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PARLIAMENT

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TWELFTH PARLIAMENT – FIFTH SESSION

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REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET

ON

THE COUNTY GOVERNMENTS' BUDGET IMPLEMENTATION REVIEW
REPORT FOR FINANCIAL YEAR 2019/20

PAPERS LAID	
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COMMITTEE	
CLERK AT THE TABLE	Daniel

CLERK CHAMBERS
THE SENATE
PARLIAMENT OF KENYA
NAIROBI

APRIL, 2021

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PREFACE

The Standing Committee on Finance and Budget was constituted by the House on Thursday, 14th December, 2017 during the First Session of the Twelfth Parliament. The Committee was later reconstituted on Wednesday, 24th June, 2020, during the Fourth Session of the Twelfth (12th) Parliament. The Committee as currently constituted, comprises the following Members-

- | | |
|------------------------------------------|--------------------|
| 1. Sen. Charles Kiburu, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP, | - Vice Chairperson |
| 3. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 4. Sen. Kimani Wamatangi, MP | - Member |
| 5. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 6. Sen. Aaron Cheruiyot, MP | - Member |
| 7. Sen. Rose Nyamunga, MP | - Member |
| 8. Sen. CPA Farhiya Haji, MP | - Member |
| 9. Sen. Milicent Omanga, MP | - Member |

The Standing Committee on Finance and Budget is established pursuant to Section 8 of the Public Finance Management Act, 2012 and standing order 218(3) of the Senate Standing Orders and is mandated to -

- a) Investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to examine -*
- i) the Budget Policy Statement presented to the Senate;*
 - ii) report on the Budget allocated to Constitutional Commissions and independent offices;*
 - iii) the Division of Revenue Bill, County Allocation of Revenue Bill, and cash disbursement schedule for county governments;*
 - iv) 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, planning and development policy.*

b) Pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments

Executive Summary

Parliament has the responsibility to ensure that there is accountability and openness on how the executive manages public finances. One of the key mandates of the legislatures is to oversight the activities of the executive in order to curb misuse of public funds and to influence good practices. The Senate is constitutionally mandated under Article 96 of the Constitution to protect the interest of counties and to promote and safeguard accountability and openness in the manner of conducting the affairs at the county level. In this regard, the Senate has continually advocated for adequate transfer of resources to the county level and recommended that the counties comply and promote transparency and prudent utilization of such public resources.

The Constitution lays the foundation for the proper management of public finances. However, the main legislation on this subject is the Public Finance Management Act, 2012 (PFMA). It provides for uniform standards to be observed by the two levels of government to ensure seamless accounting and auditing of public finances. This has worked to a large extent, however, it has also exhibited its fair share of challenges. During consideration of the Controller of the Budget's Report on the County Governments' Budget Implementation Review Report for the Financial Year 2019/2020. The Committee engaged with the team from the Council of Governors Technical Committee on Finance, Planning and Economic Affairs and Controller of Budget. The engagement took place at time when counties are struggling with Own Source Revenue Collection, huge pending bills, and County Executives not adhering to their approved budgets (Development vs. recurrent Expenditure).

The Controller of Budget (CoB) briefed the Committee on the County Governments' Budget implementation Review Report for Financial Year 2019/20. The CoB gave analysis of the issue identified during county budgets implementation and the possible remedies for such challenges.

This report discusses on possible approaches to tackle issues counties are facing and offer immediate and the long term solutions. The report proposes enhanced interlinkages between Senate, the office of Controller of Budget and Council of Governors, specifically the Committee on Finance, Planning and Economic Affairs, to deepen consultation and cooperation.

To streamline matters of county public finance, the Committee makes several recommendations to the House for consideration and adoption.


Acknowledgement

The Committee is grateful to the two stakeholders who made contributions, the Council of Governors Technical Committee on Finance, Planning and Economic Affairs and the Controller of Budget. The Committee acknowledges their presentations which are forming part of this report.

The Committee is also particularly grateful to the Offices of the Speaker and the Clerk of Senate for the support received as it discharged its mandate of bringing together the two stakeholders to deliberate on County Public Finance Management and County Governments' Budget Implementation Review Report for the financial year 2019/2020.

It is therefore my pleasant duty and privilege, on behalf of the Standing Committee Finance and Budget to table this Report on the County Governments' Budget Implementation Review Report for the financial year 2019/2020 and recommend it to the House for adoption.

SIGNATURE:



SEN. CHARLES KIBIRU, MP.

(CHAIRPERSON, STANDING COMMITTEE ON FINANCE AND BUDGET)

DATE: 26th April, 2021

INTRODUCTION

The National Government has made fiscal transfers to the county governments amounting to over Kshs 1,699 billion (Kshs 1.7 trillion) over the last six years comprising of both equitable share of nationally raised revenue and conditional grants. However, it has been argued that there is little impact on development across the counties.

The piece-meal progress in some counties is not commensurate to the substantial resources that has been transferred to them. This has been attributed to poor planning, misappropriation of funds and lack of capacity at the county level, all as a result of not effectively implementing the Public Finance Management Act and its subsidiary legislation.

Every single year, the Auditor General Reports, for counties, questions a number of things in the manner in which implementation of the budget is conducted, these include; weak linkages between planning and policy, underperformance in locally generated revenue, use of locally generated revenue at source, huge pending bills, and capacity challenges of some county staff. With this kind of issues, it will translate to little development at the County level.

The Auditor General reports over the years have revealed that most County Executives do not adhere to their approved budgets. In most instances, funds are reallocated to items that were not budgeted for and without prior approval by the Controller of Budget and county assemblies. Some of the reallocations arising as a result of expenditures being incurred without adherence to Sec. 154 of the PFMA an indication of possible misappropriation of funds. The Auditor General reports also reveal usage of money without regard to budget ceilings set for programs, votes and sub-votes.

The Office of Controller of Budget has identified non adherence on the 30/70 rule in budget as one of the key deterrence to the expected developments in the counties.

In addition, numerous cases of under collection of local revenue has been reported across counties, where most counties miss their revenue targets by significant margins as a result not factoring in revenue collection challenges that usually affect their revenue potential targets, especially during similar periods (Electioneering, adverse weather periods etc.). The under collection of revenue not only resulted in most counties incurring billions of shillings in unpaid bills but also not implementing certain programs.

The Auditor General and Controller of Budget have continually reported that pending bills are still a big challenge for many County Governments. Most of these bills emanate from under-collection of revenue which affected the budgeting and implementation of projects. Further, the own source revenue collected is banked in commercial bank accounts other than the designated revenue collection accounts – County Revenue Funds (CRF), a potential avenue for revenue loss.

The pending bills will have adverse effects on the County Governments' ability to obtain goods and services on credit from suppliers, will distort the planning and procurement and expose the County Governments to litigation that will cost huge amounts of money in legal fees and fines that may be imposed by courts of law. Further, the pending bills are killing the entrepreneurial spirit in the country.

Despite the pending bills being the first charge in the budget of successive financial years, the counties have remained with a substantial pending bills in their books of accounts at the close of every financial year.

**I. THE COUNCIL OF GOVERNORS TECHNICAL COMMITTEE ON
FINANCE, PLANNING AND ECONOMIC AFFAIRS PRESENTATION ON
COUNTY PUBLIC FINANCE MANAGEMENT**

1. Enhancement on Own Source Revenue

The County Governments' actual Own Source Revenue (OSR) collection for FY 2019/20 was Ksh. 35.8 billion against a target of Ksh. 54.9 billion representing 65.2 percent of the annual target. This was a drop in absolute terms from Ksh. 40.3 billion collected in FY 2018/19 that was 74.8 percent of the annual OSR target by the Counties. One of the key reasons leading to decrease in Own Source Revenue is the Covid-19 pandemic, in which the National Government through Ministry of Health in effort to contain the spread of the virus instituted measures which included; closure of social places, social distancing, dawn to dusk curfew and closure of inter-county movements. This led to closure of businesses and consequently reduced revenue.

Further, National Government remains to be the main defaulter on property taxes which is the major source of county revenues. National Government continue to collect catering levy on food businesses essentially belonging to County Governments.

Counties Proposal;

- i. Develop Legislation of enforcement mechanism where the defaulter of county taxes is a government agency.
- ii. A technical committee comprising of National Treasury, Commission on Revenue Allocation, Council of Governors and Senate to be established for the aforementioned.

2. Pending Bills

A special audit by Office of the Auditor General (OAG) verified eligible pending bills by County Governments amounting to Ksh. 51.2 billion as at 30th June, 2018. Another Ksh. 37.7 billion worth of pending bills was found to be ineligible for payment. Of the eligible bills 76.6% (Ksh. 39.3 Billion) have been settled and 23.45 (Ksh. 11.98 Billion) remain unsettled. A total of 23 counties have cleared eligible pending bills in full while 5 counties disputed a portion of the bills however and communicated to Office of the Auditor

General for investigation and guidance.

As at 30th June 2020 County Governments reported pending bills amounting to Ksh. 113.6 Billion of this, Ksh. 78.8 Billion belong to Nairobi County. The self-reporting was as per the Circular Ref: AG.3/88/Vol.7 (11) dated 13th June 2020 to all CECMs for Finance on Year End Closing Procedures for Financial Year 2019/2020. According to this Circular Part 3.15 (ix), County Governments are required to disclose in a note to the financial statements, details of all pending bills, including the date, beneficiary, description and amount and the reason why the amount was not settled by the due date.

It is important to note that County Governments closed the Financial Year with Ksh 26B of Equitable share having not disbursed.

Counties Proposal;

- i. Office of the Auditor General to conduct a special audit for verification of the pending bills before payment. Verification should be applicable to the following;
 - o Disputed eligible pending bills as per the Special Audit of OAG-2019
 - o Ineligible pending bills as per the Special Audit of OAG
 - o Reported pending bills as per Circular AG.3/88/Vol.7(11)

- ii. Further, for a more efficient verification and to avoid re- audit (establishment of ineligible pending bills committee), it will be important for OAG to engage a reputable institution for the special audit and widen the scope of verification to incorporate forensic audit other than desktop analysis as earlier applied.

- iii. Further it is important to note much of accumulation of pending bills is as a result of delayed disbursement;

3. Cash disbursements to counties

The National Treasury has delayed cash disbursement to counties for several months. The balance outstanding to County Governments as of 26th March 2021 consist of;

1. Ksh. 6.1 B owed to 10 County Governments for the month of December.

2. Ksh. 17.5 B owed to 30 County Governments for the month of January.
3. Ksh.26 B owed to 47 County Governments for February
4. Ksh.26 B owed to 47 County Governments for March

Counties Proposal;

- i. National Treasury fast-track equitable share disbursement to County Governments as delayed disbursement leads to disruption in service delivery, budget absorption and delays submission of statutory deductions.
- ii. Amendments to both DORA and **CARA** to include funds not captured during the budget cycle;
- iii. A case of the Fiscal Year 2020/2021, there is need for amendments of both DORA and CARA 2020.
 - o Kenya Devolution Support Program Ksh.4,600,000,000
 - o Emergency Response Locust Program Ksh 600,000,000

4. Kenya Devolution Support Program

Kenya Devolution Support Program was allocated and approved for in County allocation of Revenue Act, 2019. The funds were however not disbursed to County Governments in Financial Year 2019/2020. Further, the funds were not included in the DoRA, 2020 and CARA, 2020.

5. Emergency Desert Locust Project

This Emergency Desert Locust Project is funded by World Bank under the emergency component of the Kenya Climate Smart Agriculture Project through the Ministry of Agriculture, Livestock, Fisheries and Cooperatives. The funds are already captured in the line Ministry budget, however, its not in DoRA, 2020 and CARA, 2020.

Counties Proposal

- i. Amendments to Public Finance Management Act to allow for submission of amendments to Division of Revenue Act and County Allocation of Revenue Act when the National Treasury is submitting Supplementary Budget.
- ii. Amendments to DORA and CARA to include the funds.

