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Compendium of Departmental Committees

Reports On The

2020 Budget Policy Statement

For The Financial Year 2020/2021 and

The Medium Term

THE NATIONAL ASSEMBLY
RECEIVED
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HON. MOSES LEGGONET
FOR: BUDGET AND APPROPRIATIONS COMMITTEE

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

REPORT ON THE EXAMINATION OF BUDGET POLICY STATEMENT 2020 AND THE MEDIUM TERM

(i) VOTE 1011: THE PRESIDENCY
(ii) VOTE 1021 STATE DEPARTMENT FOR INTERIOR AND CITIZEN SERVICES
(iii) VOTE 1022: STATE DEPARTMENT FOR CORRECTIONAL SERVICES
(iv) VOTE 1213: STATE DEPARTMENT FOR PUBLIC SERVICE
(v) VOTE 2071: PUBLIC SERVICE COMMISSION
(vi) VOTE 2101: NATIONAL POLICE SERVICE COMMISSION
(vii) VOTE 2151: THE INDEPENDENT POLICE OVERSIGHT AUTHORITY

FEBRUARY 2020

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBER,
PARLIAMENT BUILDINGS,
NAIROBI.

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CHAIRPERSONS FOREWARD

According to the Public Finance Management Act (2012), the Cabinet Secretary for the National Treasury is to table the BPS in the House on or before 15th February of every year. Pursuant to the provisions of the Standing Order No 232 (4), the BPS subsequently '**shall stand committed to each Departmental Committee without question put**'.

Following the tabling of the BPS, the Departmental Committee on Administration and National Security held a briefing meeting by the Parliamentary Budget Office and subsequently held consultative meetings with the Ministries under its docket and on which it exercises oversight. The committee meetings took place on Tuesday 18th February, 2020 and Wednesday, 19th February 2020 to consider the Budget Policy Statement and thereafter adopted this report on Friday 21st February 2020.

On behalf of the Departmental Committee on Administration and National Security and pursuant to provisions of Standing Order 232, it is my pleasant privilege and honour to present to the Budget and Appropriation Committee, the Report on its consideration of the Budget Policy Statement 2020 and the medium term for the Ministries and State Departments that falls under its purview. The Budget Policy Statement was tabled before the House on Thursday 13th February, 2020 pursuant to Standing Order No. 232 and thereafter committed to relevant Departmental Committees for deliberation according to respective mandates.

1.1 Mandate of the Committee

The Departmental Committee on Administration & National Security is established pursuant to the provisions of Standing Order No. 216. The mandate and functions of the Committee is to· -

i. *Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments,*

ii *Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*

iii *Study and review all legislation referred to it,*

iv *Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;*

v *Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House,*

vi *Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204, and*

vii *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation*

The Departmental Committee is mandated to cover the functions of the Ministry in accordance with the Fourth Schedule of the Constitution. As such, the Committee exercises oversight role on the work and administration of the Ministry alongside the SAGAs that fall under its purview.

The second schedule of the Standing Orders for the National Assembly mandates the Committee on Administration and National Security to consider matters relating to National security, Police services, home affairs, Public Administration, Public Service, prisons, Immigration and the management of natural disasters. It is from this perspective that the Committee scrutinized the votes namely,

i Vote 1011, the Presidency
ii. Vote 1021, State Department for Interior and Citizen Services
iii. Vote 1022, State Department for Correctional Services
iv Vote 1213, State Department for Public Service
v. Vote 2071, Public Service Commission
vi. Vote 2101, National Police Service Commission
vii. Vote 2151, Independent Police Oversight Authority

