

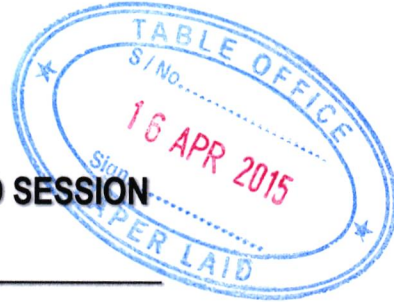
REPUBLIC OF KENYA



Paper Laid
By the Hon. Mutava Musyimi
MP, Chairman, Budget &
Appropriations Committee,
on Thursday, 16th April,
2015, at 2:30pm.
Ms.

PARLIAMENT
OF KENYA
LIBRARY

KENYA NATIONAL ASSEMBLY



ELEVENTH PARLIAMENT - THIRD SESSION

THE BUDGET AND APPROPRIATIONS COMMITTEE REPORT ON THE MESSAGE
FROM THE SENATE ON THE DIVISION OF REVENUE BILL, 2015

15 APRIL 2015

PREFACE

Mr Speaker Sir, following your direction Regarding the Message from the Senate on Division of Revenue Bill (DORB), 2015, I hereby present to the House the Budget and Appropriations Committee Report to that effect. As members are already aware the Division of revenue Bill provides for the Division of nationally raised Revenue between the two levels of government as well as marking out specific resources to be provided to Counties as conditional grants and the Equalization Fund.

Mr. Speaker Sir, the Bill is accompanied by an explanatory memorandum as required in Article 218(2) setting out the explanation of revenue allocation as proposed by the Bill along with the evaluation of the Bill in relation to the criteria mentioned in Article 203 of the Constitution and a summary of any significant deviation from the Commission on Revenue Allocation's recommendations.

Mr Speaker Sir, the Committee has done this pursuant to Article 95 of the Constitution, which provides that the National Assembly has the responsibility of playing a part in the determination of the allocation of national revenue between the levels of government. Specifically, Article 95 (4) provides the mandate by which this House examines the Division of Revenue Bill by stipulating that the National Assembly;

- a) Determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter 12;
- b) Appropriates funds for expenditure by the national government and other State organs; and
- c) Exercises oversight over national revenue and its expenditure.

Mr. Speaker Sir,

It is important to note that this financial year, both Houses of Parliament have been involved in the processing of the Budget Policy Statement which is the precursor the Division of Revenue Bill. In this regard although section 191 and 25(2) of the Public Finance Management Act, 2012, provide for legislative proposal on Division of Revenue is to be submitted to Parliament along with the Budget Policy

Statement by the 15th of February every year it is important that the executive endeavour to submit these documents much earlier to give both Houses sufficient time to process them.

Mr. Speaker Sir, the Budget and Appropriations Committee as currently constituted comprises the following Honourable Members:

- | | | |
|-----|-----------------------------------|-------------------------|
| 1. | Hon. Mutava Musyimi, M.P. | Chairperson |
| 2. | Hon. Mary Emaase, M.P. | Vice Chairperson |
| 3. | Hon. Alfred Sambu, M.P. | |
| 4. | Hon. Benjamin Langat, M.P. | |
| 5. | Hon. Charles Nyamai, M.P. | |
| 6. | Hon. Clement Wambugu, M.P. | |
| 7. | Hon. Jackson Kiptanui, M.P. | |
| 8. | Hon. Jamleck Kamau, M.P. | |
| 9. | Hon. John Mbadi, M.P. | |
| 10. | Hon. Mohamed Shidiye, M.P. | |
| 11. | Hon. Moses Lessonet, M.P. | |
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| 13. | Hon. Nelson Gaichuhie, M.P. | |
| 14. | Hon. Abdikadir Omar Aden, M.P. | |
| 15. | Hon. Abdulaziz Farah, M.P. | |
| 16. | Hon. Alfred Agoi, M.P. | |
| 17. | Hon. Alice Ng'ang'a, M.P. | |
| 18. | Hon. Banticha Jaldesa, M.P. | |
| 19. | Hon. Benjamin Andola Andayi, M.P. | |
| 20. | Hon. Bitok S. Kirwa, M.P. | |
| 21. | Hon. Daniel Nanok, M.P. | |
| 22. | Hon. Dennis Kariuki, M.P. | |
| 23. | Hon. Dr. James W. Nyikal, M.P. | |
| 24. | Hon. Dr. Reginalda Wanyonyi, M.P. | |
| 25. | Hon. Dorcas Kedogo, M.P. | |
| 26. | Hon. Eng. Stephen Ngare, M.P. | |
| 27. | Hon. Fatuma, Ali Ibrahim, M.P. | |
| 28. | Hon. Francis Njenga, M.P. | |
| 29. | Hon. Irshad Sumra, M.P. | |

