

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

THE HANSARD

Tuesday, 17th March 2020

The House met at 2.30 p.m.

[The Speaker (Hon. Justin Muturi) in the Chair]

PRAYERS

PAPERS LAID

Hon. Speaker: Hon. Members, let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I was telling Hon. Jimmy Angwenyi that because of his age, he is more susceptible to the coronavirus and so he should take leave.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Which I am doing, Hon. Speaker.

Hon. Aden Duale (Garissa Township, JP): He should go away because of his age.

(Hon. Jimmy Angwenyi walked out of the Chamber)

(Laughter)

If you are over 70 years old...

Hon. Speaker: Hon. Members, for the convenience of the House, I direct the Serjeant-at-Arms to open one side of the door and let it remain open like that so that even the elderly can also feel secure.

(Laughter)

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, also, if there are Members sitting in the House who, in the last two weeks were out of the country, must leave the Chamber and do self-isolation. They know themselves. They were out of the country and arrived just two weeks ago. It is good that they self-quarantine.

Hon. Members: Yes!

Hon. Aden Duale (Garissa Township, JP): I am talking particularly about Members of the Parliamentary Service Commission (PSC). There are some Commissioners who just came back over the weekend.

Hon. Speaker, I beg to lay the following Papers on the Table of the House today Tuesday, 17th March 2020:

Legal Notice No.23 relating to Insurance Anti-Money Laundering and Combating Financing of Terrorism Guidelines, 2020 and the Explanatory Memorandum.

Legal Notice No.24 relating to Bank Assurance Regulations and the Explanatory Memorandum.

Legal Notice No.25 relating to Insurance Groupwide Supervision Regulations, 2020...

(Loud consultations)

Hon. Speaker, Hon. (Dr.) Naomi Shaban should go home. She just came back over the weekend. She has a choice of either going to the Mbagathi Isolation Centre or home. So, Hon. Speaker, you have to give orders. And this is not a joke! She must self-quarantine for 14 days.

Legal Notice No.26 relating to the Insurance Microfinance Regulations 2020 and the Explanatory Memorandum.

Hon. Speaker: Well, all those regulations are committed to the Committee on Delegated Legislation.

Hon. Patrick Mariru, you have the Floor.

Hon. Patrick Mariru (Laikipia West, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House today Tuesday, 17th March 2020:

Report of the 141st Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Belgrade, Serbia from 13th October 2019 to 17th October, 2019.

Hon. Speaker: Hon. Members, that Report relates to the last session of the 141st Assembly of the IPU. For the information of Members, all the planned meetings by the IPU have been suspended. The IPU meetings will not be taking place for the next three months.

Next is the Chairman of the Departmental Committee on Defence and Foreign Relations, Hon. Katoo ole Metito. Is it you, Hon. Rasso? You are on.

Hon. Ali Rasso (Saku, JP): Thank you very much, Hon. Speaker. I beg to lay the following Paper on the Table of the House today Tuesday, 17th March 2020:

Report of the Departmental Committee on Defence and Foreign Relations on the oversight inspection visit to Thailand and Malaysia.

Hon. Speaker: Let us have the Chairman of the Budget and Appropriations Committee (BAC).

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House today Tuesday, 17th March 2020:

Report of the Budget and Appropriations Committee on its consideration of the Division of Revenue Bill, National Assembly Bill No.3 of 2020.

Hon. Speaker: Chairman of the National Government Constituencies Development Fund (NG-CDF) Committee. Who is tabling the Report? Hon. Kapondi, you have the Floor.

Hon. Fred Kapondi (Mt. Elgon, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House today Tuesday, 17th March 2020:

Report of the Select Committee on the National Government Constituencies Development Fund Board on the vetting of Prof. Mohammed Hussein Abdille, nominee for appointment to the position of Chief Executive Officer.

(Loud consultations)

Hon. Speaker: Hon. Members, please understand these basic procedures. He is just tabling a Report. He is going to give notice of Motion. If need be, the Motion will be moved. Let us hear Hon. Limo, Chair of Finance and National Planning Committee.

(Loud consultations)

Hon. Joseph Limo (Kipkelion East, JP): Hon. Speaker, I beg to lay reports of the Departmental Committee on Finance and National Planning on its considerations of:

(i) the Public Finance Management (Amendment) Bill (No.4) (National Assembly Bill No.78 of 2019);

(ii) the Parliamentary Pensions (Amendment) Bill (No.3) (National Assembly Bill No.57 of 2019); and,

(iii) the Public Finance Management (Amendment) Bill (Senate Bill No.3 of 2019).

Hon. Speaker: Very well. Next is the Chairperson of the Departmental Committee on Health.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Speaker, I beg to lay the following Paper:

Reports of the Departmental Committee on Health on its consideration of the Mental Health (Amendment) Bill (Senate Bill No.32 of 2018).

Hon. Speaker: The Chair of the Departmental Committee on Administration and National Security, Hon. Koinange, is next.

Hon. Paul Koinange (Kiambaa, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Administration and National Security on its consideration of the Refugees Bill (National Assembly Bill, No.62 of 2019).

Hon. Speaker: Next Order!

NOTICES OF MOTION

ADJOURNMENT OF THE SITTINGS OF THE HOUSE

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that the World Health Organisation (WHO) has declared Coronavirus Disease (COVID-19) a public health emergency of international concern;

FURTHER aware that, the Government, upon confirmation of coronavirus cases in the country, has taken various measures aimed at containing the spread of the disease, including suspension of learning in all educational institutions and minimising attendance to various gatherings and that, all sections of our society, including the National Assembly, ought to play their role in stopping further spread of the disease;

NOTING that, public health authorities around the world are also taking unprecedented measures to contain the spread of the disease;

DEEPLY concerned that, this epidemic, which is said to have no known cure has spread to many countries with the potential of affecting a large percent of the world's population since the impact of the virus is still unfolding;

NOW, therefore, this House resolves as follows:

(a) THAT, notwithstanding the approved Calendar of the House (Regular Sessions) for the Fourth Session (2020), the House adjourns its Sittings from Wednesday, 18th March, 2020 until Tuesday, 14th April, 2020 at 2.30 pm;

THAT, during the period of the adjournment, the Parliamentary Service Commission institutes appropriate measures to enable the House to sit upon re-convening, taking cognisance of the Public Health Emergency;

THAT, notwithstanding the provisions of Standing Orders No.41 and 42 relating to reading and laying of Messages from the Senate and from the President, during the period of the suspension, upon receipt of any name of a person nominated for appointment to a State office from the President, or upon receipt of any Message from the Senate, the Speaker shall forthwith refer such Messages to the relevant Committee for consideration, without having to recall the House; and,

THAT, the Calendar of the House (Regular Sessions) for the Fourth Session (2020), be hereby altered accordingly.

Hon. Speaker: Chair of the Select Committee on National Government Constituency Development Fund (NG-CDF). Hon. Kapondi, are you the one doing it?

