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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT

FIFTH SESSION

THE BUDGET AND APPROPRIATIONS COMMITTEE REPORT ON THE MESSAGE
FROM THE SENATE ON THE DIVISION OF REVENUE BILL (NATIONAL
ASSEMBLY BILL NO. 7 OF 2021)

APRIL, 2021


 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 APR 2021	
DAY: Wed	
TABLED BY:	Chair, Budget Hon. Kamini Kega
CLERK-AT THE-TABLE:	Finlay Muriuki

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CHAIRPERSON'S FOREWORD

In accordance with Article 110 of the Constitution, Section 191(4) of the Public Finance Management Act, 2012 and Standing Orders 41; I am honoured to present to this House, on behalf of the Members of the Budget and Appropriations Committee, the Committee's Report on the Message from the Senate on the Division of Revenue Bill (National Assembly Bill No. 7 Of, 2021).

The National Assembly considered and passed the Division of Revenue Bill (National Assembly Bill No. 7 of 2021) on 23rd, March 2021. In line with provisions of Article 110 (4) of the Constitution and Standing Orders 41 of the National Assembly relating to the messages to and from the Senate, the message was submitted to the senate on the 24th, March 2021 for its consideration and concurrence. The Senate on Tuesday, 13th April 2021, passed with amendments the Division of Revenue Bill, 2021 and sought concurrence of the National Assembly on the said Bill in accordance with provisions of Article 112(1) (b) of the Constitution.

On 16th April 2021, the Speaker received the message from the Senate regarding its passage and referred the Message and Schedule of Senate amendments to Budget and Appropriations Committee for consideration.

Consideration of the Message from the Senate on the Division of Revenue Bill (National Assembly Bill No. 7 Of, 2021)

In reviewing the message, the Committee held 1 Sitting where extensive deliberations were held. Arising from these deliberations, the committee made the following observations:

- i. The major point of departure between the National Assembly and the Senate is presentation of memo items in the Schedule of Division of Revenue Bill, 2021. There is no dispute between the amount to be allocated to counties and the removal of memo items which does not materially change the flow of funds to counties as the memo items are already set aside in the National budget and will be appropriated accordingly.
- ii. Going forward, there is need to establish a legal framework for the transfer of conditional grants to the respective County Revenue Funds (CRFs) so as to ensure timely release of funds for implementation of programmes and projects at county level.

- iii. The National Treasury should develop a legal framework for the management, control and accounting of donor funds at county level as development partners usually sign agreements with the National government. This will enable county governments to borrow directly and ensure National Government guarantees.

Committee recommendations

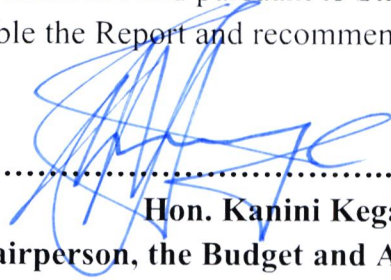
The Committee recommends that this House do concur with the proposed amendments by the Senate and therefore accepts deletion of Schedule as well as the accepting the substitution therefor the new schedule as proposed.

Acknowledgements

The Budget and Appropriations Committee is grateful to the Office of the Speaker of the National Assembly, the Office of the Clerk of the National Assembly and the Parliamentary Budget Office for the support extended in fulfilling this mandate of reviewing the message from the Senate on Division of Revenue Bill (National Assembly Bill No. 7 of 2021) during this period of uncertainty as occasioned by the Covid-19 pandemic.

On behalf of the Committee and pursuant to Standing Order 199(6), it is my pleasant duty and privilege to table the Report and recommend it to the House for adoption.

Signed:


Hon. Kanini Kega, CBS, M.P.
Chairperson, the Budget and Appropriations Committee

Date: *27th APRIL 2021*

A. PREFACE

1.1: Establishment and Mandate of the Committee

Article 221 (4 and 5) of the Constitution and Section 7 of the Public Finance Management Act, 2012 provide for the establishment of a Committee of the National Assembly whose main role is to take the lead in budgetary oversight. Pursuant to this constitutional provision, Standing Order 207 established the Budget and Appropriations Committee with specific mandates among which is to:

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

1.2. Membership of the Committee

The Budget and Appropriations Committee as currently constituted comprises of the following Honourable Members of Parliament:

Member	Constituency	Party
1. Hon. Kanini Kega, CBS, M.P. – Chairperson	Kieni	Jubilee
2. Hon. Benard Masaka Shinali, M.P. – Vice Chairperson	Ikolomani	Jubilee
3. Hon. CPA John Mbadi, EGH, CBS, M.P.	Suba South	ODM
4. Hon. Emmanuel Wangwe, CBS, M.P.	Navakholo	Jubilee
5. Hon. CPA Moses K. Lessonet, CBS, M.P.	Eldama Ravine	Jubilee
6. Hon. Samwel Moroto, M.P.	Kapenguria	Jubilee
7. Hon. Millie Odhiambo, M.P.	Suba North	ODM
8. Hon. Richard Onyonka, M.P.	Kitutu Chache South	Ford Kenya
9. Hon. (Dr.) Makali Mulu Benson, M.P.	Kitui Central	Wiper
10. Hon. Twalib Bady, M.P.	Jomvu	ODM
11. Hon. Jude Njomo, M.P.	Kiambu Town	Jubilee
12. Hon. Fatuma Gedi Ali, CBS, M.P.	Wajir County	PDR

13. Hon. Wangari Mwaniki, OGW, M.P.	Kigumo	Jubilee
14. Hon. Sarah Paulata Korere, M.P.	Laikipia North	Jubilee
15. Hon. Josephine Naisula Lesuada, OGW, M.P.	Samburu West	KANU
16. Hon. Alfred Kiptoo Keter, M. P	Nandi Hills	Jubilee
17. Hon. Sakwa Bunyasi, M.P.	Nambale	ANC
18. Hon. Florence Chepng'etich Koskey Bore, M.P.	Kericho County	Jubilee
19. Hon. James Gichuki Mugambi, MBS, M.P.	Othaya	Jubilee
20. Hon. Danson Mwashako, M.P.	Wundanyi	Wiper
21. Hon. (Eng.) Mark Nyamita, M.P.	Uriri	ODM
22. Hon. Paul Abuor, M. P	Rongo	ODM
23. Hon. Mercy Wanjiku Gakuya, M.P.	Kasarani	Jubilee
24. Hon. CPA Francis Kuria Kimani, M.P.	Molo	Jubilee
25. Hon. Samuel Atandi, M.P.	Alego Usonga	ODM
26. Hon. Joseph Manje, M.P.	Kajiado North	Jubilee
27. Hon. Marselino Arbelle, M.P.	Laisamis	Jubilee

1.3 Parliamentary Budget Office and Committee Secretariat

The Committee is facilitated by the following officers from the Parliamentary Budget Office:

1. Ms. Phyllis Makau, OGW	Director, Parliamentary Budget Office
2. Mr. Martin Masinde	Senior Deputy Director, Parliamentary Budget Office
3. Mr. Fredrick Muthengi	Chief Fiscal Analyst
4. Ms. Millicent Makina	Fiscal Analyst I
5. Ms. Amran Yunis	Fiscal Analyst I

The Committee Secretariat comprises of the following officers:

