Approved for tabling, [illegible] SNA 19/3/19

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT

THIRD SESSION

BUDGET AND APPROPRIATION COMMITTEE REPORT

REPORT ON THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2019)

MARCH, 2019

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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 Budget and Appropriations Committee held one meeting to consider the Division of Revenue Bill, 2019 (DoRB, 2019). The Committee noted that the DoRB, 2019 has been derived from the House resolution of the committees report on the Budget Policy Statement and the Debt Management Strategy for 2019/20 and the medium term and this is in accordance with the requirement of the provisions of Standing Order 232(8) (a).

Further, **Mr. Speaker**, during the consideration of the Budget Policy statement, the Committee held consultative meetings on the vertical allocation of resources with various stakeholders who include the Council of Governors, Commission on Revenue Allocation and the National Treasury.

The Division of Revenue Bill (National Assembly Bill No. 11 of 2019) was read a first time during the afternoon sitting of Tuesday, March 12th, 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 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 firming up and completion of preparation of the annual budget estimates for the forty-seven (47) county governments. It is therefore in the spirit and letter of Article 224 of the Constitution which requires that County Government will prepare and adopt their annual budgets and appropriations bills based on the approved DoRB that we timely dispense with its approval and subsequent enactment thus facilitating the county governments budgeting process to go on undisrupted.

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 (National Assembly bill no. 11 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 provide 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:

1. Investigate, inquire into and report on all matters relating to coordination, control and monitoring of the national budget,
2. Discuss and review the estimates and make recommendations to the House,
3. Examine Budget Policy Statement, Medium Term Debt Strategy Paper and Division of Revenue Bill (DORB) presented to the House,
4. Examine Bills related to the national budget, including Appropriations Bill, and
5. 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:

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.
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 Chepngetich Koskey, M.P.
22) Hon. James Gichuki Mugambi, M.P.
23) Hon. (Dr.) John K. Mutunga, M.P.
24) Hon. (Eng.) Mark Nyamita, M.P.
25) Hon. Paul Abuor, M.P.
26) Hon. Qalicha Gufu Wario, M.P.
27) Hon. Wagari Mwaniki, M.P.

THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2019)

The Division of Revenue Bill (National Assembly Bill No. 11 of 2019) was read a first time during the afternoon sitting of Tuesday, March 12th, 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 firming up and completion of preparation of the annual budget estimates for the forty-seven (47) county governments. It is therefore in the spirit and letter of Article 224 of the Constitution which requires that County Government will prepare and adopt their annual budgets and appropriations bills based on the approved DoRB that we timely dispense with its approval and subsequent enactment thus facilitating the county governments budgeting process to go on undisrupted.

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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. 11 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: 19/3/2019

A. INTRODUCTION:

1. **Mr. Speaker,** The Division of Revenue Bill (National Assembly Bill No 11 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 indicative sharable revenue, national government share of revenue, county equitable share of revenue, conditional grants and the Equalization fund. The equitable share of revenue to counties is shared using the formula approved under Article 217 of the Constitution.

2. **Mr. Speaker,** Article 202 of the Constitution, expressly makes obligatory for the nationally raised revenue to 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,** The Constitution sets out the criteria in determining the equitable shares and it recognizes that the national government must meet all the national interest as well provide for public debt and other national obligations. Thus, in evaluating the DoRB, 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 factored in.

B. THE CONTENTS OF THE DIVISION OF REVENUE BILL, 2019

4. **Mr. Speaker,** The Budget Policy Statement being precursor to the Annual Division of Revenue Bill sets the fiscal framework in relation to equitable revenue sharing between the two levels of government. The National Assembly adopted its report on the 2019 Budget Policy Statement (BPS) recommending total shareable revenue of Kshs. **1,**

561,416, Million, Kshs. 5,760 Million for the Equalization Fund and Kshs. 310,000 Million for County Equitable share.

