Paper laid by the Chairperson of the Standing Committee on Finance, Commerce & Budget.

9/4/15

SPL.SN. 53/2015

Clerk's Chambers
The Senate
NAIROBI

9th April, 2015.

PAPER LAID

Mr. Speaker Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday 9th April, 2015;

1. ***A Report of the Standing Committee on Finance, Commerce and Budget on the Division of Revenue Bill (National Assembly Bill No. 11 of 2015).***

(Chairperson, Standing Committee on Finance, Commerce and Budget)

Copies to:-

The Speaker
The Deputy Speaker
The Clerk
The Hansard

(1) The Speaker

This is the report of the Finance, Commerce and Budget Committee on Division of Revenue Bill. You may wish to approve Tabling of the report.

Nyingi
9/4/15

(2) The Clerk

Report approved for tabling this afternoon.

9.4.2015.

REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

REPORT OF THE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET

ON

THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2015)

Clerk's Chambers
The Senate
Parliament Buildings
Nairobi.

April, 2015

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PREFACE

Mandate and Functions of the Committee

Mr. Speaker Sir, Article 124 of the Constitution of Kenya, provides for the establishment of Committees by either House of Parliament. Committees are central to the workings, roles and functions of Parliament as set out in Article 94 and more specifically in Article 96 of the Constitution as regards the Senate.

Parliamentary committees consider policy issues, scrutinize the work and expenditure of the national and county governments and examine proposals for legislation. The roles of Committees are twofold, investigative process and deliberative process. The end results of these processes are reports to the House in Plenary on inquiry of certain issues under the mandate of a particular committee.

Mr. Speaker Sir, the Standing Committee on Finance, Commerce and Budget was established pursuant to The Senate *Standing Order No. 208*. The Committee is mandated to "*investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to discuss and review the estimates of the county governments and make recommendations to the Senate, examine the Budget Policy Statement presented to the Senate, examine and report on the budgets allocated to constitutional commissions and independent offices and examine Bills related to the county budget, including the Division ofRevenue Bill and examine and to consider all matters related to resolutions and Bills for appropriations, share of national revenue amongst the counties and all matters concerning the national budget, including public finance, and monetary policies and public debt, trading activities and commerce, tourism, investment and divestiture policies, planning and development policy.*"

Membership of the Committee

Mr. Speaker Sir, the Fourth Schedule of the Senate Standing Orders provides that the Committee "shall consist of the Chairperson and not more than fifteen other members" The Committee is composed of the following Senators: -

1.	Sen. Billow Kerrow	-**Chairperson**
2.	Sen. Peter Ole Mositet	-**Vice- Chairperson**
3.	Sen. G. G. Kariuki, EGH	-Member
4.	Sen. Moses Wetang'ula, EGH	-Member
5.	Sen. Beatrice Elachi	-Member
6.	Sen. Mutahi Kagwe, EGH	-Member
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14.	Sen. Paul Njoroge Ben	-Member
15.	Sen. (Dr.) Wilfred Machage	-Member
16.	Sen. (Dr.) Agnes Zani	-Member

BACKGROUND AND EXECUTIVE SUMMARY

Mr. Speaker Sir, Article 218 of the Constitution provides that "*At least two months before the end of each financial year, there shall be introduced in Parliament a Division of Revenue Bill, which shall divide revenue raised by the national government among the national and county levels of government...*"

Mr. Speaker Sir, The Division of Revenue Bill (National Assembly Bill No. 11 of 2015), was passed by the National Assembly on Wednesday, 25th March, 2015 and by way of Message submitted the Bill to the Senate on 31st March, 2015.

The Message was communicated to the Senate on Wednesday, 1st April, 2015, pursuant to Senate Standing Order 40(4). The National Assembly therefore seeks the concurrence of the Senate to the said Bill as passed by the National Assembly.

Standing Order No. 148 of the Senate Standing Orders requires that a Bill, which originates in the National Assembly, be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No. 129.

Mr. Speaker Sir, The Division of Revenue Bill was read a First Time in the Senate on 1st April, 2015, and thereafter the Bill stood committed to the Standing Committee on Finance, Commerce and Budget pursuant to standing order 130 (1) of the Senate standing orders.

Mr. Speaker Sir, The Bill provides for the Division of nationally raised revenue between the two levels of government as well as setting out specific resources to be provided to counties as conditional grants and loans, and the Equalization Fund. In addition, the Bill is accompanied by an explanatory memorandum as required in Article 218(2) of the Constitution 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(1) of the Constitution. It also, as required, provides a summary of any significant deviation from the recommendations from the Commission on Revenue Allocation with an explanation for each such deviation.

Mr. Speaker Sir, Pursuant to Article 118 (1) (b) of the Constitution and standing order 130(4) of the Senate, the Standing Committee, in its consideration of the Bill, invited key stakeholders, including the National Treasury, Council of Governors, Commission on Revenue Allocation, County Assembly Forum and Controller of Budget who provided both oral and written submissions to the Committee.

The Committee also invited other non-state actors and the general public who similarly participated and submitted their contributions amidst media presence that ensured wider coverage and dissemination. In that regard, the Committee facilitated public participation and took into account the views and recommendations of the public in its report to the Senate.

Mr. Speaker Sir, I would like to remind Honourable Senators that the enactment of the Division of Revenue Bill is critical in setting the stage for the preparation of the County Allocation of Revenue Act, which will inform the preparation of respective county budget documents in a manner that is timely and enables fiscal clarity and planning.

Mr. Speaker Sir, this report is hereby submitted to the Senate for its consideration and adoption pursuant to standing order 134 (1) as read together with standing order 160(3) which states that the Senate shall conclude its consideration of a Division of Revenue Bill not later than ten days after the Bill has been introduced.

The Committee's Observations and Recommendations

Cognizant of the guardian role of the Senate in safeguarding the interest of the counties and their governments and taking into account the efforts and involvement of the Senate in negotiating non-reduction of the county equitable share during the scrutiny and approval stage of the 2015 Budget Policy Statement (BPS), the Committee hereby proposes that this report and its recommendations be adopted by the House.

The Committee noted that there was need to provide an additional conditional allocation of **Ksh.4.400 billion** to counties to provide for County Emergency Funds. The Committee noted that the funds would facilitate the setting up of County Emergency Funds for each county government in line with the provisions of the Public Finance management Act, 2012.

The Committee was of the opinion that the amount of **Ksh.2.0064 billion** provided for Level 5 health facilities was not adequate and would saddle counties with managing unfunded mandates. The Committee therefore proposed that the allocated amount be increased by an amount of **Ksh. 1.536 billion**, bringing the total allocation to **Ksh.3.600,480,000**.

The Committee noted the significant deviation made by the National Treasury in providing for adjustments of salaries and allowances for county assemblies and county executives. They observed that the increment had been effected vide various gazette notices issued by the Salaries and Remuneration Commission (SRC) and other guidelines issued by the Transition Authority. The Committee after considering the position of the National Treasury on the matter, resolved to increase the allocation for salaries, gratuity and allowances for county executives and assemblies by **Ksh.1.7665 billion**, bringing the total allocation to **Ksh.6.2665 billion**, to enable counties meet their salary obligations even while examining ways to make savings in future to cater for such adjustments.

The Committee recommends that the Senate adopts the following amendments to the Bill:

Amendment to the Schedule

That, the Bill is amended in the schedule by deleting the table therein and replacing therewith the following new table:

SCHEDULE (s.4)

ALLOCATION OF REVENUE RAISED NATIONALLY BETWEEN THE NATIONAL AND COUNTY GOVERNMENTS FOR THE FINANCIAL YEAR 2015/16

Type/Level of Allocation	Amount in Ksh.	Percentage (%) of 2012/13 Audited Revenue(i.e. Ksh. 776.9 billion)
National Government	**976,925,500,000**	
Of which:		
Free Maternal Health Care	*4,298,000,000*	
Leasing of Medical Equipment	*4,500,000,000*	
Level-5 Hospitals	*3,600,480,000*	
Healthcare facilities compensation for forgone user fees	*900,000,000*	
County Emergency Funds	*4,400,000,000*	
Equalisation Fund	**6,000,000,000**	**0.80%**
County Equitable Share	**259,774,500,000**	**33%**
Total Shareable Revenue	**1,242,700,000,000**	

MEMO ITEMS

County Equitable Share	259,774,500,000	
Conditional Allocations (*of which*):	30,133,685,204	
1. Free Maternal Health Care	*4,298,000,000*	
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4. Allocation from Fuel Levy Fund (15%)	*3,300,000,000*	
5. Healthcare facilities compensation for forgone user fees	*900,000,000*	
6. Conditional Allocations - loans and grants	*10,671,205,204*	
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Total County Allocations	**291,444,185,204**	**37%**
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Acknowledgements

The Committee thanks the Offices of the Speaker and Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Chairperson of the Committee also takes this opportunity to thank all Members of the Committee for their patience, sacrifice and commitment to public service, which enabled the Committee complete the assigned task within the stipulated time. The Committee also appreciates the media for the coverage of its proceedings on the day of the public hearing. Further, the Committee acknowledges the non-state actors and members of the public who expressed interest in the Bill and submitted memoranda for consideration by the Committee. I further wish to thank the National Treasury, Commission on Revenue Allocation and Council of Governors who made insightful contributions and recommendations to the Bill on short notice.

Mr. Speaker Sir, It is now my pleasant duty and privilege, on behalf of the Standing Committee on Finance, Commerce and Budget, to present to the Senate, this Report of the Committee on the Division of Revenue Bill (National Assembly Bill No. 11 of 2015).

SIGNED: ....

SENATOR BILLOW KERROW, M.P.

(Chairperson, Standing Committee on Finance Commerce and Budget)

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Mr. Speaker Sir, It is now my pleasant duty and privilege, on behalf of the Standing Committee on Finance, Commerce and Budget, to present to the Senate, this Report of the Committee on the Division of Revenue Bill (National Assembly Bill No. 11 of 2015).