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35. Hon. Jonathan Lati Lelelit, M.P.
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43. Hon. Patrick Ole Ntutu, M.P.
44. Hon. Peter Weru Kinyua, M.P.
45. Hon. Priscilla Nyokabi, M.P.
46. Hon. Samuel Gichigi, M.P.
47. Hon. Shukran Hussein Gure, M.P.
48. Hon. Silverse Lisamula Anami, M.P.
49. Hon. Suleiman Murunga Kasuti, MP
50. Hon. Tiyah Galgalo, M.P.

Mr. Speaker Sir,

In considering the Division of Revenue Bill, the Committee held two sittings to consider and deliberate on the Message from the Senate. The Committee carefully scrutinised the Message and made all efforts to avert delay in processing Budget related legislations that will unlock county governments' access to finance. The Committee's intention is timely execution to avoid previous situations that led to delays in passage of this critical Bill so that it can pave way for introduction of the County Allocation of Revenue Bill. The Committee is grateful to the Members of Parliament who participated in the process for their diligence and insightful input in making sure that Parliament fulfils its role as provided under Article 95 of the Constitution.

Honourable Members, I would like to remind Members that ideally the enactment of the Division of Revenue Bill should swiftly follow the approval of the report on the Budget Policy Statement. This is in order allow commencement of the preparation of subsequent documents in the budget process which take the cue from the enactment of this Bill. I therefore urge this House to consider and approval The Committee Report Expeditiously in sufficient time to allow the preparation before submission of the Estimates submitted by the 30th of April later this year.

Mr. Speaker Sir,

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



The Hon. Mutava Musyimi, M.P.
Chairman, Budget and Appropriations Committee
15 April, 2015

CONSIDERATION OF THE SENATE MESSAGE ON THE DIVISION OF REVENUE BILL, 2015

1.0. Introduction

- 1) The National Treasury submitted the Budget Policy Statement, the Draft Division of Revenue Bill 2015, the Medium term Debt management Strategy paper, and the County Allocation of Revenue Bill, 2015 to both Houses of Parliament on 13th February 2015. Consequently these Budget documents were formally laid before the respective Houses on the 17th February 2015. It is important to note that the National Assembly adopted the Budget policy statement (BPS) for 2015/16 on 17th March 2015 after taking into account the Resolutions from the Senate on the Budget Policy Statement. In its message to the National Assembly, the senate concurred with the resource envelop and the proposed vertical allocation therein.

- 2) The BPS is the precursor to the Division of revenue Bill since it sets the fiscal framework underpinning the sharing of revenue between the two levels of government.

2.0. Contents of the Division of Revenue Bill passed by the National Assembly

- 3) The initial Division of Revenue Bill, 2015 for FY 2015/16, sets out the Revenue sharing basis by adding the following items to the 2014/15 equitable portion of revenue availed to counties:

CONSIDERATION OF THE SENATE MESSAGE ON THE DIVISION OF REVENUE BILL, 2015

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- 2) The BPS is the precursor to the Division of revenue Bill since it sets the fiscal framework underpinning the sharing of revenue between the two levels of government.

2.0. Contents of the Division of Revenue Bill passed by the National Assembly

- 3) The initial Division of Revenue Bill, 2015 for FY 2015/16, sets out the Revenue sharing basis by adding the following items to the 2014/15 equitable portion of revenue availed to counties:

- i. Allocation for Personnel Emoluments for staff transferred to County Governments from the State Department of Livestock Development amounting to Ksh.1,466 million;
- ii. Allocation of Ksh. 935 million for village polytechnics previously under the Ministry of Education; and
- iii. Allocation of Kshs. 545 million for functions transferred to County Governments vide TA gazette notice of March 2014.

4) This results in a new baseline figure of Kshs. 229.606 billion for FY 2015/16.