1.2 Committee Membership

1. The Hon. Paul Koinange, MP - Chairperson
2. The Hon. John Waluke, MP - Vice-Chairperson
3. The Hon. Dr. Makali Mulu, MP
4. The Hon. Wafula Wamunyinyi, MP
5. The Hon. Peter Kaluma,MP
6. The Hon. George Theuri, MP
7. The Hon. Geoffrey Kingangi Muturi, MP
8. The Hon. Dr. Tecla Chebet Tum, MP
9. The Hon. Josphat Kabinga Wachira, MP
10. The Hon. Abdi Omar Shurie, MP
11. The Hon. Peter Francis Masara, MP
12. The Hon. Ahmed Kolosh Mohammed, MP
13. The Hon. Oku Kaunya, MP
14. The Hon. Ngunjiri Wambugu, MP
15. The Hon. Nimrod Mbithuka Mbai, MP
16. The Hon. Didmus Wekesa Barasa Mutua, MP
17. The Hon. Marselino Malimo Arbelle, MP
18. The Hon. Halima Mucheke, MP
19. The Hon. Aduma Owuor, MP

1.3 Committee Secretariat

1. Mr. George Gazemba - Principal Clerk Assistant
2. Mr. Joshua Ondari - Clerk Assistant II
3. Mr. Edison Odhiambo - Fiscal Analyst
4. Ms. Brigitta Mati - Legal Counsel
5. Mr. Donald Manyala - Research Officer
6. Mr. Josephat Bundotich - Senior Sergeant at arms II

ACKNOWLEDGEMENT

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate. The Committee also appreciates the Secretariat for the preparation of this report. The Committee also thank the Presidency, Ministry of Interior and Coordination of National Government, State Department for Public Service, Public Service Commission, National Police Service Commission and the Independent Police Oversight Authority for the fruitful deliberations they held with the Committee.

Finally, I wish to express my appreciation to the Honorable Members of the Committee who gave quality contributions during our deliberations and took their time to sit for long hours to participate in the activities of the Committee and preparation of this report. It is therefore, my pleasant duty and privilege, on behalf of the Departmental Committee on Administration and National Security, to present this report on the Budget Policy Statement 2020 and the Medium Term.

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LIST OF RECCOMENDATIONS

Structural Recommendations

1. The National Treasury to expedite the process of transferring the Personnel Emoluments budget for the police from the state department for Interior to the National Police Service Commission by 1st of July 2020 to enable the Commission exercise its Human Resource function fully in line with the Constitution and the National Police Service Act.
2. The PS, state department for Interior to expedite the process of designating all OCSs to have dedicated budget for Operations and Maintenance and be the AIE holders for prompt service delivery before the 1st of July 2020.
3. Recognizing the tight fiscal framework, it is recommended that the State Department for Interior rationalize it budget to accommodate critical infrastructure needed for combating terrorism and other forms of crime which can compromise the necessary environment for socio-political and economic development.
4. The Public Service Commission internship programme already established to be sustained and adequately funded. The Commission to ensure full compliance with the constitution in the implementation of the programme and in doing so to secure equity, regional and ethnic balance in recruitment of interns.

Financial Recommendation.

The Committee recommends that the House adopts the ceilings of: -

1. KSh. 6,290.8 million for the Presidency
2. KSh. 135,762.5 million for the state Department for Interior and Citizen Services
3. KSh. 28,151 million for the State Department for Correctional Services
4. KSh. 8,378.7 million for the State Department for Public Service
5. KSh. 2,127.5 million for the Public Service Commission
6. KSh. 689.5 million for the National Police Service Commission
7. KSh. 799.9 million for the Independent Police Oversight Authority

SIGNED .....

HON. JOHN WALUKE, MP
(VICE CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

DATE 26/2/2020

1. INTRODUCTION

Recent Economic Developments

The Budget Policy Statement 2020 and the medium term has been submitted against a backdrop of weakening global economy. According to Kenya National Bureau of statistics, the global growth registered a decelerated growth rate of 3.0 per cent in 2019 compared to 3.6 per cent growth in 2018. Growth in sub-Saharan Africa however stagnated at 3.2 per cent in 2019. In the East Africa Community, the economy grew by 5.6 per cent in 2019 compared to 6.5 per cent in 2018.