1. Mr. Joseph Ndirangu	Fiscal Analyst I/ Clerk of the Budget and Appropriations Committee
2. Mr. Danson Kachumbo	Fiscal Analyst I/ Clerk of the Budget and Appropriations Committee
3. Ms. Winfred Kizia	Media Relations
4. Mr. Benard Omondi	Serjeant-at-arms
5. Mr. Stephen Nyakuti	Audio Officer
6. Mr. Joram Baraza	Office Assistant

B. INTRODUCTION

1. The Division of Revenue Bill (DoRB), (National Assembly Bill No. 7 of 2021) was published on 8th March 2021 in accordance with Article 218 of the Constitution. The National Assembly considered and passed the Division of Revenue Bill (National Assembly Bill No. 7 of 2021) on 23rd March 2021. In line with provisions of Article 110 (4) of the Constitution and Standing Orders 41 of the National Assembly relating to the messages to and from the Senate, the message was submitted to the senate on the 24th March 2021 for its consideration and concurrence. and concurrence. The Senate on Tuesday, 13th April 2021, passed with amendments the Division of Revenue Bill, 2021 and sought concurrence of the National Assembly on the said Bill in accordance with provisions of Article 112(1) (b) of the Constitution.
2. On 16th April 2021, the Speaker received the message from the Senate regarding its passage and referred the Message and Schedule of Senate amendments to Budget and Appropriations Committee for consideration.
3. In accordance to Article 202 and 203 of the Constitution, the projected revenue collection for the financial year 2021/22 is estimated at Kshs 1,775.62 billion. The amount is shared between the National government, County governments and the Equalization Fund as follows:
 - i. National Government - Kshs. 1.398 trillion
 - ii. County Governments – Kshs. 370 billion
 - iii. Equalization Fund – Kshs. 6.8 billion

C. PROPOSED SENATE AMENDMENT TO THE DIVISION OF REVENUE BILL, (NATIONAL ASSEMBLY BILL NO. 7 OF 2021)

4. In its consideration of the Division of Revenue Bill, 2021, the Senate observed the High Court ruling on Petition No. 252 of 2016. In its ruling the court ordered that in accordance with Article 202(2) of the Constitution all funds christened in the Division of Revenue Act as conditional or unconditional grants should be disbursed

to the Counties through the County Revenue Fund. Therefore, directed that the Division of Revenue Act to conform to the provisions of Articles 202(2) and 203 (1) of the Constitution.

5. Senate further noted that conditional or non-conditional grants are not items to be provided for under the Division of Revenue Act and that conditional and non-conditional grants can be issued to the county level of government under the auspices of Article 190 of the constitution or through an agreement between the two levels of government that respects the institutional and functional integrity of the either level of government.
6. In this regard, the Senate amended the DoRB, 2021 as passed by the National Assembly by deleting the memo items which had a proposed allocation of Kshs. 39.88 billion (from its National share) as additional conditional allocations to county governments. This comprised of: Kshs. 7.537 billion for the leasing of medical equipment and supplement for construction of county headquarters, Kshs. 32.343 billion as additional conditional allocations to county governments financed from proceeds of loans and grants by development partners.
7. These conditional grants were reflected in the DoRB as memo items which served as additional information to disclose the allocations going to the county governments besides county equitable share allocation. These funds therefore are included in the appropriation bill for the National Budget. The DoRB as passed by the National Assembly versus the one approved by senate is as shown below.

Schedule 1: Allocation of revenue raised nationally among the national and county governments for the FY 2021/22		
Type/level of allocation	FY 2021/22- Amount in Kshs. Percentage (%) of 2016/17 audited and approved revenue i.e., Ksh. 1,357,698 Million	
	National Assembly	Senate
A. Total Sharable Revenue	1,775,624,173,860	1,775,624,173,860
B. National Government	1,398,798,856,427	1,398,798,856,427
Of which:		
<i>1. Leasing of Medical Equipment</i>	7,205,000,000	

2. Supplement for construction of county headquarters	332,000,000	
C. Equalization Fund	6,825,317,433	6,825,317,433
D. County equitable share	370,000,000,000	370,000,000,000
Memo items		
1. County equitable share	370,000,000,000	
2. Additional conditional allocations (National Government share of Revenue) of which;	7,537,000,000	
2.1. Leasing of Medical Equipment	7,205,000,000	
2.2. Supplement for construction of county headquarters	332,000,000	
3. Allocation from Fuel Levy Fund (15%)	-	
4. Conditional allocations (Loans & grants) of which:	32,343,890,512	
4.1 IDA-Kenya Devolution Support Program (KDSP) (Level 2)	4,600,000,000	
4.2 IDA-Transforming Health Systems for Universal Care Project	2,234,664,075	
4.3 DANIDA-Universal Healthcare for Devolved System Program	701,250,000	
4.4 IDA-National Agriculture & Rural Inclusive Growth Project (NARIGP)	6,394,997,407	
4.5 EU-Instruments for Devolution Advice and Support (IDEAS)	230,730,934	
4.6 IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP)	7,838,338,490	
4.7 Kenya Informal Settlement Improvement Project (KISIP II)	2,800,000,000	
4.8 IDA- Water and Sanitation Development Project (WSDP)	5,000,000,000	
4.9 Sweden Agriculture Sector Development Programme II (ASDP II)	1,300,042,902	
4.10 Drought Resilience Programme in Northern Kenya	370,000,000	
4.11 Emergency Locust Response Project (ELRP)	800,000,000	
4.12 UNFPA- 9th Country Programme Implementation	73,866,704	
Total County Allocations= (1+2+3+4)	409,880,890,512	

8. As indicated in the schedule above only the sharing of nationally raised resources to National Government, Equalization Fund and Equitable share will remain in the schedule.

D. COMMITTEE OBSERVATIONS

9. The committee made the following observations:
 - i. The major point of departure between the National Assembly and the Senate is presentation of memo items in the Schedule of Division of Revenue Bill, 2021. There is no dispute between the amount to be allocated to counties and the removal of memo items which does not materially change the flow of funds to counties as the memo items are already set aside in the National budget and will be appropriated accordingly.
 - ii. Going forward, there is need to establish a legal framework for the transfer of conditional grants to the respective County Revenue Funds (CRFs) so as to ensure timely release of funds for implementation of programmes and projects at county level.
 - iii. The National Treasury should develop a legal framework for the management, control and accounting of donor funds at county level as development partners usually sign agreements with the National government. This will enable county governments to borrow directly and ensure National Government guarantees.

E. COMMITTEE RECOMMENDATION

10. The Committee recommends that this House do concur with the proposed amendments by the Senate and therefore accepts deletion of Schedule as well as the accepting the substitution therefor the new schedule as proposed.

SCHEDULE**(s.4)****ALLOCATION OF REVENUE RAISED NATIONALLY AMONG THE NATIONAL AND COUNTY GOVERNMENTS FOR THE FINANCIAL YEAR 2021/22**

Type/level of allocation	Amount in Ksh.	Percentage (%) of 2016/17 audited and approved Revenue i.e., Ksh. 1,357,698 Million
A. Total Sharable Revenue	1,775,624,173,860	
B. National Government	1,398,798,856,427	
C. Equalization Fund	6,825,317,433	0.50%
D. County equitable share	370,000,000,000	27.3%

MINUTES OF THE 17th SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD AT COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON MONDAY, 26th APRIL 2021, AT 10.00 A.M.