SIGNED: ....

SENATOR BILLOW KERROW, M.P.

(Chairperson, Standing Committee on Finance Commerce and Budget)

Date: 9th April 2015.

We, Members of the Standing Committee on Finance, Commerce and Budget do hereby affix our signatures to this Report to affirm the correctness of the contents and support for the Report: -

1. Sen. Billow Kerrow ....
2. Sen. Peter Ole Mositet ....
3. Sen. G. G. Kariuki ....
4. Sen. Moses Wetang'ula, EGH ....
5. Sen. Beatrice Elachi ....
6. Sen. Mutahi Kagwe, EGH ....
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15. Sen. (Dr.) Wilfred Machage ....
16. Sen. (Dr.) Agnes Zani ....

1.0 INTRODUCTION

VERTICAL ALLOCATION OF REVENUE FOR FISCAL YEAR 2015/16

1. The principal object of the Division of Revenue Bill, 2015 as forwarded to the Senate is to provide for the equitable division of revenue raised nationally among the national and county levels of governments as required by Article 218 of the Constitution in order to facilitate the proper functioning of the county governments and to ensure on-going services are provided for. In view of that, the Bill provides that revenue raised by the national government in respect of the FY 2015/16 be divided among the national and county governments.

2. In that regard, overall estimated shareable revenue, also provided in the approved 2015 Budget Policy Statement (BPS), which was adopted in this House on Wednesday, 25th February, 2015, is **Ksh.1,242,7 billion**. Out of that total amount, **Ksh.258.008 billion** is county equitable share while the remaining amount of **Ksh.978.692 billion,** including allocation of **Ksh.6 billion** to the Equalisation Fund, is national government share of allocation. The county equitable share thus far represents 33 percent of the 2012/13 audited revenue of **Ksh.776.9 billion**, again as provided in the approved 2015 BPS upon which it was the basis for setting the fiscal framework for the fiscal year 2015/16.

3. In determining the allocation of county equitable share of revenue of **Ksh.258.008 billion** for the FY 2015/16 where counties are expected to plan and budget and report, the Division of Revenue Bill 2015, provides a baseline cost of devolved functions where the allocation of equitable share was **Ksh.226.66 billion**. In light of fiscal and other

development during the period 2014/15, the Division of Revenue Bill, 2015, adds the following items:

(a) Allocation for personnel emoluments for staff transferred to County Governments from the State Department of Livestock Development amounting to **Ksh.1.466 billion**;

(b) Allocation to cater for village polytechnics currently under the State Department of Education amounting to **Ksh.935 million**;

(c) Allocation to functions transferred to County Governments in 2014 (Agricultural Training Centres/ Agricultural Mechanisation Stations) vide Transition Authority Gazette Notice of March 2014 reflected as **Ksh.545 million.**

(d) A factor of revenue growth of 10.41 percent resulting to **Ksh.23.902 billion;** and

(e) Adjustment for increases in salaries and allowances awarded by the Salaries and Remuneration Commission (SRC) amounting to **Ksh.4.5 billion.**

This therefore brings the total county equitable revenue share allocation to county governments to **Ksh.258.008 billion**

4. Further, cognizant of the guardian role of the Senate in safeguarding the interest of the devolved government and taking into account the efforts and involvement of the Senate in negotiating non-reduction of the county equitable share during the scrutiny and approval stage of the 2015 BPS, which indeed is a precursor to the Division of Revenue Bill, 2015, the Bill proposes a conditional allocation in form of grants and loans amounting to **Ksh.25.734 billion** bringing the total county allocation to **Ksh.283.742 billion,** translating to an overall share of **37 percent** of the **2012/13** audited revenue of **Ksh.776.9 billion.**

2.0 SUBMISSIONS FROM STAKEHOLDERS

6. This part presents the deliberations of the Committee with various stakeholders including, National Treasury, Commission on Revenue Allocation and Council of Governors. It also highlights the views and recommendations of the public submitted during the Public Hearing held on Tuesday, 7th April, 2015.

2.1 MEETING WITH THE NATIONAL TREASURY

7. The Committee at its sitting held on Thursday, 2nd April, 2015, met and held deliberations with the National Treasury on the Division of Revenue Bill, 2015. The National Treasury made the following observations and clarifications on the Bill:

   (a) That the recommended county allocation of **Ksh.283.742 billion** inclusive of conditional allocation was a fair compromise that was arrived at following several intense negotiations between key stakeholders at different stages of the budget process.

   (b) That the Bill considers the provision in the Constitution that revenue allocation to the counties should be at least 15% of nationally raised revenue calculated on the basis of the latest audited accounts of revenue, which in this case represents 37% of the 2012/13 audited revenues.

   (c) That, as required in Article 203(1) of the Constitution, the National Treasury highlighted the extent to which the requirements therein have been observed in estimating the division of revenue between the National and County government for the fiscal year 2015/16. In particular, expounding on the case for what constitutes National Interest such as enhancing security, implementing programmes through the National Youth Service (NYS) including providing adequate interventions in upgrading and improving conditions of slum areas as well as providing adequate training to the NYS; providing for public debt; other national obligations such as providing for constitutional commissions and other statutory bodies; emergencies; and, the Equalization Fund, among others.

(d) In line with the pillars of the approved 2015 BPS and further as stipulated in the Fourth Schedule of the Constitution, the national government will provide adequate capacity and technical support to counties on prudent public financial management to improve fiscal management and reporting and to, among other things, safeguard against wastage and misuse of public funds.

(e) That, the leasing of the medical equipment was consultative and brought on board all the relevant stakeholders. When compared to purchasing and the attendant cost of maintenance and replacement of faulty and broken equipments, the benefits of leasing of the same far outweighs the option of purchasing. In addition, the National Treasury also submitted that the Ministry of Health will ensure that it takes into account both the procurement and the value for money concerns and that they are properly and adequately addressed. A complete schedule indicating the modalities and the structure regarding use, transfer and reporting on all conditional allocations will be availed and improved on to facilitate oversight and to ensure proper use of such resources.

(f) That, after taking into account all the other factors required to be taken into account in sharing revenue between the two levels of government, including the needs of county governments, **Ksh.193.34 billion** is left to finance other national government needs.

(g) That, in addition to the proposed conditional allocation to Level 5 hospitals across the country, there was need to again assess and evaluate the costs and other incidental expenses necessary to run and operate all level 5 hospitals with a view to ensuring the optimal functioning of the hospitals without saddling the concerned counties with expenses for unfunded mandates.

(h) That, to the extent of the deviation from the CRA recommendations, particularly, on the salary awards and emergencies, the respective counties should prioritize their allocations and review their activities to accommodate critical needs and inline with the Public Finance Management Act, 2012.

2.2 MEETING WITH THE COMMISSION ON REVENUE ALLOCATION

8. Submissions from the Commission on Revenue Allocation (CRA) were as follows:

(a) That the earlier recommendations submitted to the Senate in accordance with section 190 of the PFM Act 2012 provided for county equitable share of **Ksh.282.4 billion** for the FY 2015/16. This was based on the audited shareable revenue of **Ksh.776.9 billion** of the FY 2012/2013. In addition, the commission also recommended that funds amounting to **Ksh.65.2 billion** for functions already transferred to county governments but retained by the national government be transferred as conditional allocations to county governments.

(b) That following further consultations with key stakeholders in the period between the publication of the recommendations and the considerations of the 2015 BPS as well as the Division of Revenue Bill, 2015, the total recommended equitable share to the counties be **Ksh.275.845 billion** representing 36% of the audited revenue. Further, based on devolved functions being performed by the National Government, an additional amount of **Ksh.71.8 billion** be factored in as conditional grant, bringing the total share to county government to **Ksh.347.6 billion**. (See attached schedule II)

(c) That part of the conditional allocation amount of **Ksh.6.3 billion** for NYS is performing county functions such desilting of dams and other related civil works.

2.3 MEETING WITH THE COUNCIL OF GOVERNORS

9. Submissions from the Council of Governors (CoG) were as follows:

(a) On the matter of leasing of medical equipment, the Council submitted that healthcare is a devolved function and therefore this allocation should be transferred directly to counties as part of the equitable share to enable them equip and manage their respective facilities. In the interim, the Council is of the view that since the national government has the ability to negotiate better the lease terms mainly on account of economies of scale, and considering that the allocation is part of the national government share of revenue, counties should view this in the context of implementing broad strategic interventions in the health sector.

(b) That, part of the county equitable share of **Ksh.258 billion** includes **Ksh.935 million** for village polytechnics, which is a shortfall when compared to a capitation of **Ksh.3.3 billion** requested by the counties. The amount of money allocated is inadequate, as each county will only get **Ksh.19 million** within the financial year, which cannot fully implement the projects.

(c) The Council argued that there is need for establishment of County Emergency Fund amounting to **Ksh.4.4 billion** to mitigate effects of occurring disasters in the counties.

(d) The Council maintains that the allocation of **Ksh.258 billion** is sufficient given the circumstances surrounding resource contestations amongst the various stakeholders with competing needs, but not adequate in view of the total resource needs of the counties which the council argued amounted to **Ksh.349.605 billion.**

(e) The shortfall of **Ksh.8.1 billion** arising from the salary awards would necessitate a reorganization and reprioritization of county budgets to accommodate the increments.

2.4 NON-STATE ACTORS

10. The Committee received submissions from the International Budget Partnership (IBP) and the Kenya AIDS NGOs Consortium (KANCO) in collaboration with Health NGOs Network (HENNET). Their submissions raised the following salient issues in as far as the Division of Revenue Bill, 2015 is concerned:

(a) That, the proposed equitable share to counties for 2015/16 is a slight decrease in the share of total shareable revenues compared to what counties received in 2014/15 and that the Senate should consider whether this level of funding demonstrates adequate support for devolution.

