case of Argentina. We can borrow the example of Australia on Income and Assets test limits to ensure that unemployed youth with certain amount of income or assets do not benefit from the assistance. In addition, there may be a need to open the age limit and consider anyone who is unemployed and qualified but under pension age.

FINANCIAL AND COST IMPLICATIONS

The economic and financial implication of the Bill will arise as a result of provision of hardship allowance to unemployed youth.

Assumptions/ Basis of costing

The cost implication is performed based on the following assumptions: that

(a) There are 2.6 million unemployed youth (Based on UNDP's estimation). This is the number of youths with requisite qualifications, looking for employment but cannot find employment.

(b) In every four months, each youth will receive Ksh. 12,000 as hardship allowance.

(c) The number of unemployed youths will be increasing by 200,000 every year.

(d) There will be no extra cost to administer the cash transfer by the Authority

Financial/cost Implications

Based on the above assumptions, it will cost approximately **Ksh. 93.6 billion** in the first year, **Ksh. 100.8 billion** in the second year, **and Ksh. 108 billion** in the third year to implement the Bill.

After the presentation the following issues and concerns were raised during plenary:

i. The Committee observed that move will provide necessary support and facilitation to needy unemployed youths to be able to look for job opportunities however the cost implication may be too high for the economy to support. Furthermore, provision of social assistance to the unemployed youth may be very costly and will likely attract other youths who may not be looking for employment.

ii. Reliance on hardship allowance may reduce the incentive to search for work and in the long-run may damage individual employability and perpetuate poverty.

iii. The number of unemployed youths may be higher than reported. This is because the measurement approach used locks out a number of youths that essentially may fall into the category of unemployed.

After deliberations, **the Committee postponed to make their recommendations on the legislative proposal as it seeks for more consultations as well as views of the Cabinet Secretary in charge of the National Treasury.**

MIN BAC/114/2019/04: THE EMPLOYMENT (AMENDMENT) BILL, 2018 BY HON. CPT (RTD.) DIDMUS WEKESA, M.P.

The presentation from Parliamentary Budget Office highlighted the following:

The draft Bill seeks to amend the Employment Act, 2007 by introducing a new section after Section 76 to require that every employer who employs more than fifty employees provide internship programmes to diploma, undergraduate, graduate and post graduate qualifications.

The Bill requires the number of internships to be an equivalent of five percent (5 percent) of the total employees at all times. The employer is required to file annual compliance returns with the Director of Employment. In addition, the amendments provide that the interns be entitled to untaxed minimum wage which will be gazetted by the Cabinet Secretary for Labour. To ensure the program's sustainability, employers will be required to recruit a suitable replacement within 21 days of receipt of notice from an intern who completed his/her programme.

SITUATIONAL ANALYSIS

The Constitution of Kenya under Article 55 requires the state to take measures to ensure that the youth gain access to relevant education, training and employment opportunities. Kenya is however faced with challenges of high rate of unemployment particularly amongst the youth. The challenge is exacerbated by the lack of vocational and professional skills, among others, that are demanded by the job market. To bridge this gap, the government committed to developing; promoting and strengthening internship for youth graduating from training institutions to enable them acquire practical experience.

In May 2016, the public service internship policy and guidelines was developed. The policy aims at establishing mechanisms for managing an effective and efficient internship programme that aims to bridge the gap between academic knowledge and the world of work. The policy is therefore part of the government strategy for developing and implementing youth leadership and entrepreneurship programme. The policy is to be reviewed after every three years to address changing needs and emerging issues.

The internship programme is open to unemployed Kenyan graduates from training institutions who have completed their degree courses and have not been exposed to work experience related to their area of study and graduates of degree and diploma Programmes, for whom internship is a requirement for registration by their respective professional bodies.
The policy provides that internship shall be undertaken only once after graduating from a course; and the internship programme shall be for persons who have completed their training and graduated. The internship period shall be between three (3) and (12) twelve months or the duration prescribed by the institution/professional body which regulates the profession in which the intern seeks registration. For effective implementation of the internship Programme, the National Treasury is required to set aside funds through the regular budgetary allocations for supporting the interns with a stipend. The interns are entitled to monthly stipends and subsistence allowances which are determined by the Public Service Commission (PSC). The policy however applies to the Public Sector only and does not indicate the number of interns to be engaged. The circular that is currently in place was issued

by the Public Service Commission on 16th December, 2016. The circular provides that authorized officers in the Ministries, Departments and Agencies (MDAs) to pay interns minimum allowance of Kshs. 10,000 and a maximum of Kshs. 25,000 per month.