5. Furthermore, **Mr. Speaker**, from the National Government share of revenue the DoRB, 2019 has provided for additional conditional allocations to the counties which amount to Kshs. **13,911 Million**. These allocations have been earmarked for the following purposes:
    a. *Leasing of Medical Equipment (Kshs. 6,200 Million);*
    b. *Compensation for user fees forgone (Kshs. 900 Million);*
    c. *Level 5 hospital (Kshs. 4,326 Million);*
    d. *Supplement for construction of county headquarter Kshs. 485 Million); and*
    e. *Rehabilitation of Youth Polytechnics (Kshs. 2,000 Million).*

C. COUNTY GOVERNMENT ALLOCATIONS

6. **Mr. Speaker,** the DoRB, 2019 proposes to allocate Kshs **371, 600** million to County Governments as follows:
    i. *County equitable share (Kshs 310 million);*
    ii. *Additional conditional allocations from the share of the National Government (Kshs. 13,911 Million);*
    iii. *Allocation from Fuel levy Fund Kshs. 8,984 million; and*
    iv. *Conditional allocations from loans and grants (Kshs. 38,704).*

D. THE CONDITIONAL ALLOCATIONS TO THE COUNTY GOVERNMENTS:

7. 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.

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

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. This grant has been reduced from an allocation of Kshs. 2.3 billion in financial year 2018/19 to Kshs. 1.4 billion in financial year 2019/20.

ii) **Kenya Devolution Support Program (KDSP) Performance ("level 2") Grant amounting to Kshs. 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 Kshs. 4 billion in financial 2018/19 to Kshs. 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 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. This additional conditional allocation has reduced to Kshs. 2.99 billion in the financial year 2019/20 from Kshs. 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 Kshs. 7.2 billion (World Bank credit):** - This additional conditional allocation, which in FY 2018/19 amounted to Kshs. 1.05 billion is expected to increase to Kshs. 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 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:** - 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) - 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. This grant will decrease from an allocation of Kshs. 1,854 million in financial year 2018/19 to Kshs. 396 million in financial year 2019/20 because the allocation in financial year 2018/19 included a balance of Kshs. 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 Kshs. 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 Kshs. 3.8 billion in financial 2018/19 to Kshs. 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- Kshs. 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) - Kshs. 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) - Kshs. 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.

F. FINANCIAL MANAGEMENT AND DIVISION OF REVENUE

8. **Mr. Speaker,** cumulatively from financial year 2013/14 a total of Kshs. 1,767.3 billion has been allocated to the county governments from the nationally raised revenue. Substantial resources have also been allocated to the national government. However, there are concerns that we are not getting value for money.
9. **Mr. Speaker,** it worth noting that despite substantial resources having been transferred to both National and County Governments annually, since 2013, 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. Most of these allocations are spent on salaries and wages, travel both domestic and foreign, use of goods and services, and other operations and maintenance.

G. RECOMMENDATION ON SHARING OF REVENUE FOR FINANCIAL YEAR 2019/20 BY THE COMMISSION ON REVENUE ALLOCATION

10. **Mr. Speaker,** Article 205 of the Constitution requires for consultations on financial legislation affecting counties and in particular the consideration of the recommendations of the Commission on Revenue Allocation (CRA). To this end, the Committee held two meetings with the CRA in regard to their recommendations on equitable shares of revenue between national and county Governments for Financial year 2019/20. During the consultative meetings the committee was informed that the Kshs. 304.9 billion indicated as the county government allocation for FY 2018/19, is not underpinned by law and therefore the baseline allocation should have been retained at Kshs. 314 billion.

11. In this regard, the commission recommended in the FY 2019/20 that National Government be allocated Kshs. 1.52 trillion, county governments Kshs. 335.7 billion (Kshs. 314 billion inclusive of Kshs. 21.7 billion inflation adjustment) and Equalization Fund Kshs. 5.2 billion.