According to the National Treasury, The Kenyan economy remains resilient and grew by an average of 5.5 percent in the first three quarters of 2019, mostly supported by strong performance in the services sector. Growth momentum is expected to pick up to 5.6 percent in 2019, 6.1 percent in 2020 and further to 7.0 percent over the medium term supported by a strong rebound in the agricultural output, steady recovery in industrial activities, robust performance in the services sector, and investments in strategic areas under the "Big Four" Plan

Despite the rosy picture of growth, the Governance, Peace and security sector statistics is worrying. The total number of crimes reported to the Police has increased by 13.2 per cent from 77,992 in 2017 to 88,268 in 2018 with crimes involving dangerous drugs reported to have increased by 44.1 per cent, despite the substantial resources that have been committed to the sector.

The Big Four Agenda

The big four agenda focuses on issues that would have the greatest impact of the well-being of the people. It is expected to accelerate the attainment of vision 2030 through the provision of Universal Health Care, Affordable Housing, food security and nutrition and growing the manufacturing sector in order to spur economic growth and create employment opportunities through its main drivers and enablers.

The role of the sector as an enabler therefore cannot be gainsaid. A safe and secure environment is a necessary precondition for achieving the "Big Four" Plan. The Government continues to implement reforms targeted at improving the operational capacities of Kenya's security forces to protect Kenyans against external and internal attacks. In particular, the Government has increased allocations to all security agencies to improve their operations. The Government continues to invest in the modernization of the National Police Service in order to improve their efficiency and comprehensively police all corners of the Republic. The recent launch of the digital occurrence book by the National Police Service will improve the efficiency of service delivery to Kenyans

THE LEGAL BASIS FOR PROCESSING OF THE BPS

Legal Basis

Section 25 of the PFM Act requires the National Treasury to prepare and submit to Cabinet the Budget Policy Statement for approval. The National Treasury is then required to submit the approved Budget Policy Statement to Parliament, by the 15th February in each year. Further

Further Parliament has fourteen (14) days after its submission to scrutinize and review it, moreover the Standing Orders give all the Departmental Committees 7 days to prepare a report and submit to the Budget and Appropriations Committee after which Parliament shall adopt the report with or without amendments. More specifically, the BPS should contain the following:

i. An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic outlook.
ii. Financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term.
iii. The proposed expenditure ceilings for the 3 arms of Government and indicative transfers to County Government.
iv. The fiscal responsibility principles and financial objectives over the medium-term including limits on total annual debt.
v. The total resources to be allocated to individual programmes and projects within sector, ministries, departments and agencies indicating outputs expected during the period.

HIGHLIGHTS OF THE BUDGET POLICY STATEMENT 2020

An Overview

The theme for the 2020 budget policy statement is "Harnessing the Big Four for job creation and economic prosperity". Indeed, the theme for 2019 was similarly on the same theme of creating jobs, transforming lives-harnessing the big four"

The 2020 BPS therefore seeks to accelerate the implementation of the "Big Four" Plan which has gained traction over the past two years. The "Big Four" is a solid development agenda designed to help achieve the social and economic pillars of our Vision 2030 and the development aspirations espoused in the Kenyan Constitution. Thus, actualization of policies and programmes under each pillar is expected to accelerate and sustain inclusive growth, create opportunities for decent jobs, reduce poverty and income inequality and ensure that the country creates a healthy and food secure society in which every Kenyan is guaranteed of affordable and decent housing.

2.0 BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE

The Committee had a briefing from the Parliamentary Budget Office on 18th February 2020. The PBO submitted that:-

The policy thrust of the BPS 2020 for the security sector is to contribute towards conducive business environment and the Government remains dedicated to creating sustainable conducive business environment through achieving a stable macro-economic environment, supporting business regulatory reforms and enhancing security to attract investors and promote trade leading to job creation.