(b) Whether there is enough money for Level 5 Hospitals and if counties are allocating matching funds to ensure the facilities maintain adequate service delivery?

(c) If there exist actual conditions that guide the distribution of conditional grants, and consequently the need to provide mechanisms detailing specific uses and enforcement. In addition, they argued that this should also apply to conditional loans and grants from development partners which in this case amounts to **Ksh.10.7 billion**.

(d) That, there is a need for Parliament to inquire about the amount of money that is still held up in the National Government budget that could be devolved.

(e) That, the Senate should engage further when estimating the division of nationally raised revenue as per Article 203(1) of the Constitution and particularly what constitutes priorities of national interest. They expressed concern that the definition of this parameter should be based on a broad national consensus that refers to priorities for the Country as a whole. They noted that the criteria about what constitutes national interest led to the reduction of shareable revenue, hence the importance for careful consideration.

(f) That, there is need to ensure that the conditional allocation for Level 5 hospitals is sustained through legislative interventions to safeguard sustainability of the grant.

(g) That, one of the conditions attached to the conditional grant should specify that counties can only receive the grant if they allow facilities to retain or have access to the Facility Improvement Fund, in full.

(h) There is need to ensure that money already distributed to Level 5 hospitals is used for the intended purposes with a possibility of counties introducing a matching grant.

3.0 COMMITTEE OBSERVATIONS

11. The Committee while considering the Bill as well as the submissions from different stakeholders made the following observations:

(a) The total County Government allocation from the revenue raised nationally was enhanced from **Ksh.228.5 billion** in the FY 2014/2015 to **Ksh.283.74 billion** in the FY 2015/2016. The 2015/2016 proposed allocation translates to 37% of the audited revenue of **Ksh.776.9 billion** of FY 2012/2013 thereby fulfilling the constitutional requirement as per Article 203(2) of the Constitution.

(b) The Committee, in accordance with Article 218(2)(c) of the Constitution, was informed by the explanatory notes accompanying the Bill, on the reasons for significant deviations made from the recommendations of the Commission on Revenue Allocation in the items of salary awards and establishment of county emergency funds.

(c)

(d) The Committee noted that as county revenues continued to grow, it was equally important for county governments to appreciate the importance of oversight in ensuring the prudent management of fiscal resources in line with Article 201 of the Constitution.

(e) The Committee further observed that there was urgent need to bring clarity on the funding and management of Level 5 hospitals as well as classifications of various health facilities so as to ensure better service delivery to Kenyans.

(f) The Committee is also cognizant of the need to have a tripartite meeting between the Senate Committee on Finance Commerce and Budget, the National Treasury and the Ministry of Health to engage and provide further clarity on the leasing of medical equipment.

(g) Similarly, more clarity is required with regards to the programmes being implemented by National Youth Service with a view to ascertaining whether functions currently being implemented fall within the functions of national or county governments and if there are possible opportunities for a collaborative framework between the two levels of government.

(h) The Committee noted the recurring concern on the inadequate time provided in the budget process to scrutinise key budget documents, which in turn hamper adequate consultation, review and oversight on the budget process. The Committee noted that there was need to amend the Public Finance Management Act, 2012 to mitigate these challenges.

(i) That, amendments to the Bill would be necessary to provide for key county mandates which if left inadequately funded may have a significant impact in the delivery of services to Kenyans.

4.0 RECOMMENDATIONS OF THE COMMITTEE

Following the deliberations held with the National Treasury, Council of Governors and Commission on Revenue Allocation in conjunction with the submissions received during the public hearing, the Standing Committee on Finance, Commerce and Budget, as provided for by standing order 134(1) and as read together with standing order 160(3) of the Senate Standing Orders, recommends as follows:

That, this House adopts the report of the Committee on the Division of Revenue Bill (National Assembly Bill No. 11 of 2015).

5.0 APPENDIXES

(a) **Minutes of the Committee sittings on the consideration of the Division of Revenue Bill (National Assembly Bill No. 11 of 2015).**

(b) **Submission by Commission on Revenue Allocation**

(c) **Submission by Council of Governors**

(d) **Submission by International Budget Partnership**

(e) **Submission by Kenya AIDS NGOs Consortium (KANCO)**

MINUTES OF THE 104TH SITTING OF THE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDING ON THURSDAY, 2ND APRIL, 2015 AT 6.30 PM

PRESENT

1. Sen. Billow Kerrow — **-Chairman**
2. Sen. G.G. Kariuki — -Member
3. Sen. Mutahi Kagwe — -Member
4. Sen. Beatrice Elachi — -Member

ABSENT WITH APOLOGY

1. Sen. Peter Ole Mositet — -Vice Chairman
2. Sen.(Dr.) Agnes Zani — - Member
3. Sen. Catherine Mukiite — -Member
4. Sen. (Prof.) Anyang Nyong'o — -Member
5. Sen. Moses Wetangula — -Member
6. Sen. (Prof.) John Lonyangapuo — -Member
7. Sen. (Dr.) Wilfred Machage — -Member
8. Sen. (Dr.) Boni Khalwale — -Member
9. Sen. Paul Njoroge Ben — -Member
10. Sen. Mutula Kilonzo Jnr. — -Member
11. Sen. Mungai James — -Member
12. Sen. Zipporah Kittony — -Member

IN ATTENDANCE — **SENATE**

1. Ms. Brenda Ogembo — -Committee Clerk
2. Mr. Victor Bett — -Committee Clerk
3. Mr. Gorod Abdi — -Parliamentary Budget Office

IN ATTENDANCE — **STAKEHOLDERS**

1. Mr. Henry Koskei — -Cabinet Secretary, National Treasury
2. Dr. Kamau Thugge — -Permanent Secretary, National Treasury
3. Mr. Geoffery Malombe — -Senior Assistant, Accounts General
4. Mr. Albert Mwende — -Advisor, Inter-Governmental Policy Relations

MIN. NO. 91/2015 PRELIMINARIES

The chairperson called the meeting to order at 6.30 p.m. followed by a word of prayer. After the self-introductory session, the chairperson welcomed the team from National Treasury to the meeting.

MIN. NO. 92/2015 ADOPTION OF THE AGENDA

Members adopted the agenda of the sitting after it was proposed by Sen. Beatrice Elachi and seconded by Sen. G. G Kariuki.

MIN. NO. 93/2015 CONSIDERATION OF THE DIVISION OF REVENUE BILL, 2015

The Committee was appraised on the critical timeline and the schedule of activities necessary for the processing of the Division of Revenue Bill , 2015. The Committee particularly noted preparation works towards facilitating participation of the public through a Public hearing on the Bill slated for 7th April 2015 with an invite notice to the general public to appear in the min dailies

Submissions and Clarification by the National Treasury

The Cabinet Secretary began by taking the Committee through the Bill, highlighting various items in the Bill and especially on the criteria and meting the relevant provisions of the constition and PFM Act , 2012.

The National Treasury made the following observations and clarifications on the Bill:

(a) That the recommended county allocation of **Ksh. 283.742 billion** inclusive of conditional allocation was a fair compromise that was arrived at following several intense negotiations between key stakeholders at different stages of the budget process.

(b) That the Bill considers the provision in the Constitution that revenue allocation to the counties should be at least 15% of nationally raised revenue calculated on the basis of the latest audited accounts of revenue, which in this case represents 37% of the 2012/13 audited revenues.

(c) That as required in Article 203 (1), the National Treasury highlighted the extent to which the requirements therein have been observed in estimating the division of revenue between the National and County government for the fiscal year 2015/16. In particular, expounding further on the case for what constitutes National Interest such as enhancing security, implementing programmes through the National Youth Service (NYS) including providing adequate interventions in upgrading and improving conditions of slum areas as well as providing adequate training to the NYS; providing for public debt; other national obligations such as providing for constitutional commissions and other statutory bodies; emergencies; and, the Equalization Fund, among others.

(d) As stipulated in the Fourth Schedule of the Constitution, the national government will provide adequate capacity and technical support to counties on prudent public financial management to improve fiscal management and reporting and to, among other things, safeguard against wastage and misuse of public funds.

(e) That the leasing of the medical equipment was consultative and brought on board all the relevant stakeholders. The Ministry of Health as substantive Ministry will ensure to provide the modalities involving the leasing arrangement and cost benefit analysis as well as the roll out of the plan.

(f) That after taking into account all the other factors required to be taken into account in sharing revenue between the two levels of government, including the needs of county governments, **Ksh.193.34 billion** is left to finance other national government needs

(g) That to the extent of the deviation from the CRA recommendations particularly on the salary awards and emergencies, the respective counties should prioritize their allocations and reorganize their activities to accommodate critical needs and in line with the Public Finance Management Act, 2012.

The Committee observed that,

The Committee resolved the schedule and the public hearing to be held next week on Tuesday, 7th April, 2015. The Committee also advised that it be appropriate for there to be a Senior representative from the National Treasury who was also present during the IBEC negotiation meetings during the public hearing.

The Chairperson thanked the National Treasury led by the Cabinet Secretary for attending the meeting and for giving their views on the Bill.

MIN. NO. 94/2015 ADJOURNMENT

There being no other business, the meeting was adjourned at 9.05p.m.