II.THE CONTROLLER OF BUDGET PRESENTATION ON THE COUNTY GOVERNMENTS' BUDGET IMPLEMENTATION REVIEW REPORT FOR FINANCIAL YEAR 2019/20

1. Mandate and role of the Controller of Budget

The Constitution creates the Office of the Controller of Budget and the key mandate of the office is to oversee (Article 228 (4)) and Report (Article 228 (6)) on the implementation of budgets of both the national and county governments and ensure the public has access to information on Budget Implementation (Section 39(8), PFMA).

The roles of the Controller of Budget include;

1. Oversight role (**Article 228 (4)**)
2. Controlling role (**Article 228 (5)**)
- 3. Reporting role (Article 228 (6))**
4. Advisory role (**Article 225 (7)**)
5. Investigation role (**Article 252 (1) (a)**)
6. Arbitration/mediation role (**Article 252 (1) (b)**)
7. Public Sensitization role (**Article 35 & PFMA, S.39 (8)**)
8. Enforce Budget Ceilings (**Section 5 of COB Act 2016**)
9. Monitoring, Evaluation & Reporting (**Section 5 of COB Act 2016**)

Reporting Role of the COB

- a) Reports to the Legislature, every four months on implementation of budgets of national and county governments (Article 228 (6));
- b) Report after the end of every year (annual report) to the President and to Parliament (Article 254 (1));
- c) Report, at any time (special reports), as may be required by the President, Parliament (Article 254 (2)) or a member of the public through a petition;
- d) The reports are published and publicized for transparency. Articles 254(3)
- e) The reports form the basis upon which both the Parliament and County Assemblies oversee usage of public funds by both national and county governments during the year.

Source of information for the COB Reports

- a) Financial reports by County Governments (self-reporting) based on Section 166 & 168 of PFMA, 2012.
 - i) Accounting officers to prepare quarterly reports on financial and non-financial information based on Public Sector Accounting Standards Board (PSASB) format,
 - ii) 15 days following end of each quarter,
 - iii) COB to compile the reports and publish within 30 days.
- b) IFMIS generated reports (S.12(1) (e) of PFMA.
- c) The National Treasury

2. Importance of COB Reports

- a) Section 5(b) COB Act, 2016 requires CoB to submit quarterly reports to Parliament and county assemblies on measures to improve budget implementation-
 - ✓ basis upon which County Assemblies can **monitor usage** of public funds by county governments during the year. -Section 5(b) COB Act, 2016
 - ✓ **accountability & transparency** of government operations and enhance public trust in the government as set out in Section 66 of PFM Act, 2012.
 - ✓ **detect and prevent abuse**, and unconstitutional conduct on the part of the government and public agencies-compliance with Chapter 6 of COK
 - ✓ **hold the county executives to account** in respect of how the taxpayers' money is used.
 - ✓ ensure that government **policies are implemented**
- b) These reports attempt to answer fundamental questions in public finance such as:
 - ✓ How much did the county appropriate?
 - ✓ Were PFM ceilings adhered to?
 - ✓ How much revenue did the county receive?
 - ✓ Was the money utilized according to the appropriation and budgets?
(programs)

- ✓ Was expenditure consistent with policy priorities as set out in the respective approved planning documents?

c) Through the reports, the OCoB has been able to highlight issues such as-

- ✓ Budget allocation by sector and department; Allocations should be sufficient to maintain provision of basic services at the current levels
- ✓ Actual level of expenditure vis-à-vis releases of exchequer; What is the ratio of expenditure to exchequer releases?
- ✓ Rate of absorption of the budget, both recurrent and development; Is priority towards recurrent or development expenditure?
- ✓ Own source revenue performance; Is OSR realistic or unrealistic based on trend?
- ✓ Status of pending bills; Pending bills should be budgeted as a first charge on the budget.
- ✓ Amount of funds spent on non-core activities; Such as travelling, hospitality at the expense of key programmes
- ✓ Expenditures on personnel emoluments (high wage bill); Is this within the ceiling provided in law?
- ✓ The need to establish PFM committees such as the CBEF & Audit Committees; Section 155 and 137 of PFM Act, 2012 calls for such committees
- ✓ Compliance with PFM reporting time; Section 166 & 168 of the PFM Act, 2012 on quarterly reports, and Compliance of financial reports with the prescribed templates
- ✓ Highlight of development projects undertaken in the period; What is the completion status of the projects?
- ✓ Use of prescribed financial systems; What are the challenges with IFMIS, E-Procurement, IB, etc, if any.
- ✓ Compliance with PFM ceilings such as on Personnel emoluments, development expenditure, ceilings provided in CARA, CFSP ceilings, etc.
- ✓ Key challenges and recommendation to enhance budget implementation. OCOB reports provides recommendations for cross-cutting challenges facing Counties for policy intervention

3. Overview of County Governments Performance in FY 2019/20

The financing allocation was to finance the Kshs.499.62 billion budget, the Counties expected to receive funds as follows:

Source of funds	Amount (Kshs. Billion)	Percentage (%)
Equitable Share of Revenue Raised Nationally	316.5	63.3%
Conditional Grants from the National Government	22.9	4.6%
Loans and Grants from Development Partners	39.09	7.8%
Own Source Revenue	54.9	11.0%
Balance b/f from FY 2018/19	51.23	10.3%
Other revenues (not in CARA)	15.0	3.0%
Total	499.62	100.0%

FY 2019/20 Expenditure Classification

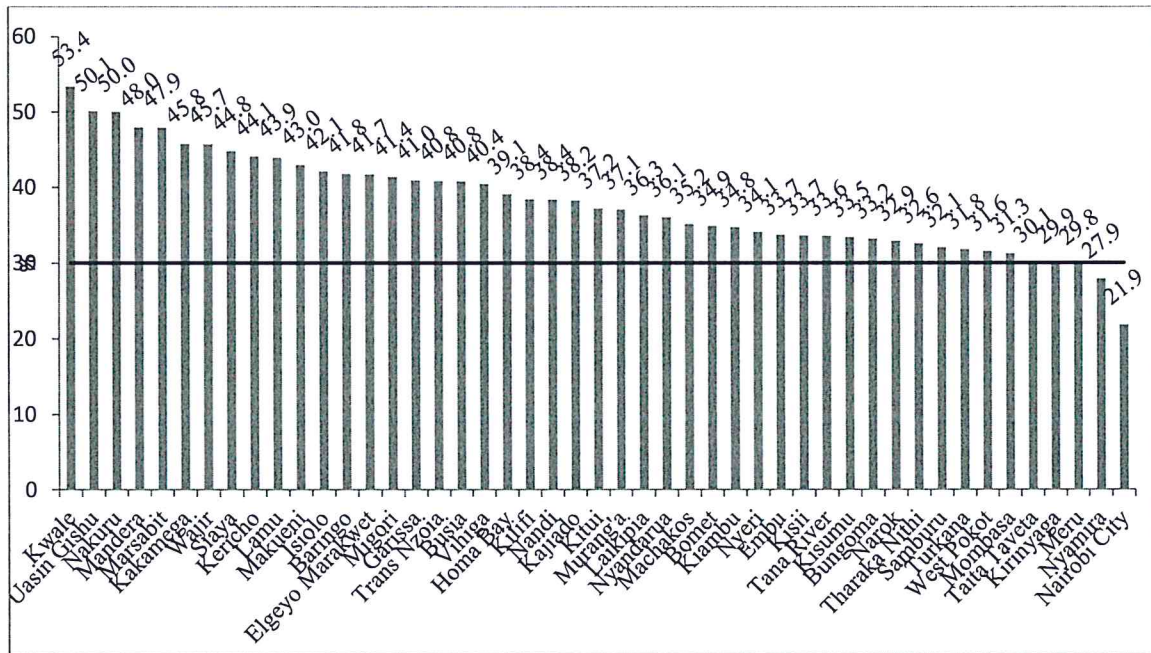
Expenditure Classification	Budget Allocation (Kshs.)	Percentage (%)
Compensation to Employees	180,852,281,104	36.2%
Operations and Maintenance	130,781,540,898	26.2%
Development Expenditure	187,984,959,021	37.6%
Total	499,618,781,022	100.0%

In terms of compliance of the budget with key principles of finance-

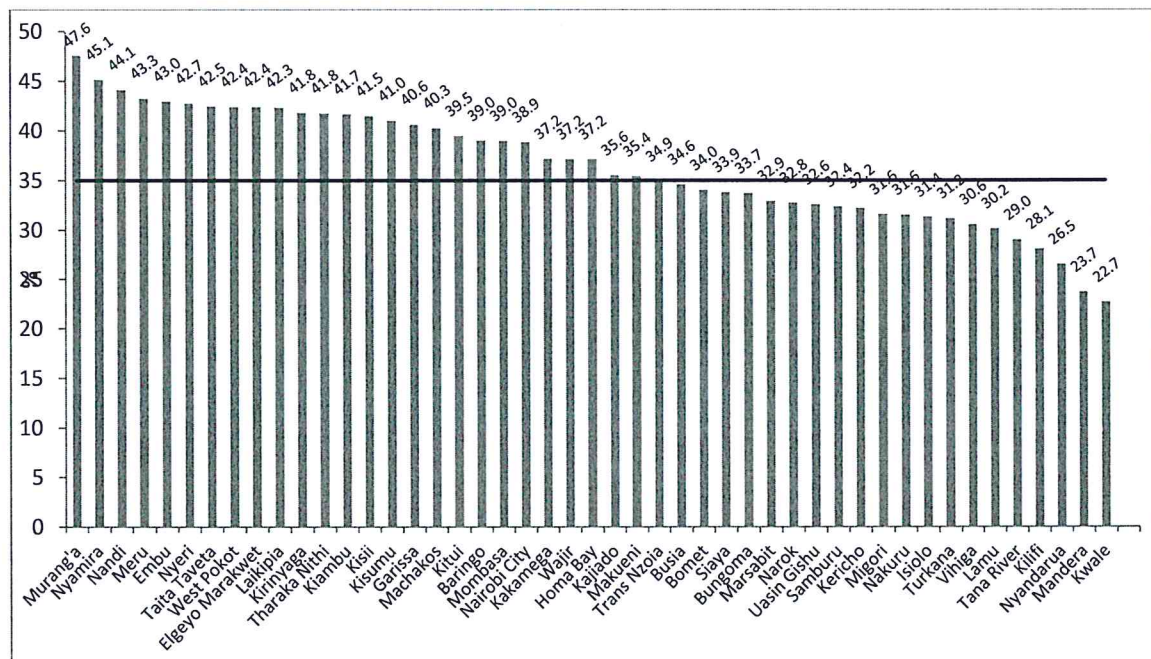
- The Budgets were balanced.
- At 36.2%, the allocation to P.E is above the Ceiling of 35 per cent in law. Regulations 25 of the Public Finance Management (County Governments Regulations, 2015).

- At 37.6 %, the allocation to development expenditure conforms to Section 107 (2(b)) of the PFM Act, 2012, which requires that at least 30 per cent of the budget must be allocated for development programs.