12. In addition, **Mr. Speaker**, the CRA proposed Kshs. **35,689 million** for conditional allocations to county governments as follows:

Table 1: CRA recommendations on Conditional Grants

1	*Level 5 hospital*	*Kshs. 4,500 Million*
2	*Free maternity Health care*	*Kshs. 4,300 Million*
3	*Compensation for user fees forgone*	*Kshs. 900 Million*
4	*Leasing of Medical Equipment*	*Kshs. 9,400 Million*
5	*Road Fuel levy Fund*	*Kshs. 8,984 million*
6	*Development of Youth Polytechnics*	*Kshs. 2,000 Million*
7	*Supplement for construction of county headquarter*	*Kshs. 605 Million*
8	*Establishment of two Regional Cancer Referral Centers*	*Kshs 5,000 Million*
9	*New Conditional Transfers for Financing of 5 cities*	*Kshs. 5,000 million*

13. The new conditional grant of Kshs. 5 billion is meant to finance five cities in Kenya namely: Nairobi, Mombasa, Kisumu, Nakuru and Eldoret. The Cities are centers of growth and generate economic growth and provide unique services to the residents. The unique services provided by the cities include: provisions of sewerage systems, solid waste disposal and storm water drainage and management.

H. COMMITTEE OBSERVATIONS:

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

14. The committee observed that the Commission on Revenue Allocation (CRA) has proposed a new conditional allocation of Kshs. 5 Billion from the National Government Revenue, that will address the unique service needs in five cities as per the Urban Areas and Cities Act, 2011(Nairobi, Mombasa, Kisumu, Nakuru, and Eldoret).Other proposals also include the establishment of two Regional Cancer Referrals Centers. These are indeed pertinent proposals, however, due to the constrained fiscal framework for FY 2019/20, it will be difficult to allocate additional resources as conditional grants to counties and may be considered for the next financial year. In addition, for FY 2019/20, counties will be able to benefit from the Kenya Urban Support Programme of Kshs. 11.5 Billion from the World Bank, with the exception of Nairobi and Mombasa.

15. The committee observed that there are special allocations in the conditional grants and in order to ensure that there is value for money, there is need for enhanced role of the legislature. As such, the committee during the next public hearings, will endeavor to visit some of the counties to evaluate the value for money of such conditional grants, to assess whether we have achieved our targets as per the proposals and justification that formed the basis for resource allocation to these areas.

16. Committee notes that over the years substantial resources have been transferred to counties in line with the constitutional imperative of resourcing devolved functions. However, and account on Auditor General, Controller of Budget and indeed Parliamentary reports, there is concern of also growing fiduciary risks on county resources due to misapplication and mismanagement of scarce county resources which, if left unchecked, may curtail the essence of devolution.

17. Indeed, the Auditor General reports indicate that fiduciary risk at the counties is high in most counties ranging approximately between 50 percent to 80 percent. In addition, total pending bills, which are simply outstanding obligations owed to SMEs and individuals, amounted to Kshs. 108.41 billion by end of FY 2017/18, reflective of increasing trend to the extent of creating budget inflexibility in the near future especially for affected counties.

I. COMMITTEE RECOMMENDATION

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

    1. The National Government Kshs. 1, 561,416 Million; and
    2. County Allocations Kshs. 310, 000 million.

19. **Mr. Speaker,** the Committee request the House to approve the Division of Revenue Bill, 2019 be read a second time. Thank you.

Members attendance list

Budget and Appropriations Committee: Date.19/3/2024... Time.10:30AM 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.	Hon. Owen Yaa Baya, M.P.	
29.		
30.		
31.		

MINUTES OF THE 80th SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD ON 14th MARCH 2019, AT SMALL DINNING, NEW WING, MAIN PARLIAMENT BUILDINGS AT 10:30 AM

PRESENT:

1) **Hon. Kimani Ichung'wah, CBS, M.P. – Chairperson**
2) **Hon. Moses Lessonet, M.P – Vice Chairperson**
3) Hon. Richard Onyonka, M.P.
4) Hon. (Dr.) Makali Mulu, M.P.
5) Hon. (Dr.) Gideon Ochanda, M.P.
6) Hon. (Dr.) Korei Ole Lemein, M.P.
7) Hon. Benard Masaka Shinali, M.P
8) Hon. Naisula Lesuuda, OGW, M.P.
9) Hon. Florence Chepngetich Koskey, M.P.
10) Hon. Fatuma Gedi Ali, M.P.
11) Hon. Wangari Mwaniki, M.P.