A safe and secure environment is a necessary precondition for achieving the Big four agenda. To realize this, the government policy aims at implementation of reforms targeted at improving the operational capacities of the security forces to protect Kenyans against external and internal threats.

The Government will continue to invest in the modernization and reforms at the National Police Service and National Government Administration (NGA), mobility enhancement for both police and NGA officers and motorcycles for chiefs and assistant chiefs as well as operationalization of the newly Gazzeted administrative units to bring services closer to the people

Further, the sector, through the Directorate of Criminal Investigations will continue to have enhanced allocations to fight corruption to enable them bring all corruption suspects to book in record time. However, the allocations to these agencies including the DCI have always been below their resource requirement.

Further the Office submitted that:-

i. The documents which should inform allocation of resources in the 2020/21 budget and the medium is the Kenya Vision 2030; Third Medium Term Plan 2018-2022; Strategic Plan for various Ministries Departments and Agencies (MDAs); Governance, Justice, Law and Order Sector (GJLOS) report 2019 and Public Administration and International Relations Sector (PAIRS) report 2019 where the agencies under the purview of the Committee falls.

ii. Governance, Justice, Law and Order Sector (GJLOS) is premised within the political pillar of the Kenya Vision 2030 and plays an important role in providing an enabling environment for social-economic development of the country as outlined in the Third Medium Term Plan (MTP III 2018-2022).

iii. The various Ministries, Departments and Agencies (MDAs) under the purview of the Committee are expected to support the achievement of the Big Four plan of the Budget Policy Statement 2020.The agencies will act as enablers to conducive business environment for employment. The various agencies such as the Public Service Commission and the State Department for Public Service are expected to institute structural reforms in the public service which deals with manpower to support Universal access to Health care among others.

iv. An analysis of the BPS 2020 and the Medium-Term Vision 2030 reveals that the sector will be implementing programmes which are in harmony with the Medium-term plan of Vision 2030. However, it is a concern that there was no status report on the achievement of these key flagship's projects and programmes.

v. It was further noted that some of the flagship projects were the same projects under the second MTP. The projects were never actualized as was envisaged and may continue not to be completed given that they have not been prioritized in the BPS 2020. They include completion and equipping the 6 model, prison facilities, construction of police houses and prison staff housing among others.

3.0 MEETING WITH THE MDAs

3.1 The Presidency

The Committee held a meeting with the Comptroller of State House. The Comptroller informed the meeting that the priorities for the Presidency over the medium term are: -

Facilitating the Presidency and the Deputy President in providing overall policy leadership direction for national prosperity, facilitating the execution of presidential mandate as per the Constitution, enhancing coordination and supervision of Government for attainment of the Big four among others.

To fund these priorities, the presidency has been given a resource ceiling of KSh. 6,290 million against a requirement of KSh. 20,881 million.

The Presidency will strive to adopt austerity measures and efficiency to meet the set targets with the resources proposed for allocation

3.2 State Department for Interior and Citizen Services

The Committee held a meeting with the state Department for Interior led by the Principal Secretary, State Department for Interior. The Principal Secretary informed the meeting that the priorities of the State Department over the medium term are: -

i. Enhancing security and safety of persons
ii. Enhancing leadership and coordination of national government policies and programmes
iii. enhancing production and security of government documents
iv. Promoting national cohesion, national values and peaceful co-existence
v. Enhancing immigration and registration services and maintaining comprehensive national population database
vi. Promoting alcohol free society and enhancing maritime and terrestrial security

To implement these policies and priorities, the resource requirement amounts to KSh. 207 billion against a proposed ceiling of KSh. 135.2 billion as summarized in the table below.