FY 2019/20- Development Budget allocation as a % of total Budget



FY 2019/20- Wage Bill allocation as a % of total Budget



Non-Compliant Counties in budget allocation to wage bill and development expenditure were:

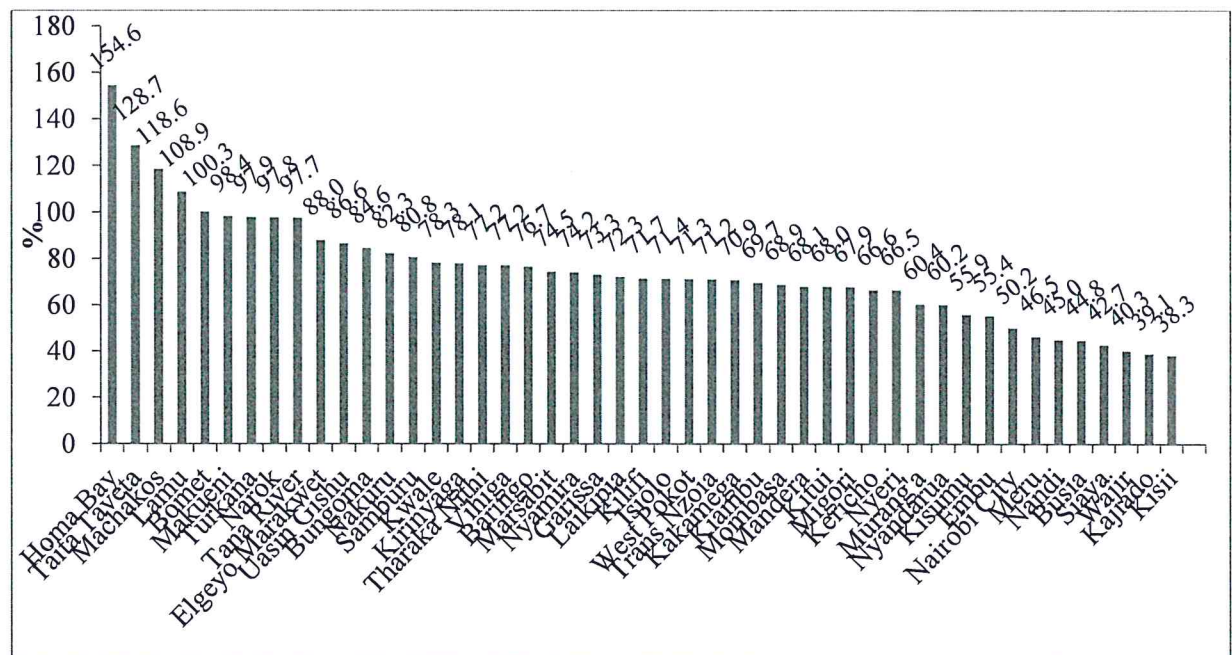
- Development Expenditure Allocation- Nairobi City and Nyamira Counties allocated 21.9% and 27.9% of their budget to development expenditure respectively.
- Wage Bill Allocation- 25 Counties breached the 35% ceiling. These counties are- Murang'a, Nyamira, Nandi, Meru, Embu, Nyeri, Taita Taveta, West Pokot, Elgeyo Marakwet, Laikipia, Kirinyaga, Tharaka Nithi, Kiambu, Kisii, Kisumu, Garissa, Machakos, Kitui, Baringo, Mombasa, Nairobi City, Kakamega, Wajir, Homa Bay, and Kajiado.

4. Actual Revenue in FY 2019/20

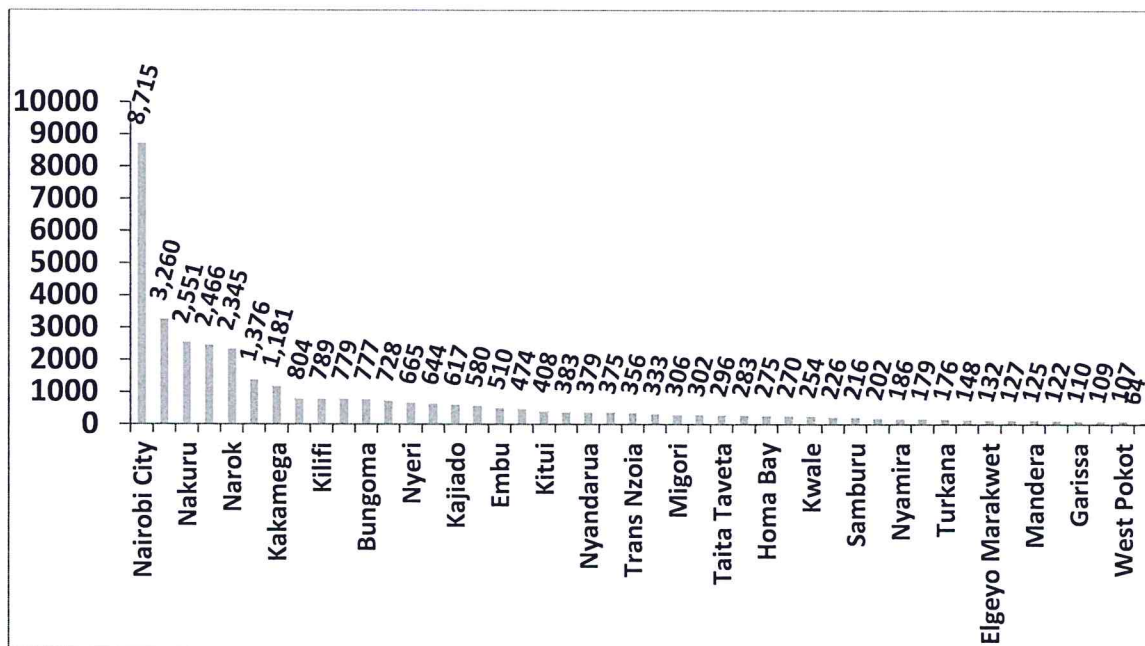
The National Treasury released Kshs.286.78 billion as equitable share of revenue raised nationally against the approved allocation of Kshs.316.5 billion. The balance of Kshs.26.22 billion, which was disbursed in August, 2020.

County Governments generated Kshs.35.77 billion from Own Sources Revenue (OSR) against a target of Kshs.54.9 billion. This was 65.2 per cent of the target.

Percentage realized OSR against annual target



FY 2019/20 Own Source Revenue Performance- Cross County Comparison (Amount in Kshs.Million)



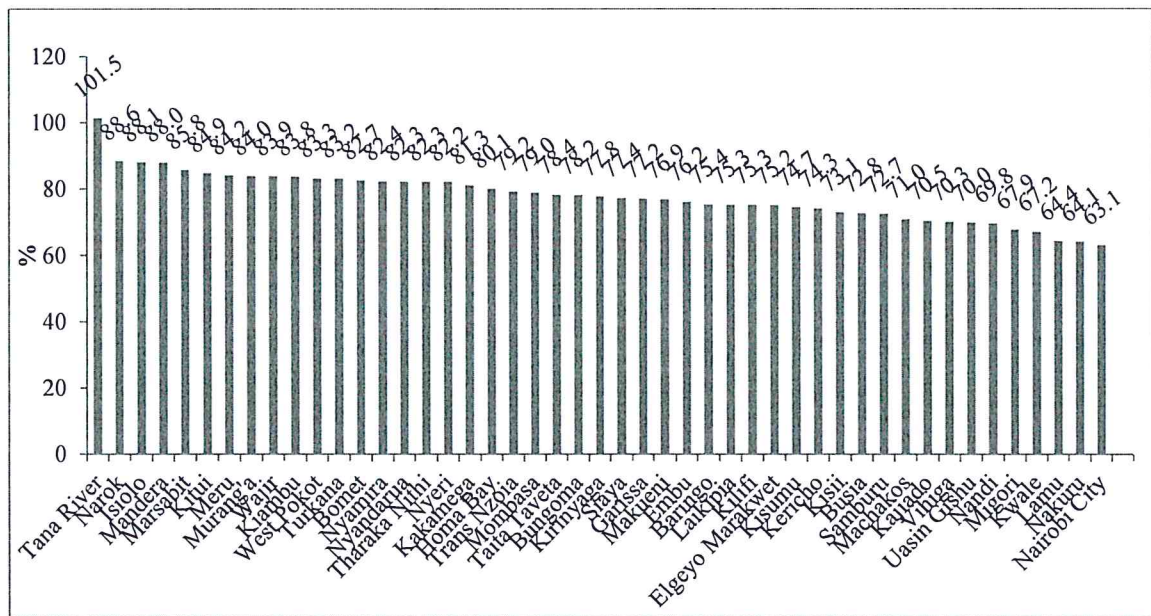
- County governments generated a total of Kshs.35.77 billion from OSR, which was 65.2 per cent of the annual target of Kshs.54.9 billion.
- Only five counties namely; Homa Bay, Taita Taveta, Machakos, Lamu and Bomet exceeded their annual targets at 154.6%, 128.7%,118.6%,108.9% and 100.3% respectively.
- A total of seven counties recorded below 50% performance against annual targets. These are- Meru, Nandi, Busia, Siaya, Wajir, Kajiado, and Kisii.

Summary of Expenditure by Economic Classification in the FY 2019/20

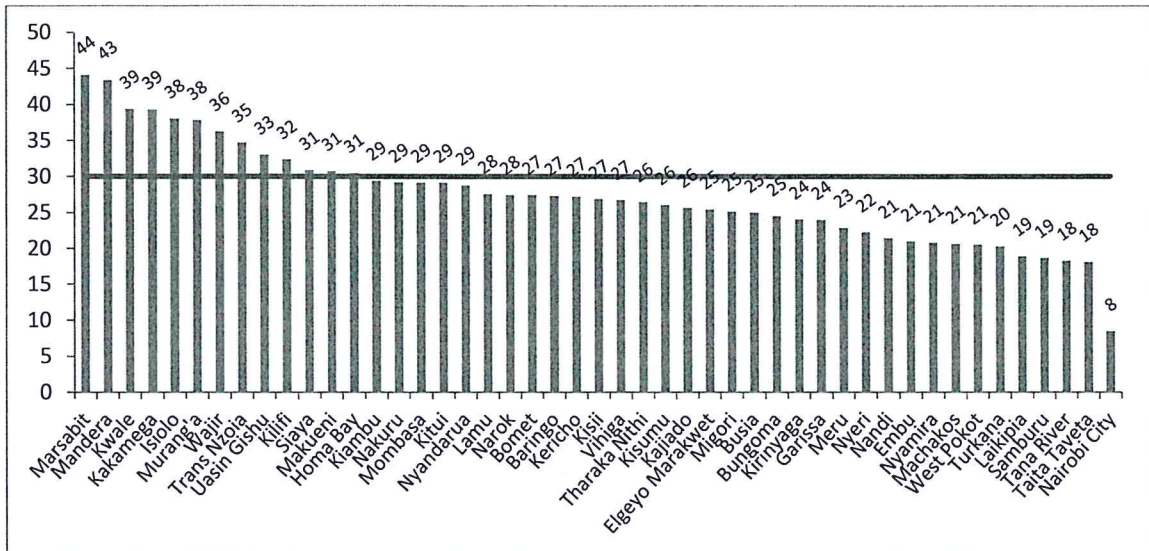
Expenditure Classification	Budget (Kshs.)	Expenditure (Kshs.)	Absorption (%)
Total Recurrent Expenditure	311,633,822,002	279,273,182,851	89.6%
Compensation to Employees	180,852,281,104	171,828,471,371	95.0%

Operations and Maintenance	130,781,540,898	107,444,711,480	82.2%
Total Development Expenditure	187,984,959,021	104,514,980,509	55.6%
Development Expenditure	187,984,959,021	104,514,980,509	55.6%
Total	499,618,781,022	383,788,163,360	76.8%