CONSIDERATION OF NOMINEE FOR APPOINTMENT AS CEO OF NG-CDF BOARD

Hon. Fred Kapondi (Mt. Elgon, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Select Committee on National Government Constituency Development Fund (NG-CDF) in its Report on the vetting of a Nominee for appointment as the Chief Executive Officer (CEO) of NG-CDF Board, laid on the Table of the House today, Tuesday, 17th March 2020, and pursuant to Section 20(1) of the NG-CDF Act, 2015 and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act 2011, this House rejects the appointment of Prof. Mohamed Hussein Abdille as the CEO of NG-CDF Board.

(Applause)

Hon. Speaker: Order, Members!

(Loud consultations)

Hon. Kapondi first laid the Report on the Table. Many of you, oblivious of the strict provisions of the Standing Orders, were claiming that I put the Question. At least, under Order No.6, he has given Notice of Motion for adoption of their Report but you are saying that I put the Question. No debate has happened. Therefore, please, hold your horses. The Report will be moved and seconded, after which, if you desire that the Question be put, then it will be put. However, you must indicate that by voting. So, let us move to the next Order.

QUESTIONS AND STATEMENTS

Hon. Speaker: Hon. Members, given the special circumstances of this Sitting and, in view of the Motion whose notice has been given by the Leader of the Majority Party a while ago, I have directed that all Questions be removed from the Order Paper for today because we do not want to be seen as if Members are asking Questions in vain. When Members ask Questions, we require that responses must be given within a definite period. For that reason, therefore, and for the convenience of the House, I have directed that no Questions will be raised at this Sitting. It is instructive. If you look at the Order Paper, you will appreciate why I say “this Sitting”. However, I have approved in anticipation one request for a Statement by the Member for Mathare Constituency at the next Sitting, if the House accedes to the Motion listed as Order No.8. That is the position.

Next Order!

PROCEDURAL MOTION

APPROVAL OF SECOND SITTING

Hon. Speaker: Leader of Majority Party, you have the Floor.

(Loud consultations)

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker. I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 30(3)(b), this House resolves to hold another Sitting today Tuesday, March 17, 2020 after the 2.30 p.m. Sitting.

So, this Sitting is the one that started at 2.30 p.m. and this Motion says we shall have another Sitting so that we finish the business that appears on this Order Paper and the next Order Paper that will be introduced in the next Sitting. So, I am sure many Members know what two Sittings within one afternoon Session mean. Therefore, what happens is that... Hon. Speaker, Hon. Mbui is the Deputy Minority Leader. The only person who has some *locus standi* on putting question is Hon. (Dr.) Pukose. Unless Hon. Mbui wants to leave his job and take over that of Hon. (Dr.) Pukose...

(Laughter)

Hon. Aden Duale (Garissa Township, JP): Hon. (Dr.) Pukose knows when the question should be put or when it should not. Therefore, Hon. Speaker, it is based on the notice of Motion that I gave that we go on recess from tomorrow.

We have decided to have two Sittings because we have the Division of Revenue Bill and, of course, we have the reports of committees that we must deal with. Therefore, I really want you to bear with us so that when we finish the first Session, the difference will be about 15 minutes. So, the Speaker will leave and then after 15 minutes, we will come back and start a new Session. Of course, you know the benefits of two Sessions. I do not want to go into that.

(Laughter)

Therefore, Hon. Speaker, the story is very clear. This is a decision of the House Business Committee that met at 11.30 a.m. under your chairmanship. Therefore, I ask Hon John Mbadi to second.

Hon. Speaker: Hon. John Mbadi, you have the Floor.

Hon. John Mbadi (Suba South, ODM): Thank you Hon. Speaker. I second this Motion and the reason is simple. I ask Members that we finish this Sitting quickly because there are Motions that we are likely to deal with in the second Session which we could not deal with in the same Sitting because the notice for the same was given in this Sitting. Since they are not Money Bills, we could not transact them in the same Sitting. Therefore, Hon. Speaker, I want to ask the House to approve that we have two Sittings so that we can deal with the Motion on appointment of a CEO to the National Government Constituencies Development Fund (NG-CDF).

Thank you, Hon. Speaker. I second.

(Hon. Opiyo Wandayi interjected)

Hon. Speaker: Very well. Member for Ugunja, Chairman of Public Accounts Committee (PAC), please allow me to propose the question.

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Have the Members understood? Do I, therefore, put the Question?

Hon. Members: Yes!

(Question put and agreed to)

Hon. Speaker: Next Order!

MOTION

ADOPTION OF ANNUAL REPORTS ON STATE OF JUDICIARY

Hon. Speaker: Hon. Members, debate on this Motion was concluded last week on Thursday. Therefore, what remains is the Question to be put.

THAT, the House notes the Annual Reports on the State of the Judiciary for Financial Years 2016/2017 and 2017/2018, submitted to the House, pursuant to the provisions of Article 254(1) of the Constitution and adopts the recommendations of the Departmental Committee on Justice and Legal Affairs as contained in the Reports of the Committee, laid on the Table of the House on Thursday, 9th May 2019.

(Hon. William Cheptumo on 10.3.2020)

(Debate Concluded on 12.3.2020 – Afternoon Sitting)

(Question put and agreed to)

Hon. Speaker: Next Order!

BILLS

First Reading

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)

Hon. Speaker: Next Order!

Second Reading

THE DIVISION OF REVENUE BILL

Hon. Speaker: Chairman, Budget and Appropriations Committee, you have the Floor.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. I beg to move that the Division of Revenue Bill (National Assembly Bill No. 3 of 2020) be read a Second Time.

Hon. Speaker, from the Report of the Committee that we just tabled, I just want to mention a few things. This being the third year even for the new Members, they are aware that the Division of Revenue Bill is what shares our shareable revenue between the two levels of government and, therefore, I do not need to say much. The Division of Revenue Bill was read a First Time during the afternoon Sitting of Tuesday, 10th March 2020 pursuant to Standing Order 127(2) and the Bill was committed to the Budget and Appropriations Committee and was reviewed in two sittings.

Hon. Speaker, given the prevailing conditions in the country and the guidelines relating to control of the spread of the COVID-19 virus, the Committee was unable to physically meet with stakeholders. However, a call for memoranda was placed in the newspapers on 12th March, 2020 for the public to submit their views on the Bill.

I wish to inform this House that, at the time of submission of this Report, no memorandum on the Division of Revenue Bill had been received for consideration.

(Loud consultations)

Hon. Speaker: Order, Hon. Members! I have not read from the report of the World Health Organisation (WHO) whether one of the symptoms of COVID-19 is noise making.

(Laughter)

Unless this is a different strain from the one that is known. So, please, consult in low tones. Hon. Lessonet, you know when you are consulting... Hon. Lessonet, what are you doing? You are talking to somebody who is so far away. So, what you are saying is distracting others. Why do you not just go to where he is seated and talk to him? He is not harmful.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you Hon. Speaker for the protection from the loud consultations. I was saying that, besides the share of the sharable revenue between the two levels of government, the Division of Revenue Bill also sets out the indicative amounts for conditional grants, the Road Maintenance Levy Fund, the Equalisation Fund and other allocations in the form of loans and grants.

Hon. Speaker: There is a point of order from the Member for Saku.

Hon. Ali Rasso (Saku, JP): Thank you Hon. Speaker. With due respect to the Chairman of the Budget and Appropriations Committee, we do not have the Report.