PRESENT:

1. **Hon. Kanini Kega, CBS, M.P.- Chairperson**
2. **Hon. Benard Masaka Shinali, M.P.- Vice Chairperson**
3. Hon. Emmanuel Wangwe, CBS, M.P.
4. Hon. (CPA) Moses K. Lessonet, CBS, M.P.
5. Hon. Alfred Kiptoo Keter, M.P.
6. Hon. (Dr.) Makali Mulu, M.P.
7. Hon. Sarah Paulata Korere, M.P.
8. Hon. Josephine Naisula Lesuuda, OGW, M.P.
9. Hon. Wangari Mwaniki, OGW, M.P.
10. Hon. Fatuma Gedi Ali, CBS, M.P.
11. Hon. Danson Mwashako, M.P.
12. Hon. James Gichuki Mugambi, MBS, M.P.
13. Hon. (Eng.) Mark Nyamita, M.P.
14. Hon. Florence C. K. Bore, M.P.
15. Hon. Sakwa Bunyasi, M.P.
16. Hon. Samuel Atandi, M.P.
17. Hon. Mercy Wanjiku Gakuya, M.P.
18. Hon. (CPA) Francis Kuria Kimani, M.P.
19. Hon. Joseph Manje, M.P.

ABSENT WITH APOLOGY:

1. Hon. (CPA) John Mbadi, EGH, CBS, M.P.
2. Hon. Samwel Moroto, M.P.
3. Hon. Millie Odhiambo, M.P.
4. Hon. Richard Onyonka, M.P.
5. Hon. Badi Twalib, M.P.
6. Hon. Jude Njomo, M.P.
7. Hon. Paul Abuor, M.P.
8. Hon. Masalino Arbelle, M.P.

PARLIAMENTARY BUDGET OFFICE

- | | |
|------------------------------|-------------------------|
| 1) Mrs. Phyllis Makau, OGW | Director, PBO |
| 2) Mr. Martin Masinde
PBO | Senior Deputy Director, |
| 3) Mr. Frederick Muthengi | Chief Fiscal Analyst |
| 4) Ms. Amran Yunis | Fiscal Analyst I |

COMMITTEE SECRETARIAT

- | | |
|------------------------|--------------------------|
| 1) Mr. Danson Kachumbo | Fiscal Analyst I & Clerk |
| 2) Mr. Stephen Nyakuti | Audio Officer |

AGENDA

1. Preliminaries & Confirmation of Agenda
2. *Adoption of the BAC report on the message from Senate on Division of Revenue(National Assembly Bill No. 7 of 2021)*
3. Any Other Business (A.O.B)

MIN. NO. NA/BAC/2021/298: PRELIMINARY

The Chairperson welcomed the committee members to the meeting and called the meeting to order at 10.30 a.m. Thereafter, a prayer was said.

MIN. NO. NA/BAC/2021/299: ADOPTION OF ON THE MESSAGE FROM SENATE ON DIVISION OF REVENUE(NATIONAL ASSEMBLY BILL NO. 7 OF 2021)

Members were taken through the draft report by Director, Parliamentary Budget Office. The committee went clause by clause of the report. After deliberations, the report was proposed by Hon. Sarah PaulataKorere, M.P. and seconded by Hon. Josephine NaisulaLesuuda, OGW, M.P. The committee **adopted** the report as follows:

A. INTRODUCTION

1. The Division of Revenue Bill (DoRB), (National Assembly Bill No. 7 of 2021) was published on 8th March 2021 in accordance with Article 218 of the Constitution. The National Assembly considered and passed the Division of Revenue Bill (National Assembly Bill No. 7 of 2021) on 23rd March 2021. In line with provisions of Article 110 (4) of the Constitution and Standing Orders 41 of the National Assembly relating to the messages to and from the Senate, the message was submitted to the senate on the 24th March 2021 for its consideration and concurrence. and concurrence. The Senate on Tuesday, 13th April 2021, passed with amendments the Division of Revenue Bill, 2021 and sought concurrence of the National Assembly on the said Bill in accordance with provisions of Article 112(1) (b) of the Constitution.
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B. PROPOSED SENATE AMENDMENT TO THE DIVISION OF REVENUE BILL, (NATIONAL ASSEMBLY BILL NO. 7 OF 2021)

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of Revenue Act to conform to the provisions of Articles 202(2) and 203 (1) of the Constitution.

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Of which:		
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Type/level of allocation	FY 2021/22- Amount in Kshs. Percentage (%) of 2016/17 audited and approved revenue i.e. Ksh. 1,357,698 Million	
	National Assembly	Senate
<i>2. Supplement for construction of county headquarters</i>	332,000,000	
C. Equalization Fund	6,825,317,433	6,825,317,433
D. County equitable share	370,000,000,000	370,000,000,000
Memo items		
1. County equitable share	<i>370,000,000,000</i>	
<i>2. Additional conditional allocations(National Government share of Revenue) of which;</i>	<i>7,537,000,000</i>	
<i>2.1. Leasing of Medical Equipment</i>	7,205,000,000	
<i>2.2. Supplement for construction of county headquarters</i>	332,000,000	
<i>3. Allocation from Fuel Levy Fund (15%)</i>	-	
<i>4. Conditional allocations (Loans & grants) of which:</i>	<i>32,343,890,512</i>	
<i>4.1 IDA-Kenya Devolution Support Program (KDSP) (Level 2)</i>	4,600,000,000	
<i>4.2 IDA-Transforming Health Systems for Universal Care Project</i>	2,234,664,075	
<i>4.3 DANIDA-Universal Healthcare For Devolved System Program</i>	701,250,000	
<i>4.4 IDA-National Agriculture & Rural Inclusive Growth Project (NARIGP)</i>	6,394,997,407	
<i>4.5 EU-Instruments for Devolution</i>	230,730,934	

Schedule 1: Allocation of revenue raised nationally among the national and county governments for the FY 2021/22

Type/level of allocation	FY 2021/22- Amount in Kshs. Percentage (%) of 2016/17 audited and approved revenue i.e. Ksh. 1,357,698 Million	
	National Assembly	Senate
<i>Advice and Support (IDEAS)</i>		
<i>4.6 IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP)</i>	7,838,338,490	
<i>4.7 Kenya Informal Settlement Improvement Project (KISIP II)</i>	2,800,000,000	
<i>4.8 IDA- Water and Sanitation Development Project (WSDP)</i>	5,000,000,000	
<i>4.9 Sweden Agriculture Sector Development Programme II (ASDP II)</i>	1,300,042,902	
<i>4.10 Drought Resilience Programme in Northern Kenya</i>	370,000,000	
<i>4.11 Emergency Locust Response Project (ELRP)</i>	800,000,000	
<i>4.12 UNFPA- 9th Country Programme Implementation</i>	73,866,704	
Total County Allocations= (1+2+3+4)	409,880,890,512	

8. As indicated in the schedule above only the sharing of nationally raised resources to National Government, Equalization Fund and Equitable share will remain in the schedule.

C. COMMITTEE OBSERVATIONS

9. The committee made the following observations:

- i. The major point of departure between the National Assembly and the Senate is presentation of memo items in the Schedule of Division of Revenue Bill, 2021. There is no dispute between the amount to be allocated to counties and the removal of memo items

which does not materially change the flow of funds to counties as the memo items are already set aside in the National budget and will be appropriated accordingly.

- ii. Going forward, there is need to establish a legal framework for the transfer of conditional grants to the respective County Revenue Funds (CRFs) so as to ensure timely release of funds for implementation of programmes and projects at county level.
- iii. The National Treasury should develop a legal framework for the management, control and accounting of donor funds at county level as development partners usually sign agreements with the National government. This will enable county governments to borrow directly and ensure National Government guarantees.