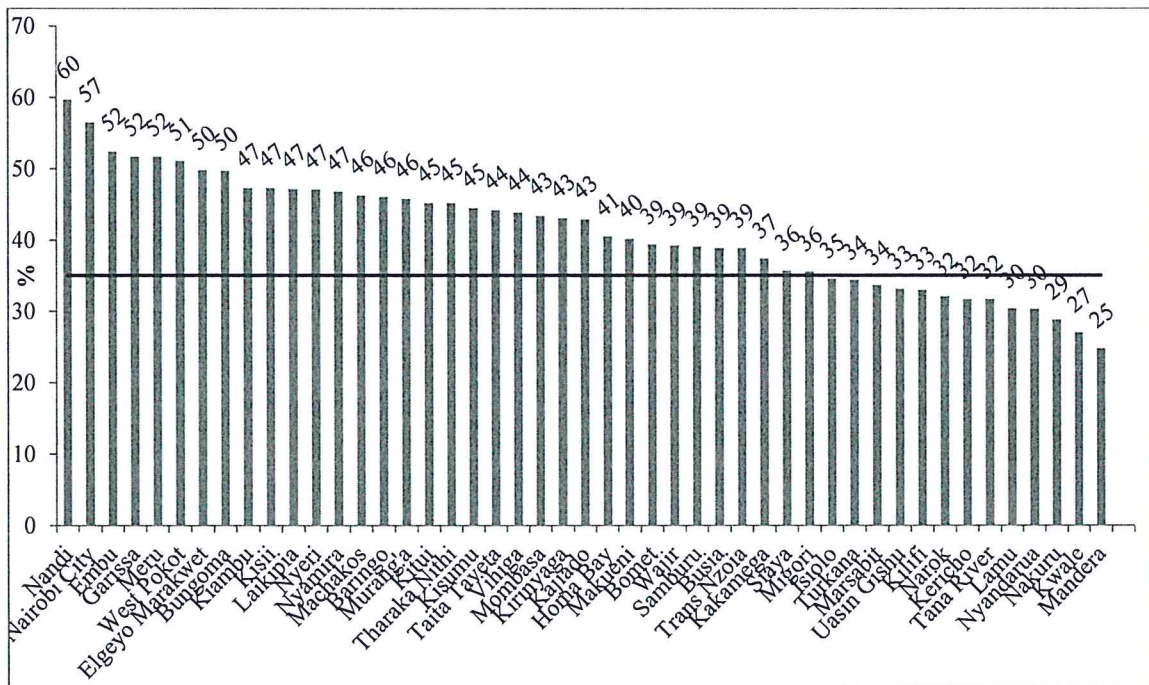
Overall Absorption rate by Counties



Development Expenditure as a % of Total Expenditure



Wage bill in the FY 2019/20 as a % of Total Revenue

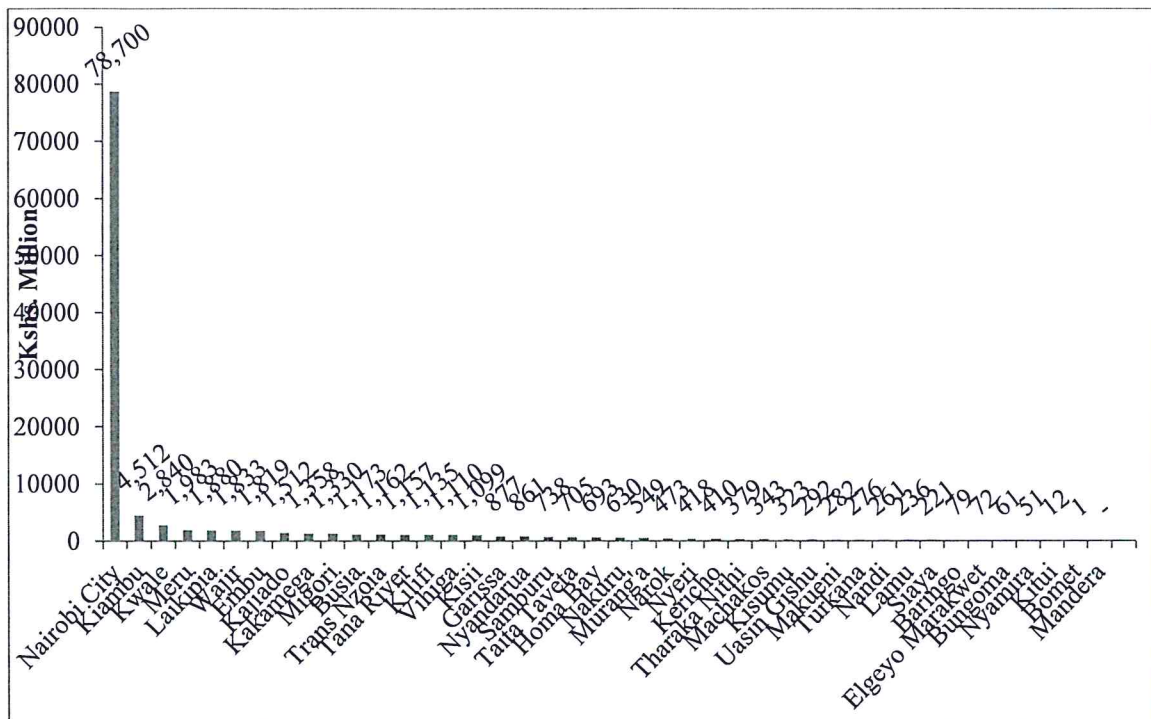


Review of actual performance

- The total expenditure by County governments in the FY 2019/20 was Kshs.383.79 billion representing an absorption rate of 76.8% of the total annual County Government's Budgets.
- Tana River reported an absorption rate of 101.5%. This is a sign of weak internal controls and book keeping practice.
- Expenditure by economic classification showed that Kshs.171.83 billion (44.8%) was spent on Personnel Emoluments, Kshs.107.44 billion (28%) on Operations and Maintenance, and Kshs.104.51 billion (27.2%) on Development Expenditure.
- Expenditure by 34 Counties was less than 30%. Namely- Kiambu, Nakuru, Mombasa, Kitui, Nyandarua, Lamu, Narok, Bomet, Baringo, Kericho, Kisii, Vihiga, Tharaka Nithi, Kisumu, Kajiado, Elgeyo Marakwet, Migori, Busia, Bungoma, Kirinyaga, Garissa, Meru, Nyeri, Nandi, Embu, Nyamira, Machakos, WestPokot, Turkana, Laikipia, Samburu, TanaRiver, TaitaTaveta, and Nairobi City.
- Only 13 Counties had their wage bills within 35% limit. These are- Isiolo, Turkana, Marsabit, UasinGishu, Kilifi, Narok, Kericho, TanaRiver, Lamu, Nyandarua, Nakuru, Kwale and Mandera.

5. Pending Bills

- a) A pending bill is an unsettled financial obligation at the end of a financial year and arises where an entity fails to settle invoiced amounts for goods and services properly procured and delivered or rendered as at the end of a financial year.
- b) As of June 30, 2020, Counties reported accumulated pending bills amounting to **Kshs.113.85 billion**.
- c) The OCoB is concerned by the high level of pending bills as of 30th June, 2020.



- d) Five Counties namely: Isiolo, Kirinyaga, Marsabit, Mombasa, and West Pokot did not submit a report on outstanding pending bills as of 30th June 2020.
- e) Mandera County did not have outstanding eligible pending bills as at 30th June 2020.
- f) Nairobi City County reported the highest pending bills of Kshs.78.7 billion which represents 69.1 per cent of the total outstanding pending bills by the County Governments.
- g) Five Counties namely: Isiolo, Kirinyaga, Marsabit, Mombasa, and West Pokot did not submit a report on outstanding pending bills as of 30th June 2020.
- h) Mandera County did not have outstanding eligible pending bills as at 30th June 2020.
- i) Nairobi City County reported the highest pending bills of Kshs.78.7 billion which represents 69.1 per cent of the total outstanding pending bills by the County Governments.

OAG special audit report;

- a) The OAG undertook the special audit of all the 47 County Governments pending bills as of 30th June 2018 and issued a Special Audit Report in May 2019.

- b) The OAG special reports showed that out of the total list of pending bills submitted for verification of Kshs.88,985,930,500, a total of Kshs.51,284,830,125 (58 per cent) was eligible for payment while pending bills worth Kshs.37,701,100,375 (42 per cent) were found to be ineligible
- c) The OCoB has been monitoring the progress made on the settlement of pending bills, providing regular updates on status which is shared with the Cabinet Secretary-National Treasury and IBEC.

Total Eligible Pending Bills as per the Special Audit by OAG (Kshs.)	Total Payments of Eligible Pending Bills by Counties (Kshs.)	Outstanding Eligible Pending Bills (Kshs.)
51,284,830,125	39,302,736,553	11,982,093,572
100%	76.6%	23.4%

- d) County Governments have so far settled Kshs.39.30 billion of the eligible pending bills with an outstanding balance of Kshs.11.98 billion.

Why Pending bills?

- a) Delayed disbursement of equitable share of revenue raised nationally from the national government
- b) Unrealistic revenue budget estimates and underperformance of Own Source Revenue.
- c) Disputed payments
- d) Delayed legislations such as the recent stalemate on revenue sharing formula. Delays in CARA & DORA approval.
- e) Failure to follow approved procurement and cash flow plans by spending entities
- f) Capacity challenges

6. Conditional Grants

Counties received **Kshs.38.17 billion** as conditional grants

Grants Contained in CARA, 2019	CARA, 2019 Allocation (Kshs.)	Actual Receipt (Kshs.)
Conditional grants from the National Government		
Level 5 Hospitals	4,326,000,000	4,326,000,000
Road Maintenance Fuel Levy Fund	8,984,062,500	8,984,062,500
Compensation of User Fee Foregone	900,000,000	900,000,000
Rehabilitation of Village Polytechnics	2,000,000,000	2,000,000,000
Sub Total	16,210,062,500	16,210,062,500
Conditional grants from the Development Partners		
Transforming Health Systems for Universal Car Project (World Bank),	2,994,247,736	2,655,779,588
IDA (World Bank) credit (National Agricultural and Rural Inclusive Growth Project (NARIGP)	7,232,719,940	4,562,651,325
IDA (World Bank)- Kenya Climate Smart Agriculture Project (KCSAP),	3,643,298,670	2,982,115,185
IDA (World Bank) credit: Kenya Devolution Support Project (KDSP) "Level 1 grant",	1,410,000,000	1,410,000,000
IDA (World Bank) credit: Kenya Urban Support Project (KUSP)	11,464,702,500	8,515,676,121
DANIDA for Universal Healthcare in Devolved System Program	986,583,544	1,272,312,500
IDA (World Bank) credit: Water & Sanitation Development Project (WSDP)	3,500,000,000	562,693,000
Sub Total	31,231,552,390	21,961,227,718
Grand Total	47,441,614,890	38,171,290,218

Disbursements of conditional grants (by the National Treasury) exclude grants for Leasing of Medical Equipment (Kshs.6.2 billion) and Supplement for Construction of County Headquarters (Kshs.22.41 billion), which are managed directly by the respective Ministries, Departments and Agencies (MDAs).

III. CHALLENGES AND POSSIBLE REMEDIES TO IMPROVE ON BUDGET PREPARATION AND EXECUTION BY COUNTY GOVERNMENTS

Challenges Experienced in FY 2019/20 Budget Implementation

1. Wage Bill –Compliance with Regulations 25 of the Public Finance Management (County Governments Regulations, 2015)

- a) Cumulatively, counties allocated 36.2%, the allocation to P.E which is above the Ceiling of 35 per cent in law.
- b) A total of 25 Counties breached the 35% ceiling at the budget approval stage. These are- Murang'a, Nyamira, Nandi, Meru, Embu, Nyeri, Taita Taveta, West Pokot, Elgeyo Marakwet, Laikipia, Kirinyaga, Tharaka Nithi, Kiambu, Kisii, Kisumu, Garissa, Machakos, Kitui, Baringo, Mombasa, Nairobi City, Kakamega, Wajir, Homa Bay, and Kajiado.
- c) Actuals - On aggregate, county governments spent Kshs.171.83 billion on Personnel Emoluments (PE), which accounted for 44.8% of the total expenditure.
- d) Only 13 Counties had their wage bills within 35% limit. The counties are- Isiolo, Turkana, Marsabit, Uasin Gishu, Kilifi, Narok, Kericho, Tana River, Lamu, Nyandarua, Nakuru, Kwale, and Mandera.
- e) Hence, 34 counties breached the legal requirement on wage bills.