(Loud consultations)

Hon. Kimani Ichung'wah (Kikuyu, JP): It is in the Table Office, Hon. Rasso.

Hon. Ali Rasso (Saku, JP): I think if the House is satisfied, I should not be an exception to that. However, we should be discussing the Revenue Bill with the Report before us.

Hon. Speaker: Yes. It is not just called "Revenue Bill". It is called "The Division of Revenue Bill." Therefore, if you go to the Table Office, ask for the Report of the Budget and Appropriations Committee on the Division of Revenue Bill, 2020. Proceed.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. The Hon. Member for Saku is rightfully asking a good question. However, I wish to confirm that in the Table office, there are copies of the Report. It is not a very long report; it is about nine pages. So, it is already there in the Table office. I will be kind enough to give him my copy once I am through. I know he is a very active Member. He keenly follows what is going on in the House.

Hon. Speaker, before the interruption, I was saying besides the allocations in form of loans and grants... Some of the key highlights of the Division and Revenue Bill 2020...

Hon. Junet Nuh (Suna East, ODM): On a point of order.

Hon. Speaker: Hon. Member for Suna East, what is your point of order?

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker, this is a very important Bill for this House, one that divides money between county governments and the national Government. You remember last year we had a stalemate for almost six months. We had several mediations. We do not want the Senate to say there was no public participation. We want this House to be told whether there is a report as requested by Hon. Rasso and, if so, it should be tabled. We want to see the report. This should have been tabled two days ago.

Hon. Speaker: Hon. Junet, I can confirm to the House that I have approved that Report which has been subsequently tabled.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Speaker, I have to agree with you. The World Health Organisation (WHO) might need to reassess other symptoms of COVID-19. This is because besides noise, memory lapse might also be one of the symptoms. I just mentioned to him while we were consulting here that last year, he rose on a point of order like the Hon. Member for Saku has done asking for a report. We were very careful this year to ensure that we table a report. Therefore, Hon. Junet, you might be operating from the *status quo* of 2019. We have moved on to 2020 as much as reggae has stopped.

Hon. Speaker, the total shareable revenue for the year 2020/ 2021 is estimated at Kshs1.8 trillion and is allocated as follows:

(i) National Government, Kshs1.53 trillion.

(ii) The county government equitable share is Kshs316.50 billion. It is worth noting that that is the same figure for this current financial year 2019/2020.

(iii) The Government of Kenya conditional allocation amounts to a total of Kshs13.73 billion.

(iv) The roads maintenance fuel levy fund is Kshs9.43 billion. It is important for Hon. Members to note that this figure of Kshs9.43 billion, if you divide that by the number of counties, it is almost a total of about Kshs200 million per county going towards the maintenance of roads. I am sure the 22 per cent and 10 per cent that Members of Parliament get through Kenya Rural Roads Authority (KeRRA) do not amount to anything more than Kshs30 million per constituency. Therefore, there is still a lot of resources going towards the maintenance of roads in our counties. It is important that we consult with the Members of County Assemblies (MCAs) and the other House to ensure that there is proper oversight as to how those funds are utilised. We must ensure there is no duplication of projects between what we are doing under KeRRA and what is being done under this road maintenance Fuel Levy Fund under the county governments.

(v) Hon. Speaker, conditional allocations in terms of loans and grants are Kshs30.20 billion.

(vi) The Equalisation Fund, which I know the Hon. Member for Saku is very keen on, is Kshs6.788 billion. I know, probably, the Hon. Member for Saku was very keen on this Report because of the Equalisation Fund.

Hon. Speaker, I do not want to go through the entire Report but just to note a few things. The importance of this conditional grant to counties cannot be gainsaid. I wish to bring to the attention of this House that there is lack of a proper policy framework that has made it very difficult to manage them and the status of some of the interventions is not clear.

Furthermore, as reported in our report on the Budget Policy Statement (BPS), there is not sufficient information provided on the rationale behind changes in some of the conditional grant allocations, some of which have not been allocated any funds in the next financial year 2020/2021. For instance, the Kenya Devolution Support Programme (KDSP) Level II Grant and the Kenya Urban Support Program (KUSP) by the World Bank have not been allocated any resources in the next financial year. This has been done without any clear explanation as to why they are not allocating any further resources. We do not know whether those programmes have come to an end. I am aware that the institutional grant under the KUSP might have been for a specified period of time, but it would be good that this is made clear for us to know why there are no allocations in the next financial year.

Hon. Speaker, there appears to be no set timelines within which targeted outputs under the conditional grants are to be achieved. For instance, there is a conditional grant that has been maintained of Kshs2 billion. If you go to the Bill, you will see it is still there this year. It is going towards village polytechnics in our counties. There is also a conditional allocation to five counties for the establishment of county headquarters. These amounts continue to appear every year. It will be important, especially for the other House, the Senate, to ensure that there is proper oversight of these conditional grants. They must ensure that if we allocate money towards construction of village polytechnics, then, indeed, there must be village polytechnics being built back in our counties. A case in point is Tharaka Nithi and Isiolo.

Hon. Murugara moved an amendment last year, which we agreed to, allocating more funds to Tharaka Nithi County, Nyandarua and a number of other counties. It is important for Hon. Members who hail from those counties to establish whether there are projects going on and provide oversight. They need to know over what period those projects are to be implemented and when the programmes are coming to an end.

Hon. Speaker, the other key thing to note in this Division of Revenue Bill is the issue of Nairobi County. As you are aware, in accordance with Article 187 (2) of the Constitution, Schedule IV of the Constitution and the Gazette Notice No.1609 of 25th February 2020, specific functions of the Nairobi City County were transferred to the National Government. Those functions include:

(i) County health services that relate to county health facilities and pharmacies, ambulance services, promotion of primary health care, licensing and control of undertakings that sell food to the public amongst others.

(ii) County transport services that relate to county roads, street lighting, traffic and parking, public transport, road transport, among others.

(iii) County planning and development services that relate to statistics, land survey and mapping, boundaries and fencing housing and electricity and gas reticulation and energy regulation.

(iv) County public works, utilities and ancillary services that relate to storm water management systems in built up areas and water and sanitation services.

Hon. Speaker, the equitable share for Nairobi City County should, therefore, be set aside and arrangements put in place to ensure that the resources necessary for the performance of the functions are transferred pursuant to Article 187 (2).

Hon. Speaker, relating to the Nairobi County and more so for the 17 Hon. Members who hail from Nairobi County, I need to appreciate that the national Treasury and the Executive have been consulting on this matter and have settled on an arrangement that they will be discussing. I can hear the Hon. Member for Dagoretti South shouting behind me here that the money should go to the NG-CDF but, indeed, there is an arrangement. You can pursue that with the national Treasury and other Members of Nairobi County.

More important for the Members of Nairobi County, they need to know how this money is going to be overseen. If we are to create a special purpose account under the national Government, maybe, under the Ministry of Devolution, it will be important for us to determine how that money will be accounted for. Who will be overseeing that money? Is it the Nairobi County Assembly that will oversee the money that is being appropriated from the National Assembly or is it the other House, the Senate, that will oversee the money that is being utilised by the national Government to deliver functions at the county level?