The resultant revenue figure of Kshs. 229.606 billion is then grown by a rate of revenue growth of 10.41 percent (Kshs. 23.9 billion). Additionally, there is a provision of Kshs 4.500 billion to cater for Adjustment for increases in salaries and allowance awarded by Salaries and Remuneration Commission (SRC) in 2014/15. The final sum totals to Kshs 258.008 billion

5) The DORB provides conditional grants to counties as follows:

Table 1: Conditional grants to Counties

| Item | Amount (Kshs.) |
|--|-----------------------|
| Free Maternal Healthcare | 4,298, 000,000 |
| Leasing Of Medical Equipment | 4,500,000,000 |
| Allocation For Level 5 Hospitals | 2,064,480,000 |
| Compensation For Forgone User Fees | 900,000, 000 |
| Allocation From The RMFLF (15 %) | 3,3010,000, 000 |
| Conditional Allocations (Loans & Grants) | 10,671,205,204 |
| Grand Total | 25,733,685,204 |

- 6) Taking the above into consideration amounts to Kshs.25,733,685,204 above the approved figures for 2013/14 budget. Thus, an additional of the above to the equitable share, the total allocations to counties in DORB, 2015 eventually increase the total county allocations to Kshs.283,741,685,204 which is equivalent to 37% based on the FY 2012/13 audited revenue account.
- 7) The Original DoRB, 2015, shares a total of Kshs 1,242,700,000,000 being the last audited revenue for 2012/13, between the two levels of Government – the national Government and the County Governments. Out of this, the total county equitable share was set at Kshs 258,008,000,000 while that national government was set at Kshs 978,692,000,000.

3.0. Proposed Senate Amendment to the Division of Revenue Bill, 2015

- 8) The Senate proposes to make amendments to the schedule by deleting the Schedule and substituting therefor with a new Schedule as presented in table 2.

**Table 2: Deviation between the Senate and National Assembly
Recommendations**

| Type/Level of Allocation | Original DoRB by the National Assembly in Kshs (A) | Amended DoRB by the Senate in Kshs (B) | Variation in Kshs C=(B-A) |
|----------------------------------|--|--|---------------------------|
| National Government | 978,692,000,000 | 976,925,500,000¹ | (1,766,500,000) |
| Of which: | | | |
| <i>Free Maternal Health Care</i> | <i>4,298,000,000</i> | <i>4,298,000,000</i> | - |

¹ The CRA recommended adjustments of salaries and allowances for County Assemblies of Ksh. 6.6 billion and County Executives of Ksh. 6.0 billion. The DoRB provided for Kshs 4.5 billion in 2015/16 to cover the cost of increases in salaries and allowances awarded by the SRC in 2014/15. The Senate is proposing additional Kshs 1,766,500,000 to cover at least one half recommended by CRA. This amount is being covered from the National Government's share and added to the County Equitable share.

| Type/Level of Allocation | Original DoRB by the National Assembly in Kshs (A) | Amended DoRB by the Senate in Kshs (B) | Variation in Kshs C=(B-A) |
|--|---|---|----------------------------------|
| <i>Leasing of Medical Equipment</i> | 4,500,000,000 | 4,500,000,000 | - |
| <i>Level-5 Hospitals</i> | 2,064,480,000 | 3,600,480,000 | 1,536,000,000 |
| <i>Healthcare facilities compensation for forgone user fees</i> | 900,000,000 | 900,000,000 | - |
| <i>County Emergency Funds</i> | - | 4,400,000,000 | 4,400,000,000 |
| Equalization Fund | 6,000,000,000 | 6,000,000,000 | - |
| County Equitable Share | 258,008,000,000 | 259,774,500,000 | 1,766,500,000 |
| Total Shareable Revenue | 1,242,700,000,000 | 1,242,700,000,000 | - |
| County Allocations | | | |
| County Equitable Share | 258,008,000,000 | 259,774,500,000 | 1,766,500,000 |
| Conditional Allocations (<i>of which</i>): | 25,733,685,204 | 31,669,685,204 | 5,936,000,000 |
| 1. <i>Free Maternal Health Care</i> | 4,298,000,000 | 4,298,000,000 | - |
| 2. <i>Leasing of Medical Equipment</i> | 4,500,000,000 | 4,500,000,000 | - |
| 3. <i>Level-5 Hospitals</i> | 2,064,480,000 | 3,600,480,000 | 1,536,000,000 |
| 4. <i>Allocation from Fuel Levy Fund (15%)</i> | 3,300,000,000 | 3,300,000,000 | - |
| 5. <i>Healthcare facilities compensation for forgone user fees</i> | 900,000,000 | 900,000,000 | - |
| 6. <i>Conditional Allocations - loans and grants</i> | 10,671,205,204 | 10,671,205,204 | - |
| 7. <i>County Emergency Funds</i> | - | 4,400,000,000 | 4,400,000,000 |
| Total County Allocations | 283,741,685,204 | 291,444,185,204 | 7,702,500,000 |