SIGNED ______________________

(CHAIRPERSON)

DATE 9th April 2015

MINUTES OF THE 105TH SITTING OF THE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL, 1ST FLOOR MINI CHAMBER ON TUESDAY, 7TH APRIL, 2015 AT 7.30 AM

PRESENT

1. Sen. Billow Kerrow	**-Chairman**
2. Sen. Peter Ole Mositet	**-Vice Chairman**
3. Sen. G.G. Kariuki	-Member
4. Sen. Mutahi Kagwe	-Member
5. Sen. (Dr.) Boni Khalwale	-Member
6. Sen. Beatrice Elachi	-Member
7. Sen. Paul Njoroge Ben	-Member
8. Sen. Mutula Kilonzo Jnr.	-Member
9. Sen. Mungai James	-Member
10. Sen. Zipporah Kittony	-Member

ABSENT WITH APOLOGY

1. Sen.(Dr.) Agnes Zani	- Member
2. Sen. Catherine Mukiite	-Member
3. Sen. (Prof.) Anyang Nyong'o	-Member
4. Sen. Moses Wetangula	-Member
5. Sen. (Prof.) John Lonyangapuo	-Member
6. Sen. (Dr.) Wilfred Machage	-Member

IN ATTENDANCE	**SENATE**
1. Ms. Brenda Ogembo	-Committee Clerk
2. Mr. Victor Bett	-Committee Clerk
3. Mr. Gorod Abdi	-Parliamentary Budget Office
4. Mr. Mwaniki Gichohi	-Parliamentary Budget Office

IN ATTENDANCE	**STAKEHOLDERS**
1. Hon. Ahmed Abdullahi Mohamed	-Governor, Chairman Finance Committee, COG
2. Hon. Sospeter Ojaamong	-Governor Busia County
3. Hon. James Ongwae	-Governor Kisii County

4. Hon. Daniel Mwangi	-Governor Nyandarua County
5. Dr. Kamau Thugge, EBS	-Principal Secretary, National Treasury
6. Mr. Geoffery Malombe	-Senior Assistant, Accounts General
7. Mr. Albert Mwende	-Advisor, Inter-Governmental Policy Relations
8. Ms. Lyneth Oyugi	-Research Director CRA
9. Ms. Sheela Yieke	-Legal Director CRA
10. Mr. Victor Odanga	-Council of Governors
11. Mr. Trevor Oketch Odhiambo	-Council of Governors

MIN. NO. 95/2015 PRELIMINARIES

The vice chairperson called the meeting to order at 7.40 a.m., followed by a prayer by Sen. (Dr.) Boni Khalwale. Thereafter the Committee observed a minute of silence called upon by the vice chairperson in respect of the fallen compatriots and the affected families in the Garissa University attack. The vice chairperson welcomed the stake holders to the meeting and thereafter led in a self-introductory session.

MIN. NO. 96/2015 ADOPTION OF THE AGENDA

Members adopted the agenda of the sitting after it was proposed by Sen. Paul Njoroge Ben and seconded by Sen. Mutula Kilonzo Jnr.

MIN. NO. 97/2015 PUBLIC HEARINGS ON THE DIVISION OF REVENUE BILL, 2015

Submissions by the Committee on Revenue Allocation

The Committee heard submissions from the CRA that were submitted by Ms. Lyneth Oyugi as listed below:-

(a) That the earlier recommendations submitted to the Senate in accordance with section 190 of the PFM Act 2012 provided for county equitable share of **Ksh. 282.4 billion** for the FY 2015/16. This was based on the audited shareable revenue of **Ksh. 776.9 billion** of the FY 2012/2013. In addition, the commission also recommended that funds amounting to **Ksh. 65.2 billion** for functions already transferred to county governments but retained by the national government is transferred as conditional allocations to county governments.

(b) That following further consultations with key stakeholders in the period between the publication of the recommendations and the considerations of the 2015 BPS as well as the Division of Revenue Bill, 2015, the total recommended equitable share to the counties be **Ksh. 275.845 billion** representing 36% of the audited revenue. Further, based on devolved functions being performed by the National Government, an additional amount of **Ksh. 71.8**

billion be factored in as conditional grant, bringing the total share to county government to **Ksh. 347.6 billion**. (See attached schedule II)

(c) That part of the conditional allocation amount of **Ksh. 6.3 billion** for NYS is performing county functions such desilting of dams and other related civil works.

Submissions by the Council of Governors

The Committee heard submissions from the CoG that were submitted by Hon. Ahmed Abdullahi Mohamed as listed below:-

(a) On the matter of leasing of medical equipment, the Council submitted that healthcare is a devolved function and therefore this allocation should be transferred directly to counties as part of the equitable share to enable them equip and manage their respective facilities. In the interim, the Council is of the view that since the national government has the ability to negotiate better the lease terms mainly on account of economies of scale, and considering that the allocation is part of the national government share of revenue, counties should view this in the context of implementing broad strategic interventions in the health sector.

(b) The Council submitted that part of the county equitable share of **Ksh. 258 billion** includes **Ksh. 935 million** for village polytechnics, which is a shortfall when compared to a capitation of **Ksh. 3.3 billion** requested by the counties. The amount of money allocated is inadequate, as each county will only get **Ksh. 19 million** within the financial year, which cannot fully implement the projects.

(c) The Council argued that there is need for establishment of County Emergency Fund equating to **Ksh. 4.4 billion** to mitigate effects of occurring disasters in the counties.

(d) The Council maintains that the allocation of **Ksh. 258 billion** is sufficient given the circumstances surrounding resource contestations amongst the various stakeholders with competing needs, but not adequate in view of the total resource needs of the counties which the council argued amounted to **Ksh. 349.605 billion.**

(e) The Council submitted that the shortfall of **Ksh. 8.1 billion** arising from the salary awards would necessitate a reorganization and reprioritization of county budgets to accommodate the increments.

Response by the National Treasury

The responded on two issues namely:-

a) That the leasing of the medical equipment was consultative and brought on board all the relevant stakeholders. When compared to purchasing and the attendant cost of maintenance and replacement of faulty and broken equipments, the benefits of leasing of the same far outweighs the option of purchasing. In addition, the National Treasury also submitted that the Ministry of Health will ensure that it takes into account both the procurement and the value for money concerns and that they are properly and adequately addressed.

b) That as required in Article 203 (1), the National Treasury highlighted the extent to which the requirements therein have been observed in estimating the division of revenue between the National and County government for the fiscal year 2015/16. In particular, expounding on the case for what constitutes National Interest such as enhancing security, implementing programmes through the National Youth Service (NYS) including providing adequate interventions in upgraging and improving conditions of slum areas as well as providing adequate training to the NYS; providing for public debt; other national obligations such as providing for constitutional commissions and other statutory bodies; emergencies; and, the Equalization Fund, among others.

Committee's Observation

The Committee while considering the Bill as well as the submissions from different stakeholders made the following observations:

(a) The total County Government allocation from the revenue raised nationally was enhanced from Ksh. 228.5 billion in the FY 2014/2015 to Ksh. 283.74 billion in the FY 2015/2016. The 2015/2016 proposed allocation translates to 37% of the audited revenue of Ksh. 776.9 billion of FY 2012/2013 thereby fulfilling the constitutional requirement as per Article 203(2) of the Constitution.

(b) Based on the deliberations the Committee held with various stakeholders, the Committee observed that the resulting allocation had been subjected to various negotiations during the budget process to build consensus.

(c) The Committee, in accordance with Article 218(2)(c) was informed by the explanatory notes accompanying the Bill, on the significant deviations made from the recommendations of the Commission on Revenue Allocation in the items of salary awards and establishment of county emergency funds.

(d) The Committee observed that as county revenues continued to grow, it was equally important for the county governments to appreciate the importance of oversight in ensuring the prudent management of fiscal resources in line with Article 201 of the Constitution.

(e) The Committee further observed that there was urgent need to bring clarity on the funding and management of Level 5 Hospitals as well as classifications of various health facilities so as to ensure better service delivery to Kenyans.

(f) The Committee is also cognizant of the need to have a tripartite meeting between the Senate Committee on Finance Commerce and Budget, the National Treasury and the Ministry of Health to engage and provide further clarity on the leasing of medical equipment.

(g) Similarly, more clarity is required with regards to the programmes being implemented by National Youth Service with a view to ascertain whether functions currently being implemented fall within

(g) the functions of national or county governments and if there are possible opportunities for a collaborative framework between the two levels of government.

(h) The Committee noted the recurring concern on the inadequate time provided in the budget process to scrutinise key budget documents, which in turn hamper adequate consultation, review and oversight on the budget process. The Committee noted that there was need to amend the Public Finance Management Act, 2012 to mitigate these challenges.

Committee's Recommendation

After considering all the submissions from the various stakeholders and in light of the observations made by the committee during the deliberations, the Committee resolved that the allocations as provided in the division of revenue Bill be maintained and approved.

The Committee further resolved that it would be important to further engage the National Treasury and the Ministry of Health in relation to the Leasing of Medical Equipment with a view to address the value for money concerns and to offer an acceptable framework in the implementation of the programme.

The Chairperson thanked the stakeholders for attending the meeting and for giving their views on the Bill.

MIN. NO. 98/2015 ADJOURNMENT

There being no other business, the meeting was adjourned at 12.15a.m.

SIGNED ______________________

(CHAIRPERSON)

DATE 9th April 2015

MINUTES OF THE 106TH SITTING OF THE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL, 1ST FLOOR MINI CHAMBER ON TUESDAY, 7TH APRIL, 2015 AT 12.30 PM

PRESENT

1. Sen. Billow Kerrow	**-Chairman**
2. Sen. Peter Ole Mositet	**-Vice Chairman**
3. Sen. G.G. Kariuki	-Member
4. Sen. Mutahi Kagwe	-Member
5. Sen. (Dr.) Boni Khalwale	-Member
6. Sen. Beatrice Elachi	-Member
7. Sen. Paul Njoroge Ben	-Member
8. Sen. Mutula Kilonzo Jnr.	-Member
9. Sen. Mungai James	-Member
10. Sen. Zipporah Kittony	-Member

ABSENT WITH APOLOGY

1. Sen.(Dr.) Agnes Zani	- Member
2. Sen. Catherine Mukiite	-Member
3. Sen. (Prof.) Anyang Nyong'o	-Member
4. Sen. Moses Wetangula	-Member
5. Sen. (Prof.) John Lonyangapuo	-Member
6. Sen. (Dr.) Wilfred Machage	-Member

IN ATTENDANCE	**SENATE**
1. Ms. Brenda Ogembo	-Committee Clerk
2. Mr. Victor Bett	-Committee Clerk
3. Mr. Gorod Abdi	-Parliamentary Budget Office
4. Mr. Mwaniki Gichohi	-Parliamentary Budget Office

IN ATTENDANCE	**NON STATE ACTORS AND GENERAL PUBLIC**
1. Mr. John Kinuthia	-Research Analyst , IBP
2. Mr. James Ngeere	-Researcher KANCO
3. Mr. Jackson Ndegwa	-Policy Manager KANCO

MIN. NO. 99/2015 PRELIMINARIES

The chairperson called the meeting to order at 12.30 a.m., followed by a word of prayer by Sen. Beatrice Elachi. The chairperson welcomed the stake holders to the meeting and led in a self-introductory session.