D. COMMITTEE RECOMMENDATION

10. The Committee recommends that this House do concur with the proposed amendments by the Senate and therefore accepts deletion of Schedule as well as the accepting the substitution therefor the new schedule as proposed.

SCHEDULE (s.4)

ALLOCATION OF REVENUE RAISED NATIONALLY AMONG THE NATIONAL AND COUNTY GOVERNMENTS FOR THE FINANCIAL YEAR 2021/22

Type/level of allocation	Amount in Ksh.	Percentage (%) of 2016/17 audited and approved Revenue i.e., Ksh. 1,357,698 Million
A. Total Sharable Revenue	1,775,624,173,860	
B. National Government	1,398,798,856,427	
C. Equalization Fund	6,825,317,433	0.50%
D. County equitable share	370,000,000,000	27.3%

MIN.NO.NA/BAC/2021/300:ANY OTHER BUSINESS & ADJOURNMENT

There being no other matters to consider, the meeting was adjourned at 12.00 p.m. The next sitting will be communicated at a later date.

SIGNED



.....
HON. KANINI KEGA, CBS, M.P.
CHAIRPERSON, BUDGET AND APPROPRIATIONS COMMITTEE

27th APRIL 2021

.....
DATE

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 APR 2021	DAY:
TABLED BY:	
CLERK-AT THE TABLE:	

Approved for tabling.




[Signature]
SNA
11/3/2021

PARLIAMENT
OF KENYA
LIBRARY

REPUBLIC OF KENYA
KENYA NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FIFTH SESSION

REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE DIVISION OF REVENUE
BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 7 OF 2021)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 11 MAR 2021	DAY: Thursday
TABLED BY:	Chair, Budget Committee Hon. Kanini Kege, MP
CLERK-AT THE-TABLE:	Anna Musandu
MARCH 2021	

CHAIRPERSON'S FOREWORD

The Division of Revenue Bill, 2021 (National Assembly Bill No. 7 of 2021) was read for the first time in the National Assembly on Tuesday, March 9th, 2021. Pursuant to Standing Order 127(2), the Bill was committed to the Budget and Appropriations Committee for review and recommendations. The Bill seeks to provide for sharing of revenue raised nationally between the national government and county governments for the financial year 2021/22 in accordance with Article 202, 203, 205 and 218 of the Constitution.

The enactment of the Division of Revenue Bill, 2021 is critical in paving way for the introduction of the County Allocation of Revenue Bill, 2021, which will provide for the sharing of the revenue raised nationally among county governments and thus forming the basis of preparation of the annual budget estimates for the forty-seven (47) county governments.

The spirit and letter of Article 224 of the Constitution requires that County Governments prepare and adopt their annual budgets and appropriations bills based on the approved Division of Revenue Act. Furthermore, in April 2020, the High Court ruled that in any financial year, the Division of Revenue Bill ought to be introduced in Parliament simultaneously with the County Allocation of Revenue Bill and should precede the Budget Policy highlights and the Appropriation bill for the budget estimates.

In adherence with this court requirement and ensure that county budgeting process is unimpeded, it is imperative that we dispense with the approval and subsequent enactment of the Bill in a timely manner.

Mandate of the Committee

Article 221 (4) of the Constitution and Section 7 of the Public Finance Management Act, 2012 provide for the establishment of a Committee of the National Assembly whose main role is to take the lead in budgetary oversight by the National Assembly. Pursuant to this constitutional provision, Standing Order 207 establishes the Budget and Appropriations Committee with specific mandates as follows:

- i. Investigate, inquire into and report on all matters relating to coordination, control and monitoring of the national budget;
- ii. Discuss and review the budget estimates and make recommendations to the House;
- iii. Examine the Budget Policy Statement presented to the House
- iv. Examine bills related to the national budget including appropriation bills;
- v. Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays; and
- vi. Examine the Division of Revenue Bill.

Membership of the Committee

The Budget and Appropriations Committee as currently constituted comprises of the following Honourable Members:

Member	Constituency	Party
1. Hon. Kanini Kega, CBS, M.P. – Chairperson	Kieni	Jubilee
2. Hon. Benard Shinali, M.P. – Vice Chairperson	Ikolomani	Jubilee
3. Hon. CPA John Mbadi, EGH, CBS, M.P.	Suba South	ODM
4. Hon. Emmanuel Wangwe, CBS, M.P.	Navakholo	Jubilee
5. Hon. Fatuma Gedi Ali, CBS, M.P.	Wajir County	PDR
6. Hon. Wangari Mwaniki, OGW, M.P.	Kigumo	Jubilee
7. Hon. CPA Moses K. Lessonet, CBS, M.P.	Eldama Ravine	Jubilee
8. Hon. Samwel Moroto, M.P.	Kapenguria	Jubilee
9. Hon. Millie Odhiambo, M.P.	Suba North	ODM
10. Hon. Richard Onyonka, M.P.	Kitutu Chache South	Ford Kenya
11. Hon. (Dr.) Makali Mulu Benson, M.P.	Kitui Central	Wiper
12. Hon. Twalib Bady, M.P.	Jomvu	ODM
13. Hon. Jude Njomo, M.P.	Kiambu Town	Jubilee
14. Hon. Sarah Paulata Korere, M.P.	Laikipia North	Jubilee
15. Hon. Josephine Naisula Lesuuda, OGW, M.P.	Samburu West	KANU
16. Hon. Alfred Kiptoo Keter, M.P.	Nandi Hills	Jubilee
17. Hon. Sakwa Bunyasi, M.P.	Nambale	ANC
18. Hon. Florence Chepng'etich Koskey Bore, M.P.	Kericho County	Jubilee
19. Hon. James Gichuki Mugambi, M.P.	Othaya	Jubilee
20. Hon. Danson Mwashako, M.P.	Wundanyi	Wiper
21. Hon. (Eng.) Mark Nyamita, M.P.	Uriri	ODM
22. Hon. Paul Abuor, M.P.	Rongo	ODM
23. Hon. Mercy Wanjiku Gakuya, M.P.	Kasarani	Jubilee
24. Hon. CPA Francis Kuria Kimani, M.P.	Molo	Jubilee
25. Hon. Samuel Atandi, M.P.	Alego Usonga	ODM
26. Hon. Joseph Manje, M.P.	Kajiado North	Jubilee
27. Hon. Marselino Arbelle, M.P.	Laisamis	Jubilee

COMMITTEE SECRETARIAT

- | | |
|------------------------|--------------------------|
| 1) Mr. Joseph Ndirangu | Fiscal Analyst I & Clerk |
| 2) Mr. Danson Kachumbo | Fiscal Analyst I |
| 3) Mr. Bernard Omondi | Sergeant at Arms |
| 4) Mr. Stephen Nyakuti | Audio Officer |

5) Mr. Joram Baraza

Office Assistant

PARLIAMENTARY BUDGET OFFICE

1) Mrs. Phyllis Makau, OGW

Director, PBO

2) Mr. Martin Masinde

Senior Deputy Director, PBO

3) Mr. Robert Nyaga

Deputy Director, PBO

4) Mrs. Millicent Makina

Fiscal Analyst I

5) Mrs. Julie Mwirigi

Fiscal Analyst I

6) Mr. James Chacha Machage

Fiscal Analyst I

7) Dr. Abel Nyagwachi

Fiscal Analyst I

Examination of the Division of Revenue Bill (National Assembly Bill No. 7 of 2021)

The Division of Revenue Bill (National Assembly Bill No. 7 of 2021) was read a first time during the afternoon sitting of Tuesday, March 9th, 2021. Pursuant to Standing Order 127(2), the Bill was committed to the Budget and Appropriations Committee for review.