- i. First, the Senate is proposing to vary these figures by reducing the National Government share by Kshs 1,766,500,000 from Kshs 978,692,000,000 to Kshs

976,925,500,000 and increase the County shareable revenue by a similar amount of Kshs 1,766,500,000. In essence, the equitable share of resources going to counties will increase from Kshs. 258,008,000,000 to Kshs. 259,774,500,000.

- ii. Secondly, the Senate is proposing to increase the conditional allocation to the Level 5 Hospitals by Kshs 1,536,000,000 and this is n Additionally, it was not clear how the additional figure of Kshs 1,536,000,000 was derived and its basis.
- iii. Thirdly, the Senate proposes to increase the conditional allocations to the County by introducing a new item for consideration Kshs 4,400,000,000 to cater for County Emergency Funds.

9) In effect, these increments to Level 5 Hospitals and County Emergency Fund results to total increase of Kshs 5,936,000,000 above the initial Division of revenue Bill had provided for County Allocations. This amount is unfunded and the amendment does not indicate the source of funding to cater for such proposed increased funding requirements.

10) The total net effect on the total County allocations increases by Kshs 7,702,500,000 from Kshs 283,741,685,204 to Kshs 7,702,500,000. However, part of this is off-set by the proposed reduction of the National Government share of sharable revenue amounting to Kshs 1,766,500,000 and increasing the County equitable share.

DISCUSSION OF THE AMENDMENTS BY THE SENATE

4.0. Emerging Issues

11) The Senate approved the Budget Policy Statement which is the basis of the Division of Revenue Bill, and did not raise any matter related to the set sharable

revenue between the levels of government as set out in the BPS. This implies that Senate approved the fiscal framework underpinning the basis of the equitable sharable revenue and therefore the current changes goes against the House Resolution contained on the Budget Policy Statement.

- 12) Secondly, the PFM Act, particularly, section 110 provides that the County Government Executive Committee may establish county government Emergency Fund. the County Emergency Funds are provided for within the Public Finance management Act, 2012 and allows the County Executive Committee members responsible for Finance to utilize funds that should not exceed 2% of the County revenue and hence these funds may already be in existence in the respective county treasuries and hence duplication of funds.
- 13) Thirdly, the proposed increments results to additional expenditures which are unfunded and may result to widening financing gap and therefore this may occasion further public debt by either borrowing externally or in the domestic market. The Constitution and PFM Act are very categorical that on debt obligations and the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generation
- 14) Finally, the proposed increases are likely to affect the National Government Share by reducing its share with equivalent amounts particularly on the items listed under evaluation of revenue allocation in relation to Article 203 (1) of the Constitution particularly the balance available for national government needs. The sharable revenue had already been proposed in the Budget Policy Statement was the basis of the Fiscal framework for 2015/16.



RECOMMENDATION

- 15) Mr. Speaker Sir, arising from the consideration and discussions on the Senate Message on the Division of Revenue Bill, 2015, the Committee recommends that this House do not concur with the proposed amendments by the Senate and therefore rejects deletion of Schedule as well as the proposed inclusion of a new schedule.