	Requirement IN Ksh. Millions			**Proposed Allocation KSh. Millions**			**Deficit**
	2020/21	**2021/22**	**2022/23**	**2020/21**	**2021/22**	**2022/23**	**2020/21**
Rec	156,137.8	163,701	172,730	128,486.9	132,072.5	135,858.4	27,650.8
Dev	41,874.5	34,259.2	34,274.2	6,740	7,138.1	7,024.9	35,134.5
Total	**198,012.3**	**197,960.2**	**207,004.2**	**135,226.9**	**139,210.6**	**142,883.4**	**62,785.3**

The key areas to be affected included: -

i. Kitting of 48,000 police officers with a shortfall of KSh. 2.5 billion
ii. Food and Rations for police officers in forward areas by KSh. 1.35 billion
iii. Fuel and maintenance expenses for the Ministry's owned vehicles by KSh. 2.8 billion
iv. Operationalization of new police stations and divisions by KSh. 2.5 billion
v. Special Training for DCI officers by KSh. 2.4 billion

Other shortfalls will affect the operations of SAGAs such as NACADA, National Crime and Research Centre, Firearms and Licensing Board, NGO Board, NTSA, Private Security Regulatory Authority and the National Cohesion and Integration Commission.

The following issues emerged as the likely issues the security sector is likely to face in the medium term: -

i. Increase in sophisticated and diversified forms of cyber-crime which include online threats, cyber-extortion, hate speech (Propaganda) and infringement of copyright and related rights through online technology
ii. Emerging drugs for abuse that are not easy to detect.
iii. The security sector was further noted to be facing the following challenges: -
iv. Porous border leading to infiltration of illegal firearms
v. Inter-ethnic conflicts related to natural resources
vi. Regulation of betting and gaming due to mushrooming of illegal gambling and machines
vii. Human trafficking has become sophisticated making Kenya a major transit route
viii. Political intolerance among ethnic groups causing security challenges

It was however noted that the security sector has made significant contribution to the socio-economic and political spheres of the economy despite the challenges experienced. The economic growth and development as envisaged in the Kenya Vision 2030 can only be realized and sustained in a stable, peaceful and secure environment.

3.3 State Department for Correctional Services

The Committee held a meeting with the Principal Secretary, State Department for Correction Services.

The Principal Secretary informed the meeting that the priorities of the state department over the medium term will be: -

i. Improving inmate's welfare by providing 15,000 pairs of uniforms and bedding to 56,000 inmates, acquire 300 energy saving jikos to 100 stations, procure 60,000 feeding pans to 129 stations and provide healthcare to all inmates.
ii. Enhance security in penal facilities thro' construction of Perimeter walls in 33 stations, prisoners' wards in 55 stations, Gate lodges and armouries in 5 stations, refurbish 26 prisoners wards, enhance prison telecommunication infrastructure through acquisition of modern communication equipment.
iii. Rehabilitation and reformation of offenders through provision of 25,550 inmates with formal education, 28,800 inmates with vocational training, 168,000 inmates with spiritual counseling.

The budget outlook has a shortfall of KSh. 16,738.4 million.

	Approved Original Estimates	**Requirements KSh. Mil**	**Allocation KSh. Mil**	**Shortfall KSh. Mil**
		FY 2020/21	FY 2020/21	FY 2020/21
	Recurrent	42,287	27,537.9	14,749.2
	Development	2,773.3	784	1,989.2
	Total	**45,060.4**	**28,321.9**	**16,738.4**

3.4 State Department for Public Service

The Committee held a meeting with the Principal Administrative Secretary (PAS) for State Department for Public Service.

The PAS informed the meeting that the policy priorities underpinning the budgetary allocation for FY 2020/21 for the State Department are: -

i. Public Sector Reforms and Transformation including operational standards and process engineering, Coordination of Huduma Centres. In this respect, the State Department aims to increase access to public services through Huduma platforms by opening new centres in each sub county. The State Department projects to open 30 huduma centres in the medium term. Moreover, the department will increase the number of services being provided
ii. Government Human Resource Information Systems and Services. The department will develop skills and competencies in public service through training to public servants at both levels of government to promote efficiency, effectiveness and professionalism. Further the department is undertaking an exercise to strengthen the public service through succession management
iii. Internship and Volunteer Policy for Public Service. The succession management will address youth unemployment through recruitment of young officers at entry grades and engagement of interns for acquisition of skills for youth employment
iv. Government Payroll policy and standards, shared services. The Government in house designated Human Resource Information System is expected to be interfaced with other existing and future systems like IFMIS, G-Pay, IRMIS and IPPD
v. Research Development and Public Service Delivery Innovations
vi. Public Service Carrier Planning and Development and
vii. Counselling Policy and Services