At this juncture, I wish to highlight that the provisions under the DoRB, 2021 are in line with the House resolutions on the Budget Policy Statement and the Debt Management Strategy for 2021/22 and the medium term. This is in accordance with the provisions of Standing Order 232(8) (a).

On behalf of the Committee and Pursuant to the Standing Orders 199(6) of the National Assembly, it is therefore my pleasant duty and privilege, to table this report on the Division of revenue bill (National Assembly Bill no. 7 of 2021) for consideration and approval by the House.

Acknowledgements

The Committee wishes to thank the Office of the Speaker, the office of the Clerk of the National Assembly, and the Parliamentary Budget office for the support extended in fulfilling this mandate of reviewing the Division of Revenue Bill (National Assembly Bill No. 7 of 2021).

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

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 11 MAR 2021	
DAY: Thurs	
TABLED BY:	Hon. Kanini Kegera MP Chair, Budget
CLERK-AT THE-TABLE:	Anna Musandu

SIGNED




HON. KANINI KEGA, CBS, M.P.

CHAIRPERSON, THE BUDGET AND APPROPRIATIONS COMMITTEE

11/03/2021

DATE

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 11 MAR 2021	DAY: Thurs
TABLED BY:	Hon. Kanini Kega, MP Chair, Budget
CLERK-AT THE TABLE:	Anna Musandu

A. INTRODUCTION

1. The Division of Revenue Bill (National Assembly Bill No. 7 of 2021) provides for the sharing of revenue raised nationally between the national government and county governments for the financial year 2021/22 in accordance with Article 202, 203, 205 and 218 (2) of the Constitution.
2. The revenue shared is calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly and is distributed equitably between the two levels of government then shared among counties based on the Third basis formula for sharing revenue approved by Parliament under Article 217 of the Constitution.

B. OVERVIEW OF DIVISION OF REVENUE BILL, 2021

3. The projected revenue collection for the financial year 2021/22 is estimated at Kshs 1,775.62 billion. The amount is shared between the national government, County government and the Equalization fund as follows:
 - i. National Government - Kshs. 1.398 trillion
 - ii. County Governments – Kshs. 370 billion
 - iii. Equalization Fund – Kshs. 6.8 billion

ALLOCATIONS TO COUNTY GOVERNMENTS IN FY 2021/22

4. The Division of Revenue Bill, 2021, seeks to allocate Ksh. 409.88 billion to County Governments for the financial year 2021/22, based on the last audited and approved Revenues for the FY 2016/17 worth Ksh. 1,357,698 Million. This represents a Kshs. 38.3 billion or 10% increase in resource allocation to counties and is broken down as follows:
 - 1)**Equitable share worth Ksh. 370 billion;** The equitable share of revenue takes into account the fiscal framework set out in the BPS which has been approved by Parliament for FY 2021/22. This is further shared among counties based on the Third basis formula for sharing revenue approved by Parliament under Article 217 of the Constitution.
 - 2)**Conditional allocations amounting to Ksh. 7.53 billion,** allocated as stipulated in Article 202(2) of the Constitution from the share of national government revenue comprising of;
 - i. **Kshs 7,205 million for Leasing of Medical Equipment** which is a conditional grant was initiated in the FY 2015/16 in order to supporting provision of specialized medical services in public hospitals in an effort to improve access to specialized medical services for all Kenyans.
 - ii. **Kshs 332 million to Supplement County Allocation for the construction of Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi County Headquarters.** The grant was introduced as part of conditional grant during financial year 2016/17 whose purpose is to support construction of offices by county governments that did not inherit adequate facilities from defunct Local Authorities.

3) **Additional conditional allocations from proceeds of loans and grants by development partners amounting to Ksh. 32.344 billion.** This comprise of the following 12 grants;

- | | | |
|-------|--|----------------------|
| i. | IDA-Kenya Devolution Support Program (KDSP) (Level 2 Grant) - | Kshs. 4.6 billion |
| ii. | IDA-Transforming Health Systems for Universal Care Project - | Kshs. 2.23 billion |
| iii. | DANIDA Grant - Primary Healthcare in Devolved Context - | Kshs. 701.25 million |
| iv. | IDA-National Agri. & Rural Inclusive Growth Project (NARIGP) - | Kshs. 6.4 billion |
| v. | EU-Instruments for Devolution Advice and Support (IDEAS) - | Kshs. 230.73 million |
| vi. | IDA - Kenya Climate Smart Agriculture Project (KCSAP) - | Kshs. 7.84 billion |
| vii. | WB - Kenya Informal Settlement Improvement Project II - | Kshs. 2.8 billion |
| viii. | IDA- Water and Sanitation Development Project (WSDP) - | Kshs. 5 billion |
| ix. | Sweden Agri. Sector Development Programme II (ASDP II) - | Kshs. 1.3 billion |
| x. | Drought Resilience Programme in Northern Kenya - | Kshs. 370 million |
| xi. | Emergency Locust Response Project (ELRP) - | Kshs. 800 million |
| xii. | UNFPA- 9th Country Programme Implementation - | Kshs. 73.87 million |

CONDITIONAL GRANTS

5. In line with Article 202(2) of the Constitution the national government has been allocating additional conditional allocations to the county governments from the national government share of revenue raised nationally. However, in FY 2021/22 there seem to be a policy shift from past practice.

1) Conversion of GoK conditional allocation to equitable share

6. The Division of Revenue Bill, 2021 seeks to convert to equitable share status, most of previously allocated conditional grants from national government's equitable share worth Ksh. 17.02 billion. These include:
- i. **Allocation from Fuel Levy Fund worth Kshs.9.4 billion or 15% of the** Roads Maintenance Fuel Levy Fund meant for maintenance of county roads as stipulated by the Kenya Roads Board Act, 1999. This conversation should however be undertaken in line with provisions of Article 206 of the Constitution and definition of "revenue" under the CRA Act, 2011.
 - ii. **Compensation for User Fees Forgone (Kshs. 900 Million):** To compensate public dispensaries and health centers for lost revenue on abolishment of user fees. This was meant to cushion and ensure sustainable Government policy of not charging user fees in public health facilities.
 - iii. **Level 5 hospitals (Kshs. 4.33 Billion):** The objective of the conditional grant to level 5 hospitals is to sustain service delivery in designated Level 5 hospitals mainly former provincial general hospitals. This is to be achieved by targeting medical and surgical sub-specialties, inter-county referral services and medical training.
 - iv. **Rehabilitation of Youth Polytechnics (Kshs. 2 Billion):** Introduced in financial year 2017/18, aims to enhance access to quality and relevant vocational skills training to empower the youth by equipping Technical and Vocational Centers and capitation of student fees.