According to the Economic Survey 2019, the total employment in the public sector increased from eight hundred and thirty-three thousand one hundred people in 2017 to eight hundred forty-two thousand nine hundred people in 2018 translating to 1.2 percent increase. This was however a suppressed growth compared to that of 7.5 percent realized in 2017. The private sector employment increased from one million eight hundred and sixty-six thousand in 2017 to one million nine hundred and twenty-two thousand in 2018 translating 2.9 percent increase. This was mainly attributed to slowed growth in the public sector employment

In June 2016, the Cabinet Secretary for National Treasury provided for the income tax (set-off tax rebate for graduate apprenticeship) Regulations, 2016. Under this, employers were provided for a tax rebate equal to fifty percent of the amount of salaries and wages paid to at least ten apprentices

INTERNATIONAL COMPARATIVE ANALYSIS

(i) South Africa

In South Africa, the Department of Labour brought in the Skills Development Act, 1998 and Skills Development Levies Act, 1999. These acts oblige employers to contribute money in the form of a skills levy, to ensure funding is available for skills development. New skills development and work experience Programmes were also developed by the Department to raise the employability of the citizens of South Africa.

The purpose of the Skills Development Levies is to regulate a compulsory levy scheme to fund education and training in businesses within various sectors in South Africa. It aims to expand the knowledge and competencies of the labour force and in so doing increase the supply of skilled labour in South Africa, providing for greater productivity and employability. If the company has staff registered for PAYE and the annual payroll exceeds R500 000 per annum, the company must register with SARS and pay a skills levy of 1 percent of the monthly payroll. If the company does not fall within these criteria, it does not have to pay levies or register with SARS.

The Department has established internship Programmes that are funded through Sector Education and Training Authorities (SETAs). SETAs are organizations that ensure training of good quality happens in a specific sector of the economy, e.g. the construction sector and health sector. The SETA receives money that was gathered from employers to upskill the nation and then pays the money in the form of a grant to employers, to employ unemployed people for internships.

(ii) The Government of India

The Government of India launched the National Apprenticeship Promotion Scheme (NAPS) on 19th August 2016 to promote apprenticeship training and incentivize employers who wish to engage apprentices. One of the components of the scheme is the reimbursement of 25 percent of prescribed stipend subject to a maximum of Rs. 1500/- (Kshs. 2,200) per month per apprentice by the Government of India to all employers who engage apprentices.

NAPS have a provision for the sharing of expenditure incurred by employers in both providing training and a stipend to the apprentice. NAPS was launched with an objective of increasing the engage of apprenticeship from 2.3 lakhs (0.23 million) to 50 lakhs (5 million) cumulatively by 2020.The scheme has a user-friendly online portal (www.apprenticeship.gov.in) which serves to facilitate the easy processing of the entire apprenticeship cycle and for the effective administration and monitoring of the scheme. The portal provides end-to-end service for the employer from registration and mentioning vacancy to submitting claims, and for the apprentice from registration to receiving and accepting offer letters online.

BASIS FOR COSTING AND FINANCIAL IMPLICATION

a) Basis of Costing

In determining the financial implications of the draft bill, the following assumptions were made:

(i) That, 80 percent of the employees (public and private sector) are employed in firms that have a minimum of 50 employees;

(ii) That, at all times, an equivalent 5 percent of employees in firms with a minimum of 50 employees (public and private sector) will be absorbed as interns;

(iii) That, on average a stipend of Kshs. 20,000 per month will paid to interns in both the public and private sector; and

(iv) That, the workforce in public and private sector will increase by 2 percent and 3 percent respectively.

b) Financial Implication

The estimated number of interns in the public and private sector for the period 2018/19 to 2021/2022 based on the assumptions will be as shown in table 1.0.