To implement these policies, the state department requires KSh. 14,618 million against a ceiling of KSh. 8,346 million as summarized in the table below.

		Printed Estimates	Resource Requirement	Resource Allocation	Deficit
		2019/20	2020/21	2020/21	2020/21
1.	Human Resource Management	205.6	205.9	92.8	113
2.	Human Resource Development	2,810.1	3,300.3	2,357.6	942.7
3.	Management Consultancy Services	113.6	193.6	102.8	90.8
4.	Huduma Kenya	1,990.8	5,618.9	1,172.9	4,445.9
5.	Public Service Reforms	122.2	125.9	96.3	29.6
6.	Performance Management	0	363.5	0	363.5
7.	Human Resources and Support Services	4,622.9	4,750.1	4,490.4	259.7
8.	Financial Management services	42.3	54.8	31.6	23.2
9.	Information Communications Services	2.37	5.5	1.8	3.8
	Total	**9,909.9**	**14,618.4**	**8,346.2**	**6,272.2**

3.5 Public Service Commission

The Committee held a meeting with the Chairman Public Service Commission.

The Chairman informed the meeting that the priorities for the Commission over the medium term would be:-

i. Reforming the public service to place Kenyan citizen at the centre of service delivery and national development agenda. To achieve this, there would be a review of service delivery programmes, performance management and productivity frameworks, youth empowerment and talent management programme, promotion of volunteerism and use of citizen feedback systems in improving service delivery.
ii. Improvement of Human Resource practices to support the Governments Big Four agenda. The Commission would be working very closely with other public and private sector agencies to bridge the skills, Knowledge and competency gaps in the public service.
iii. Inculcation of values and principles of governance in the public service and renewed focus on ethics, integrity and honest service. The Commission would promote values and principles of public service as provided for in the Constitution by ensuring equity, professionalism and meritocracy in appointments to ensure economic and prudent utilization of resources.
iv. Promotion of National Values and Values and principles of the public service, Internship programme, performance and public service delivery improvement programmes, induction of public officers on attitudinal and culture change, digitization of the Commissions records among others.

In the BPS 2020, the Commission has been given a ceiling of KSh. 2.2 billion against a resource requirement of KSh. 4.7 billion. There will be a need for rationalization and efficiency for the Commission to achieve its set targets with the available resources.

3.6 National Police Service Commission

The Committee held a meeting with the National Police Service Commission led by the Chairperson of the National Police Service Commission on 19th February 2020.

The Chairperson informed the Committee that the priorities of the Commission over the medium term would be: -

i. Delinking, Integration and harmonization of non-uniformed staff of the Commission.
ii. Decentralization of the Police Human Resource Services to the Regions
iii. Enhanced Institutional Capacity of the Commission
iv. Reengineering efficiency and effectiveness in the NPS Human Resource Services through automation.
v. Police Welfare, Wellness and Professional Development
vi. Establish Synergy and good relationships with stakeholders

He further informed the Committee that the policies will guide budgetary allocations as shown in the table below.