ABSENT WITH APOLOGY:

1) Hon. (CPA) John Mbadi, EGH, CBS, M.P.
2) Hon. Millie Odhiambo, M.P.
3) Hon. James Mwangi Gakuya, M.P.
4) Hon. Moses Kiarie Kuria, M.P
5) Hon. Jude Njomo, M.P.
6) Hon. Bady Twalib Bady, M.P.
7) Hon. Samwel Moroto, M.P.
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13) Hon. Paul Abuor, M.P.
14) Hon. (Dr.) John K. Mutunga, M.P
15) Hon. John Muchiri Nyaga, M.P
16) Hon. Qalicha Gufu Wario, M.P.

INVITED MEMBERS OF PARLIAMENT

1. Hon. Jeremiah Kioni, M.P.
2. Hon. Gideon Keter, M.P.

PARLIAMENTARY BUDGET OFFICE

1) Ms. Lucy Makara	Chief Fiscal Analyst
2) Mr. Jonathan Lemurt	Fiscal Analyst III

COMMITTEE SECRETARIAT

1) Mr. Danson Kachumbo	Fiscal Analyst II/ Clerk
2) Ms. Clarah Kimeli	Legal Officer
3) Mr. Joram Barasa	Office Assistant
4) Ms. Hakeem Kimiti	Audio Officer

AGENDA

1) Preliminary & Adoption of the Agenda
2) Confirmation of Minutes
3) Discussion and Consideration of the following legislative proposal;
    i. *The IEBC (Amendment) Bill 2018, proposed by Hon. Jeremiah Kioni, M.P.*
    ii. *The Higher Education Loans Board (Amendment) Bill 2018, proposed by Hon. Gideon Keter, M.P.*
    iii. *The Division of Revenue Bill, 2019 (National Assembly Bill No. 11of 2019)*

4) Any Other Business

MIN BAC/80/2019/01: PRELIMINARY & ADOPTION OF THE AGENDA

The Vice- Chairperson welcomed the members to the meeting and called the meeting to order at 10:50 A.M. He informed the Committee that both the Chairperson was running a little late but will join the Committee later. Thereafter, Hon. Naisula Lesuuda, M.P. prayed. The Vice-Chairperson welcomed Parliamentary Budget Office (PBO) to brief the Committee on their analysis on the IEBC (Amendment) Bill 2018, proposed by Hon. Jeremiah Kioni, M.P.

MIN BAC/80/2019/02: CONFIRMATION AND ADOPTION OF THE PREVIOUS MINUTES

The committee confirmed the minutes of 79th Sitting held on 12th March 2019. The set of minutes was proposed by Hon. (Dr.) Gideon Ochanda, M.P. and seconded as true reflection by Hon. Richard Onyonka, M.P.

MIN BAC/80/2019/03: THE IEBC (AMENDMENT) BILL 2018, PROPOSED BY HON. JEREMIAH KIONI, M.P.

During the presentation, the committee was informed that;

The legislative proposal seeks to amend the Independent Electoral and Boundaries Commission Act of 2011 with a view to reduce the number of Commissioners from the Current six Commissioners to four Commissioners.

Secondly the Bill seeks to amend the fifth schedule of the principle Act by deleting the title of the Schedule to read "procedure after delimitation of electoral units" and deleting sections 1, 2 and 3 with a view to align the Schedule to Section 36 of the principle Act.

Section 5 of the Principle Act which the Bill endeavours to amend provides for the composition and appointment of Commissioners. The Act indicates that the Commission shall consist of a chairperson and six other members appointed in accordance with Article 250 (4) of the Constitution.

Article 88 of the Constitution provides for the delimitation of electoral units by the Independent Electoral and Boundaries Commission. It indicates that there shall be review of the names and boundaries of constituencies at intervals of not less than eight years and not more than twelve years, but any review shall be completed at least twelve months before general election of members of parliament. It provides that the Commission shall review the number, names and boundaries of wards respectively.

Previously, before the operationalization of the 2010 Constitution boundaries review was the function of an independent commission from the electoral body hence the reliance on its report. The Constitution and the IEBC Act have now given such roles to the Independent Electoral and Boundaries Commission making the Sections related to review of delimitation of boundaries.