_____END_____

MINUTES OF THE 15th SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE (BAC) HELD ON THURSDAY, 16TH JUNE, 2014 AT 11:00 AM AT COUNTY HALL MINI- CHAMBERS, PARLIAMENT BUILDINGS

PRESENT

1. **Hon. Mutava Musyimi M.P. -Chair**
2. Hon. Abdikadir Omar Aden, M.P.
3. Hon. Abdulaziz Farah, M.P.
4. Hon. Alfred Sambu, M.P.
5. Hon. Ali, Fatuma Ibrahim, M.P.
6. Hon. Bitok S. Kirwa, M.P.
7. Hon. Charles Nyamai, M.P.
8. Hon. Dorcas Kedogo, M.P.
9. Hon. Dr. J.W. Nyikal, M.P.
- 10.Hon. Jackson Kiptanui, M.P.
- 11.Hon. Jared O. Opiyo, M.P.
- 12.Hon. Joseph Limo, M.P.
- 13.Hon. KK Stephen Kinyanjui, M.P.
- 14.Hon. Muriuki Njagagua , M.P.
- 15.Hon. Mwashetani Khatib Abdallah, M.P.
- 16.Hon. Omondi George W. Mallan, M.P.
- 17.Hon. Priscilla Nyokabi, M.P
- 18.Hon. Samuel Gichigi, M.P.
- 19.Hon. Silverse Lisamula Anami, M.P.
- 20.Hon. Suleiman Murunga Kasuti, M.P.
- 21.Hon. Tiyah Galgalo, M.P.
- 22.Hon. Benjamin Andola Andayi, M.P.
- 23.Hon. Clement Wambugu, M.P.
- 24.Hon. Daniel Nanok, M.P.
- 25.Hon. Shukra Hussein Gure, M.P
- 26.Hon.(Eng) Stephen Ngare, M.P.
- 27.Hon. Dr. Reginalda Wanyonyi, M.P
- 28.Hon. Alfred Agoi, M.P.
- 29.Hon. James Gakuya , M.P.
- 30.Hon. Jamleck Kamau, M.P.
- 31.Hon. John Mbadi, M.P.
- 32.Hon. Mohamed Shidiye, M.P.

- 33.Hon. Moses Lessonet, M.P
- 34.Hon. Nelson Gaichuhie, M.P.
- 35.Hon. Moses Ole Sakuda, M.P.

ABSENT

1. **Hon. Mary Emaase M.P.- Vice Chair**
2. Hon. Makali Mulu Benson, M.P.
3. Hon. Francis Njenga, M.P
4. Hon. Banticha Jaldesa, M.P
5. Hon. Dennis Kariuki, M.P
6. Hon. Alice Ng'ang'a , M.P.
7. Hon. Irshad Sumra, M.P
8. Hon. Isaac Mwaura, M.P.
9. Hon. Omar Mwinyi, M.P.
- 10.Hon. Patrick Ole Ntutu, M.P.
- 11.Hon. Peter Weru Kinyua, M.P.
- 12.Hon. Benjamin Langat, M.P
- 13.Hon. James Lusweti, M.P.
- 14.Hon. Jonathan Lati Lelelit, M.P.

IN ATTENDANCE BUDGET COMMITTEE SECRETARIAT

- | | |
|--------------------------|---------------------------------|
| 1. Mr. Robert Nyagah | Chief Fiscal Analyst/ Clerk |
| 2. Mr. Fredrick Muthengi | Principal Fiscal Analyst/ Clerk |
| 3. Mr. Benjamin Ng'imor | Fiscal Analyst II |
| 4. Mr. Joseph Ndirangu | Fiscal Analyst III |
| 5. Mr. Danson Kachumbo | Fiscal Analyst III |
| 6. Mr. Chacha | Fiscal Analyst III |
| 7. Mr. Robert Ngetich, | Fiscal Analyst III |
| 8. Ms. Catherine Burure | Fiscal Analyst III |
| 9. Ms. Yunis Mursal | Fiscal Analyst III |

AGENDA

1. Preliminaries / Confirmation of Agenda
2. Confirmation of the Minutes of the Previous Meeting.
3. Matters arising

4. *Adoption of the report of BAC on Senate's Message on Division of Revenue Bill, 2015*
5. Any Other Business

MIN 15/2015/01 : Preliminaries and Confirmation of Agenda

The Chairman called the meeting to order at 11.10 a.m. and led the members with a word of prayer. He informed members that the report was ready for tabling in the house in the afternoon. Members were taken through the report by the chair

MIN 15/2015/02: Confirmation of the Minutes of the Previous Meeting

Members were informed that all minutes of the previous meetings had been confirmed as they were part of the annexure of the report. They also confirmed the minutes of the 14th Sitting held on 15th April 2015.