	Policy	Budget Requirement	Allocation 2020/21	Shortfall
		KSh. Millions	KSh. Millions	KSh. Millions
1.	Delinking and harmonization of civilian NPS staff	899	859	40
2.	Automation of NPSC and NPS processes	60	10	50
3.	Decentralization of counseling and wellness	100	60	40
4.	Decentralization of NPSC services	70	10	60
5.	Promotion of value-based approach to integrity, ethics and fight against corruption	50	20	30
6.	Recruitment of Civilian staff/Internship opportunities	195	0	195
7.	Relocation of Commission Offices	200	0	200
8.	Roll out of new vetting model	150	25	125
9.	Purchase of Commission Vehicles	100	35	65
	Total	**1,974**	**160**	**955**

3.7 Independent Police Oversight Authority

The Committee held a meeting with the Independent Police Oversight Authority led by the chairperson. The meeting was informed that the following are the policy priorities for the Authority over the medium term.

i. To build public confidence and trust in policing through prevention of police misconduct, effective complaints management, enhance compliance with legal framework and enhance monitoring, review and audit functions of IAU.
ii. To strengthen cooperation with and compliment sate and non -state actors
iii. To generate Knowledge for evidence-based policy, strategy and decision making.
iv. To promote corporate governance by enhancing Board and Management capacity, visibility and cooperate image.

In the BPS 2020, the Authority has been given a ceiling of KSh. 799.9 million a against a resource requirement of KSh. 1,493 million, leaving a shortfall of KSh. 693.1 million

4.0 OBSERVATIONS

4.1 The Presidency

The Presidency it was observed that the proposed ceiling for the Presidency was significantly low compared to the approved revised estimates of 2019/20 by 46 per cent. The ceiling as proposed could adversely affect the attainment of set targets of the Presidency.

4.2 State Department for Interior

1. It was observed that the State Department for Interior still holds the Human Resource functions of the National Police Service Commission. The Personnel Emoluments budget which goes hand in hand with Human Resource functions for the police was noted to be within the state department instead of being with the Commission. Best practices require such resources to be with the Commission which exercises disciplinary control over the police.
2. The resources for the Police were highly decentralized. The Officers Commanding Stations (OCSs) did not have resources for prompt service delivery despite the undertaking by the BPS 2020 to bring policing services closer to the people.
3. The shortfall in resource allocation for police modernization programme was a risk to the overall implementation of the policies underpinning the BPS 2020. Without modern equipment's such as the use of drones in operation areas, the war on terror may not be won. The evolving acts of terrorism may hinder economic development through direct costs such as loss of labour and capital.
4. The BPS 2020 promises enhanced allocation to fight corruption. such resources shall be utilized to ensure that all corruption suspects are brought to book in record time. It is acknowledged that the Directorate of Criminal Investigations has been in the fore front in fighting corruption. The proposed reduction in resource allocation for the DCI is not in tandem with the policy pronouncement of fighting corruption.

4.3 State Department for Correctional Services

1. The state department has over the years experienced dilapidated infrastructure and overcrowding of inmates against human rights dignity as required by the constitution of Kenya 2010.
2. The pending bills that were reported over the years under the state department were found to be illegal upon scrutiny by the auditors commissioned to look into their validity.

4.4 State Department for Public Service

It was observed that the Ministry did not have a clear policy on internship programmes. Further the Ministry had not developed the policy on secondment of public officers across the three arms of government and the two levels of government.

The Civil Service was dominated by ageing public servants and there was no clear policy on how to deal with succession management.

4.5 Public Service Commission.

The policy of recruiting equal number of interns across the 290 constituencies was not equitable.

4.6 National Police Service Commission

The Commission could not adequately exercise disciplinary control over the police and other related human resource functions because they were not in charge of the Police payroll.

4.7 Independent Police Oversight Authority

The shortfall in resource allocation to the Authority would affect decentralization of IPOA offices which was critical in bringing services closer to the people.