MIN. NO. 100/2015 ADOPTION OF THE AGENDA

Members adopted the agenda of the sitting after it was proposed by Sen. Paul Njoroge Ben and seconded by Sen. Mutula Kilonzo Jnr.

MIN. NO. 101/2015 PUBLIC HEARINGS ON THE DIVISION OF REVENUE BILL, 2015

Submissions by Non State Actors and general public

a) **International Budget Partnership Kenya**

By, Mr. John Kinuthia

1. **The proposed equitable share to counties for 2015/16 is a slight decrease in the share of total shareable revenues compared to what counties received in 2014/15.** The Senate should consider whether this level of funding demonstrates adequate support for devolution.

2. **Is there enough money for Level 5 Hospitals and are counties allocating matching funds to ensure the facilities maintain services?** The conditional grant allocated for these facilities in 2015/16 is Ksh 2.064 billion, which is a slight increase compared to what was allocated last year. However, this is still significantly lower than the Ksh 7.7 billion in recurrent funding allocated to provincial hospitals in 2012/13.

3. **More broadly, what are the actual conditions that guide the conditional grants in the Division of Revenue Bill 2015**? When funds are devolved to counties for specific uses, the conditions should be indicated and a mechanism of enforcement provided. Conditional grants are currently given for two reasons. One reason is that some funds need to be transferred to counties using a distribution that is different from the main revenue sharing formula guiding the "equitable share." Another reason to give a grant is to ensure that certain national priorities are funded at the county level.

4. **Continuing with the issue of conditional grants, many of these grants are not actually devolved to counties directly, but they are mixed with those grants that are actually given to counties, creating confusion.**

5. **The decision to bring more conditional grants into the Division of Revenue Bill is commendable, as these grants should all be considered together; however, this requires a careful comparison with last year to understand what is actually happening to total county revenues.**

6. **There is a need for Parliament to ask how much money is still held up in the National Government budget that could be devolved.** There is still a substantial amount of money held by

the national government in the 2014/15 that could be devolved, though this would require some significant state reform. From our analysis, there is about Ksh 65 billion that should be up for discussion, of which some portion could and should be devolved.

7. **Even if the technical analysis of how much it costs to run functions at their current levels is correct, the DOR is more than an accounting exercise and should also be based on the relative priority we attach to education, security and other national functions versus health, agriculture and other devolved functions.** The "baseline" used in the DORB is an adjusted and inflated figure based on relative priorities of different sectors in 2012/13, and may not reflect the relative importance of these sectors in 2015/16. Parliament must debate and decide these matters.

8. **What projects/programmes are funded by the conditional allocations from loans and grants totalling Ksh 10.7 billion**? The DoRB does not provide much information about such projects in terms of locations and individual costs but this has implications on county revenue.

9. **Are the National Interest priorities under the National Government based on a broad national consensus**? The "national interest" mentioned in Article 203 of the constitution as a criteria for revenue sharing should refer to priorities for the country as a whole. It does not refer to national government priorities alone, nor does it refer only to those functions (such as security) carried out by the national government.

10. **What are the costs of administrative services in the counties and is the funding given to counties sufficient to manage it?** There has been considerable discussion on how much counties have to spend on administration and whether this is affecting the amount of resources available to run basic services. However, the level of information in the DoRB does not really give a full picture of county administrative costs.

b) Kenya AIDS NGOs Consortium (KANCO) in collaboration with Health NGOs Network (HENNET).

By, Mr. James Ngeere

The following were the submissions he gave:-

(a) That the Senate should engage further when estimating the division of nationally raised revenue as per Article 203(1) of the Constitution and particularly what constitutes National Interest priorities. They expressed concern that the definition of this parameter should be based on a broad national consensus that refers to priorities for the Country as a whole. They noted that the choice about what constitutes national interest reduced the amount of shareable revenue, so it was important to consider it carefully.

(b) That there is need to ensure that the conditional allocation for Level 5 hospitals is sustained through legislative interventions to safeguard sustainability of the grant.

(c) That one of the conditions attached to the conditional grant be that counties can only receive the grant if they allow facilities to retain or have access to the Facility Improvement Fund in full.

(d) There is need to ensure that money already distributed to Level 5 hospitals is used for the intended purposes with a possibility of counties introducing a matching grant.

Briefing by Parliamentary Budget Office

The Division of Revenue Bill (National Assembly Bill No. 11 of 2015), was passed by the National Assembly on Wednesday, 25th March, 2015 and by way of Message submitted the Bill to the Senate on 31st March 2015.

Standing Order No. 148 of the Senate Standing Orders requires that a Bill, which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No. 129.

The Chairperson thanked the members of the public for attending the meeting and for giving their views on the Bill and asked them to leave.

Committee's Observation

The committee observed and noted the concerns raised about level 5 hospitals and the need to ensure adequate framework to the management and reporting of conditional allocations

The Committee also observed the need to adequately look at criteria used to estimating the national revenue with a view to ensure that the division is premised on an agreed position

Based on the submissions from the public the committee also noted the need to ensure conditional allocations are used for the intended purposes and that the oversight mechanism on the same is properly enhanced

Committee's Recommendation

The Committee proposes that the county equitable share of Ksh. 258,008,000,000 and the conditional allocations of Ksh. 25,733,685,204 bringing the total county allocation for the FY 2015/2016 to Ksh. 283,741,658,204, as contained in the Division of Revenue Bill (National Assembly Bill No. 11 of 2015), be adopted by the House.

MIN. NO. 102/2015 ADJOURNMENT

There being no other business, the meeting was adjourned at 1.45p.m.

SIGNED ______________________

(CHAIRPERSON)

DATE 9th April 2015

MINUTES OF THE 107TH SITTING OF THE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL, GROUND FLOOR BOARD ROOM HELD ON WEDNESDAY, 9TH APRIL, 2015 AT 8.00 AM

PRESENT

1. Sen. Billow Kerrow	**-Chairman**
2. Sen. Peter Ole Mositet	**-Vice Chairman**
3. Sen. G.G. Kariuki	-Member
4. Sen. Mutahi Kagwe	-Member
5. Sen. Beatrice Elachi	-Member
6. Sen. Paul Njoroge Ben	-Member
7. Sen. Mutula Kilonzo Jnr.	-Member
8. Sen. Mungai James	-Member
9. Sen. Zipporah Kittony	-Member

ABSENT WITH APOLOGY

1. Sen.(Dr.) Agnes Zani	- Member
2. Sen. Catherine Mukiite	-Member
3. Sen. (Prof.) Anyang Nyong'o	-Member
4. Sen. Moses Wetangula	-Member
5. Sen. (Prof.) John Lonyangapuo	-Member
6. Sen. (Dr.) Wilfred Machage	-Member
7. Sen. (Dr.) Boni Khalwale	-Member

IN ATTENDANCE	**SENATE**
1. Ms. Brenda Ogembo	-Committee Clerk
2. Mr. Victor Bett	-Committee Clerk
3. Mr. Gorod Abdi	-Parliamentary Budget Office
4. Mr. Johnson Okello	-Deputy Director Legal Counsel - Senate

MIN. NO. 103/2015 PRELIMINARIES

The vice chairperson called the meeting to order at 8.30 a.m., followed by a word of prayer. The vice chairperson welcomed the members to the meeting.

MIN. NO. 104/2015 ADOPTION OF THE AGENDA

Members adopted the agenda of the sitting after it was proposed by Sen. Peter Ole Mositet and seconded by Sen. Mutula Kilonzo Jnr.

MIN. NO. 105/2015 REPORT ON THE DIVISION OF REVENUE BILL, 2015

The Committee debated and deliberated on the draft report for onward submission to the House for consideration in the special sitting.

The Chairman of the committee requested members on their concurrence of the recommendations in the draft report made in the previous meeting held after the public hearing.

The Committee went through the report and were of the opinion to address the following concerns:

- That the conditional county allocations to level 5 hospitals be enhanced inline with the Recommendations of Commission on Revenue (CRA) to address the challenges of resource shortfalls
- That the salary awards by Salaries and Remuneration Commission be addressed as advised by CRA
- That in light of the disasters facing various counties such as accidents, terrorism and security related incidences and effects of droughts and floods, that an allocation be provided inline with the recommendations of Commission of Revenue Allocation. This intervention is critical in mitigating the disastrous effect of such calamities by empowering the various affected counties through adequate resource allocation to county emergency fund.

In addressing those concerns, the Committee observed the deviation in the allocations as proposed in the Bill against the recommendations of the Commission as well as looking at the criteria used in estimating the shareable national revenue. This concerns were discussed notwithstanding the position of the Commission on the overall allocation to the shareable county allocation during the public hearing that informed the recommendations of the previous meeting.

In addressing those concerns , the committee recommended that:

- That the proposed conditional allocation to level 5 hospitals be enhance by kshs 1.536 billion
- That proposed allocation for salary awards be increased by kshs 1.8 billion.
- That kshs 4.4 billion be allocated towards the establishment of the county emergency fund .

The Committee then agreed to adopt the report through a consensus of the Members.