Table 1.0: Estimated Number of Interns in the Public and Private Sector 2018/19-2021/22					
	Baseline 2018/19	**PBO Projections**			
		2019/2020	**2020/21**	**2021/22**	**2022/23**
Public Sector Employees	842,900	859,758	876,953	894,492	912,382
80 percent with at least 50 employees	674,320	687,806	701,563	715,594	729,906
5 percent interns	33,716	34,390	35,078	35,780	36,495
Private Sector Employees	1,922,200	1,979,866	2,039,262	2,100,440	2,163,453
80 percent with at least 50 employees	1,537,760	1,583,893	1,631,410	1,680,352	1,730,762
5 percent interns	76,888	79,195	81,570	84,018	86,538
Total No. of Interns	**110,604**	**113,585**	**116,649**	**119,797**	**123,033**

Data Source: The Kenya National Bureau of Statistics[1] and PBO Projections

The public sector workforce is expected to increase from a base line of approximately 842,900 in 2018 to 912,382 in 2021/22 based on the assumption that it will grow by 2 percent. This implies that the proposed 5 percent recruitment of interns and maintaining it at all times will grow the number of interns in the public sector accordingly from approximately 33,716 in 2018 to approximately 36,495 by the year 2022 as shown in table 1.0.

As shown in table 1.0, the number of private sector employees will increase from approximately 1,922,200 in the FY 2018/2019 to approximately 2,163,453 in the FY 2021/22. This, in effect, increases the number of interns from approximately 76,888 in the FY 2018/2019 to approximately 86,538 in the FY 2021/22. Table 2.0 provides a summary of estimated stipend cost to both the public and private sector based on the assumptions.

Table 2.0: The Estimated Stipend Cost of the Bill to the Public and Private Sector					
	Baseline 2018/19	**PBO Projections**			
		2019/2020	**2020/21**	**2021/22**	**2022/23**
Total No. of Public Sector Interns	33,716	34,390	35,078	35,780	36,495

[1] Economic Survey, 2019

Cost of Public Sector Interns in Ksh.	8,091,840,000	8,253,676,800	8,418,750,336	8,587,125,343	8,758,867,850
Total Private Sector Interns	76,888	79,195	81,570	84,018	86,538
Cost of Private Sector Interns Ksh.	18,453,120,000	19,006,713,600	19,576,915,008	20,164,222,458	20,769,149,131
Total Cost of Interns in Ksh.	**26,544,960,000**	**27,260,390,400**	**27,995,665,344**	**28,751,347,801**	**29,528,016,982**

Source: The PBO

The stipend cost to the government will be approximately Ksh. 8.42 billion in year one of implementation (FY 2020/2021). The stipend cost to government will increase to approximately Ksh. 8.6 billion in year two (FY 2021/2022), and to approximately Ksh. 8.76 billion in year three (FY 2022/23). The total number of interns covered in the public sector will be approximately 35,078 in year one of in implementation (FY 2020/21) which is estimated to increase to approximately 35, 780 in year two (FY 2021/22) and increase to 36,495 in year three (FY 2022/23) as shown in table 2.0.

After the presentation the following issues and concerns were raised during plenary:

i. The Committee observed that the enactment of the Bill may not necessarily provide internship position to all the graduates e.g. disciplined forces. Further, there are no provisions on what next for the interns after the lapse of the six-month internship. There is need to address the underlying problem of unemployment which the interns are likely to face after internship;
ii. The implementation of the Bill may have unintended consequences in the private sector such as worsening of unemployment through displacement of permanent employees. It was observed that the availability of interns as a source of cheap labor creates an incentive for the displacement of paid entry-level jobs and the evasion of minimum wage laws;
iii. It was noted that internships to be an equivalent of five percent (5 percent) of the total employees at all times may be expensive to implement especially in small and medium enterprises (SMEs). There was a proposal to reduce the threshold to at least 1 percent.
iv. The implementation of the draft Bill may result in additional costs to employers which will include other administrative expenses such as insurance costs, office space and working tools.

After deliberations, **the Committee postponed to make their recommendations on the legislative proposal as it seeks for more consultations as well as views of the Cabinet Secretary in charge of the National Treasury.**

MIN BAC/114/2019/5: CONTENTS OF THE DIVISION OF REVENUE BILL (N0.2), 2019

The presentation from Parliamentary Budget Office highlighted the following:

Introduction

The Division of Revenue (No. 2) Bill, 2019 (National Assembly Bills No. 59) is republished Bill after the first Division or Revenue Bill, 2019 (National Assembly Bills, No. 11) was defeated at the mediation committee stage. This was as a result of failure of the mediation committee to agree on a mediated version of the Bill.