1. **On the Situational Analysis, the committee was informed that:** The Constitution in Article 88 establishes the Independent Electoral and boundaries Commission.
2. The Act provides for provisions relating to the conduct of business and affairs of the commission. The Act provides that the chairperson Commission shall, on the written application of one third of the members, convene a special meeting of the commission. The Act also provides that the quorum for the conduct of business at a meeting of the commission shall be at least half of the existing members of the commission, provided that the quorum shall not be less than three members.

The Commission is funded through exchequer appropriation as shown by the annual allocations in table 1

Table 1; Historical Budgetary allocations to the Independent Electoral and Boundaries Commission.

Vote & Vote Details	Approved Allocation				Ceiling	Allocation	Projections	
	2014/15	2015/16	2016/17	2017/18	2018/19	2018/19	2019/20	2020/21
203 Independent Electoral & Boundaries Commission	6,973	4,976.2	23,617	33,372.7	4,839	4,234	5,691.9	5,838.7

Source: FY 2018/19 Estimate, National Treasury

The annual budgetary allocations as shown in the table above indicate an increase towards the general elections and a decrease thereafter.

The amendment to Section 5 of the principle Act in its essence seeks to reduce the number of Independent Electoral and Boundaries Commissioners from the current six to four. This means that the remunerations and privileges including salaries and allowances currently entitled to by the two commissioners will have to be forgone indicating that there shall be significant variation to the Consolidated fund services where independent office holders draw their salaries.

The gross monthly salary of a commissioner of the Independent Electoral and Boundaries Commission is Ksh. 792, 000 as per the gazette notice 2885 of 2013.

Financial implication

The enactment of the amendment implies that, the number of Commissioners appointed to the Independent Electoral and boundaries Commission shall reduce by two.

Basis for costing

- The starting monthly gross salary of a commissioner is Ksh. 792, 000
- The costs of maintaining a single commissioner is Ksh. 500, 000 per month. This includes staff and office operations.

Table 2 Table of cost estimates.

Cost unit	Amount/unit/year (Ksh.)	No. of units	Total (Ksh)
commissioner	9,504,000	2	19,000,800
Office operations	6,000,000	2	12,000,000
Total saving			31,000,800

Table 3

VOTE	**PROJECTED ALLOCATIONS (Ksh. millions)**	
YEAR	**2020/21**	**2021/22**
2019 BPS projections	4,954	5,122.4

Less	31	31
	4923	5091.4

COMMITTEE DELIBERATION:

After deliberations, the Committee recommended that the draft Bill proceeds as drafted.

MIN BAC/80/2019/04: THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL 2018, PROPOSED BY HON. GIDEON KETER, M.P.

The presentation from Parliamentary Budget Office Highlighted that:

The Higher Education Loans Board (Amendment) Bill, 2018 proposes to amend the Higher Education loans Board Act, 1995. The objective of the amendments is to introduce changes regarding the rate of interest to be charged on the principal amount advanced to a loanee. The draft Bill proposes to exempt from interest charged on the principal amount advanced to the youth, women and persons with disabilities until they have secured their first employment upon completion of studies. The Bill further proposes to put a cap to the rate of interest charged by the board on the principal amount at not more than two per cent per annum.

A. SITUATIONAL ANALYSIS

The Higher Education Loans Board Act, 1995 establishes the Higher Education Loans Management Board. One of the functions of the Board is; to set criteria and conditions governing the granting of loans including the rate of interest and recovery of loans. The loans are advanced from the higher education loans fund established by the Act.

The eligibility criteria for the loans advanced by the board are such that any citizen of Kenya who has attained minimum entry requirements and has been admitted to a recognized institution of higher education to a full-time course of at least one year's duration.

The government subsidizes the actual cost of interest charged on student loans and therefore the rate is relatively lower as compared to commercial loans. The rate of interest charged on the loans advanced by the board from the fund is determined by the board and at present the rates vary depending on the category of beneficiary. The categories and the rate charged include; -undergraduate-direct entry (4% per annum), continuing education (salaried students) (12% per annum) TVET loan (4% per annum) among others. For all categories, the interest starts to accrue after the first disbursement.

The Higher Education Loans Board has been receiving government allocation since the financial year 1999/2000 with an allocation of Kshs. 700M that year. By 2015/2016 the allocation had increased to Kshs 4.9 billion.