2. Low Expenditures on the Development Budget

- a) Section 107(2) (b) of the PFMA, 2012 provides that over the medium term, a minimum of thirty per cent of the County Governments budget shall be spent on Development Expenditure.
- b) Nairobi City and Nyamira Counties were non-compliant. They allocated 21.9% and 27.9% of their budget to development expenditure respectively.
- c) Actual expenditure was Kshs.104.51 billion representing an absorption rate of 55.6 per cent of annual allocation of Kshs.187.98 billion. The expenditure was 27.2% of the entire expenditure in FY 2019/20.
- d) Expenditure by 34 Counties was less than 30%. The list of these counties is as below- Kiambu, Nakuru, Mombasa, Kitui, Nyandarua, Lamu, Narok, Bomet, Baringo, Kericho, Kisii, Vihiga, Tharaka Nithi, Kisumu, Kajiado, Elgeyo Marakwet, Migori, Busia, Bungoma, Kirinyaga, Garissa, Meru, Nyeri, Nandi,

Embu, Nyamira, Machakos, WestPokot, Turkana, Laikipia, Samburu, Tana-River, Taita Taveta, and Nairobi City.

3. Under-performance in Own Source Revenue Collection

- a) Article 209 (3) allows County Governments to impose property rates, entertainment taxes and any other tax that a county is authorized to impose by an Act of Parliament.
- b) However, counties have not meet their own set targets leading to budget deficits. Counties generated a total of Kshs.35.77 billion, which was 65.2 per cent of the annual target of Kshs.54.9 billion in FY 2019/20.
- c) Only five counties namely- Homa Bay, Taita Taveta, Machakos, Lamu and Bomet met their annual target.
- d) Meru, Nandi, Busia, Siaya, Wajir, Kajiado, and Kisii counties reported less than 50% of their annual target.

4. Delays in disbursement of equitable share of revenue

- a) Equitable share represented 63.3% of county budget in FY 2019/20.
- b) Counties experienced delays in receiving the equitable share of revenue.
- c) The National Treasury released Kshs.286.78 billion as equitable share of revenue raised nationally against the approved allocation of Kshs.316.5 billion in FY 2019/20.
- d) The balance of Kshs.26.22 billion, which was disbursed in August, 2020 (Excludes Nairobi City County).

5. High Pending Bills

- a) As at 30th June 2020, County Governments reported pending bills stood at Kshs.113.85 billion.
- b) The reported pending bills in FY 2019/20 exclude Isiolo, Kirinyaga, Marsabit, Mombasa and West Pokot Counties which failed to submit a report to OCoB.
- c) The reported pending bills include bills verified and cleared by OAG as of 30th June, 2018 (eligible) amounting to Kshs.11.98 billion.

6. Delays in the Submission of Financial Reports to the Controller of Budget

- County Governments are required to prepare and submit financial reports in line with Section 166(4) and Section 168 (3) of the PFM Act, 2012 not later than one month after the end of each quarter.
- The delays were experienced from Isiolo, Marsabit, Wajir, Turkana, Kajiado, Westpokot, Kitui, Tana River, Mombasa, Kilifi, Garissa, Taita Taveta, Kirinyaga and Busia

7. Weak Budgetary Control

- a) The OCoB noted instances where Counties incurred expenditure above approved budget allocations and approved exchequer issues.
- b) This is an indication of weak budgetary controls, failure to refund unspent funds to the CRF at the close of the financial year as required by Section 136(2) of the PFM Act, 2012, and use of revenue at source.
- c) The Counties where such weakness were observed were; Baringo, Bomet, Bungoma, Embu, Kakamega, Kilifi, Kitui, Kericho, Kwale, Laikipia, Machakos, Migori, Mombasa, Nakuru, Narok, Trans Nzoia, Turkana, Vihiga and West Pokot.

8. Under Utilization of COVID-19 Funds in the FY 2019/20

- a) Cumulatively, Kshs.13.1 billion was available to County Governments for COVID-19 interventions. From 13th March, 2020 when the first COVID-19 case was reported in Kenya, to 31st July 2020.
- b) Actual reported expenditure was Kshs.3.43 billion and translated to an absorption rate of 33.2%.
- c) The low utilization was attributed to:
 - ✓ Failure by Counties to Budget for the COVID-19 Grants
 - ✓ Lack of adequate support from the National Government

Possible Remedies of the identified Challenges

1. Wage Bill

- a) Carry out staff rationalization program to free up resources for development programmes. This should also include retraining of staff.
- b) Implementation of performance contracting to enhance the productivity of staff.

- c) Restricted recruitment of staff.
- d) The CPSB should ensure wage bill is maintained within 35% of the County's Revenue.

2. Low Expenditure on Development

- a) Put in place sound measures to improve implementation of development programmes.
- b) Ensure cash flow plans and procurement plans are adhered to by Accounting Officers and County Treasury.
- c) Improve staff capacity on procurement matters.

3. Under Performance of OSR

- a) OSR target should be revised in line with historical trends to avoid a hidden budget deficit. In addition, it is important to take note of emerging trends like effect of COVID-19.
- b) A study on the Counties potential on OSR should be undertaken.
- c) The County should devise and implement strategies to address its revenue performance to ensure the approved budget is fully financed. This would include automation.

4. Delay in the Disbursement of Equitable Share

- The National Treasury should strive to ensure equitable share to counties is available in line with the Disbursement Schedule approved by the Senate.

5. High Pending Bills

- a) County Governments should ensure pending bills are prioritized as a first charge in the budget before embarking on new financial commitments.
- b) A special audit to be undertaken by the Office of the Auditor General to verify the veracity of the pending bills.

6. Delay in Reporting by County Treasuries

- a) County Treasuries should build internal capacity to ensure financial and non-financial reports are prepared on time and as per the templates prescribed by COB and the Public Sector Accounting Standards Board.
- b) County Assemblies should play their oversight role to ensure reporting timelines are adhered to as provided in the law.

7. Weak Budgetary Controls

- a) County Governments should enhance vote book and budgetary controls to ensure that expenditure is within the approved budget.
- b) All revenues should be banked in the CRF in line with the law. This would restrict use of funds at source.

8. Under-Utilization of COVID Funds

- a) County Governments should ensure the COVID-19 grants are factored in the budgets.
- b) National government institutions to support County Governments as they implement the budgets for COVID-19 to ensure the quality of services and goods being procured meet the set standards.
- c) Continuous audit of COVID-19 funds in order to give assurance

Challenges faced by OCoB in Budget Oversight

1. Funding and frequent budget cuts.

This has led to-

- ✓ Logistical challenges (Motor Vehicles, Office Space, Acquisition of Softwares/hardwares)
- ✓ Human Resources challenges (number of staff, training, travel and expertise)

2. Tight legal timelines to report

- ✓ The COB Act, 2016 requires OCoB to submit to Parliament quarterly budget implementation reports within thirty days after the end of each quarter
- ✓ While the PFM Act gives Accounting Officers one month after the end of the quarter to submit reports to OCoB.

3. Failure by County Assemblies to discuss and table OCoB reports in the House

- ✓ Section 149 (3) of the PFM Act, 2012 requires that not later than three months after the Assembly has adopted the Controller of Budget report, the County Accounting Officers shall prepare a report on actions taken to implement recommendations made on the OCOB report as adopted by the Assembly.

- ✓ Section 149 (5) of the PFM Act, 2012 requires that the report by the County Accounting Officers on actions taken to implement recommendations made on the OCoB report SHALL be published and publicized.

IV.COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Observations

- a) Most of the counties did not adhere to cash flow projections and this had a great contribution to pending Bills.
- b) The pending Bills Verification Committee proposed by the office of Auditor General during Special audit on the pending bills were not effective.
- c) Thirty-four County executives violated the PFMA (County Government) Regulation 25 which require not more than 35% of expenditures should be made on wage Bill. Secondly, there were a lot of litigation on matters pending in court relating to county staff redundancy and early retirement.
- d) That its only thirteen county executives that adhered to the requirement of PFMA that expenditure on development should be at least 30%.
- e) That its only 5 county governments that managed to achieve their targets on Own Source Revenue Collection. Five counties did not even manage to collect 50% of their target.
- f) That some counties do not adhere to the set timelines in preparation and submission of statutory reports. In addition, others submit incomplete reports.
- g) The National treasury had not disbursed a total of kshs. 26.22 billion to the counties by the end of the Financial year 2019/2020.

- h) That Failure by County Assemblies do not consider respective OCOB reports on the county government budget implementation report.
- i) County assemblies cash requisition process has crippled their independence and compromised effective oversight.
- j) That there were several stalled projects across the country and this hindered realization of value for money invested on such projects.
- k) There was a challenge in budgeting and absorption of donor funds whose agreement are finalized and signed in middle of financial year. The challenge is further worsened since these funds are time bound.
- l) There were a lot of projects duplication which is witnessed within the counties. This hindered accountability and transparency.
- m) That a number of county government were non-compliant on remittance of statutory deductions.
- n) That Counties were not benefiting from revenues raised from catering levy fund yet this was a devolved function.
- o) That there was tendency of county governments failure of recognition of liabilities in annual financial statements.

Recommendations

- a) The Controller of Budget should ensure pending bills were reported at the end of the financial year and the same were cleared within 3 months of the successive financial year.
- b) The Auditor General should by August 2021 conduct a comprehensive/ forensic audit on all the pending bills owned by county governments to ascertain their authenticity for payment.
- c) To reduce expenditure on wage Bill, the County governments should-
 - i) Retrain and redeploy officers inherited from defunct local governments, to serve in critical areas.
 - ii) Adopt performance contracting management.
 - iii) Adjust their budgets to provide budgets for the Implementation of Voluntary Retirement Programme
 - iv) Counties to follow due process when declaring staff redundant.

- d) To ensure increase to of the ratio of development to recurrent expenditure and further to achieve at least the threshold provided in PFMA, county governments should
- i) Train finance and procurement officers on the link between budgeting and procurement plans this would improve on absorption rate of development funds.
 - ii) Avoid reallocation of funds earmarked for development projects to other non-development activities through supplementary budgets.
 - iii) submit to the OCOB a plan demonstrating how they will achieve the requirement of 30% expenditure on development.
- e) To improve on revenue collection and accountability-
- i) The National Treasury should expedite the development and roll-out of the standard revenue management system.
 - ii) Further, county governments should ensure that their annual revenue targets / projections are in line with historical trends to achieve revenue collection realism.
 - iii) In cases of default, where the defaulter of county fees and charges is a government agency, the county governments should explore mediation process.
- f) To ensure completeness and timely submission of statutory reports, OCOB should submit to the Senate proposals on possible amendments to COB Act and PFM Act.
- g) The National Treasury should adhere to the Cash Disbursement schedule approved by the Senate. Further, Treasury should quarterly submit cash disbursement report to the Senate.
- h) The OCOB should conduct sensitization programmes to the County Assemblies with view of promoting usage of the reports released quarterly.
- i) Amendment to PFM Act to streamline the County Assembly cash requisition process. Further amend the Act to create and operationalize the County Assembly Service Fund.
- j) The county executives, the OCOB and the Office of Auditor general should ensure completion of ongoing projects before start of new projects.

- k) To ensure utilization of conditional grants whose agreement are finalized after the beginning of the financial year, the National Treasury should explore possibility of usage of funds and regularize on the subsequent legislation. Further, Treasury should submit appropriate proposals to amend PFMA to allow absorption and utilization of such funds while awaiting necessary legislation.
- l) County governments should adopt Geospatial Information System for tracking development projects. Further, they should prepare reports on the ongoing projects and submit them to the county assembly for follow-up on implementation.
- m) County governments should expedite the processing and clearance of all liabilities relating to remittance of statutory deductions especially with the increased revenues for the Financial Year 2021/22.
- n) To ensure conformity to the Constitution and further ensure county governments benefit from revenues raised through Catering Levy Fund, the Tourism Act should be amended.
- o) The Public Sector Accounting Standards Board should expedite the process of transition from cash based financial reporting to modified Accrual based financial reporting.