The republished Division of Revenue (No. 2) Bill, 2019 maintains the same fiscal framework of the total shareable revenue at Kshs 1,877.18 billion. However, the Bill proposed an equitable share of revenue to the county governments of Kshs 316.5 billion. There is a marginal increase of Kshs 6.5 billion that was previously proposed in the earlier Bill that collapsed.

In light of revenue underperformance trends, the Division of Revenue (No. 2) Bill, 2019 has revised the baseline of equitable share of revenue to county governments from Ksh. 314 billion to Ksh. 304.96 billion in the financial year 2018/19. However, the shortfalls do not affect resource flows to counties as the shortfall has already been borne by the National Government in FY 2018/19.

Ordinarily, personnel emoluments in the Counties take approximately 50 per cent of the total fiscal transfers to the counties and on average with an annual growth of about 4.0 percent. Upon growing the annual adjustment factor of the same margin translates to an increase of Ksh. 11.54 billion of the revised baseline of Kshs 304.96 billion. This increase of Ksh. 11.54 billion is informed by the fiscal framework that underpinned the Budget Policy Statement (BPS) for FY 2019/20, which reflected a decline in fiscal deficits from 5.9 percent of GDP in FY 2018/19 to 5.0 percent in FY 2019/20, increase in debt service costs, drop in National Government ministerial expenditures and downward adjustment of revenue projections in light of shortfalls in revenue in FY 2018/19.

The table below shows the summary of allocation of revenue raised nationally between the National and County Governments for FY 2019/20 in Kshs millions;

Item	2019/20
Total Shareable Revenue	**1,877,176**
National Government*	1,561,416
County Equitable Share	316,500
Equalisation Fund	5,760
GOK Conditional Grants	***13,911***
o/w	
Leasing of Medical Equipment	6,200
Compensation for user fees foregone	900
Level 5 Hospitals	4,326
Rehabilitation of Village Polytechnics	2,000
Construction of County HQs	485
*Free Maternal Health Care**	-
Allocation from the Fuel Levy (15 percent)	**8,984**
Allocation from Loans and Grants	**38,704**
Total Allocations to Counties	**378,100**

* Since FY 2017/18, these funds are included in the National Government's share as a special grant to the National Hospital Insurance Fund (NHIF) of approximately Ksh. 4.3 billion to cater for Free Maternal Health Care and disbursed as a reimbursement to county governments

In light of revenue underperformance and to guarantee resource flow predictability and protect the counties from unnecessary in-year revenue variations, the Bill under clause 5 recommends in cases of revenue shortfalls, it shall be borne by the national treasury.

Observations

An increase of Kshs 6,500 million will result to financing gap of a similar magnitude in the fiscal framework if there are no commensurate expenditure rationalization measures particularly from the national government share of equitable revenue. This may be realized through a supplementary budget.

The Bill maintains the same additional conditional allocations to the counties as was the case in the previous bill of a total of Kshs 61,599 million comprising of the following;

a) *GOK Conditional Grants*	*13,911*
b) *Allocation from the Fuel Levy (15 percent)*	8,984
c) *Allocation from Loans and Grants*	38,704

Conditional Allocations to County Governments for FY 2019/20

a) The GoK Conditional Allocations to the County Governments:

1. In accordance with Article 202(2) of the Constitution, the national government may allocate additional conditional allocations to the county governments from the national government share of revenue raised nationally, whose main object is intended to finance national strategic interventions to be implemented by the county governments. During the current FY 2019/20 the total additional conditional allocations from the revenue raised nationally, stands at **Ksh. 22.9 billion**. These conditional grants are transferred to county governments and included in the budgets of county governments to be approved by the respective county assemblies.

   i) ***Level 5 Hospital (Kshs. 4,326 M):*** During the financial year 2019/20 the the national government proposes to allocate Ksh. 4.3 billion. The objective of the conditional grant to level 5 hospitals is to sustain service delivery in designated Level 5 hospitals mainly former Provincial General Hospitals. This is to be achieved by targeting medical and surgical subspecialties, inter-county referral services and medical training. The growth over time is as per annex 1 below. This conditional allocation is based on the previous year's bed occupancy rate. These hospitals provide specialised health care services to citizens residing outside their host County, usually for complicated cases referred from lower level health facilities. In order to further compensate them for the costs incurred in rendering services to neighbouring Counties,

   ii) ***Supplement for Construction of County Headquarter (Kshs. 485 M):*** The grant was introduced as part of conditional grant during financial year 2016/17 whose purpose is to support construction of offices in five[2] (5) County