MIN 15/2015/03: Adoption of the report of BAC on Senate's Message on Division of Revenue Bill, 2015

The committee was taken through the Budget Committee Report on the Senate message on the Division of revenue and reiterated its position that it recommends rejection of the proposed amendments by the Senate.

The Committee approved the report and indicated that it should be table perhaps on the same day.

MIN 15/2015/04: Adjournment

Members were reminded on the *Joint workshop with Finance and Delegated Legislation committee at Boma Hotel, South C to discuss the PFM Regulations*: Members were informed that the Budget Committee will have a one day Joint workshop with Finance and Delegated Legislation committee at Boma Hotel, South C to discuss the PFM regulations. They were informed that they would check in at the hotel on Sunday the 19th and check out on Tuesday the 21st April 2015.

There being no other business the Chairman, Budget and Appropriations Committee adjourned the meeting at 1:30 p.m.

SIGNED



.....
CHAIRPERSON

.....
16. 4. 15
DATE

MINUTES OF THE 14TH SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE (BAC) HELD ON TUESDAY, 15th April, 2015 AT 11:00 AM AT COUNTY HALL MINI- CHAMBERS, PARLIAMENT BUILDINGS

PRESENT

1. **Hon. Mutava Musyimi M.P. -Chair**
2. Hon. Daniel Nanok, M.P.
3. Hon. Dr. Reginalda Wanyonyi, M.P.
4. Hon. Isaac Mwaura, M.P.
5. Hon. James Lusweti, M.P.
6. Hon. Jared O. Opiyo, M.P.
7. Hon. John Mbadi, M.P.
8. Hon. Jonathan Lati Lelelit, M.P.
9. Hon. Joseph Limo, M.P.
10. Hon. KK Stephen Kinyanjui, M.P.
11. Hon. Mohamed Shidiye, M.P.
12. Hon. Moses Lessonet, M.P.
13. Hon. Moses Ole Sakuda, M.P.
14. Hon. Muriuki Njagagua, M.P.
15. Hon. Mwashetani Khatib Abdallah, M.P.
16. Hon. Nelson Gaichuhie, M.P.
17. Hon. Omondi George W. Mallan, M.P.
18. Hon. Suleiman Murunga Kasuti, M.P.
19. Hon. Tiyah Galgalo, M.P.

Absent With Apology

1. **Hon. Mary Emaase M.P.- Vice Chair**
2. Hon. Mosses Kuria
3. Hon. Abdikadir Omar Aden, M.P.
4. Hon. Abdulaziz Farah, M.P.
5. Hon. Alfred Agoi, M.P.
6. Hon. Alfred Sambu, M.P.
7. Hon. Ali, Fatuma Ibrahim, M.P.
8. Hon. Alice Ng'ang'a, M.P.
9. Hon. Banticha Jaldesa, M.P.
10. Hon. Benjamin Andola Andayi, M.P.
11. Hon. Benjamin Langat, M.P.

- 12.Hon. Bitok S. Kirwa, M.P.
- 13.Hon. Charles Nyamai, M.P.
- 14.Hon. Clement Wambugu, M.P.
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- 16.Hon. Dorcas Kedogo, M.P.
- 17.Hon. Dr. J.W. Nyikal, M.P.
- 18.Hon. Francis Njenga, M.P.
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- 28.Hon. Samuel Gichigi, M.P.
- 29.Hon. Shukran Hussein Gure, M.P.
- 30.Hon. Silverse Lisamula Anami, M.P.
- 31.Hon. (Eng.) Stephen Ngare, M.P.

In Attendance

1. Mr. Martin Masinde
2. Mr. Fredrick Muthengi
3. Mr. Joseph Ndirangu
4. Mr. Danson Kachumbo
5. Mr. Vitalis Ndambuki

Budget Committee Secretariat

- Senior Deputy Director
Principal Fiscal Analyst/ Clerk
Member
Member
Member

AGENDA

1. Preliminaries / Confirmation of Agenda
2. Confirmation of the Minutes of the Previous Meeting.
3. Matters Arising;
4. *Agenda:*
 - i) *Discussion and Consideration of the message from the Senate regarding the passage of the Division of Revenue Bill, 2015*
5. Any Other Business

MIN 14/2015/1: Preliminaries

The meeting began late due to the issue of quorum. Some members raised the concern that they did not receive the text message informing them about the meeting. Going forward, the chair told the secretariat to improve on their mode of communication. It was further agreed that a Whatsapp group will be opened on behalf of BAC members to communicate effectively with the secretariat. The Chairman called the meeting to order at 11.45 am and led the members with a word of prayer.