MIN. NO. 106/2015 ADJOURNMENT

There being no other business, the meeting was adjourned at 11.45 am

SIGNED ______________________________

(CHAIRPERSON)

DATE ______________________________

Tel: 254 (20) 4298000
Email: info@crakenya.org
Website: www.crakenya.org

14 Riverside Drive
Grosvenor block
2nd Floor
P.O. Box 1310 – 00200
NAIROBI

COMMISSION ON REVENUE ALLOCATION

OUR REF: CRA/CSO/P&S/13/Vol. 7/12 **DATE:** 8th April 2015

Mr. J. M. Nyegenye
Clerk of the Senate
Clerk's Chambers
Parliament Buildings
NAIROBI

Dear Mr. Nyegenye

RE: CRA RECOMMENDATION ON THE DIVISION OF REVENUE BILL 2015

The Commission on Revenue Allocation (CRA) is established under Article 215 of the Constitution with its functions stated in Article 216.

Article 205(1) provides that *when a Bill that includes provisions dealing with the sharing of revenue, or any financial matter concerning county governments is published, the Commission on Revenue Allocation shall consider those provisions and may make recommendations to the National Assembly and the Senate.*

It is in accordance with above Constitutional provision that the Commission hereby submits to the Senate its recommendation on the Division of Revenue Bill 2015.

Yours Sincerely

George Ooko
COMMISSION SECRETARY

Enc.

COMMISSION ON REVENUE ALLOCATION

CRA RECOMMENDATION ON THE DIVISION OF REVENUE BILL 2015

Article 205(1) provides that when a Bill that includes provisions dealing with the sharing of revenue, or any financial matter concerning county governments is published, the Commission on Revenue Allocation shall consider those provisions and may make recommendations to the National Assembly and the Senate.

In accordance with this provision, the Commission on Revenue Allocation makes the following recommendation on The Kenya Gazette Supplement No. 28 (National Assembly Bills No.11 published on 18th March 2015, which introduces into the National Assembly the Division of Revenue Bill, 2015:

That Ksh.978,692 million, be allocated to the national government, Ksh.6,000 million to Equalisation Fund, and Ksh.258,008 million to county governments as equitable share. This is as a result of the following:

1. The County Allocation of Revenue Act 2014 allocated county governments Ksh. 226,660 million as equitable share to county governments. This allocation forms the baseline for revenue sharing to county governments for financial year 2015/16.

2. The baseline has been adjusted by Ksh. 2,946 million to Ksh.229,606 million. The adjustment is for resources held by the national government in financial year 2014/15 for devolved functions, namely Agricultural Training Centres, Village Polytechnics and allocations for Personnel Emoluments under the State Department for Livestock.

3. A revenue growth factor of 10.41 has been used to grow the revenue baseline of county governments for financial year 2014 /15. The revenue growth factor of 10.41% is a three year average of both the revenue growth and the economic growth. This gives county governments additional resources amounting to Ksh. 23,902 million

4. The Commission recommended that 15% of the fuel level fund, amounting to Ksh. 3,300 million be allocated to county governments as equitable share for maintenance of county roads. The Bill provides that this allocation be given as a conditional allocation. The Commission observes that the conditions are necessary to ensure that the county governments do not reallocate the funds to other uses.

5. Commission recommended that Ksh. 3,300 million be allocated to county governments as equitable share in financial year 2015/16 for Leasing of Medical equipment. The Bills provides that an enhanced allocation of Ksh. 4,500 million be allocated to county governments as a conditional grant. The commission notes that the allocation has been enhanced to cater for any increase in prices due to inflation in financial year 2015/16. The Commission has no objection to the allocation being a conditional allocation. This will ensure that the funds are solely used for leasing of medical equipment. However, the Commission recommends that further discussions on the leasing of medical equipment be held between Parliament, Ministry of Health and the county governments to ensure that Kenyans get value for money.

6. The Bill allocates Ksh. 6,000 million to the Equalisation Fund for financial year 2015/16. The Commission recommends that the regulations operationalizing the Fund be expedited to avoid further delay in the implementation of the Fund.

Part 1 – Preliminary

Section 2

Redraft the interpretation of "county allocation", "county equitable share" and "national government allocation" as follows:

"county allocation" means the share of *revenue raised nationally* computed in accordance with Article 203(2) of the Constitution that is allocated for the use of the county government consisting of the county executive and the county assembly and includes allocations under Article 202(2);

"county equitable share" means the share of *revenue raised nationally* allocated to the county level of government to be divided amongst county governments using the basis provided for in Article 217 of the Constitution;

"national government allocation" means the share of *revenue raised nationally* computed in accordance with Article 203(2) of the Constitution that is allocated for the use of the national government consisting of the Executive, Parliament and the Judiciary.

Part 1 – Preliminary

Section 2

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"county equitable share" means the share of *revenue raised nationally* allocated to the county level of government to be divided amongst county governments using the basis provided for in Article 217 of the Constitution;

"national government allocation" means the share of *revenue raised nationally* computed in accordance with Article 203(2) of the Constitution that is allocated for the use of the national government consisting of the Executive, Parliament and the Judiciary.

Table 1: Shareable Revenues to County Governments For Financial Year 2015/16

				RECOMMENDATIONS		
				CRA	National Treasury	IBEC
				Ksh. Millions		
A	Allocation to County Governments FY 2014/15			**226,666**	**226,660**	**226,660**
B	Additional Revenues for 2015/16					
	I		**Adjustment for Revenue Growth (Using a three year average growth of revenue &GDP =10.41)**	**23,596**	**23,902**	**23,902**
	II		**Additional Costs for County Structures based on SRC and Transition Authority Circulars**	**12,533**	**-**	**4,500**
		1	County Assemblies (Salaries, Gratuity, Allowances)	6,576	-	
		2	County Executive (Salaries, Gratuity, Pension, Allowances	5,957	-	
	III		**Devolved Functions being performed by the National Government in FY 2014/15 to be transferred as Shareable**	**1,711**	**1,466**	**1,466**
		3	Fisheries, Health Promotion, Library Services, Consumer Protection)	1,466	1,466	1,466
		4	Slum Upgrading and Housing Development	245	-	-
	IV		**Underfunded devolved functions that need additional funding from the National Government Share**	**6,000**	**935**	**935**
		5	Provision for ECD Infrastructure	3,000	-	-
		6	Village Polytechnics	3,000	935	935
	VI		**Unfunded Devolved Functions**	**5,341**	**545**	**545**
		7	Agricultural Training Centres/Agricultural Machanization Station	941	545	545
		8	Establishment of County Emergency Funds (2% of 220 billion)	4,400	-	-
C	**Total Equitable Share**			**275,845**	**253,508**	**258,008**
D	**Total Shareable Revenue for Financial Year 2012/13**			**776,858**	**776,858**	776,858
E	**Equitable Share to County Government as a percentage of Shareable Revenue (2012/13)**			**36%**	**33%**	**33%**

				CRA	National Treasury	IBEC
Table 2: Conditional Allocations						
	I	9	**Level 5 Hospitals**	**3,600**	**2,064**	2,064
	II		**Devolved Functions being performed by the National Government in FY 2014/15**			
		10	Free Maternal Health Care	4,031	4,298	4,298
		11	Fertilizer and Seed Subsidy	3,000	-	-
		12	Kenya Rural Roads Authority (KeRRA)	21,200	-	-
		13	Kenya Urban Roads Authority (KURA)	8,000	-	-
		14	Regional Development Authority (RDA)	4,300	-	-
		15	Water Services Boards (WSB)	14,800	-	-
		16	National Youth Service	6,300	-	-
		17	15% of fuel Levy for Maintenance of County Roads	3,300	3,300	3,300
		18	Leasing of Medical Equipment	3,300	4,500	4,500
		19	Healthcare Facilities compensation for forgone user fees		900	900
	III		**Total Conditional Allocations**	**71,831**	**15,062**	**15,062**
E	**Total share to County Governments for FY 2015/16**			**347,676**	**268,570**	**273,070**
F	**2012/13 Total Shareable Revenue**			**776,858**	**776,858**	776,858
G	**Allocation to County Government as a percentage of 2012/13 Shareable Revenue**			**45%**	**35%**	**35%**
	Conditional Allocation: Grants and Loans			-	**10,671**	**10,671**
	Total Shareable Revenue 2015/16			**1,249,900**		

COUNCIL OF GOVERNORS

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9th April, 2015

Our Ref: COG/2/3
Your Ref: SEN/FCB/GEN-CORR/VOL.2/075/2015

J.M Nyegenye, CBS,
Clerk of the Senate,
First Floor Main Parliament Building
NAIROBI

Mr Nyegenye

RE: SUBMISSION ON THE DIVISION OF REVENUE BILL, 2015

The Council of Governors' respects Article 6(2) of the Constitution which provides that the two levels of government are distinct but inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

Pursuant to this, the Council of Governors' received a letter dated 2nd April, 2015 from your office inviting the Council to a Public Hearing on the Division of Revenue Bill 2015 on 7th April 2015.

By recognizing the Senate's role as provided for in the Constitution with respect to the Division of Revenue between the two levels of Government, the Council through its **Finance, Commerce and Economics Committee** attended the meeting and made its presentation on the same.

As a follow up, the Council hereby submits its presentation officially to your office for considerations.

Yours Sincerely,

H. E. Hon. Isaac Ruto, EGH
Chairman, Council of Governors

COUNCIL OF GOVERNORS

COUNCIL OF GOVERNORS SUBMISSION TO THE SENATE ON THE DIVISION OF REVENUE BILL 2015

COUNCIL OF GOVERNORS' POSITION

- Since the devolved system of Governance came into place, the Council of Governors has always participated in the consultative process leading to the Division of Revenue between the two levels of governments.