---

[2] Isiolo, Lamu, Nyandarua, Taita-Taveta and Tharaka- Nithi,

Governments which, in 2013/14, did not inherit adequate facilities from defunct Local Authorities that could accommodate the new County Governments' administration both County Executive and the County Assemblies:

iii) ***Compensation for User Fees Forgone (Kshs. 900 M):*** This conditional grant was introduced during the financial year 2015/16 with the objective of compensating public dispensaries and health centers for lost revenue on abolishment of user fees. The grant has been set at Kshs 900 million since its inception and it's shared among Counties based on population.

iv) ***Road Fuel Levy Fund (Kshs. 8,984 M):*** The main objective of the Road Maintenance Fuel Levy Fund is to maintain county roads. The allocation has grown over time from Kshs 3.4 billion in 2015/16 to the current Kshs 8.98 billion. The allocation to this conditional grant is based on collections from the Roads Maintenance Fuel Levy Fund at 15 percent of total projected collections. The allocation caters for the maintenance of public roads, including the former local authority unclassified roads. The funds from this allocation are shared among the counties on the basis of the approved Commission of Revenue Allocation formula approved by Parliament in accordance to Article 217 of the Constitution. Conditions that are required for the counties to access funds under this stream include funding must be included in the budget estimates of the respective county governments. The county governments are also required to prepare and share Work plans with the State Department of Infrastructure with copies to the National Treasury.

v) ***Development of Youth Polytechnics (Kshs. 2,000 M):*** The conditional grant was introduced in FY 2017/18 with the initial allocation of Kshs 2.0 billion and has been maintained at the level of Kshs 2.0 billion. The main objective of this targeted grant to the county governments is to improve Access, Quality, Equity and Relevance in Vocational Training. It is geared towards development and rehabilitation of the village and youth polytechnics. The current allocation during FY 2019/20 has been allocated total of Kshs 2.0 billion.

vi) ***Leasing of Medical Equipment (Kshs. 6,200 M)*** The programme has been running since FY 2015/16 with initial allocation of Kshs 4.5 billion and grown to Kshs 9.4 billion in FY 2018/19 but has been scaled down to Kshs 6.2 billion in current allocation. It aims at supporting provision of specialized medical services in public hospitals in an effort to improve access to specialized medical services for all Kenyans, especially those living in rural areas. The objective is to equip at least two medical facilities at each county and upscale the referral system at the county level thereby easing congestion at national referral hospitals and at the same time reduce distances in seeking medical health care.

Additional Conditional Allocations Financed from Proceeds of Loans and Grants from Development Partners

i) **Kenya Devolution Support Program (KDSP) County Capacity Building ("level 1") Grant of Ksh. 1.4 billion.** In its third year of implementation, this is a conditional grant, financed by a World Bank credit to support county government's capacity building. This grant has been reduced from an allocation of Ksh. 2.3 billion in financial year 2018/19 to Ksh. 1.4 billion in financial year 2019/20.

ii) **Kenya Devolution Support Program (KDSP) Performance ("level 2") Grant amounting to Ksh. 4.9 billion.** KDSP "Level 2", financed by a World Bank credit, is a performance grant which will be utilized by beneficiary counties toward physical investments articulated in their respective County Integrated Development Plans (CIDPs). As such, this grant is intended to incentivize county governments that achieve good results in the PFM Reforms

Performance is to be assessed by an independent firm to be recruited through a competitive process. The budget allocation for this grant, which is in its third year of implementation, has increased from Ksh. 4 billion in financial 2018/19 to Ksh. 4.9 billion in financial year 2019/20 to cater for increased number of counties who will have met the performance score after independent assessment.

iii) **Transforming Health Systems for Universal Care Project conditional allocation of Ksh. 2.99 billion (World Bank credit) :-** This conditional allocation through the Ministry of Health is meant for continued improvement in delivery, utilization and quality of primary health care services with focus on reproductive, maternal, new-born, child and adolescent health (RMNCAH) at the county level. This additional conditional allocation has reduced to Ksh. 2.99 billion in the financial year