2) Impact on Conditional Grants (loans and grants)

7. The Bill introduces four (4) new additional conditional allocations from proceeds from development partners' grants and loans. These are as follows;
- i. **Emergency Locust Response Project (ELRP) Kshs. 800 million** financed by World Bank to prevent and respond to the threat to livelihoods posed by the Desert Locust outbreak and to strengthen Kenya's system for preparedness.
 - ii. **UNFPA- 9th Country Programme Implementation Kshs 73.87 million** intended address national priorities under the third Kenya Medium-term Plan (2018-2022), the 'Big Four' Agenda, the 2030 Agenda for Sustainable Development, the Africa Union Agenda 2063, the Kenya United Nations Development Assistance Framework 2018-2022.
 - iii. **Kenya Informal Settlement Improvement Project II Kshs 2.8 billion funded by the World Bank** to improve access to basic services and tenure security of residents in participating urban informal settlements and strengthen institutional capacity for slum upgrading in Kenya through increasing access to basic infrastructure and services.
 - iv. **Primary Healthcare in Devolved Context Kshs 701.25 million, a grant from the Danish International Development Agency (DANIDA)** to improve utilization and quality of primary health care services with a focus on reproductive, maternal, new-born, child, and adolescent health services.
8. In addition, the bill has reintroduced the following conditional grant:
- i. **The IDA-Kenya Devolution Support Program (KDSP) (Level 2 Grant) worth Kshs 4.6 billion.** this is the balance carried forward from the financial year 2019/20 that was not disbursed to respective county governments, to cater for counties that met the performance score after the fourth Annual Capacity and Performance Assessment (ACPA) carried out by the State Department for Devolution

COMMITTEE OBSERVATIONS

9. The committee made the following observations, that;
- i. The conversion of the Allocation to county governments from the Fuel Levy Fund (15%) – Kshs. 9.4 billion, is in contravention of the statute establishing the Fund and whose intention was to ring-fence critical financing for road maintenance by both national and county governments.

- ii. Furthermore the definition of “revenue” under *Article 206¹ of the Constitution and Commission on Revenue Allocation Act, 2011²*, exempt money excluded by an Act of Parliament and payable into another public fund, from being considered as equitable share. The Road Maintenance Levy Fund is one of such fund whose sources of funds cannot be classified as equitable share.
- iii. There is continued inability to oversight over the use of conditional grants allocated to counties. Conversion of the conditional grants to equitable will not address this problem.
- iv. It is important to note that this has been an ongoing practice, by county governments, of utilizing conditional grants for purposes other than that stipulated under law in disregard of the Division of Revenue Act and the County Allocation of Revenue Act and should be investigated.
- v. Conversion of health related conditional grants to equitable share without prior tabling of a report indicating the extent of development of county related health institutions could lead to health burden to affected county governments during a pandemic period and affect service provision.
- vi. Given that the revenue shared are projections creates fiscal risk that could necessitate borrowing, without which national government budget implementation process will be negatively affected. Ideally, any revenue shortfall should be shared equitably between national and county governments.

COMMITTEE RECOMMENDATIONS

10. Having considered the above matters, the Committee recommends that this House approves the Division of Revenue Bill 2021, specified as follows:
 - i. National Government equitable share worth Kshs. 1.398 trillion;
 - ii. County Governments equitable share worth Kshs. 370 billion;
 - iii. Equalization Fund allocation worth Kshs. 6.8 billion;
 - iv. GoK Conditional allocation worth Kshs. 7.5 billion; and,
 - v. Additional conditional allocations from proceeds of loans and grants by development partners worth Kshs. 32.34 billion.
11. The Committee therefore recommends to the House that the Division of Revenue Bill, 2021, be read a second time.

¹ Article 206 of the Constitution – “There is established the Consolidated Fund into which shall be paid all money raised or received by or on behalf of the national government, except money that; (a) is reasonably excluded from the Fund by an Act of Parliament and payable into another public fund established for a specific purpose”

² Revenue definition - means all taxes imposed by the national government under Article 209 of the Constitution and any other revenue (including investment income) that may be authorized by an Act of Parliament, but excludes revenues referred to under Articles 209(4) and 206(1)(a)(b) of the Constitution;

ANNEXES

Table 1: County Government Resource Allocation, FY 2021/22

ITEM	Approved Revenue i.e. Ksh. 1,038,035 Million for FY 2014/15	Used Last audited and approved Revenue i.e. Ksh. 1,357,698 Million for FY 2016/17	
	FY 2019/20	FY 2020/21	FY 2021/22
County Equitable Share	310,000.00	316,500.00	370,000.00
Conditional allocations from the National Government share;	13,911.15	13,731.00	7,537.00
<i>Leasing of Medical Equipment</i>	6,200.00	6,205.00	7,205.00
<i>Compensation for user fees forgone</i>	900.00	900.00	-
<i>Level 5 hospitals</i>	4,326.00	4,326.00	-
<i>Supplement for construction of county headquarters</i>	485.15	300.00	332.00
<i>Rehabilitation of Youth Polytechnics</i>	2,000.00	2,000.00	-
Allocation from Fuel Levy Fund (15%)	8,984.06	9,433.27	-
Conditional allocations (Loans & grants) of which:	38,704.88	30,204.35	32,343.89
<i>IDA-Kenya Devolution Support Program (KDSP) (Level 1)</i>	1,410.00	2,115.00	-
<i>IDA-Kenya Devolution Support Program (KDSP) (Level 2 Grant)</i>	4,890.00	-	4,600.00
<i>IDA-Transforming Health Systems for Universal Care Project</i>	2,994.25	4,345.38	2,234.66
<i>DANIDA-Universal Healthcare For Devolved System Program</i>	986.58	900.00	-
<i>DANIDA Grant - Primary Healthcare in Devolved Context - Successor of the Restructured DANIDA - Universal Healthcare for Devolved System Program</i>	-	-	701.25
<i>IDA-National Agriculture & Rural Inclusive Growth Project (NARIGP)</i>	7,232.72	4,261.65	6,395.00
<i>EU-Instruments for Devolution Advice and Support (IDEAS)</i>	492.70	216.01	230.73
<i>IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP)</i>	3,643.30	7,119.73	7,838.34

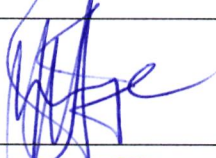

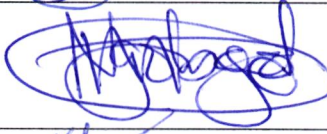

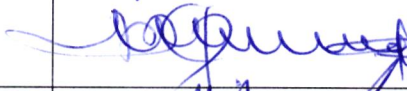
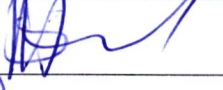
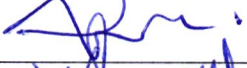
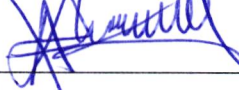

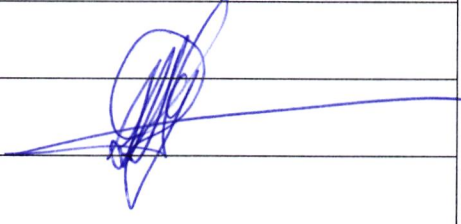


ITEM	Approved Revenue i.e. Ksh. 1,038,035 Million for FY 2014/15	Used Last audited and approved Revenue i.e. Ksh. 1,357,698 Million for FY 2016/17	
	FY 2019/20	FY 2020/21	FY 2021/22
<i>World Bank- Kenya Urban Support Program(KUSP)- UDG</i>	11,464.70	6,366.00	-
<i>World Bank- Kenya Urban Support Program(KUSP)- UIG</i>	396.00	-	-
<i>World Bank- Kenya Informal Settlement Improvement Project II (KISIP II)</i>	-	-	2,800.00
<i>IDA- Water and Sanitation Development Project (WSDP)</i>	3,500.00	3,400.00	5,000.00
<i>Sweden Agriculture Sector Development Programme II (ASDP II)</i>	849.63	652.58	1,300.04
<i>EU- Water Tower Protection and Climate Change Mitigation and Adaptation Programme (WaTER)</i>	495.00	528.00	-
<i>Drought Resilience Programme in Northern Kenya</i>	350.00	300.00	370.00
<i>Emergency Locust Response Project (ELRP)</i>	-	-	800.00
<i>UNFPA- 9th Country Programme Implementation</i>	-	-	73.87
TOTAL	371,600.09	369,868.61	409,880.89