Hon. Speaker, I was saying that as food for thought because it is something we need as a country to think about and consider how we will oversight that money. We must also be cognisant of the fact that this was done mid-year in the Financial Year 2019/2020.

After the recess, in Supplementary Two, we expect the National Treasury, in consultation with the Executive of the Nairobi County, to bring an amendment to the Appropriations Bill that we did. This is because we had already appropriated money to Nairobi County which was appropriated by the county assembly into the functions of the county government. But those functions have now been transferred back to the national Government.

The recommendations the Committee has come up with are as follows:

That, having considered all the above matters, the Committee recommends that this House approves the Division of Revenue Bill as follows:

- (i) National Government Kshs1.53 trillion.
- (ii) County Government Equitable Share Kshs316.5 billion.
- (iii) The Government of Kenya Conditional Allocations Kshs13.73 billion.
- (iv) Road Maintenance Fuel Levy Fund Kshs9.43 billion.
- (v) Conditional Allocations under loans and grants Kshs30.2 billion.
- (vi) The Equalisation Fund Kshs6.788 billion.

(Loud consultations)

Finally, the Committee requests that this House approves the Division of Revenue Bill 2020 and it be read a Second time. In closing, it is important... Hon. Speaker, the consultations are too loud.

Hon. Speaker: Order, Hon. Members!

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker, for the protection. It is important for the House to note that the figure of Kshs316.5 billion going towards the shareable revenue between the two Governments, is the same figure we have in the current Financial Year 2019/2020. This year, we must appreciate the work that has been done by the Intergovernmental Budget and Economic Council (IBEC) chaired by the Deputy President. That is because this year, they consulted with the Commission on Revenue Allocation (CRA), the Council of Governors (CoG) and all the other stakeholders and agreed on the figure.

Unlike what Hon. Junet has said, we had a very protracted battle last year which went into mediation all the way to August and this interfered with how counties delivered services. This year, we are fortunate that, under IBEC, they have settled on this figure of Kshs316.5 billion. We are in the era of discussing shareable revenue under the Building Bridges Initiative (BBI). It is important for me to mention that the shareable revenue...

I want to commend the Chair of the Public Accounts Committee (PAC) because his Committee has approved the audited accounts up to the Financial Year 2016/17. Therefore, the percentage of shareable revenue that is going to the counties is based on the Financial Year 2016/17 audited and approved revenues of Kshs1,357,698,000,000. That constitutes 23.31 per cent of our national revenue. Therefore, we are within the threshold that has been set of a minimum of 15 per cent in the Constitution. If we include conditional grants and other allocations, the figure moves to about 27.24 per cent. Therefore, we are safely within the 15 per cent that is provided for under the Constitution.

I am just noting that because we are in this conversation and I know the BBI Taskforce has now retreated to do the report. Financial matters cannot be canvassed in rallies or public gatherings. We must be careful even as the Committee retreats to note that, in this Financial Year, we are working with a figure of between 23-27 per cent, including the conditional allocations. The proposals I have heard in rallies and elsewhere have been a minimum of 35 per cent and others as high as 45 per cent. It is good for everybody to demand a share, but it is not enough to just set the percentages. We must allow the National Treasury and public finance experts to sit down and clearly calculate what is practically possible under our current economic status.

Today, if we were to approve the requests coming under the BBI Initiative of 35 per cent, then, in the Division of Revenue Bill this year, we would be 12 per cent short of what would be

provided for if we amended the Constitution. This is not from the Committee but my own view and personal opinion; that we must be careful on the percentages we propose. It is not just shareable revenue but, I know there are many other people who have made proposals relating to minimum granted returns like, those from my region and others who have pegged the percentages on our national revenue.

It is not gainsaid that we have challenges we must deal with and not just the coronavirus which will hit us very hard in terms of our revenue projections. Not just for this current financial year but even the next financial year. The implication and ramifications of this will roll over even to the Financial Year 2021/2022. Therefore, as a word of caution to the country, it is not enough to make proposals in rallies or in seminars in hotels. It is critical that we sit with economists and public finance experts.

When the Constitution was being drafted in 2010, the Chapter on Public Finance had a whole team working on it. Today, let us not be simplistic or seek to push 35 per cent as an open percentage figure for the sake of political expediency or a way of enticing governors to support the initiative. We must be careful that what we propose must be something which, under our public finance management systems, will be possible, practical and realisable. Suppose we had 30 per cent in the Constitution and we are at 23 per cent today?

This is all I want to caution the country against. I can see a BBI proponent, Hon. Junet, is very eager to intervene. Let me not allow him to interject. I beg to move and request the Leader of the Majority Party to second.

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order, the Member for Kibwezi West?

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): On a point of order, Hon. Speaker. I have listened intently to the Chair of the Budget and Appropriations Committee. He was speaking futuristically about the dangers which would affect the Division of Revenue Bill. COVID-19 is a global phenomenon that will affect the performance of economies around the world. To that extent, there is a report that has been done indicating that Kenya's revenues in this financial year might be affected even up to 50 per cent.

We are already setting the limits of what counties are going to receive and this has an implication towards national functions. It means the national Government has to secede the money once it is passed in law to the counties at the expense of the national projects to be done. This has a further ramification on the Budget Policy Statement (BPS) that we adopted.

Hon. Speaker: What is your point of order?

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): My point of order is that in his Report, we have not heard him explaining to the House how they have cushioned for the dwindling revenue collections in this financial year.

Hon. Speaker: That is not a point of order.

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): It is under Standing Order No.83.

Hon. Speaker: Hon. Musimba, you are not an authority on the Standing Orders. What is wrong with you because you are always very abrasive and agitated about something you believe in and imagine it is the gospel truth? It is not and that is not a point of order. You will get an opportunity once we have proposed this Motion to contribute and address the issue of Covid 19, Novel and other coronaviruses. You can call them whatever names and their impact on the economies of the world and specifically the economy of Kenya, so that you can make your

argument. You do not make an argument through a point of order. Hon. Musimba, this is simple. The point of order is to show that something that has been said by the Member contributing is outside of the standing orders or is in breach thereof. Now, you have not shown anything that is in breach of the standing orders. I know you have a copy of the Standing Orders. That is why you never pointed out to anything that was in breach.

Therefore, I call upon you to relax. You will get a chance now to contribute because those are important points which you are raising, but at the wrong time or through the wrong process. Yes, the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. As I second, the budget-making process is found from Article 218 of the Constitution. Once the Cabinet Secretary brings the BPS and the House approves it, then it sets the stage for the publication of the Division of Revenue Bill. So, the BPS is a precursor to the Division of Revenue Bill since it sets the fiscal framework underpinning how the two levels of government share resources equitably. Because the BPS Report was adopted by this House, this matter is before the House this afternoon.

The discussion this afternoon on the Division of Revenue Bill is very important. Let me pick from where Hon Musimba has left. Hon. Musimba had no point of order, but he had a very good argument that this House must decide before we go to the Committee of the whole House. That revenues will be affected both external and domestic, and the economy globally is going to be affected. We have allocated counties Kshs316.5 billion. Let me frame what Hon. Musimba was saying. Article 219 of the Constitution says:

“A county’s share of revenue raised by the national Government shall be transferred to the county without undue delay and without deduction, except when the transfer has been stopped under Article 225.”