- 2015 being no exception, a number of consultative meetings have taken place through the provided intergovernmental frameworks; IBEC, CRA and National Treasury to determine the amount of money required for the operations of the two levels of Governments.

- **The Council of Governors maintains its position to be allocated 45% of the last audited revenue accounts in each financial year.**

- The last audited accounts being **2012/13 of KES 776.9 Billion** the Counties' allocation based on the Council's recommendation would be:-
- **KES 349.605 Billion**

- **This should be taken as the Council's position.**

The Council believes that this should be anchored in the constitution and law to ensure less conflict each year in the Division of Revenue between the two levels of Governments.

CONSULTATIVE MEETINGS ON THE 2015 DIVISION OF REVENUE

1) **On 3rd February 2015** the Council had a consultative meeting with the Budget Committee of IBEC at the Safari Park Hotel where the Council maintained its **position of 45% allocation to Counties based on most recent audited accounts.**

2) The meeting discussed the National Treasury's proposal of **KES 253.5 Billion** and CRA's proposal of **KES 282.4 Billion**

3) **None of the two institutions in their recommendations reached the Council's position of 45%** as CRA's Counties' allocation recommendation was **36%** while the National Treasury's was **33%** of the most recent audited accounts.

Having participated in the meeting, the Council agreed with and supported some allocations as provided for by CRA in their recommendations.

4) **This was because some of the allocations provided for by the National Treasury as conditional grants to the Counties, the Council felt that they should be part of the equitable share and this was a view shared by CRA in its recommendations.** They Included:-

   a) **Leasing of medical equipment KES 4.5 Billion**
   The Council maintains that healthcare is a devolved function and therefore this allocation should be transferred to the counties as the facilities to be equipped are under the management of County Governments.

   b) Adjusted cost of County Roads maintenance from fuel levy **KES 3.3 Billion**

   c) **Allocation to Level Five Hospitals KES 2.064 Billion**
   The Council of Governors maintains that this money should directly be allocated to the specific Counties as equitable share of revenue rather than be allocated to the Counties and administered through the Ministry of Health

Other key recommendations from CRA that the Council supported and maintained should have been adjusted to the Counties equitable share

1) Village Polytechnics currently under Ministry of Education as capitation equating **KES 3.3 Billion.** National Treasury provided for **KES 0.9 Billion**

   The amount of money allocated for this sector is limited as each county will only get KES 19 million within the financial year which cannot fully implement the project.

The Council therefore submits that the allocation should be increased as per the CRA's recommendation

2) County Assemblies (Salaries, Gratuity & Allowances) equating **KES 6.6 Billion**

3) County Executives (Salaries, Gratuity & Allowances) equating **KES 6.0 Billion**

These salary adjustments were based on various gazette notices issued by the salaries and Remuneration Commission (SRC) and other guidelines issued by TA.

The National Treasury had not allocated the funds to county governments either conditionally or unconditionally even though it is a member of SRC and played a part in the development of the circulars.

4) Establishment of County emergency Fund equating **KES 4.4 Billion**

5) Provision of ECD infrastructure equating **KES 3.0 Billion**

The 2015 Division of Revenue has no allocation for the ECD function yet this is a core function for County Governments.

This sector has been underfunded ever since the devolved system of governance came into place and the Council maintained that there should be an allocation to the function as had been recommended by CRA

IBEC MEETING ON 11TH FEBRUARY 2015

- The Council maintained its position of 45% allocation of the recent audited revenue accounts and support of the highlighted key recommendations from the Commission on Revenue Allocation on various allocations to Counties.

- Through consultations and negotiations with National Treasury and CRA, the meeting resolved to have Counties allocated additional KES 4.5 Billion to cater for the salaries and allowances as introduced by SRC in the circulars.

- This money was to be equitably shared among Counties and each County to determine the modalities of payment of such salaries.

- The Council maintains that this allocation of **KES258 Billion** is still not enough for Counties operations but as it is a figure that was agreed upon by the different institutions the Council submits that it will work with it.

Council's Recommendation

The Council of Governors maintains that even though IBEC reached a consensus on the allocation of **KES 258 Billion** to County Governments in the 2015/16 Financial Year, the allocation is not enough to implement the County Governments functions and is far off what the Council had proposed of **KES 349.605 Billion.**

The allocation represents **33%** of the total equitable revenue

received during
the public hearing
07/04/2015

Memorandum on Division of Revenue Bill (DORB) 2015 to the Senate Finance, Commerce and Economic Affairs Committee (4th April 2015)

Health NGO Network (HENNET) is group of Civil Society Organizations working in the health sector, concerned about the status of funding for the 11 Level 5 Hospitals in Kenya.

In 2014, HENNET organized a rapid assessment on the status of funding in all the eleven Level 5 (L5) Hospitals in Kenya, and its impact on service delivery. The assessment was necessitated by the realization that more evidence was needed after non state actors in 2014 presented a Memo to Parliament requesting for a conditional grant allocation to Level 5 Hospitals in 2014/2015.

Consequently, we sought to establish how these facilities access and utilize the conditional grant allocated, whether the grant is key in sustaining the operations of L5 hospitals, and how it should be structured in the future.

Level 5 Hospitals have been operating under the County governments since August 2013 as county health facilities. Since these facilities are high volume and provide specialized services to patients from not only the host county, but to counties in the region and beyond, a conditional grant was initiated as part of resource allocation to L5 facilities, to ensure that the burden of running the facilities is not too heavy on the host counties.

Key findings from our rapid assessment across the eleven Level 5 Hospitals indicate that:

- The conditional grant is a key resource for these facilities considering the role they play, **but not all the eleven facilities have been able to access the grant**, despite being allocated within the National Budget, and not all receive the grant in good time. However, some facilities have made development strides with the funds they have received, such as purchase of equipment which had not been done in a long time.
- There is no specific, outlined structure on the how the grant is disbursed, utilized and reported. In addition, there are no conditions imposed on how the funds should be used and the basis for how they are distributed is unclear and appears to be changing over time without justification.
- Whereas some of the facilities are able to access their Facility Improvement Fund (FIF), or to get it back in full from the county government, not all counties are allowing the facilities full access to these funds. Facilities that are allowed access to these funds find it easier to run day-to-day services.
- The extent to which the county governments are topping up the conditional grant is unclear and it may be necessary to require counties to partially match the grant. Some counties have allowed the level 5 facilities to be semi-autonomous procurement agents, easing access to vital commodities and services in the health sector. Facilities that have

to procure using the county system have a difficult time providing services and accessing essential commodities because of delays in the system.

The first conditional grant was Kshs 3.4 Billion (2013/2014), which was then reduced to Kshs 1.87 Billion (2014/2015) the following financial year. The Budget Policy Statement from national Treasury for FY 2015/2016 proposed to increase this amount to Kshs 2.06 Billion, which has been adopted by Parliament

HENNET fully supports this increase, which will allow the facilities to have more resources and work towards ensuring specialized services are available in these facilities as intended.

Secondly we want to thank the parliament for providing additional conditional grants for the provision of free maternal services, and the leasing of Medical Equipment by the National government.

As Civil Society interested in better functioning of Level 5, we are therefore drawing the attention of the House Committee to the following:

Objects:

1. Securing the conditional grant as a source of revenue for Level 5 Hospitals

Draw the attention of the House Committee on:

1. The latest proposed allocation to Level 5 hospital is a good gesture from parliament, but there is need to consider sustaining this grant.
2. That one of the conditions attached to the conditional grant be that counties can only receive the grant if they allow facilities to retain or have access to the Facility Improvement Fund in full.
3. Conditional grant can be introduced as a matching grant that would require regional counties to put in a certain amount of their own funds into the L5. This would allow for the facilities to fully operate as Referral facilities, hence ensuring that the money already distributed through the equitable share is actually used for the L5s.

Pray that:

1. The Senate Finance and Economic Affairs Committee increase and sustain in future a conditional grant for Level 5 hospitals
2. Senate sets up criteria that would guide the allocation, disbursement, distribution, usage and accounting of the conditional grants for the Level 5 facilities to ensure that the funds apply to their intended use.

THAT this Memo has also been shared with:

1. Cabinet Secretary Ministry of Health
2. Senate Health, Labor and Social Welfare Committee
3. Senate Devolved Government Committee

Allan Ragi,

Executive Director,

Kenya AIDS NGOs Consortium (KANCO)

P. O. Box 69866-00400

Nairobi

Email: kanco@kanco.org

For:

KANCO

HENNET

Health NGO's Network

IBP | KENYA
Open ... Transform

D/Com
Please deal
02/04/15

31 March, 2015

Lead Clerk - Finance Committee
Please deal
7/4/15

THE CLERK OF THE SENATE,
P.O. BOX 41842-00100,
KENYATTA INTERNATIONAL CONFERENCE CENTER,
NAIROBI, KENYA.

RE: INTERNATIONAL BUDGET PARTNERSHIP KENYA'S SUBMISSION TO SENATE

KEY QUESTIONS ON DIVISION OF REVENUE 2015

As the Senate debates the Division of Revenue Bill 2015, there are a number of issues that should be considered to improve fairness in revenue sharing in 2015/16.

1. **The proposed equitable share to counties for 2015/16 is a slight decrease in the share of total shareable revenues compared to what counties received in 2014/15.** The Senate should consider whether this level of funding demonstrates adequate support for devolution. As overall revenues rise, should national government be taking more of that increase than counties?