ACTION PLAN MATRIX

No.	Issues	Action Plan	Timelines	Responsibility
Pending Bills				
1.	Non adherence to cash flow projections and procurement plans	Counties with pending bills to develop a framework with strict timelines on how to clear the pending Bills	June 2021	County executives, Senate Finance Committee and Controller of Budget
2.	Nonpayment of pending bills of previous years	Form the first charge on the budget	3 months in to the beginning of each Financial year	Controller of Budget and county executives
3.	Special audit done in 2019 was not comprehensive	A comprehensive/ forensic special audit for verifications be done.	August 2021	Auditor General
Non-Compliance to Regulation 25 (1)(a)(b) of the PFM Regulations (County Governments), 2015				
4.	Redundant workforce inherited from	Retraining and redeployment of officers to serve in critical areas.	July 2022	County Executives

No.	Issues	Action Plan	Timelines	Responsibility
	defunct local authorities	Counties to adopt performance contracting management.	January 2022	County Executives
5.	Insufficient funds to support Voluntary retirement	Provide conditional grants to the counties for the Implementation of Voluntary retirement Programme.	August 2022	Commission on Revenue Allocation and National Treasury
6.	Litigation on matters relating to county staff redundancy	Counties to follow due process when declaring staff redundant. Consultative meeting with the judiciary	August 2021	COG and Senate Finance Committee
7.	Persistent breach on Regulation 25 (1) (a) and (b)	COB shall, in the budget implementation review reports, set out the counties that have persistently breached the provisions of regulation 25(1)(a) and (b) and shall in this respect recommend to the Cabinet Secretary for the National Treasury to exercise the powers under Article 225 of the Constitution read together with sections 96 and 97 of the PFMA	Quarterly	Controller of Budget
Development Expenditure				

No.	Issues	Action Plan	Timelines	Responsibility
8.	Low absorption of development budgets	Training of finance and procurement officers on the link between budgeting and procurement plans	August 2021	Controller of Budget and County Executives
9.	Breaching of section 107(2) (b) of the PFMA – development Expenditure mix	Counties to submit a plan demonstrating how they will achieve the requirement of 30% expenditure on development to COB.	Quarterly	County Executives
		Continued growth on Own Source Revenue	Annually	County Executives
		COB shall, in the budget implementation review reports, set out the counties that have persistently breached the Section 107(2)(b) and shall in this respect recommend to the Cabinet Secretary for the National Treasury to exercise the powers under Article 225 of the Constitution read together with sections 96 and 97 of the PFMA	Annually	Controller of Budget
Own Source Revenue				

No.	Issues	Action Plan	Timelines	Responsibility
10.	Revenue Management System	Completion and rolling out standard revenue management system	June 2021	National Treasury
11.	Unrealistic revenue projection	Revenue projections should be in line with historical trends to achieve realism	September 2021	County Executives
		Adoption of international practices in revenue projection. Adopt the Assessment report on county potential (GCP report done by KNBS)	September 2021	County Executives
		Where the defaulter of county taxes is a government agency, explore mediation with the defaulters and where they persist to enforce payment through the rating act.	August 2021	COG
12.	Synergy between Senate, National Treasury, COG, CRA and COB	Consultative meetings between Senate Committee of Finance and Budget, National Treasury, COG, Auditor General and COB	August 2021	Senate Finance Committee
Submission of Statutory Reports to COB				

No.	Issues	Action Plan	Timelines	Responsibility
13.	Delay in submission of financial reports by County Treasuries.	COB to submit appropriate proposals on possible amendments to COB and PFM Acts	June 2021	Controller of Budget
14.	Non-submission of financial reports by some Counties			
15.	Submission of inadequate information/reports by the County Treasuries			
16.	Improvement of independence of the COB office			
Disbursement of Equitable share				

No.	Issues	Action Plan	Timelines	Responsibility
17.	Delay in disbursement of Equitable share	The National Treasury should adhere to the Cash Disbursement schedule approved by the Senate	Monthly basis	The National treasury
18.	Tracking of disbursement by Senate	Submission of monthly cash disbursement report to the Senate for ease of tracking	Quarterly	Controller of Budget
Consideration of OCOB Budget Implementation Review report by County Assembly				
19.	Failure by County Assemblies to consider OCOB	County Assemblies should adhere to section 149 (3) of the PFM Act on consideration of Controller of budget reports.	Quarterly	County Assemblies
		Build capacity of County Assembly to interrogate the reports	August 2021	COB and Senate Finance Committee
Independence, oversight and accountability at County Assemblies				
20.	Cash requisition process for County Assembly	Amendment to PFM Act to streamline the County Assembly cash requisition process	October 2021	Senate Finance Committee

No.	Issues	Action Plan	Timelines	Responsibility
		Amendment of PFM Act to create and operationalize the County Assembly Service Fund	October 2021	Senate Finance Committee
21.	Ineffective oversight of executive by County Assemblies	Build capacity of the county Assemblies to be able to carry out their oversight role	Continuous	Controller of Budget and Commission on Revenue Allocation
Stalled projects				
22.	County governments' Stalled projects Stimulus project	Interrogate the non-completion of projects in counties and submit a report to the Senate.	August 2021	County Executive, AG and COB Senate Finance Committee
23.	Implementation of conditional grant on county headquarters.	Follow-up on the status of Implementation	May 2021	Senate Finance Committee
Absorption of Donor Funds				
24.	Absorption of Donor funds whose agreement are finalized in middle of FY	Explore possibility of usage of funds and regularize on the subsequent legislation	Annually	National Treasury

No.	Issues	Action Plan	Timelines	Responsibility
Project Monitoring				
25.	Duplication of development Projects	Counties to adopt Geospatial Information System for tracking development projects	November 2021	COB and County Executives
		County executives to table their reports on GIS to the County assemblies	Status report in June	County Executives
Statutory Deductions				
26.	Non-remittance of statutory deductions by county Governments	Counties to expedite the processing and clearance of these liabilities	November 2021	COB and County Executives
Treatment of Liability in financial statements				
27.	Failure to recognize liabilities in financial statements	Transition from cash based financial reporting to modified Accrual based financial reporting.	July 2021	Senate Finance Committee, Office of Auditor General and Public Sector Accounting Standards Board
Catering Levy Fund				

No.	Issues	Action Plan	Timelines	Responsibility
28.	Counties benefiting from catering levy fund	not from catering levy fund Amendment of Tourism Act to conform with the Constitution.	July 2021	Senate Finance Committee

APPENDIXES

Minutes of the Committee

Submissions

MINUTES OF THE 201ST MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON FRIDAY, 26TH MARCH, 2021 AT 9:30 AM IN OLCANI CONFERENCE HALL, SAROVA, MAASAI MARA, NAROK COUNTY.

PRESENT

- | | |
|------------------------------------------|-----------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP | - Vice- Chairperson |
| 3. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 4. Sen. CPA Farhiya Haji, MP | - Member |
| 5. Sen. Millicent Omanga, MP | - Member (Via Online) |

ABSENT WITH APOLOGY

- | | |
|----------------------------------------|----------|
| 6. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 7. Sen. Rose Nyamunga, MP | - Member |
| 8. Sen. Kimani Wamatangi, MP | - Member |
| 9. Sen. Aaron Cheruiyot, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|--------------------|
| 1. Mr. Christopher Gitonga | - Clerk Assistant |
| 2. Ms. Yunis Amran | - Fiscal Analyst |
| 3. Mr. Erick Ososi | - Research Officer |
| 4. Ms. Regina Munyao | - Legal Counsel |
| 5. Mr. Robert Rop | - Audio Officer |
| 6. Mr. Patrick Murindo | - SAA |
| 7. Ms. Roselyne Omanyia | - Secretary |
| 8. Mr. Shinini Oletiptip | - Office Assistant |

IN ATTENDANCE

A. Office of Controller of Budget

- | | |
|--------------------------------|--------------------------------------------|
| 1. CPA (Dr.) Margret Nyakang'o | - Controller of Budget |
| 2. Mr. Mark Koech | - Chief Fiscal Analyst- County Governments |
| 3. Ms. Mary Owii | - Personal Assistant |

B. Council of Governors

- | | |
|-----------------------------------|-------------------------------------------------------------------------------|
| 1. Hon. Gov. Francis Kimemia, EGH | - Member of COG Technical Committee on Finance, Planning and Economic Affairs |
|-----------------------------------|-------------------------------------------------------------------------------|

MIN. NO. 1054/03/2021:

PRELIMINARIES

The Chairperson called the meeting to order at 9.40 am and thereafter followed a word of prayer. The Chairperson welcomed all the participants to the meeting and allowed around of introductions.

MIN. NO. 1055/03/2021:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments as indicated below after it was proposed by Sen. (Dr.) Ochillo Ayacko, MP and seconded by Sen. Wetang'ula Moses Masika, EGH, MP.

MIN. NO. 1056/03/2021: PRESENTATION BY CONTROLLER OF BUDGET ON THE COUNTY GOVERNMENTS' BUDGET IMPLEMENTATION REVIEW REPORT FOR FINANCIAL YEAR 2019/20.

The Chairperson made opening remarks and thereafter welcomed the COB to make the presentation.

Upon invitation, the COB made a presentation on the following-

- a) The mandate of the office of the COB;
- b) Legal provisions on the procedure for reporting;
- c) The role of the office in relation to IFMIS transactions;
- d) The need for reporting based on programmes;
- e) County governments' expenditure analysis (recurrent and development);
- f) County governments' revenue analysis; and
- g) Status of the county governments' pending bills

MIN. NO. 1057/03/2021 ADJOURNMENT

The time been 1.18 pm the Chairperson adjourned the meeting until 2.20 pm.

SIGNATURE: _____



(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 20th April, 2021

MINUTES OF THE 202ND MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON FRIDAY, 26TH MARCH, 2021 AT 2:20 PM IN OLCANI CONFERENCE HALL, SAROVA, MAASAI MARA, NAROK COUNTY.

PRESENT

- | | |
|------------------------------------------|--------------------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP | - Vice- Chairperson |
| 3. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 4. Sen. CPA Farhiya Haji, MP | - Member |
| 5. Sen. Rose Nyamunga, MP | - Member (<i>via Online</i>) |

ABSENT WITH APOLOGY

- | | |
|----------------------------------------|----------|
| 6. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 7. Sen. Kimani Wamatangi, MP | - Member |
| 8. Sen. Millicent Omanga, MP | - Member |
| 9. Sen. Aaron Cheruiyot, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|--------------------|
| 1. Mr. Christopher Gitonga | - Clerk Assistant |
| 2. Ms. Yunis Amran | - Fiscal Analyst |
| 3. Mr. Erick Osoi | - Research Officer |
| 4. Ms. Regina Munyao | - Legal Counsel |
| 5. Mr. Robert Rop | - Audio Officer |
| 6. Mr. Patrick Murindo | - SAA |
| 7. Ms. Roselyne Omanyia | - Secretary |
| 8. Mr. Shinini Oletiptip | - Office Assistant |

IN ATTENDANCE

A. Office of Controller of Budget

- | | |
|--------------------------------|--------------------------------------------|
| 1. CPA (Dr.) Margret Nyakang'o | - Controller of Budget |
| 2. Mr. Mark Koech | - Chief Fiscal Analyst- County Governments |
| 3. Ms. Mary Owii | - Personal Assistant |

B. Council of Governors

- | | |
|-----------------------------------|-------------------------------------------------------------------------------|
| 1. Hon. Gov. Francis Kimemia, EGH | - Member of COG Technical Committee on Finance, Planning and Economic Affairs |
| 2. Ms. Mercy Wangui | -Secretariat |

MIN. NO. 1058/03/2021:

PRELIMINARIES

The Chairperson called the meeting to order at 2.25 pm and thereafter followed a word of prayer.