So, whether you collect any money or not, you must give them their money. So, in my honest opinion, based on what is happening globally and domestically, we must reduce the Kshs316.5 billion that the IBEC has decided. We must be honest to ourselves. The Chair of the Budget and Appropriations Committee must be very honest. The problem with the Chair of the Budget and Appropriations Committee, from his history of *Tangatanga*, even in the Chamber, he cannot sit. He needs to sit down, listen to the House and take notes. He has to listen to what we are saying. Here, we are saying that we are giving the counties Kshs316.5 billion. Based on what? This figure was before the emergence of coronavirus. It has affected the whole economy. It is not only in Kenya but everywhere else and the stock exchange has been affected. I was watching news last night. The New York Stock Exchange went down by close to 1.9 trillion US dollars. The revenue projections the CS for Finance is expecting will not be achieved. So, why do we want to cheat ourselves? This is a House that must make honest decisions. I think before we go to the Committee of the whole House, we must... This is because we can cut the budget of Parliament, the Judiciary and the national Government at any stage through a supplementary process. But we cannot touch the budget of the county governments in accordance with Article 219. So, the men and women who sit in this House and those who sit in the Senate must make a definite and honest decision based on the situation today.

Having said that, in this Division of Revenue Bill before this House, the total sharable revenue between the two levels of Government for the Financial Year 2020/2021 is projected to be Kshs1.8 trillion of which, the national Government is getting Kshs1.5 trillion. The Equitable Share is Kshs316.5 billion while the Equalisation Fund is Kshs6.7 billion. Every year, we allocate money to the Equalisation Fund, but we are not seeing it on the ground. This country

must be very honest with the Constitution. It is illegal for the National Treasury to violate the Constitution. The Equalisation Fund is found in the Constitution for certain areas and for specific projects like water and electricity. The National Assembly is just sitting and does not comply with the Constitution. Every year, we allocate money to the Equalisation Fund, but we are not getting it. It is not going to the recipients. I think the Budget and Appropriations Committee, through the Chair of the Committee on Implementation, must act. The resolution of the House based on the Constitution must be implemented. Let us not cheat ourselves.

County governments are getting conditional grants of Kshs53 billion from the national Government share of revenue. Allocation from Fuel Levy Fund is Kshs9.4 billion. Today, if you go to our counties, the rural roads are not being done and here we are allocating Kshs9.4 billion to county governments. You cannot move from one village to the other. We are allocating billions to referral hospitals, the Level 5 hospitals. Today, if you go to Kisumu, Garissa, Mombasa, Nyeri and Embu, the situation in those Level 5 hospitals is very deplorable. Kiambu is one of them. The House that has been mandated to oversee the counties, our neighbour, the Senate, is busy discussing petitions and statements and going on trips. We are now lucky there is coronavirus. The Senate and the county assemblies must make sure the money is found.

Kenyans will be shocked. Since the advent of devolution under President Uhuru Kenyatta to date, Kshs1.9 trillion has been transferred to county governments. I ask this question: Can you trace that money on the ground? Apart from the salaries that our people are getting, Kshs1.9 trillion has been allocated to county governments to date. We must ask if the value for that Kshs1.9 million is found. We must assess as a country whether devolution is working. There are people who assume and say that salaries are being paid. Those of us who were in this House in the 10th Parliament know that one of the reasons why we supported the 2010 Constitution was because of devolution. We wanted to decentralise resources from here at the centre to the periphery so that our people can get better healthcare, better roads, better livestock production and better agriculture and water. Today, we have created billionaires in the counties. Let us be very honest. Those who want to become governors better prepare themselves. We want to see the Senate... I was asking Hon. Mbadi and others today. The County Public Accounts and Investment Committee of the Senate, since 2013 has not indicted even one governor! They are always holding meetings here. At least, the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) of the National Assembly have indicted public servants in their reports. So, Hon. Moses Kajwang', Senator for Homabay, unfortunately, does not come from my county. My Senator is doing a better job nationally being the Chair of BBI.

Hon. John Mbadi, you better tell your Sen. Moses Kajwang' that we want to see the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) of the Senate indicting one, two or three people. How can all the 47 governors be good in the face of the audited reports before the Senate?

Hon. Speaker, a special occasion demands a special consideration. As Members are aware, there have been issues with respect to the Nairobi County Government, where some of its functions have been taken over by the national Government, in accordance with Article 187 (2) of the Constitution. So, when the County Allocation of Revenue Bill comes to this House, we want those resources ring-fenced and given to either the Committee that will be established or to the national Government.

(Several Members consulted loudly)

Hon. Speaker, can you talk to these ladies? This is not a market place.

Hon. Speaker: I think following the cancellation or suspension of the Commission on the Status of Women (CSW) conference in New York, they have decided to hold it here in the Chamber. Please, Hon. Members who represent counties, this is not where to do the conference in New York.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, if they do not want to listen to the debate on the Division of Revenue Bill because, maybe, the Bill is too technical, they can go and have tea.

Hon. Speaker: Yeah! Let them walk out the way they are doing to go and have tea and...

Hon. Aden Duale (Garissa Township, JP): Yeah, it is too technical for them to understand. Some of us have had the benefit of reading through it.

(An Hon. Member spoke off record)

No, I pray. So, I wash my face five times in a day.

Hon. Speaker, we expect that when we introduce the County Allocation of Revenue Bill, at least, the money allocated to Nairobi County Government that has been transferred to the national Government should be shown.

Hon. Speaker, I also urge the Budget and Appropriation Committee to look at the big mismatch... I really want the Chair to listen to me! There is a big mismatch between the nominal Gross Domestic Product (GDP) growth in our country and the revenue projections. The Chair and the National Treasury must tell us. I will give him an example. While our nominal GDP growth rate is expected to grow by 12.1 per cent, the ordinary revenue instead grows at 0.7 per cent. Am I right? So, the Chair and the National Treasury must tell us how come our nominal GDP is growing at 12.1 per cent while the revenue projection is growing at 0.7 per cent? One key question that needs to be answered is what are the major reasons for the declining revenue projection and what is the National Treasury doing about it. This is a question that the Kenya Revenue Authority (KRA) and the National Treasury must answer. Why is our revenue projection not in tandem with the GDP? We need answers.

Off course, we have the coronavirus and climate challenges, just like the locust invasion. Going forward, it would be very prudent to introduce special grants, pursuant to Article 202 of the Constitution. Given that additional allocation from the national Government, the share of revenue allocation should either conditionally or unconditionally be used to mitigate against the effects of climate change.

Kenyans are very much concerned with the sustainability of our debt levels. This is the House that must deal with such issues. Therefore, it follows that in calculating the equitable share between the two levels of Government, there are certain considerations that this House must take into account. This determination has been proven beyond doubt. Secondly, this is subject to public participation. When we were increasing the debt ceiling, one of the conditions that this House gave in a report it adopted was that the Government must do away with commercial borrowing and settle for multilateral borrowing. Has the National Treasury complied with that requirement?

Let me finish with what Hon. Musimba has said. Because of what is going on globally, and because of the declining projections in revenue, the Budget that we are going to pass for both the national Government and the county governments might not be tenable. If it is not tenable, we can reorganise the budgets of the Judiciary and Parliament through a Supplementary Budget.