	2014/15 (Billions)	2015/16 (Billions)
Total Shareable Revenue	1,026.31	1,242.70
County Equitable Share	227	258
Percentage	**22.10%**	**20.76%**

2. **Is there enough money for Level 5 Hospitals and are counties allocating matching funds to ensure the facilities maintain services?** The conditional grant allocated for these facilities in 2015/16 is Ksh 2.064 billion, which is a slight increase compared to what was allocated last year. However, this is still significantly lower than the Ksh 7.7 billion in recurrent funding allocated to provincial hospitals in 2012/13. From the first Division of Revenue Bill 2013, it has been assumed that the gap between what facilities require and what is provided by the conditional grant is being filled by counties. The logic of this arrangement is that counties hosting L5 facilities are providing regional services and should not bear the cost of those services alone, but at the same time, the host counties also benefit disproportionately from the services and must bear some of the cost themselves. How do we ensure that these facilities are receiving adequate funding? It is possible to require host counties to match the funding from the conditional grant (up to a certain percentage) in order to ensure that counties are filling this gap, but this has never been done. Given the importance of these facilities, it is time to ask whether enough is being done to ensure that they are fully financed.

3. **More broadly, what are the actual conditions that guide the conditional grants in the Division of Revenue Bill 2015**? When funds are devolved to counties for specific uses, the conditions should be indicated and a mechanism of enforcement provided. Conditional grants are currently given for two reasons. One reason is that some funds need to be transferred to counties using a distribution that is different from the main revenue sharing formula guiding the "equitable share." Another reason to give a grant is to ensure that certain national priorities are funded at the county level. All conditional grants should therefore either be distributed in a manner that is different from the formula, or they should come with conditions for how the funds are to be used, or both. From the DORB 2015, it is not entirely clear what conditions or distributional criteria apply to the conditional grants. For example, the medical leasing scheme appears to be financing equipment in two facilities per county, which suggests that this is a conditional grant that is not distributed according to the formula. But it is also likely that this is a conditional grant that can be used only for medical leasing. Are there other conditions attached to the grant? We cannot tell (in fact, this may not be a grant at all; it may be funding entirely managed by national government). As another example, the road maintenance grant appears to be given conditionally to ensure that it is used for road maintenance; it is not clear what the distributional criteria are, but it may be that they follow the CRA formula. This is, however, highly questionable, given that the formula has no parameter related to roads and tends to redistribute funding to areas with fewer roads. Giving a grant that can only be used for road maintenance to areas with few roads may not be sensible. Parliament should interrogate the rationale for the distribution and conditions associated with all conditional grants.
4. **Continuing with the issue of conditional grants, many of these grants are not actually devolved to counties directly, but they are mixed with those grants that are actually given to counties, creating confusion.**
   The Division of Revenue Bill (DoRB) mentions that the loans and grants in the "conditional allocations section" will be included in the National Government budget and managed at that level. Therefore, why is this included as part of the county revenue in 2015/16? Moreover, these are among several funds that may not be given directly to counties, from what we are able to conclude from other sources. For example, it does not appear that the medical leasing funds will be given directly to counties. It is not clear whether the free maternity funds are given directly to facilities or pass through county government; if the latter, the notes in DORB 2015 suggest that this may be replaced by an insurance modality which would likely be facility-based. For purposes of transparency and to help inform county budgeting, it should be clear which conditional allocations are actually conditional grants to the counties, and which are not.

5. **The decision to bring more conditional grants into the Division of Revenue Bill is commendable, as these grants should all be considered together; however, this requires a careful comparison with last year to understand what is actually**

happening to total county revenues. The table below compares conditional grants between the two years, showing that the total grants last year were much higher than normally reported, because these grants were not included in the DORB last year. Thus the increase in funding is much smaller this year than it might otherwise appear. Coupled with the decline in the counties' share of the total shareable revenue, this implies that county revenues are growing slowly.

Conditional Grants	2014/15 (Ksh) (Billions)	2015/16 (Ksh) (Billions)
Level 5 Hospital Grant	1.85	2.06
Free Maternity*	4.00	4.30
DANIDA Health Grant	0.73	0.85
World Bank Health Grant**		0.51
Medical leasing*	3.30	4.50
RMLF Grant (Road maintenance)		3.30
Health User Fee Grant*	0.70	0.90
Totals	**10.58**	**16.41**
Funds managed by national for counties	**13.17**	**9.32**
Total "conditional allocations"	**23.75**	**25.73**
Total equitable share+conditional allocations	**250.4**	**283.73**
Percent of shareable revenue	**24.4%**	**22.8%**

***Funds were not part of DOR last year and were not counted as a conditional grant though it was distributed through the budget**

****Funds were available in 2014/15 but were not given directly to counties as is planned for 2015/16**

6. **There is a need for Parliament to ask how much money is still held up in the National Government budget that could be devolved**. There is still a substantial amount of money held by the national government in the 2014/15 that could be devolved, though this would require some significant state reform. From our analysis, there is about Ksh 65 billion that should be up for discussion, of which some portion could and should be devolved (see Annex). This is inclusive of government grants and local Appropriation in Aid, but excludes any external funding. Reforms in state corporations will play a key role in this discussion, as 73% of the Ksh 65 billion consists of allocations to parastatals running county functions. These funds cannot just be devolved without policy reform to cater for corporations that are performing regional functions, corporations that are performing both national and county functions, and corporations performing shared functions (such as energy). There are also some national agencies that were slated for devolution in 2012/13 but have been pulled back that deserve a second look. The Senate should start the debate on

how to make adjustments that will ensure each function is run by the right level of government without negatively affecting service provision.

7. **Even if the technical analysis of how much it costs to run functions at their current levels is correct, the DOR is more than an accounting exercise and should also be based on the relative priority we attach to education, security and other national functions versus health, agriculture and other devolved functions.** The "baseline" used in the DORB is an adjusted and inflated figure based on relative priorities of different sectors in 2012/13, and may not reflect the relative importance of these sectors in 2015/16. Parliament must debate and decide these matters.
8. **What projects/programmes are funded by the conditional allocations from loans and grants totalling Ksh 10.7 billion**? The DoRB does not provide much information about such projects in terms of locations and individual costs but this has implications on county revenue. This information allows the counties to have an idea of what donors are funding in the counties so that they can avoid allocating money to the same projects or programmes. This should also include the time it will take to implement these donor funded projects. In 2014, the County Allocation of Revenue Bill had some level of detail on projects funded by donors, but we have not been able to access it so far. This information should be made readily available along with the DOR.
9. **Are the National Interest priorities under the National Government based on a broad national consensus**? The "national interest" mentioned in Article 203 of the constitution as a criteria for revenue sharing should refer to priorities for the country as a whole. It does not refer to national government priorities alone, nor does it refer only to those functions (such as security) carried out by the national government. The "national interest" should be based on a broad social consensus that cuts across both levels of government. For example, a broad social consensus could determine that primary health care was a vital national interest, and that would require counties to have additional funding to support implementation of that function. The 2015/16 DoRB is more specific about how the "national interest" has been defined than the 2014/15 DoRB. However, it appears that the definition used includes only those funds that will be managed by national government (even for farm inputs, a county function) and there is no evidence that this "national interest," which includes laptops, etc. is the result of any consensus agreement among key stakeholders, including the two levels of government. The choice about what to include in national interest reduces the amount of revenue available for sharing by over Ksh 70 billion, so it is important to consider it carefully.
10. **What are the costs of administrative services in the counties and is the funding given to counties sufficient to manage it?** There has been considerable discussion on how much counties have to spend on administration and whether this is affecting the amount of resources available to run basic services. However, the level of information in the DoRB does not really give a full picture of county administrative costs. Over time, the National Treasury and CRA have produced different estimates of administrative costs at county level. These estimates have never been consistent

or final, and it is imperative that Parliament demand an updated and complete estimate of all county administrative costs based on the latest notices from the Salaries and Remuneration Commission.

Annex

Resources in 2014/15 budget that should potentially be devolved by source

Categories	Government Grants	Local AiA	External Funding	Total Government Grants+Local AiA+Ext Funding	Sector share to the Total Funding to Functions
Shared Functions	15.350.629.702	3.140.000.000	20.163.000.000	38,653,629,702	48%
Dominant External Funding	1.803.799.670	-	12.278.894.126	14,082,693,796	17%
Regional Agencies	5.483.697.778	1.817.238.239	11.056.227.277	18,357,163,294	23%
Single Unit Running National and County Functions	4.595.299.020	367.000.000	27.985.340	4,990,284,360	6%
Initially Devolved But Partially or Fully Retained	4.188.743.678	49.675.917	766.000.000	5,004,419,595	6%
Total Allocation to Shared Functions	**31,422,169,848**	**5,373,914,156**	**44,292,106,743**	**81,088,190,747**	**100%**
Total Allocation to Devolved but Retained Functions	**23,772,910,171**	**4,040,000,000**	**8,178,740,000**	**35,991,650,171**	
Total	**55,195,080,019**	**9,413,914,156**	**52,470,846,743**	**117,079,840,918**	
:of which					
State Corporations	**42,029,282,441**	**4,961,238,239**	**39,032,452,617**	**86,022,973,297**	**73%**

This table highlights funding in the 2014/15 budget that should be discussed for possible devolution. The ategories are:

hared Functions. These are institutions that are performing functions that are shared in the constitution, uch as energy, where it is not clear how much of what they are doing should be devolved.

)ominant external funding. These are devolved budget heads but they are almost entirely funded by xternal funds. There is a small amount of local funding that could potentially be devolved, but may also e counterpart funding to secure donor funds. These areas cannot be devolved as they are currently unded, but they represent devolved functions that could eventually be devolved if their funding rrangements changed.

egional Agencies. Budget heads running devolved functions at a regional level such as the Water Service oards. Regional bodies may need to be reformed rather than dissolved to ensure regional cooperation ontinues.

ingle Unit Running National and County Functions. Some budget heads are for units that seem to run oth national and county functions and it is not clear how these should be split. The National Transport nd Safety Authority is an example.

itially Devolved but Partially or Fully Retained. Another set of vote heads that were marked partially or illy devolved in the 2012/13 budget have remained in the 2014/15 budget for reasons that are not clear. ome may have been devolved in error, but this should be interrogated.

evolved but Retained. These are budget heads that correspond to devolved functions and there does not ppear to be any reason why they should not be devolved.

urther details available upon request.