The Chair informed members that he had received a message from the speaker concerning the Division of Revenue Bill, 2015 amendments by senate. The chair informed members that he had to call upon the BAC meeting to discuss and consider the amendments by senate due to the strict statutory timelines in the passage of the bill. He further stated that committee report on DORB, 2015 amendments by senate will be tabled before the house the following day. He thereafter called upon the secretariat to take them through their analysis on the deviations between the Senate and National Assembly Recommendations.

MIN 14/2015/2: Confirmation of the Minutes of the Previous Meeting

No minutes of the previous meetings were approved

MIN14/2015/3: Discussion and Consideration of the message from the Senate regarding the passage of the Division of Revenue Bill, 2015

The Presentation highlighted that the Senate proposes to make amendments to the schedule by deleting the Schedule and substituting therefore with a new Schedule as presented in table below.

Table : Deviation between the Senate and National Assembly Recommendations

| Type/Level of Allocation | Original DoRB by the National Assembly in Kshs (A) | Amended DoRB by the Senate in Kshs (B) | Variation in Kshs C=(B-A) |
|--------------------------|--|--|---------------------------|
| National Government | 978,692,000,000 | 976,925,500,000 ¹ | (1,766,500,000) |

¹ The CRA recommended adjustments of salaries and allowances for County Assemblies of Ksh. 6.6 billion and County Executives of Ksh. 6.0 billion. The DoRB provided for Kshs 4.5 billion in 2015/16 to cover the cost of increases in salaries and allowances awarded by the SRC in 2014/15. The Senate is proposing additional Kshs 1,766,500,000 to cover at least one half recommended by CRA. This amount is being covered from the National Government's share and added to the County Equitable share.

| Type/Level of Allocation | Original DoRB by the National Assembly in Kshs (A) | Amended DoRB by the Senate in Kshs (B) | Variation in Kshs C=(B-A) |
|--|--|--|---------------------------|
| Of which: | | | |
| <i>Free Maternal Health Care</i> | 4,298,000,000 | 4,298,000,000 | - |
| <i>Leasing of Medical Equipment</i> | 4,500,000,000 | 4,500,000,000 | - |
| <i>Level-5 Hospitals</i> | 2,064,480,000 | 3,600,480,000 | 1,536,000,000 |
| <i>Healthcare facilities compensation for forgone user fees</i> | 900,000,000 | 900,000,000 | - |
| <i>County Emergency Funds</i> | - | 4,400,000,000 | 4,400,000,000 |
| Equalization Fund | 6,000,000,000 | 6,000,000,000 | - |
| County Equitable Share | 258,008,000,000 | 259,774,500,000 | 1,766,500,000 |
| Total Shareable Revenue | 1,242,700,000,000 | 1,242,700,000,000 | - |
| County Allocations | | | |
| County Equitable Share | 258,008,000,000 | 259,774,500,000 | 1,766,500,000 |
| Conditional Allocations (of which): | 25,733,685,204 | 31,669,685,204 | 5,936,000,000 |
| 1. <i>Free Maternal Health Care</i> | 4,298,000,000 | 4,298,000,000 | - |
| 2. <i>Leasing of Medical Equipment</i> | 4,500,000,000 | 4,500,000,000 | - |
| 3. <i>Level-5 Hospitals</i> | 2,064,480,000 | 3,600,480,000 | 1,536,000,000 |
| 4. <i>Allocation from Fuel Levy Fund (15%)</i> | 3,300,000,000 | 3,300,000,000 | - |
| 5. <i>Healthcare facilities compensation for forgone user fees</i> | 900,000,000 | 900,000,000 | - |
| 6. <i>Conditional Allocations - loans and grants</i> | 10,671,205,204 | 10,671,205,204 | - |
| 7. <i>County Emergency Funds</i> | - | 4,400,000,000 | 4,400,000,000 |
| Total County Allocations | 283,741,685,204 | 291,444,185,204 | 7,702,500,000 |