However, for the county governments, reading Article 219 of the Constitution, once both Houses appropriate money to county governments, you have no choice but to deliver those resources. So, before we get to the Third Reading, I want the Chair of the Budget and Appropriations Committee to go into the lobbying room with his friend, Hon. John Mbadi, and talk to the Cabinet Secretary in charge of the National Treasury. We must have an amendment to reduce the Kshs316.5 billion that has been allocated to the county governments.

You cannot give people something you do not have. Let us be very frank. Even the NG-CDF might have issues. So, let us agree that before we get to the Third Reading, you will move an amendment. Notwithstanding that you want to become the next Governor of Kiambu County and your friend, Hon. John Mbadi, wants to be the next Governor of Homa Bay County, amongst many other Members who want to become governors, let us face the reality - you are giving somebody money that you will not raise.

Hon. Speaker, the choice is for this House to make. If we say it is Kshs316.5 billion for the county governments, it must be Kshs316.5 billion. We can cut the budgetary allocations for Parliament, the national Government, and the Judiciary through a Supplementary Estimate. We can bring as many Supplementary Estimates as provided for in law, but we cannot touch the money that will have been allocated to county governments.

(Hon. Owen Baya consulted loudly)

Hon. Speaker, the Member for Kilifi North should speak slowly, particularly when he talks to his party leader. He is not talking to an ordinary Member. He is talking to the Chairman of his party, future governor of Homa Bay County and Chair of the Public Investments Committee (PIC). So, he should talk slowly.

Hon. Speaker, with those many remarks, I beg to second.

Hon. Speaker: The only problem is that the *Hansard* will be confused as to what the Leader of the Majority Party was seconding. That is because at one time he was seconding, then he talked about the Governor of Homa Bay and then the... So, Leader of the Majority, the *Hansard* will have a lot of issues. They may wonder...

(Hon. Marselino Arbelle stood up in his place)

The Member for Laisamis, just take a seat. I hope Members of the House Business Committee will recall their discussion about this business.

(Question proposed)

Hon. John Mbadi.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, as I support this Motion, I want to be very brief and just mention two things because I am sure that Members spoken to the BPS when it was brought here. So, the Division of Revenue Bill is not a significant departure from what we discussed. The amount of money that is being taken to the counties is the same we passed through the BPS. It is the same amount as it was in the previous financial year, and conditional grants with some little deduction.

Hon. Speaker, the issue of Nairobi County must come out clearly. In fact, as the Budget and Appropriations Committee, we are still not clear on how this money is going to be spent or

accounted for. The National Treasury was supposed to appear before us today, but they did not turn up. We hope to hold them to account to explain how exactly the allocation that is meant for Nairobi County to finance the functions that have been taken up by the national Government will be overseen by Parliament. We want to know whether a committee is going to be formed to execute those functions, or whatever is going to be done by the national Government. The funds for those functions will now go back to the national Government. Once that happens, how are those funds supposed to be overseen? Maybe, the National Assembly will have to oversee it because the Senate cannot oversee funds that are being spent by the national Government. Whether those functions were devolved functions or otherwise, still what the Constitution talks about is money allocated to the national Government.

Secondly, there is the issue of possible reduction of revenue. It is true that in our wisdom as the people of Kenya, we decided to cushion counties such that amounts allocated to them cannot be reduced or deducted. They must be released in full. When there is an excess or possible over-collection of taxes, the law is clear that the excess is to be shared on a pro-rata basis between the national Government and county governments. This was for obvious reasons. We were cushioning the counties because they are not responsible for collection of revenue. The national Government is. Therefore, it is their duty.

My colleagues have also mentioned that we are facing extreme unique conditions that may occasion a shortfall of an upwards of 30 per cent. There are people who have talked about 50 per cent but the projected figures as at now is that we may face a shortfall of about 30 per cent of the expected Kshs1.8 trillion revenue as a country. That is over Kshs500 billion. That is something to worry about. However, I do not support reducing the Kshs316.5 billion that is going to the counties. We cannot. This House should call for the National Treasury - if not the President - to come out clearly. The world will face a recession unless this coronavirus ends in a month or so. If it prolongs for a few months, it is obvious that the whole world will face an economic recession. Kenya will be equally hard hit, maybe even beyond the 30 per cent. I prefer the President to take his time. We are currently dealing with an emergency and are trying to save lives, but immediately that is managed - maybe in the next two weeks or so - the President needs to speak to the country. If not the President, then the Cabinet Secretary for the National Treasury should tell us exactly how we will stimulate the economy of this country so that we mitigate the possible effects of this pandemic on our economy, the economy of the region and the world as a whole.

This is where we may need the support of our partners and friends who have stronger economic muscle like the United States of America (USA) and China, where this problem originated from. There is need for canvassing an international intervention to cushion the most vulnerable economies that are more exposed to those shocks. They need support. It is not something that we will address in form of amending the Division of Revenue Bill. It will not work. As a country, we must admit and accept that we have to plead with our bigger brothers to help inject more funding to this economy to jumpstart it. Otherwise, I foresee a situation where our economy may slowly stall like a broken-down vehicle. That would be a disaster for us.

Hon. Speaker: Let us have Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. I rise to support the Division of Revenue Bill that has just been presented to us. In many ways, it is a total replica of what we approved as a House in terms of the BPS. Because I do not want to speak a lot, I will take on one item which has been tabled.

I was surprised when the Leader of the Majority Party was invited to second. I expected him to second, but he seemed to cast doubts on whether we should pass the Bill as it is. I want to share with the House to remove those doubts. Hon. Musimba may have risen and sneaked in something through a point of order to the effect that we will be suffering some revenue shortfall because of COVID-19, the desert locusts and many other issues. That is at the national level. What we need to focus on is the spirit of Article 292 where it states that counties must be insulated from the fluctuations of revenue because they do not have a role in the collection of that revenue. It is up to the national Government to do what it needs to to ensure that counties operate.

The Constitution does not look at Article 292 in terms of just splitting what you have as revenue. There are many other provisions that state that in the splitting of revenue, you must also look at the needs at the county. You must look at the functions that have been delegated or devolved to the counties. There are 14 functions. The Kshs316.5 billion may not even be adequate to finance those functions to the full. The counties are always crying. Let us remember that the Kshs316.5 billion is based on last year's allocation. It is not based on the new projected revenues for this year. It is based on last years' allocation, to at least, maintain the status quo because at Kshs316.5 billion, was not enough.

We have devolved those 14 functions to the counties. Whatever happens, they must be able to provide those functions. They provide functions and services at the grassroots level. The impact may not have been noted because there have been some governance challenges. Perhaps, that is where Parliament, through the Senate and the county assemblies, needs to seal all those loopholes so that the money that goes to counties can end up providing better value than it is currently.

The next thing we need to bear in mind - and Hon. Mbadi has alluded to it - is that the national Government has access to other sources of funding. They can borrow and access exogenous shock facilities through the International Monetary Fund (IMF) or through other sources. For example, we have Kshs8 billion pledged for this COVID-19 through the World Health Organisation (WHO) which will not be accessible to the county governments. In the event that revenues fall, it is up to the national Government to look at all the other options to see how we can mitigate on all those issues so that we, at least, deliver services on the ground and if anything, do not compromise or kill devolution.