ADOPTION SCHEDULE

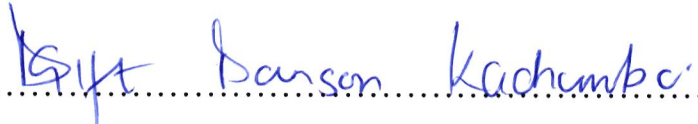
Members attendance list

Budget and Appropriations Committee

Date...10/3/2021... Time..... Sitting: Afternoon

Name	Signature
1. The Hon. Kanini Kega, CBS, M.P.- Chairperson	
2. The Hon. Benard Masaka Shinali, M.P.- Vice Chairperson	
3. The Hon. (CPA) John Mbadi, EGH, CBS, M.P.	
4. The Hon. Emmanuel Wangwe, CBS, M.P.	
5. The Hon. (CPA) Moses K. Lessonet, CBS, M.P.	
6. The Hon. Samwel Moroto, M.P.	
7. The Hon. Millie Odhiambo, M.P.	
8. The Hon. Alfred Kiptoo Keter, M.P.	
9. The Hon. Richard Onyonka, M.P.	
10. The Hon. (Dr.) Makali Mulu, M.P.	
11. The Hon. Badi Twalib, M.P.	
12. The Hon. Jude Njomo, M.P.	
13. The Hon. Sarah Paulata Korere, M.P.	
14. The Hon. Fatuma Gedi Ali, CBS, M.P.	
15. The Hon. Wangari Mwaniki, OGW, M.P.	
16. The Hon. Josephine Naisula Lesuuda, OGW, M.P.	

Name	Signature
17. The Hon. Sakwa Bunyasi, M.P.	
18. The Hon. Florence C. K. Bore, M.P.	
19. The Hon. James Gichuki Mugambi, M.P.	
20. The Hon. Danson Mwashako, MP	
21. The Hon. (Eng.) Mark Nyamita, MP	
22. The Hon. Paul Abuor, MP	
23. The Hon. Mercy Wanjiku Gakuya, M.P.	
24. The Hon. (CPA) Francis Kuria Kimani, M.P.	
25. The Hon. Samuel Atandi, M.P.	
26. The Hon. Joseph Manje, M.P.	
27. The Hon. Masalino Arbelle, M.P.	

Signed..... 

Date..... 10.03.2021.....
Committee Clerk

Signed.....

Date.....

Director of Audit, Appropriations & Other Select Committees

MINUTES OF THE 12th SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD AT NDOVU CONFERENCE HALL, BOMA HOTEL, SOUTH C ON WEDNESDAY, 10th MARCH 2021, AT 2.30 P.M.

PRESENT:

1. **Hon. Kanini Kega, CBS, M.P.- Chairperson**
2. **Hon. Benard Masaka Shinali, M.P.- Vice Chairperson**
3. Hon. (CPA) John Mbadi, EGH, CBS, M.P.
4. Hon. Emmanuel Wangwe, CBS, M.P.
5. Hon. Millie Odhiambo, M.P.
6. Hon. Richard Onyonka, M.P.
7. Hon. Alfred Kiptoo Keter, M.P.
8. Hon. Samwel Moroto, M.P.
9. Hon. (CPA) Moses K. Lessonet, CBS, M.P.
10. Hon. Fatuma Gedi Ali, CBS, M.P.
11. Hon. Jude Njomo, M.P.
12. Hon. Danson Mwashako, M.P.
13. Hon. (Eng.) Mark Nyamita, M.P.
14. Hon. Florence C. K. Bore, M.P.
15. Hon. Sakwa Bunyasi, M.P.
16. Hon. James Gichuki Mugambi, M.P.
17. Hon. Paul Abuor, M.P.
18. Hon. Wangari Mwaniki, OGW, M.P.
19. Hon. Samuel Atandi, M.P.
20. Hon. Mercy Wanjiku Gakuya, M.P.
21. Hon. (CPA) Francis Kuria Kimani, M.P.
22. Hon. Joseph Manje, M.P.
23. Hon. Masalino Arbelle, M.P.

ABSENT WITH APOLOGY:

1. Hon. Badi Twalib, M.P.
2. Hon. (Dr.) Makali Mulu, M.P.
3. Hon. Josephine Naisula Lesuuda, OGW, M.P.
4. Hon. Sarah Paulata Korere, M.P.

DEPARTMENTAL COMMITTEES CHAIRPERSONS/ REPRESENTATIVES

- | | |
|--------------------------------|--------------------------|
| 1. Hon. Kareke Mbiuki, M.P. | Chairperson, Environment |
| 2. Hon. Sabina Chege, M.P. | Chairperson, Health |
| 3. Hon. Peter Mwathi, M.P. | Chairperson, Labour |
| 4. Hon. William Kisang, M.P. | Chairperson, ICT |
| 5. Hon. Silas Tiren, M.P. | Chairperson, Agriculture |
| 6. Hon. Wafula Wamunyimi, M.P. | Chairperson, NG-CDF |
| 7. Hon. Cornelly Serem, M.P. | Member, NG-CDF |
| 8. Hon. Sophia Abdi, M.P. | Member, NG-CDF |
| 9. Hon. Joseph Oyula, M.P. | Member, NG-CDF |

THE NATIONAL TREASURY

- | | |
|---------------------------------|----------------------------|
| 1. Amb. Ukur Yatani, EGH | Cabinet Secretary |
| 2. Dr. Julius Muia | Principal Secretary |
| 3. Mr. Amos Gathecha | PAS |
| 4. Mr. Albert Mwendwa | Director General |
| 5. Mr. Bernard Ndungu | Director General |
| 6. Mr. Stanley Kamau | Director General |
| 7. Mr. Christopher Kiungua | Director General |
| 8. Mr. Francis Anyona | Director of Budget |
| 9. Mr. Daniel Ndolo | Deputy Director |
| 10. Mr. Samuel Kiiru | Director of Planning |
| 11. Mr. Musa Kathanje | Director, MFAD |
| 12. Ms. Miriam Musyoki | Assistant Director |
| 13. Ms. Isabella Kogei | Parliament Liaison |

PARLIAMENTARY BUDGET OFFICE

- | | |
|-----------------------------|-----------------------------|
| 1) Mrs. Phyllis Makau, OGW | Director, PBO |
| 2) Mr. Martin Masinde | Senior Deputy Director, PBO |
| 3) Mr. Robert Nyaga | Deputy Director, PBO |
| 4) Mrs. Millicent Makina | Fiscal Analyst I |
| 5) Mrs. Julie Mwirigi | Fiscal Analyst I |
| 6) Mr. James Chacha Machage | Fiscal Analyst I |

7) Dr. Abel Nyagwachi

Fiscal Analyst I

COMMITTEE SECRETARIAT

- | | |
|------------------------|--------------------------|
| 1) Mr. Joseph Ndirangu | Fiscal Analyst I & Clerk |
| 2) Mr. Danson Kachumbo | Fiscal Analyst I |
| 3) Mr. Bernard Omondi | Sergeant at Arms |
| 4) Mr. Stephen Nyakuti | Audio Officer |
| 5) Mr. Joram Baraza | Office Assistant |

AGENDA

1. Preliminaries & Confirmation of Agenda
2. *Meeting with the Cabinet Secretary to discuss supplementary estimates*
3. *Adoption of the BAC draft report on Division of Revenue Bill(No. 7 of 2021)*
4. Any Other Business (A.O.B)

MIN. NO. NA/BAC/2021/283: PRELIMINARY

The Chairperson welcomed the committee members to the meeting and called the meeting to order at 3.00 p.m. Thereafter, a prayer was said.