- i. First, the Senate is proposing to vary these figures by reducing the National Government share by Kshs 1,766,500,000 from Kshs 978,692,000,000 to Kshs 976,925,500,000 and increase the County shareable revenue by a similar amount of Kshs 1,766,500,000. In essence, the equitable share of resources going to counties will increase from Kshs. 258,008,000,000 to Kshs. 259,774,500,000.
- ii. Secondly, the Senate is proposing to increase the conditional allocation to the Level 5 Hospitals by Kshs 1,536,000,000 and this is not funded. Additionally, it was not clear how the additional figure of Kshs 1,536,000,000 was derived and its basis.
- iii. Thirdly, the Senate proposes to increase the conditional allocations to the County by introducing a new item for consideration Kshs 4,400,000,000 to cater for County Emergency Funds.

In effect, these increments to Level 5 Hospitals and County Emergency Fund results to total increase of Kshs 5,936,000,000 above the initial Division of revenue Bill had provided for County Allocations. This amount is unfunded and the amendment does not indicate the source of funding to cater for such proposed increased funding requirements.

The total net effect on the total County allocations increases by Kshs 7,702,500,000 from Kshs 283,741,685,204 to Kshs 7,702,500,000. However, part of this is off-set by the proposed reduction of the National Government share of sharable revenue amounting to Kshs 1,766,500,000 and increasing the County equitable share.

Emerging Issues highlighted

- 1) The Senate approved the Budget Policy Statement which is the basis of the Division of Revenue Bill, and did not raise any matter related to the set sharable revenue between the levels of government as set out in the BPS. This implies that Senate approved the fiscal framework underpinning the basis of the equitable sharable revenue and therefore the current changes goes against the House Resolution contained on the Budget Policy Statement.
- 2) Secondly, the PFM Act, particularly, section 110 provides that the County Government Executive Committee may establish county government Emergency Fund. the County Emergency Funds are provided for within the Public Finance management Act, 2012 and allows the County Executive Committee members responsible for Finance to utilize funds that should not



exceed 2% of the County revenue and hence these funds may already be in existence in the respective county treasuries and hence duplication of funds.

- 3) Thirdly, the proposed increments results to additional expenditures which are unfunded and may result to widening financing gap and therefore this may occasion further public debt by either borrowing externally or in the domestic market. The Constitution and PFM Act are very categorical that on debt obligations and the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generation
- 4) Finally, the proposed increases are likely to affect the National Government Share by reducing its share with equivalent amounts particularly on the items listed under evaluation of revenue allocation in relation to Article 203 (1) of the Constitution particularly the balance available for national government needs. The sharable revenue had already been proposed in the Budget Policy Statement was the basis of the Fiscal framework for 2015/16.

The Members raised the following concerns

- i. *They did not see the rationale of County Emergency Funds in the DORB, 2015. Members felt that already their counties which have established the fund and hence this could create a duplication of the fund. Furthermore members felt that it was subject to abuse in the long run.*
- ii. *The amendments showed lack of commitment of Budget Policy Statement, 2015 which was approved by the National Assembly. The BPS gave the indicative figures for revenue sharing among the two level of governments*
- iii. *Some members felt that senate was playing politics and it was not in good faith. This was because the figures that were passed in the BPS, 2015 were the figures approved by Intergovernmental Budget and Economic Council (IBEC)*
- iv. *The amendments failed to state which program/s in the national government was being reduced in order to fund the amendments.*

After deliberations it was agreed that the BAC committee will reject the amendments. The chair ordered the secretariat to prepare a report capturing what was discussed for him to sign before him tabling the report the following day.

MIN 14/2015/4: Any Other Business

- i. *Joint workshop with Finance and Delegated Legislation committee at Boma Hotel, South C to discuss the PFM Regulations:* Members were informed that the Budget Committee will have a one day Joint workshop with Finance and Delegated Legislation committee at Boma Hotel, South C to discuss the PFM regulations. They were informed that they would check in at the hotel on Sunday the 19th and check out on Tuesday the 21st April 2015.
- ii. *The Budget Committee Report on the Message from the Senate regarding the passage of the Division of Revenue Bill, 2015:* The chair informed members that the next committee meeting will be on 15th April 2015 at 11:00 a.m. to dispense on the various draft money bills presented before the BAC committee.
- iii. There being no other business the meeting was adjourned at 1.30 p.m.

SIGNED



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CHAIRPERSON

16-4-15

.....
DATE