The latest audited accounts indicate that the total budget for the year amounting to Kshs. 10.854 billion financed from two sources. The exchequer allocation was Kshs .6.533 billion representing 60% and loan recoveries of Kshs 3.9 billion representing 37%. The balance of 3% was financed from other sources including interest from investment income, miscellaneous income and devolved funds mainly from the constituency.

In 2015/2016 HELB financed a total of 197,436 students at a cost of Kshs.8.03 billion. The audited accounts indicate that, the exchequer flows to HELB did not grow in tandem with increase in the number of students admitted in institutions of higher learning. On the other hand, a loan recovery which is the other source of the revolving fund cash flow does not completely compliment the total students' loan budget.

HELB has been experiencing challenges in financing the increased number of students with an increase in the number of defaulters. The board gives students a grace period of one year from the date of school completion, after which they are expected to start payments.

It is noted, that among young Kenyans who join employment every year, only one in five get formal jobs, the rest join the informal sector or engage in an occupation that doesn't earn them a wage. Majority of the beneficiaries stay without jobs for upto more than five years. This makes them unable to start their monthly repayments. The situation is even worsened by the monthly penalty of Ksh. 5000 that HELB charges upon expiry of the grace period. By the year 2017 HELB had 85,000 owing sh.9.6 billion.

B. Financial implications

Financial implication (Reduction in amounts payable by student)

Scenario 1

Assumptions

1. The average amount of loan disbursed to a student is Ksh.200, 000.
2. The interest rate is 4%
3. Loan period is 5 years after completion of school.

Table 1; interest

Loan amount	Interest rate	Period	Interest amount
200,000	4%	5yrs	22,090.17

Scenario 2

Assumptions

1. The average amount of loan disbursed to a student is Ksh.200,000
2. The interest rate is 2%
3. Loan period 5 years after completion of school.

Loan amount	Interest rate	Period	Interest amount
200,000	2%	5yrs	10,870.44

Discussion

In the status quo a loan of Ksh.200, 000 accrues an interest of Ksh. 22,090.17 in five years while at the proposed interest rate of 2% the loan of similar amount with similar period accrues an interest of Ksh.10, 870.44. This results to an interest saving of Ksh11, 219.73 beneficiaries.

Financial implication (Reduction of Interest Revenue collectable by HELB)

Assumptions

1. Number of students advanced loans every financial year is 50,000
2. Average amount advanced by the time of completion is Ksh. 200,000
3. Repayment period is five years.

Table 1; Possible total interest reduction (Ksh.)

Loan amount	200,000
Interest at 4% p.a	22,090.17
Interest at 2% p.a	11,219.73
a) Reduction /beneficiary	10,870.44
b) No.of beneficiaries	50,000
Total interest reduction (a*b)	543,522,000

The amount of interest revenue collected by the Board shall reduce by about Ksh. 543 million (per cohort of beneficiaries) due to the proposed reduction in the rate of interest from 4% p.a to 2% p.a. The interest income may further reduce depending on the number of youths, women and persons with disability who benefit from HELB and do not secure employment (the proposed rate for these groups is zero). The Board may call for additional exchequer allocation to cover the shortfall

COMMITTEE DELIBERATION:

After deliberations, the Committee recommended that the draft Bill proceeds with the following amendments:

i. That the rate of interest to be charged on the principal amount advanced to a loanee be 3 percent and not 2 percent as proposed in the legislative proposal and;

ii. The penalties applicable every month for late payment should only apply to a defaulter already in gainful employment. A beneficiary without gainful employment be given a grace period of five years after completion of school before the monthly late payment penalties applies.

MIN BAC/80/2019/05: THE DIVISION OF REVENUE BILL, 2019 (NATIONAL ASSEMBLY BILL NO. 11 OF 2019)

A. THE DIVISION OF REVENUE BILL, 2019

1. Article 218 of the Constitution provides for the submission of the Division of Revenue Bill and the County Allocation of Revenue Bill to Parliament, at least two months before the end of each financial year. In furtherance of Article 218, section 191 of the Public Finance Management Act, 2012, provides that each year when the Budget Policy Statement (BPS) is introduced, the Cabinet Secretary shall submit to Parliament a Division of Revenue Bill (DoRB) and County Allocation of Revenue Bill (CARB) prepared by the National Treasury for the financial year to which that Budget relates.