Even as we are looking at the budget of the national Government, there is still a lot of wastage. Perhaps, this is coming as a blessing in disguise. Let us first of all allocate the Kshs316.5 billion. Let revenues be realistic and let us challenge the national Government to rationalise their spending to live within their means. There are a lot of things that are being done and mega projects that we do not need at this point. When extraordinary circumstances arise, you take extraordinary measures. This is not just in spending but also in cutting costs and making sure you cut your suit according to the cloth you have and not the suit you want to attend that wedding with. I certainly believe that the national Government can still rationalise on spending without affecting the money going to counties.

I urge this House that even as we think of any meetings between now and the Third Reading, we must commit ourselves to, at least, retain the figures we had last year. That is the least we can do for the counties. Anything else we do beyond that will lead to a stifling of the devolved functions. The people who will suffer most are those at the grassroots. There was a reason why we devolved those 14 functions. They are the ones that touch the *mwananchi* on the ground. The water, health, agriculture and livestock issues all touch the common man or woman

on the ground. I would rather we rationalise on those other bigger issues at the national level if the money is not enough through the supplementary budgets.

I said earlier - and I want to repeat it again - that we should not think of the money we are giving to the counties. We know there are challenges. It is only eight years down the line. Devolution is still being tested. We need to strengthen the oversight role. This National Assembly will have to create a role to strengthen the oversight role by collaborating further with the county assemblies and interrogate their budgets and expenditure in a better way. The Senate does not do what it is supposed to do or it is not provided for within the law. County assemblies are a replica of the National Assembly. I believe that this House has a role it can play, so that we can sharpen the oversight roles and duties of the county assemblies to ensure that Kshs316.5 billion plus the conditional grants are utilised in the best way. This will spur development at the counties. Once this is done, it will not only increase the local revenue which is earned by the counties, but it will also generate income to the national coffers through income tax, Value Added Tax (VAT) and investments that counties will attract.

Hon. Speaker, I rest my case. The least we can do today is to pass the Division of Revenue Bill as it is. Let us not try to tamper with it. We will end up with another mediation that will be prolonged. We have 30th April deadline where we will bring in Budget Estimates. You cannot appropriate money without dividing it. If we want to avoid that trouble in future, let us not go back on the commitments that were made within the IBEC framework. Let us live within that so that the National Assembly is not seen as if it is starting premature fights with the National Treasury and counties that will then end up with a protracted mediation to the detriment of the production of the Budget Estimates and the Budget for this year. We already have very many crises. Let us not create another one.

Hon. Speaker, I support the Bill.

Hon. Speaker: You are right on the provisions of Article 202 of the Constitution. According to Article 96(3) of the Constitution, the Senate determines the allocation of the national revenue among counties. The county assemblies deal with levies for dogs and goats' coffins, mortuary, parkways, walkways and repair of bicycles. You are right. There is an organisation for Public Accounts Committees (PACs) both of the National Assembly and the county assemblies. That association needs to be revamped so that the county assemblies can share knowledge and experience of what they are supposed to do with regard to other issues that happen at the counties. That oversight role should still be exercised by the other House constitutionally.

Let us now have the Member for Nambale.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Speaker. I rise to support the Division of Revenue Bill, 2020. I have a few comments to make.

Let me go to the end. We must protect this allocation of Kshs316.5 billion which will go to the counties. It is the same figure running the second year in a row. Inflation will take care of some of it. This means that the allocation will be effectively less than the value of Kshs316.5 billion last year. That is enough correction to force them to tighten their belt. We should not go further.

Secondly, we should remember that the functions that were devolved are the areas where there was an attempt by this Republic to reach 47 million people who are in this country. Those funds will not go into the air. They are utilised by our communities in our villages and towns. I am fully aware of the shortfalls that arise out of mismanagement. First, we shall just talk about figures as if they will end up the way they should, whether in county governments or national

Government ministries and State Departments. I urge very strongly that we protect that figure which has been allocated to the counties.

We have talked about the risks in revenue shortfalls which have been notorious. Every year, the collections are way less than the projections. They, sometimes, end up inadvertently and without sufficient clarity in greater debts because you have to make up for the shortfalls that occur when actual numbers come in. We need to have great spotlight on this. The National Treasury must do that. After all, they have kept Kenya Revenue Authority (KRA) deeply under their wing. They must shine a bright spotlight on KRA which knows what is happening in the rest of the world. They should ask them why year-in, year-out, our aggregate collection of revenue falls short of the GDP. The growth in GDP does not result in the revenues that we expect. According to our GDP, we expect revenue collection to be above 20, 21 or 23 per cent, which means Kshs2.3 trillion rather than Kshs1.8 trillion. There is room there to tighten the belt within the economy. I will not discuss that yet. I will get to the issue of the emergencies that arise. Our projected figure should not be Kshs1.8 trillion. At the very minimum, it should be well above Kshs2 trillion. There is already some headroom there which may have a hidden solution. Perhaps, some revenue is collected but it is not submitted to the National Treasury. If it does, the National Treasury ought to have a satisfactory explanation which they can defend before Parliament as to why they are always below the threshold.

The second point is that we are giving Kshs316.5 billion to the counties second year in a row without reducing it. We know that there has been a lot of discussion on fair amount of abuse in this economy. Most of it is legitimate. There is misuse of resources through outward graft and non-existent projects which we have been told. It happens at the national Government and county governments. First of all, we should let the policy analysts tell us the extent it damages this economy and work out some numbers outside this kind of debate. While we are in this kind of debate, we must look at that effort to reduce the misuse of resources both at the national level and county level. As it has been suggested, it is a matter of great concern that there is almost a complete failure to prosecute the governors in the counties. The evidence which is collected is willfully weak so that the cases can fail. As long as a single governor is not prosecuted for offences related to financial mismanagement, this will become a story. We will lose credibility because it will mean that we are not walking the talk. We should not react to that by cutting back the resources that will be used legitimately to reach our people. We should simply tighten not only the oversight role from Parliament and Senate, but also the oversight from the judicial processes that are expected to occur. We should protect the allocation of money to counties.

Hon. Speaker, the National Treasury must also come out and begin to help. They cannot just cry foul about this. When the CS, National Treasury was appointed last year, he was very clear in his mind. He persuaded many of us that the debt structure that we have is unsustainable and undesirable. He even implied that his predecessors did not give sufficient thought on what it should be. He promised that he would go out of his way as the new CS and we would see results. The debt structure between the short-term and long-term loans would be changed. He went to Washington before the annual meetings. So, we expect that he will come back with a basket full of goodies.

We also have similar issues in domestic borrowing. The National Treasury is caught in a tough place. If you have annual 12-month borrowing, you either have to pay off or roll it over. So, your debt stays. Your debt snowballs and it does not reduce. The CS has to come out and tell this country how much of that he has succeeded to get that will have an effect on 2021 and the near outer years, say, the next three years. If that does not succeed, then we are going to be

caught in a trap where we shall begin to feel and see the consequences of unsustainable debt. This is a real problem that we are facing out there.