MIN. NO. 1059/03/2021:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments as indicated below after it was proposed by Sen. CPA Farhiya Haji, MP and seconded by Sen. (Dr.) Ochillo Ayacko, MP.

MIN. NO. 1060/03/2021: RESUMPTION OF PRESENTATION BY CONTROLLER OF BUDGET ON THE COUNTY GOVERNMENTS' BUDGET IMPLEMENTATION REVIEW REPORT FOR FINANCIAL YEAR 2019/20.

Upon invitation the COB made presentation on the following challenges which undermined effective implementation of budgets by county governments -

- a) Huge expenditure on wage bill exceeding the recommended limits;
- b) Low expenditure on developments violating the threshold provided in the PFM Act;
- c) Underperformance of Own Source Revenue (OSR);
- d) Over projections of OSR;
- e) Delay in disbursement of county equitable share;
- f) Delay in submission of financial reports to COB;
- g) Pending bills;
- h) Fluctuations/ instability of IFMIS;
- i) Weak budgetary control; and
- j) Underutilization of funds released like Covid 19 Funds released in FY 2019/20.

The Committee deliberated on the challenges and possible way forward.

MIN. NO. 1061/03/2021 ADJOURNMENT

The time been 4.30 pm the Chairperson adjourned the meeting until 27th March, 2021 at 8.00 am.

SIGNATURE: _____



(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 20th April, 2021

MINUTES OF THE 203RD MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON SATURDAY, 27TH MARCH, 2021 AT 8:00 AM IN OLCHANI CONFERENCE HALL, SAROVA, MAASAI MARA, NAROK COUNTY.

PRESENT

- | | |
|------------------------------------------|--------------------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP | - Vice- Chairperson |
| 3. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 4. Sen. CPA Farhiya Haji, MP | - Member |
| 5. Sen. Mutula Kilonzo Junior, CBS, MP | - Member (<i>Via Online</i>) |
| 6. Sen. Millicent Omanga, MP | - Member (<i>Via Online</i>) |

ABSENT WITH APOLOGY

- | | |
|------------------------------|----------|
| 7. Sen. Rose Nyamunga, MP | - Member |
| 8. Sen. Kimani Wamatangi, MP | - Member |
| 9. Sen. Aaron Cheruiyot, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|--------------------|
| 1. Mr. Christopher Gitonga | - Clerk Assistant |
| 2. Ms. Yunis Amran | - Fiscal Analyst |
| 3. Mr. Erick Osoi | - Research Officer |
| 4. Ms. Regina Munyao | - Legal Counsel |
| 5. Mr. Robert Rop | - Audio Officer |
| 6. Mr. Patrick Murindo | - SAA |
| 7. Ms. Roselyne Omanyia | - Secretary |
| 8. Mr. Shinini Oletiptip | - Office Assistant |

IN ATTENDANCE

A. Office of Controller of Budget

- | | |
|--------------------------------|--------------------------------------------|
| 1. CPA (Dr.) Margret Nyakang'o | - Controller of Budget |
| 2. Mr. Mark Koech | - Chief Fiscal Analyst- County Governments |
| 3. Ms. Mary Owii | - Personal Assistant |

B. Council of Governors (COG) Technical Committee on Finance, Planning and Economic Affairs

- | | |
|-----------------------------------|---------------|
| 1. Hon. Gov. Muriithi Ndiritu | - Chairman |
| 2. Hon. Gov. Francis Kimemia, EGH | - Member |
| 3. Ms. Mercy Wangui | - Secretariat |

MIN. NO. 1062/03/2021:

PRELIMINARIES

The Chairperson called the meeting to order at 8.20 am and thereafter followed a word of prayer.

MIN. NO. 1063/03/2021:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments as indicated below after it was proposed by Sen. CPA Farhiya Haji, MP and seconded by Sen. Millicent Omanga, MP.

MIN. NO. 1064/03/2021: PRESENTATION BY CHAIRMAN COG TECHNICAL COMMITTEE ON FINANCE, PLANNING AND ECONOMIC AFFAIRS.

Upon invitation the Chairman, COG Technical Committee made presentation as follows-

1. Enhancement on Own Source Revenue

The County Governments' actual Own Source Revenue (OSR) collection for FY 2019/20 was Ksh. 35.8 billion against a target of Ksh. 54.9 billion representing 65.2% performance. This was a drop in absolute terms from Ksh. 40.3 billion collected in FY 2018/19. The drop was attributed to Covid-19 pandemic.

Its important to note that the National Government-

- a) Remained to be the main defaulter on property taxes which is the major source of County revenue.
- b) continued to collect catering levy on food businesses essentially belonging to County Governments.

Proposed - a legislation on enforcement mechanism where the defaulter of county taxes is a government agency.

2. Pending Bills

Delay in disbursement of equitable share is a main reason behind pending bills. There was need to conduct a comprehensive audit on all the pending bills. The previous one was not comprehensive and the report was disputed by many counties.

Secondly the proposal for constitution of ineligible pending bills Committee was not feasible. Since it appears the OAG delegated his duties. Actualization of this recommendation had proved difficult.

To avoid issues of pending bills in future and enhance disclosure, the was need for the governments to transit from cash based financial reporting to accrual based financial reporting.

3. Delayed disbursement of equitable share

This had led to low absorption rate of the funds. Delayed disbursement leads to disruption in service delivery, budget absorption and delays submission of statutory deductions.

The balance outstanding to County Governments as of 26th March 2021 consist of;

- a) Ksh. 6.1 B owed to 10 County Governments for the month of December.
- b) Ksh. 17.5 B owed to 30 County Governments for the month of January.
- c) Ksh.26 B owed to 47 County Governments for February
- d) Ksh.26 B owed to 47 County Governments for March

4. Amendments to both DORA and CARA to include funds not captured during the budget cycle;

There are cases where in a given Fiscal Year some conditional grants agreement signed long after enactment of both DORA and CARA. For instance, Kenya Devolution Support Program (KDSP) and Emergency Response Locust Program were not included in DoRA and CARA, 2020. There was need to put in place possible mechanism to ensure such funds are utilized without necessary amending the DORA and CARA.

5. Expenditure on wage bill

Several counties suffer because of the staff inherited from the defunct local authorities and the officers devolved from the national government at the onset of devolution. Counties had tried several mechanisms to rationalize the staff including retrenchment, downsizing, early retirement, however, the process was litigious and very expensive. Labour courts have always ruled in favour of the employees rendering the effort of the governments futile.

6. Capacity of county assembly to utilize the various reports submitted by various constitutional bodies.

There was need to strengthen the capacity of the county assemblies in order to ensure interrogation of such reports and taking of necessary action as required by in the reports.

The Committee deliberated on the issues raised and noted the need for an all-inclusive consultative meeting in order to address the matters raised.

MIN. NO. 1065/03/2021 ADJOURNMENT

The time been 10.30 am the Chairperson adjourned the meeting until 11.00 am.

SIGNATURE: _____



(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 20th April, 2021

MINUTES OF THE 204TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON SATURDAY, 27TH MARCH, 2021 AT 11:00 AM IN OLCANI CONFERENCE HALL, SAROVA, MAASAI MARA, NAROK COUNTY.

PRESENT

- | | |
|------------------------------------------|--------------------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP | - Vice- Chairperson |
| 3. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 4. Sen. CPA Farhiya Haji, MP | - Member |
| 5. Sen. Mutula Kilonzo Junior, CBS, MP | - Member (<i>Via Online</i>) |
| 6. Sen. Millicent Omanga, MP | - Member (<i>Via Online</i>) |

ABSENT WITH APOLOGY

- | | |
|------------------------------|----------|
| 7. Sen. Rose Nyamunga, MP | - Member |
| 8. Sen. Kimani Wamatangi, MP | - Member |
| 9. Sen. Aaron Cheruiyot, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|--------------------|
| 1. Mr. Christopher Gitonga | - Clerk Assistant |
| 2. Ms. Yunis Amran | - Fiscal Analyst |
| 3. Mr. Erick Osoi | - Research Officer |
| 4. Ms. Regina Munyao | - Legal Counsel |
| 5. Mr. Robert Rop | - Audio Officer |
| 6. Mr. Patrick Murindo | - SAA |
| 7. Ms. Roselyne Omanyia | - Secretary |
| 8. Mr. Shinini Oletiptip | - Office Assistant |

IN ATTENDANCE

A. Office of Controller of Budget

- | | |
|--------------------------------|--------------------------------------------|
| 1. CPA (Dr.) Margret Nyakang'o | - Controller of Budget |
| 2. Mr. Mark Koech | - Chief Fiscal Analyst- County Governments |
| 3. Ms. Mary Owii | - Personal Assistant |

B. Council of Governors (COG) Technical Committee on Finance, Planning and Economic Affairs

- | | |
|-----------------------------------|---------------|
| 1. Hon. Gov. Muriithi Nderitu | - Chairman |
| 2. Hon. Gov. Francis Kimemia, EGH | - Member |
| 3. Ms. Mercy Wangui | - Secretariat |

MIN. NO. 1066/03/2021:**PRELIMINARIES**

The Chairperson called the meeting to order at 11.15 am and thereafter followed a word of prayer.

MIN. NO. 1067/03/2021:**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted with amendments as indicated below after it was proposed by Sen. CPA Farhiya Haji, MP and seconded by Sen. (Dr.) Ochillo Ayacko, MP.

MIN. NO. 1068/03/2021: CONSIDERATION OF THE WAY FORWARD ON ISSUES RAISED CONCERNING COUNTY GOVERNMENTS BUDGET IMPLEMENTATION

The Committee considered the way forward as follows-

No.	Issues	Action Plan	Timelines	Responsibility
Pending Bills				
1.	Non adherence to cash flow projections and procurement plans	Committee to meet counties with pending bills and develop a framework with strict timelines on how to clear pending Bills	June 2021	Finance and budget Committee of the Senate
2.	Nonpayment of pending of previous years	Form the first charge on the budget	3 months in to the beginning Financial year	Controller of Budget
3.	Special audit done in 2019 was not comprehensive	A comprehensive/ forensic special audit for verifications be done.	August 2021	Auditor General
Non-Compliance to Regulation 25 (1)(a)(b) of the PFM Regulations (County Governments), 2015				
4.	Redundant workforce inherited from defunct local authorities	Retraining and redeployment of officers to serve in critical areas.	July 2022	County Executives
		Counties to adopt performance contracting management.	January 2022	County Executives
5.	Insufficient funds to support Voluntary retirement	Provide conditional grants to the counties for the Implementation of Voluntary retirement Programme.	August 2022	Commission on Revenue Allocation and National Treasury
6.	Litigation on matters relating to county staff redundancy	Counties to follow due process when declaring staff redundant.	August 2021	COG and Finance Committee
7.	Persistent breach on Regulation 25 (1) (a) and (b)	COB shall, in the budget implementation review reports, set out the counties that have persistently breached the provisions of regulation 25(1)(a) and (b) and shall in this respect recommend to the Cabinet Secretary for the National Treasury to exercise the powers under Article 225 of the Constitution read together with sections 96 and 97 of the PFMA	Quarterly	Controller of Budget
Development Expenditure				