2. The BPS being precursor to the Annual Division of Revenue Bill sets the fiscal framework in relation to equitable revenue sharing between the two levels of government. The National Assembly adopted its report on the 2019 Budget Policy Statement (BPS) recommending a projected share of Kshs.

3. equitable share of revenue of Kshs 310.0 billion to the county governments and Kshs. 1,561.42 billion to the national government. The adoption of the BPS Report paved way for the publication and subsequent introduction of the Division of Revenue Bill, 2019 in National Assembly. The raised nationally revenue is therefore proposed to be shared as follows;

Table 1: Allocation of Revenue raised Nationally among National & County Governments for Financial Year 2019/20

Item	2019/20
Total Shareable Revenue	1,877.18

*National Government**	1,561.42
County Equitable Share	310.00
Equalisation Fund	5.76
GOK Conditional Grants	***13.91***
o/w	
Leasing of Medical Equipment	6.20
Compensation for user fees foregone	0.90
Level 5 Hospitals	4.33
Rehabilitation of Village Polytechnics	2.00
Construction of County HQs	0.48
*Free Maternal Health Care**[1]	-
Allocation from the Fuel Levy (15%)	**8.98**
Allocation from Loans and Grants	**38.70**
Total Allocations to Counties	**371.60**

4. It's worth noting that in the Current financial year, the equitable share is Kshs. 314 Billion. However, the National Treasury has in the Budget Review and Outlook Paper (BROP), 2018 proposed a reduction of Kshs. 9.04 billion for equitable revenue share for county governments. The adjustment is informed by revenue shortfalls as previous witnessed. Therefore, the base for equitable share of revenue is Kshs. 304.9 Billion.

5. To insulate 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 Government, to the extent of the threshold determined by the Cabinet Secretary, National Treasury.

B. Conditional Allocations to County Governments for FY 2019/20

a) The GoK Conditional Allocations to the County Governments:

6. 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

[1] ** 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*

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 2017/18 whose purpose is to support construction of offices in five[2] (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:

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.

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[2] Isiolo, Lamu, Nyandarua, Tana- River and Tharaka- Nithi,

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% 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.

b) **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 3.6 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 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 there was a need to audit the projects being funded with conditional grants from the National Government. It was agreed that during FY 2019/20 public hearings the Committee shall endeavour to visit some of the projects to evaluate whether there is value for money. The Committee was informed that the said Bill was in the order paper, therefore members were encouraged to be in the House so as to support the Bill.

<u>MIN BAC/80/2019/6: ANY OTHER BUSINESS & ADJOURNMENT</u>

There being no other matters to consider, the meeting was adjourned at 1:00 PM till 19th March, 2019 at 10:30 AM.

SIGNED

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

19/3/2019.

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DATE

MINUTES OF THE 81TH MEETING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD ON 19TH MARCH 2019, AT SMALL DINNING, NEW WING, MAIN PARLIAMENT BUILDINGS AT 10:30 AM

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. Moses Kiarie Kuria, M.P
6) Hon. Samwel Moroto, M.P.
7) Hon. (Dr.) Makali Mulu, M.P.
8) Hon. Millie Odhiambo, M.P
9) Hon. Jude Njomo, M.P.
10) Hon. Sakwa Bunyasi , M.P
11) Hon. James Mwangi Gakuya, M.P.
12) Hon. Naisula Lesuuda, M.P
13) Hon. Sarah Paulata Korere, M.P.
14) Hon. Florence Chepngetich Koskey, M.P.
15) Hon. (Dr.). Gideon Ochanda, M.P.
16) Hon. Benard Masaka Shinali, M.P
17) Hon. Fatuma Gedi Ali, M.P.
18) Hon. James Gichuki Mugambi, M.P.
19) Hon. (Dr.) Korei Ole Lemein, M.P.
20) Hon. Paul Abuor, M.P.
21) Hon. (Dr.) John K. Mutunga, M.P
22) Hon. John Muchiri Nyaga, M.P
23) Hon. Danson Mwashako, M.P
24) Hon. (Eng.) Mark Nyamita, M.P.