2019/20 from Ksh. 3.6 billion in FY 2018/19 in accordance with the financing agreement between the donor and the National Government.

iv) **DANIDA Grant (Universal Healthcare in Devolved System Program) Kshs 986.5 M:** The Purpose of the grant is improvement of access to quality of primary health care and Reproductive, Maternal, Newborn, Child and Adolescent Health (RMNCAH) services at the county level and implemented through Ministry of Health who are responsible for ensure funds are included in the budget estimates of the ministry for the FY 2018/19 and Submission of quarterly and annual financial and performance reports to the National Treasury and separate copies to each county governments.

v) **National Agricultural and Rural Inclusive Growth Project (NARIGP) of Ksh. 7.2 billion (World Bank credit):** - This additional conditional allocation, which in FY 2018/19 amounted to Ksh. 1.05 billion is expected to increase to Ksh. 7.2 billion in financial year 2019/20. This additional conditional allocation is meant to compliment efforts by counties to increase agricultural productivity and profitability of targeted rural communities in selected counties, and to provide immediate and effective response in case of crisis or emergency.

vi) **EU-Instruments for Devolution Advice and Support (IDEAS) grant of Ksh. 492.7 million:** This grant, which is in its third year of implementation, is expected to decrease from Ksh 1.04 billion in financial year 2018/19 to Ksh. 492.7 million in financial year 2019/20. The allocation is meant for disbursement of the 2nd tranche of the grant to facilitate implementation of projects identified in financial year 2018/19 for the achievement of Local Economic Development (LED) in the county respective contracts.

vii) **IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP) - Kshs 3,039 M:** This conditional grant to the counties is implemented through the State Department of Agriculture. Purpose of the grant is to increase agricultural productivity and build resilience to climate change risks in targeted smallholder farming and pastoral communities. It covers 24 counties. The allocation criteria are based on financing agreement between the IDA and the Government of Kenya and approved work plans.

viii) **Kenya Urban Support Program (KUSP) - Urban Development Grant (UDG) additional conditional allocation of Ksh. 11.5 billion:** - The objective of this additional conditional allocation is to establish and strengthen urban institutions to deliver improved infrastructure and services in participating counties in Kenya. It is in its second year of implementation and is meant to ensure provision of capacity building and institutional support to 47 counties. However, direct financial support will be provided to 45 counties other than the city counties of Nairobi and Mombasa, and to 59 potentially eligible urban areas within those counties.

ix) **Kenya Urban Support Project (KUSP) - Urban Infrastructure Grant Allocation (UIG) - Ksh. 396 million** – The main purpose of this programme is to provide support to participating County Governments for the formulation of urban development plans including the establishment and operation of urban institutional arrangements such as charters, boards, administrations and operation of Urban Institutional arrangements and for the initial preparation of urban infrastructure investments. This grant will decrease from an allocation of Ksh. 1,854 million in financial year 2018/19 to Ksh. 396 million in financial year 2019/20 because the allocation in financial year 2018/19 included a balance of Ksh. 927 million carried forward from the financial year 2017/18. It is in its third year of implementation.

x) **IDA – Water and Sanitation Development Project (WSDP) World Bank Credit of Ksh. 3.5 billion:** The Project Development Objective (PDO) of this program, financed by this additional conditional allocation, is to improve water supply and sanitation services in six select counties located in the coastal and north eastern regions of Kenya. This will be achieved by investing in water supply and sanitation infrastructure in urban centers in these counties. This additional conditional allocation, which has been reduced slightly from Ksh. 3.8 billion in financial 2018/19 to Ksh. 3.5 billion in financial year 2019/20, is meant to facilitate continued implementation of the projects started in 2018/19.

xi) **Agricultural Sector Development Support Programme (ASDSP) II-Ksh. 849.6 million:** The ASDSP II, which is in its second year of implementation, is part of the implementation strategy of the Agricultural Policy (AP) for the national and county governments. In line with the AP, the overall goal of ASDSP II is to contribute to "transformation of crop, livestock and fishery production into commercially oriented enterprises that ensure sustainable food and nutrition security". The Programme Purpose is "to Develop Sustainable Priority Value Chains (PVCs) for improved income, food and nutrition security", which will contribute to achievement of the "BIG FOUR" agenda of the Government.