MIN. NO. NA/BAC/2021/284: MEETING WITH THE CABINET SECRETARY

The Chairperson invited the Cabinet Secretary to the meeting so as to brief the Committee on the proposed amendments to the supplementary estimates by the National Treasury. The Cabinet Secretary was able to respond to the questions in the following manner:

Question 1: Why the Committee were being subjected to discuss two documents at the same time, that's is the addendum and the Supplementary budgets.

The adjustment to source for extra funds such us Ksh. 10 billion for NG- CDF as recommended by the BAC in the last previous engagements affected the original

budget schedules hence the its important for the committee to appreciate the two amended documents concurrently

Question 2: Whether State Departments were involved in the supplementary budget making process and if the document was approved by the cabinet.

The changes are brought about by the variations that were agreed upon when he appeared before the BAC sometimes back. They agreed on various reallocations and adjustments. The document is not static and is prone to be changed at various stages on its development.

The Cabinet Secretary explained that the budget is also inclined to the executive agenda spearheaded by the President. The budget is made through wide consultations with various government departments not the National Treasury alone. The engagement took place at various levels starting with accounting officers, then Cabinet where the heads were involved in the agreement.

Question 3: The Committee queried if the Addendum by the National Treasury was right before the Committee

The Director, Parliamentary Budget Office confirmed that the addendum was properly before the committee, as it was tabled by the Leader of Majority and the Hon. Speaker marked it to the Committee.

Question 4: The impact of supplementary estimates to the macro- fiscal framework

The deficit will lead for the National treasury to borrow externally and internally and this will pile up and become a big problem. The only remedy could be budget cuts including salary cuts and this will affect many lives.

Remarks from Departmental Committee Chairpersons present on the proposed amendments

1. Chairperson, Departmental Committee on ICT

The Chairperson informed the committee that there was an agreement that the monies amounting to Ksh. 300m was to pay pending bills under ICT subsectors. The Chairman rejected the addendum presented by the National Treasury and requested the committee to consider the submission from the committee.

2. Chairperson, Departmental Committee on NG-CDF

The Chairperson informed the committee that during the meeting he had with the Cabinet Secretary, it was agreed that he will undertake the following: that National Treasury clears the remaining the balances by 30th April and he will be releasing Ksh. 2 billion per month. In regards to arrears totaling Ksh. 13 billion, he committed that it will be cleared between May and June 2021.

3. Chairperson, Labour and Social Welfare

He informed the committee that the budget cuts would vulnerable in the society and urged the committee to reconsider the budget cut that was reduced from hunger safeness amount of 2m.

4. Chairperson, Agriculture, Livestock and Fisheries.

The Agriculture Committee rejects the addendum and requested the Cabinet Secretary to release all the money for payment of famers who imported food products. The Chairperson further informed the committee that he wanted further clarifications from the Treasury that has been raised by some line ministries.

5. Chairperson, Environment and Natural Resources.

It was noted that in that all the state corporations' recommendations line ministries under the sector were reversed by the National Treasury. This had resulted in a budget cut amounting to Ksh. 4.1 billion. Therefore, the committee recommended the Budget & Appropriations Committee to reinstate the cuts.

In his closing remarks, the Cabinet Secretary informed the Committee that the Supplementary Estimates are supposed to be approved two weeks before IMF board meeting that is scheduled on 2nd April 2021. This was a pre-condition so that the country can access the loan facility of 150 billion of which IMF is Ksh. 75 billion as well as Ksh. 75 billion of the World Bank.

After deliberations, the Committee resolved the following:

- 1. To allow those Departmental Committees affected by the proposed amendments in particular, Departmental Committee on National Security and ICT to meet latest on Monday and submit their submission to the secretariat thereafter. The Parliamentary Budget office to compile all the submissions.*
- 2. The Committee to table its report on Wednesday should there be a special sitting or otherwise table on 23rd March when the House resumes after the short recess.*

MIN. NO. NA/BAC/2021/285: ADOPTION OF REPORT THE BUDGET AND APPROPRIATIONS COMMITTEE REPORT ON DIVISION OF REVENUE BILL (NO. 7 OF 2021)

Members were taken through the draft report by Parliamentary Budget Office. The committee went clause by clause of the report. After deliberations, the committee **adopted** the report with the following observations and recommendations:

A. OBSERVATIONS

- 1) The conversion of the Allocation to county governments from the Fuel Levy Fund (15%) – Kshs. 9.4 billion, is in contravention of the statute establishing the Fund and whose intention was to ring-fence critical financing for road maintenance by both national and county governments.

- 2) Furthermore, the definition of “revenue” under *Article 206¹ of the Constitution and Commission on Revenue Allocation Act, 2011²*, exempt money excluded by an Act of Parliament and payable into another public fund, from being considered as equitable share. The Road Maintenance Levy Fund is one of such funds whose sources of funds cannot be classified as equitable share.
- 3) There is continued inability to oversight over the use of conditional grants allocated to counties. Conversion of the conditional grants to equitable will not address this problem.
- 4) It is important to note that this has been an ongoing practice, by county governments, of utilizing conditional grants for purposes other than that stipulated under law in disregard of the Division of Revenue Act and the County Allocation of Revenue Act and should be investigated.
- 5) Conversion of health-related conditional grants to equitable share without prior tabling of a report indicating the extent of development of county related health institutions could lead to health burden to affected county governments during a pandemic period and affect service provision.
- 6) Given that the revenue shared are projections creates fiscal risk that could necessitate borrowing, without which national government budget implementation process will be negatively affected. Ideally, any revenue shortfall should be shared equitably between national and county governments.

B. RECOMMENDATIONS

Having considered the above matters, the Committee recommends that this House approves the Division of Revenue Bill 2021, specified as follows:

- 1) National Government equitable share worth Kshs. 1.398 trillion;
- 2) County Governments equitable share worth Kshs. 370 billion;

¹ Article 206 of the Constitution – “There is established the Consolidated Fund into which shall be paid all money raised or received by or on behalf of the national government, except money that; (a) is reasonably excluded from the Fund by an Act of Parliament and payable into another public fund established for a specific purpose”

² Revenue definition - means all taxes imposed by the national government under Article 209 of the Constitution and any other revenue (including investment income) that may be authorized by an Act of Parliament, but excludes revenues referred to under Articles 209(4) and 206(1)(a)(b) of the Constitution;

- 3) Equalization Fund allocation worth Kshs. 6.8 billion;
- 4) GoK Conditional allocation worth Kshs. 7.5 billion; and,
- 5) Additional conditional allocations from proceeds of loans and grants by development partners worth Kshs. 32.34 billion.

MIN.NO.NA/BAC/2021/285: ANY OTHER BUSINESS & ADJOURNMENT

There being no other matters to consider, the meeting was adjourned at 7.00 p.m.
The next sitting will be communicated at a later date.

SIGNED



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HON. KANINI KEGA, CBS, M.P.

CHAIRPERSON, BUDGET AND APPROPRIATIONS COMMITTEE

.....
10/03/21

DATE