No.	Issues	Action Plan	Timelines	Responsibility
8.	Low absorption of development budgets	Training of finance and procurement officers on the link between budgeting and procurement plans	August 2021	Controller of Budget and County Executives
9.	Breaching of section 107(2) (b) of the PFMA – development Expenditure mix	Counties to submit a plan demonstrating how they will achieve the requirement of 30% expenditure on development.	Quarterly	County Executives
		Continued growth on Own Source Revenue	Annually	County Executives
		COB shall, in the budget implementation review reports, set out the counties that have persistently breached the Section 107(2)(b) and shall in this respect recommend to the Cabinet Secretary for the National Treasury to exercise the powers under Article 225 of the Constitution read together with sections 96 and 97 of the PFMA	Annually	Controller of Budget
Own Source Revenue				
10	Revenue Management System	Completion of the development of the standard revenue management system	June 2021	National Treasury
11	Unrealistic revenue projection	Revenue projections should be in line with historical trends to achieve realism	September 2021	County Executives
		Adoption of international practices in revenue projection. Adopt the Assessment report on county potential (GCP report done by KNBS)	September 2021	County Executives
12	National government entity defaulting payment of property tax	Where the defaulter of county taxes is a government agency, explore mediation with the defaulters and where they persist to enforce payment through the rating act.		
13	Synergy between Senate, National Treasury, COG, CRA and COB	Hold consultative meetings between Senate Committee of finance and budget, National Treasury, COG and COB	Continuous	Senate Committee of Finance and Budget
Submission of Statutory Reports to COB				
14	Delay in submission of financial reports by County Treasuries.			Controller of Budget

No.	Issues	Action Plan	Timelines	Responsibility
15	Non-submission of financial reports by some Counties	COB to submit proposals on possible amendments to COB Acts	June 2021	
16	Submission of inadequate information/reports by the County Treasuries			
17	Improvement of independence of the COB office			
Disbursement of Equitable share				
18	Delay in disbursement of Equitable share	The National Treasury should adhere to the Cash Disbursement schedule approved by the Senate	Monthly basis	The National treasury
19	Tracking of disbursement by Senate	Submission of monthly cash disbursement report to the Senate for ease of tracking	Quarterly	Controller of Budget
Consideration of OCOB Budget Implementation Review report by County Assembly				
20	Failure by County Assemblies to consider OCOB	County Assemblies should adhere to section 149 (3) of the PFM Act on consideration of Controller of budget reports.	Quarterly	County Assemblies
		Build capacity of County Assembly to interrogate the reports	August 2021	COB and Finance Committee
Independence, oversight and accountability at County Assemblies				
21	Cash requisition process for County Assembly	Amendment to PFM Act to streamline the County Assembly cash requisition process	October 2021	Senate committee of Finance and budget
		Amendment of PFM Act to create and operationalize the County Assembly Service Fund	October 2021	Senate committee of Finance and budget
22	Ineffective oversight of executive by County Assemblies	Build capacity of the county Assemblies to be able to carry out their oversight role	Continuous	Controller of Budget and Commission on Revenue Allocation
Stalled projects				
23	County governments' Stalled projects Stimulus project	Ensure completion of ongoing projects before start of new projects.	Annually	County Executive, AG and COB Senate Finance Committee
24	Implementation of conditional grant on county headquarters.	Follow-up on the status of Implementation		Senate Finance Committee
Absorption of Donor Funds				
25	Absorption of Donor funds whose agreement are finalized in middle of FY	Explore possibility of usage of funds and regularize on the subsequent legislation	Annually	National Treasury
		Amend PFMA to allow absorption and utilization of donor funds		Finance Committee

No.	Issues	Action Plan	Timelines	Responsibility
Project Monitoring				
26	Duplication of Projects	Counties to adopt Geospatial Information System for tracking development projects	November 2021	COB and County Executives
		County executives to table their reports on GIS to the County assemblies	Status report in June	County Executives
Statutory Deductions				
27	Non-remittance of statutory deductions by county Governments	Counties to expedite the processing and clearance of these liabilities	November 2021	COB and County Executives
Treatment of Liability in financial statements				
28	Failure of recognition of liabilities in financial statements	Transition from cash based financial reporting to modified Accrual based financial reporting	July 2021	Finance Committee and Public Sector Accounting Service Board
Catering Levy Fund				
29	Counties not benefiting from catering levy fund	Amendment of Tourism Act to conform with the Constitution.	November 2021	Finance Committee
Utilization of Emergency fund in counties				
30	Utilization of Emergency fund disbursed to counties	Amendment of PFM Act to provide for utilization of such funds		Finance Committee

The Committee tasked the Secretariat to refine the document and circulate it for adoption.

MIN. NO. 1069/03/2021 ADJOURNMENT

The time been 2.25 pm the Chairperson adjourned the meeting.

SIGNATURE: _____

(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 20th April, 2021

MINUTES OF THE 211TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON WEDNESDAY, 21ST APRIL, 2021 AT 9:00 AM VIA ZOOM ONLINE PLATFORM.

PRESENT

- | | |
|------------------------------------------|---------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo Ayacko, MP | - Vice- Chairperson |
| 3. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 4. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 5. Sen. Rose Nyamunga, MP | - Member |
| 6. Sen. Millicent Omanga, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|------------------------------|----------|
| 7. Sen. Aaron Cheruiyot, MP | - Member |
| 8. Sen. CPA Farhiya Haji, MP | - Member |
| 9. Sen. Kimani Wamatangi, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|--------------------|
| 1. Mr. Christopher Gitonga | - Clerk Assistant |
| 2. Ms. Lucy Radoli | - Legal Counsel |
| 3. Ms. Sharon Rotino | - Research Officer |
| 4. Mr. Ian Otieno | - Audio Officer |

MIN. NO. 1102/04/2021: PRELIMINARIES

The Chairperson called the meeting to order at 9.14 am and thereafter followed a word of prayer. The Chairperson welcomed the Members to the meeting.

MIN. NO. 1103/04/2021: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Millicent Omanga, MP and seconded by Sen. Mutula Kilonzo Junior, CBS, MP.

MIN. NO. 1104/04/2021: CONFIRMATION OF MINUTES OF MINUTES

- a) The minutes of the 209th meeting held on Monday, 12th April, 2021 at 9:00 am were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Millicent Omanga, MP and seconded by Sen. Mutula Kilonzo Junior, CBS, MP.
- b) The minutes of the 210th meeting held on Tuesday, 20th April, 2021 at 11:00 am were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Mutula Kilonzo Junior, CBS, MP and seconded by Sen. Millicent Omanga, MP.

**MIN. NO. 1105/04/2021: CONSIDERATION AND ADOPTION OF THE REPORT
ON THE SALARIES AND REMUNERATION COMMISSION
(AMENDMENT) BILL (SENATE BILLS NO. 31 OF 2020)**

The Committee considered the report and recommended that the Salaries and remuneration commission (Amendment) Bill (Senate Bills No. 31 of 2020) be approved with amendments that 'clause 2 be amended be deleting expression *28 days* and substituting therefor with *14 days*.

The report was unanimously adopted after it was proposed by Sen. Millicent Omanga, MP and seconded by Sen. Rose Nyamunga, MP.

**MIN. NO. 1106/04/2021 CONSIDERATION AND ADOPTION OF THE REPORT
ON THE COUNTY GOVERNMENTS' BUDGET
IMPLEMENTATION REVIEW REPORT FOR THE
FINANCIAL YEAR 2019/2020**

The Committee considered its report on the County Governments' Budget Implementation Review Report for the Financial Year 2019/20 and proposed recommendations on various issues which would improve on implementation of county budgets as well as enhance county public finance management.

It was also resolved that the action plan matrix should be attached to report for ease of tracking the action and timelines.

The report was unanimously adopted after it was proposed by Sen. Mutula Kilonzo Junior, CBS, MP and seconded by Sen. (Dr.) Ochillo Ayacko, MP.

MIN. NO. 1107/04/2021 ADJOURNMENT

There been no other business the Chairperson adjourned the meeting at 10.22 am.

SIGNATURE:



(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 26th April, 2021



COUNCIL OF GOVERNORS

1. Enhancement on Own Source Revenue

The County Governments' actual Own Source Revenue (OSR) collection for FY 2019/20 was Ksh. 35.8 billion against a target of Ksh. 54.9 billion representing 65.2 percent of the annual target. This was a drop in absolute terms from Ksh. 40.3 billion collected in FY 2018/19 that was 74.8 percent of the annual OSR target by the Counties. One of the key reasons leading to decrease in Own Source Revenue is the Covid-19 pandemic, in which the National Government through Ministry of Health in effort to contain the spread of the virus instituted measures which included; closure of social places, social distancing, dawn to dusk curfew and closure of inter-county movements. This led to closure of businesses and consequently reduced revenue.

Further, National Government remains to be the main defaulter on property taxes which is the major source of County revenue. National Government continue to collect catering levy on food businesses essentially belonging to County Governments.

Further, Counties continue

Proposal;

Develop Legislation of enforcement mechanism where the defaulter of county taxes is a government agency.

A technical committee comprising of National Treasury, Commission on Revenue Allocation , Council of Governors and Senate to be established for the aforementioned.

2. Pending Bills

A special audit by Office of the Auditor General (OAG) verified eligible pending bills by County Governments amounting to Ksh. 51.2 billion as at 30th June, 2018. Another Ksh. 37.7 billion worth of pending bills was found to be ineligible for payment. Of the eligible bills 76.6% (Ksh. 39.3 Billion) have been settled and 23.45 (Ksh. 11.98 Billion) remain unsettled. 23 counties have cleared eligible pending bills in full while 5 counties disputed a portion of the bills however and communicated to Office of the Auditor General for investigation and guidance.



As at 30th June 2020 County Governments reported pending bills amounting to Ksh. 113.6 Billion of this, Ksh. 78.8 Billion belong to Nairobi County.

The self-reporting was as per the Circular Ref: AG.3/88/Vol.7 (11) dated 13th June 2020 to all CECMs for Finance on Year End Closing Procedures for Financial Year 2019/2020. According to this Circular Part 3.15 (ix), County Governments are required to disclose in a note to the financial statements, details of all pending bills, including the date, beneficiary, description and amount and the reason why the amount was not settled by the due date.

It is important to note that County Governments closed the Financial Year with Ksh 26 B of Equitable share having not disbursed.

Proposal;

Office of the Auditor General to conduct a special audit for verification of the pending bills before payment.

Verification should be applicable to the following;

- I. Disputed eligible pending bills as per the Special Audit of OAG-2019
- II. Ineligible pending bills as per the Special Audit of OAG
- III. Reported pending bills as per Circular AG.3/88/Vol.7(11)

Further, for a more efficient verification and to avoid re-audit(establishment of ineligible pending bills committee), it will be important for OAG to engage a reputable institution for the special audit and widen the scope of verification to incorporate forensic audit other than desktop analysis as earlier applied.

Further it is important to note much of accumulation of pending bills is as a result of delayed disbursement;

Balance outstanding to County Governments as of 26th March 2021 consist of;

1. Ksh. 6.1 B owed to 10 County Governments for the month of December.
2. Ksh. 17.5 B owed to 30 County Governments for the month of January.
3. Ksh.26 B owed to 47 County Governments for February
4. Ksh.26 B owed to 47 County Governments for March



Proposal;

National Treasury fast-track equitable share disbursement to County Governments as delayed disbursement leads to disruption in service delivery, budget absorption and delays submission of statutory deductions.

3. Amendments to both DORA and CARA to include funds not captured during the budget cycle;

A case of the Fiscal Year 2020/2021, there is need for amendments of both DORA and CARA 2020.

1. Kenya Devolution Support Program **Ksh.4,600,000,000**
2. Emergency Response Locust Program **Ksh 600,000,000**

Kenya Devolution Support Program

Kenya Devolution Support Program was allocated and approved for in County allocation of Revenue Act.

The funds were however not disbursed to County Governments in Financial Year 2019/2020.

Further the funds were not included in the County Allocation of Revenue Act 2020.

Emergency Desert Locust Project

Emergency Desert Locust Project funded by World Bank under the emergency component of the Kenya Climate Smart Agriculture Project through the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.

The funds are already captured in the line Ministry budget.

National Treasury on 9th December submitted to Parliament for amendments both DORA and CARA 2020 to include the funds for disbursement to County Governments

Proposal



Amendments to Public Finance Management Act to allow for submission of amendments to Division of Revenue Act and County Allocation of Revenue Act when the National Treasury is submitting Supplementary Budget.