xii) **EU- Water Tower Protection and Climate Change Mitigation and Adaptation Programme (WaTER) - Ksh. 495 million**: -The purpose of this additional allocation, which is in its second year of implementation, is to facilitate the implementation of the national climate change action plan and the master plan for the conservation of water catchment areas of Cherangany Hills and Mount Elgon.
The program is being implemented in Cherangany Hills and Mount Elgon ecosystems and includes Lake Victoria and Turkana basins. It is also addressing a number of cross-cutting issues like climate change, gender equality, good governance and human rights and will benefit the eleven Counties of Bungoma, Busia, Elgeyo Marakwet, Kakamega, Kisumu, Nandi, Siaya, Trans Nzoia, Uasin Gishu, Vihiga and West Pokot.

xiii) Drought Resilience Programme in Northern Kenya (DRPNK) - Ksh. 350 million- This is a project financed by proceeds of a loan and grant from the German Development Bank in Turkana and Marsabit counties. The programme objective is defined as follows: "to ensure that Drought resilience and climate change adaptive capacities of the pastoral and agro-pastoral production systems and livelihoods in selected areas of Turkana and Marsabit County are strengthened on a sustainable basis by expanding and rehabilitating relevant infrastructure." The expected projects outputs are to ensure: - access to water is improved for humans and livestock; fodder basis is improved; access to market infrastructure is improved; and rural transportation is improved in the two counties.

After the Presentation, the Committee observed that Kshs. 316.5 billion allocated to county governments is sufficient since the Bill also considers allocations for National interest and public debt obligations which are also important.

The Committee was informed that an advert was sent to the dailies informing the public to submit their views before Thursday, 25th July, 2019, 12.30 p.m. This was a requirement as per Article 201 of the Constitution. The secretariat was tasked to draft a report that the committee will consider in their next meeting.

MIN BAC/114/2019/6: ANY OTHER BUSINESS & ADJOURNMENT

There being no other matters to consider, the meeting was adjourned at 1.30 P.M. The next meeting will be held on Thursday, 25th July, 2019 at 10.00 am.

SIGNED

....

HON. KIMANI ICHUNG'WAH, CBS, M.P.
CHAIRPERSON, BUDGET AND APPROPRIATIONS COMMITTEE

....................................25/07/2019....................................

DATE

ADOPTION SCHEDULE

Members attendance list

Budget and Appropriations Committee: Date: 25th July, 2019 Time: 10:00AM Sitting: ………..

Name		Signature
1.	**Hon. Kimani Ichung'wah, CBS, M.P- Chairperson**	
2.	**Hon. Moses Lessonnet, M.P- Vice Chairperson**	
3.	Hon. CPA. John Mbadi, EGH, CBS, M.P.	
4.	Hon. Richard Onyonka, M.P.	
5.	Hon. Samwel Moroto, M.P.	
6.	Hon. Millie Odhiambo, M.P.	
7.	Hon. Twalib Bady, M.P.	
8.	Hon. (Dr.) Gideon Ochanda, M.P.	
9.	Hon. James Mwangi Gakuya, M.P.	
10.	Hon. (Dr.) Makali Mulu, M.P.	

Name		Signature
11.	Hon. Moses Kiarie Kuria, M.P.	
12.	Hon. Benard Masaka Shinali, M.P.	
13.	Hon. John Muchiri Nyaga, M.P.	
14.	Hon. Jude Njomo, M.P.	
15.	Hon.(Dr.) Korei Ole Lemein, M.P.	
16.	Hon. Sarah Paulata Korere, M.P.	
17.	Hon. Naisula Lesuuda, OGW, M.P.	
18.	Hon. Sakwa Bunyasi, M.P.	
19.	Hon. Danson Mwashako, M.P.	
20.	Hon. Fatuma Gedi Ali, M.P.	
21.	Hon. Florence C. K. Bore, M.P.	
22.	Hon. James Gichuki Mugambi, M.P.	
23.	Hon. (Dr.) John K. Mutunga, M.P.	

Name		Signature
24.	Hon. (Eng.) Mark Nyamita, M.P.	
25.	Hon. Paul Abuor, M.P.	
26.	Hon. Qalicha Gufu Wario, M.P.	
27.	Hon. Wangari Mwaniki, M.P.	
28.		
29.		
30.		