ABSENT WITH APOLOGY:

1) Hon. Wangari Mwaniki, M.P.
2) Hon. Qalicha Gufu Wario, M.P.
3) Hon. Bady Twalib Bady, M.P.

COMMITTEE SECRETARIAT / PARLIAMENTARY BUDGET OFFICE

1) Ms. Phyllis Makau – Director Parliamentary Budget Office
2) Mr. Robert Nyaga – Deputy Director (PBO)
3) Mr. Josephat Motonu - Principal Fiscal Analyst
4) Mr. Chacha Machage - Fiscal Analyst II & Committee Secretariat
5) Mr. Danson Kachumbo - Fiscal Analyst II & Committee Secretariat
6) Mr. Thomas Ogwel - Fiscal Analyst III
7) Mr. Robert Ngetich - Fiscal Analyst III
8) Mr. Joram Barasa – Office Assistant
9) Ms. Christine Maeri – Audio Officer

AGENDA

1) Preliminary & Adoption of the Agenda
2) Confirmation of Minutes
3) Review and adoption of the Report of the Division of Revenue Bill, 2019 (National Assembly Bill No. 11)
4) A.O.B & Adjournment

MIN BAC/81/2019/01: PRELIMINARY & ADOPTION OF THE AGENDA

The Chair welcomed the members to the meeting and called the meeting to order at 10:30 P.M. This was followed by a prayer by Hon. Moses Lessonet, M.P.

MIN BAC/81/2019/02: CONFIRMATION AND ADOPTION OF THE PREVIOUS MINUTES

The committee confirmed the minutes for the 81st sitting in the following manner:

1. Proposer - Hon. Makali Muli, M.P.
2. Seconder - Hon. John Muchiri Nyaga, M.P.

MIN BAC/81/2019/03: ADOPTION OF THE DRAFT REPORT OF THE DIVISION OF REVENUE BILL, 2019 (NATIONAL ASSEMBLY BILL NO. 11)

The committee reviewed the report for the Division of Revenue Bill and adopted the following observations and recommendations:

1. The committee observed that;

i. The Commission on Revenue Allocation (CRA) has proposed a new conditional allocation of Kshs. 5 Billion from the National Government Revenue, that will address the unique service needs in five cities as per the Urban Areas and Cities Act, 2011(Nairobi, Mombasa, Kisumu, Nakuru, and Eldoret). This is indeed a pertinent proposal, however, due to the constrained fiscal framework for FY 2019/20, it will be difficult to allocate additional resources as conditional grants to counties and may be considered for the next financial year. In addition, for FY 2019/20, counties will be able to benefit from the Kenya Urban Support Program of Kshs. 11.5 Billion from the World Bank, with the exception of Nairobi and Mombasa.

ii. There was need to visit some selected counties during public hearings for FY 2019/20 estimates in the month of May, 2019 so as to assess that there is value for money for programs funded under the conditional grants. This will enhance oversight of these allocations by Parliament.

iii. Over the years substantial resources have been transferred to counties in line with the constitutional imperative of resourcing devolved functions. However, and account on Auditor General, Controller of Budget and indeed Parliamentary reports, there is also growing fiduciary risks to county resources due to misapplication and mismanagement of scarce county resources which, if left unchecked, may curtail the essence of devolution. Indeed, the Auditor General reports indicate that fiduciary risk at the counties is as high in most counties ranging approximately between 50 percent and 80 percent. In addition, total pending bills, which are simply outstanding obligations owed to SMEs and individuals, amounted to KSh. 108.41 billion by end of FY 2017/18, reflective of increasing trend to the extent of creating budget inflexibility in the near future especially for affected counties.

2. The Committee recommended that the Bill be approved as follows:
   i. The National Government Kshs. 1, 561,416 Million; and
   ii. County Allocations Kshs. 310, 000 million.

MIN BAC/81/2019/03: ANY OTHER BUSINESS & ADJOURNMENT

There being no other matters to consider, the meeting was adjourned at 12:30 PM.

SIGNED

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

19/3/2019.
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DATE