Hon. Speaker, last year, we had an unsatisfactory process by how far we dragged out. I strongly suggest that this be approved as it is, in terms of the allocation to the counties and that, we should put the CS Treasury under fire for him to tell us how much he can squeeze out of KRA which is under his wing and what dividends we are going to get in debt restructuring.

With those few remarks, I support.

Hon. Speaker: The Member for Endebess, you may proceed.

Hon. (Dr). Robert Pukose (Endebess, JP): Hon. Speaker, considering that the Division of Revenue Bill was discussed during the BPS extensively, and also taking into account the mood of the House, I stand under Standing Order 95 that the Mover be called upon to reply.

(Laughter)

Hon. Speaker: Hon. Members, let me test whether what the Member for Endebess is saying is true. He talked about the mood of the House and he said that... The Member for Suba North and that for Nairobi appear to be in a different mood. Let me then test it.

The Member for Endebess rose in his place and claimed that the Mover be called upon to reply.

*(Question, that the Mover be called upon to reply,
put and agreed to)*

Mover, you have the Floor.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you Hon. Speaker. As I reply, there are just two issues. One issue was mentioned by Hon. Musimba in the purported point of order which was basically debate, but it was augmented by what the Leader of Majority Party and a number of Members have said. Indeed, it is true. As we mentioned during BPS, there is likelihood that the revenue projections that we have on the next financial year may not be realised. However, as we say, they are only projections. We are hopeful and optimistic that, maybe, things will improve.

We are hopeful that the Government, through the efforts they have put in under the new CS, Mutahi on the coronavirus pandemic, will bear fruit. I take this opportunity to congratulate the new Cabinet Secretary for Health because he has been very proactive in trying to contain this pandemic. Maybe, its implications in terms of our revenue projections may not be as envisaged, if we manage to contain it. With the long rains expected to begin, the locust menace might go down.

In reply to that issue, you realise that we added a sub-clause to Clause 5 that reads:

“If the actual revenue raised nationally in the financial year exceeds the projected revenue set out in the schedule, the excess revenue shall accrue to the national Government and may be used to reduce borrowing or pay debts.”

Hon. Speaker, as we mentioned, Article 219 of the Constitution protects the county governments in terms of what we appropriate to them under this Division of Revenue Bill. Therefore, it is also important that we also protect the national Government in case there is any excess raised nationally.

With that, I beg to reply.

Hon. Speaker: Order Members!

(Hon. David ole Sankok hurriedly walked into the Chamber)

001, I better allow you to...

(Laughter)

If we are to have the parliamentary games, I think Hon. Sankok has made a case for the introduction of the paraplegic aspect.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House today by leave of the House)

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Speaker (Hon. Muturi) left the Chair]

IN THE COMMITTEE

[The Chairman (Hon. Moses Cheboi) took the Chair]

THE DIVISION OF REVENUE BILL

Hon. Chairman: Hon. Members, we are now in the Committee of the whole House to consider the Division of Revenue Bill.

(Clauses 3, 4 and 5 agreed to)

(Schedule agreed to)

Clause 2

Hon. Chairman: Leader of the Majority, you may proceed.

Hon. Aden Duale (Garissa Township, JP): Hon. Chairman, I want to go on record in the Committee of the whole House, based on what is happening domestically and globally, in the event that revenue projections go down, the county governors should rise to the occasion and be part of the conversation and the cuts that will happen across board and across all sectors of Government.

I beg to support.

Hon. Chairman: Very well.

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

I now call upon the Mover to move the Reporting.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Chairman, I beg to move that the Committee doth report to the House its consideration of the Division of Revenue Bill, (National Assembly Bill No.3 of 2020) and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. Patrick Mariru) in the Chair]*

REPORT AND THIRD READING

THE DIVISION OF REVENUE BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Members. Shall we have the Chairperson?

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Division of Revenue Bill, National Assembly Bill No.3 of 2020 and approved the same without amendments.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Mover of the Bill, Hon. Ichung'wah.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee of the whole House in the said Report.

I request Hon. Chris Wamalwa to second the Motion for agreement with the Report of the whole House.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Hon. Temporary Deputy Speaker, I beg to second. To emphasise, as my other colleagues have mentioned, Kenya is now facing a crisis. With an extraordinary crisis, we need extraordinary measures.

(Loud consultations)

(Hon. John Mbadi and Hon. Junet Nuh moved from their places)

We call upon the “future governors”, wherever they are, that they must adjust their spending.

(Loud consultations)

Thank you, Hon. Temporary Deputy Speaker. I beg to second.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Members! Order, Leader of the Minority Party! I wondered why the Leader of the Minority Party moved from Hon. Wamalwa. It is just a voice.

(Question proposed)

Hon. Members: Put the Question.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Is it the mood of the House that I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Mover.

Hon. Kimani Ichung’wah (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the Division of Revenue Bill, National Assembly Bill No.3 of 2020 be now read the Third Time.

I request Hon. Junet Mohamed to second since the Member who seconded the other Motion seems to have a problem with his voice. Maybe, that is why Hon. Junet moved away from him.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Speaker, I beg to second.

I am seriously worried. What I saw here is not normal. I am really worried. This man should be put in the first quarantine in Mbagathi. His voice is coming from deep inside his stomach.

(Laughter)

This is one serious coronavirus case. I am told he was in Italy recently where he went to see the Pope at the Vatican. I think this man is sick. We should report him.

(Loud consultations)

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I want to confirm that the National Assembly has complied with the law that we must pass this Bill within ten days. I want to go on record that despite the emergency of the coronavirus that is going on, the budget-making process has constitutional timelines. So, the Cabinet Secretary, National Treasury and Planning, if he is listening to me, should submit the Estimates by 30th April 2020. He must submit the Finance Bill by 30th of April with or without the coronavirus.

Finally, the Hon. Member, the Chairman of the Catholic Members of Parliament, a man I have a lot of respect for, should know that one of the symptoms of (Covid 19) is sore throat. We have doctors here. The more he sits here, the more he risks our lives. Just like the way those who came from London had to walk away, let him, please, leave the Chamber. He is sitting next to two senior Members of one of the biggest political party. We do not want to lose them.

(Loud consultations)

Hon. Temporary Deputy Speaker, you should allow Hon. Chris Wamalwa, instead of going to the next quarantine hospital, which is Mbagathi, he is better off staying with his wife and children.

I beg to support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is it Hon. Pukose?

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Speaker, you know Hon. Junet and Hon. Mbadi pay visits to *Baba* frequently. Having sat close to Dr. Chris Wamalwa, they have to be quarantined for the next 14 days because we do not want *Baba* to get any problem from them.

(Laughter)

I am speaking as a doctor. So, the two must self-quarantine. We want to make sure that *Baba* is safe.

Hon. Temporary Deputy Speaker, we want to move to the next business of the House. Please, put the Question, under Standing Order No.95.

(Laughter)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, is it the mood of the House that I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, there being no other business and the time being 4.17 p.m., and pursuant to the resolution of the House in this

Sitting, the House stands adjourned until today, Tuesday, 17th March 2020, at 4.30 p.m. That is in the next 13 minutes.

The House rose at 4.17 p.m.