5.0 RECCOMENDATIONS

5.1 Structural Recommendations

1. The National Treasury to expedite the process of transferring the Personnel Emoluments budget for the police from the state department for Interior to the National Police Service Commission by 1st of July 2020 to enable the Commission exercise its Human Resource function fully in line with the Constitution and the National Police Service Act.
2. The PS, state department for Interior to expedite the process of designating all OCSs to have dedicated budget for Operations ad Maintenance and be the AIE holders for prompt service delivery before the 1st of July 2020.
3. Recognizing the tight fiscal framework, it is recommended that the State Department for Interior rationalize it budget to accommodate critical infrastructure needed for combating terrorism and other forms of crime which can compromise the necessary environment for socio-political and economic development.
4. The Public Service Commission internship programme already established to be sustained and adequately funded. The Commission to ensure full compliance with the constitution in the implementation of the programme and in doing so to secure equity, regional and ethnic balance in recruitment of interns.

5.2 Financial Recommendation.

The Committee recommends that the House adopts the ceilings of: -

i. KSh. 6,290.8 million for the Presidency
ii. KSh. 135,762.5 million for the state Department for Interior and Citizen Services
iii. KSh. 28,151 million for the State Department for Correctional Services
iv. KSh. 8,378.7 million for the State Department for Public Service
v. KSh. 2,127.5 million for the Public Service Commission
vi. KSh. 689.5 million for the National Police Service Commission
vii. KSh. 799.9 million for the Independent Police Oversight Authority

SIGNED .....

HON. JOHN WALUKE, MP
(VICE CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

DATE 26/2/2020

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK

REPORT ON THE CONSIDERATION OF THE BUDGET POLICY STATEMENT FOR;

State Department for Crop Development & Agricultural Research
State Department for Livestock
State Department for Fisheries and Blue Economy

DIRECTORATE OF COMMITTEE SERVICES
CLERKS CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2020

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CHAIRPERSONS FORWARD

On Thursday, 13th February 2020, the Budget Policy Statement (BPS) was submitted and tabled in the National Assembly pursuant to the provisions of the Standing Order No. 232 and section 25 of the Public Finance Management Act (2012). Pursuant to the provisions of Standing Order No 232 (4), the BPS was subsequently committed to each Departmental Committee.

The Public Finance Management Act (2012) requires the Cabinet Secretary for the National Treasury to table the BPS in the National Assembly on or before 15th February of every year. Pursuant to the provisions of the Standing Order No 232 (4), the BPS subsequently **'shall stand committed to each Departmental Committee without question put'.** The Departmental Committee is to deliberate on the Budget Policy Statement according to its mandate and make recommendations to the Budget and Appropriations Committee.

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logical and technical support accorded to it during its Sittings. Therefore on behalf of the Committee, it is therefore my pleasant duty and privilege, to lay this Report on the 2020 Budget Policy Statement and Medium Term Plan for the State Departments under the purview of the Departmental Committee on Agriculture and Livestock Pursuant to provisions of the PFM Act and the Standing Orders of the National Assembly.

HON. EMMANUEL WANGWE, MP.
VICE – CHAIRPERSON

EXECUTIVE SUMMARY

The purpose of this report is to consider the 2020 Budget Policy Statement and Medium term plan for the Government Ministries and State Agencies under the Purview of the Departmental Committee on Agriculture and Livestock and thereafter forward the recommendations to the Budget and appropriation Committee for its consideration.

In considering the 2020 Budget Policy Statement and the Medium-Term Plan for the government Ministries and State Agencies and departments under its purview, the committee held a total four sittings. The committee received a brief from the Parliamentary Budget office regarding the budget policies and proposed expenditures on the BPS 2020.

The Standing Order No 232 (4) provides that the Departmental Committee is to deliberate on the Budget Policy Statement according to its mandate and make recommendations to the Budget and Appropriations Committee.

In considering the Budget Policy Statement, the Budget and Appropriations Committee shall consult each Departmental Committee and table a report containing its recommendations on the statement to the House for consideration.

The report concludes that the Budget and Appropriation Committee Approves the ceilings of the various government ministries and state agencies as contained in the BPS 2020 and thereafter makes amendments as contained in the list of the recommendation.

Establishment of the Committee

The Departmental Committee on Agriculture and Livestock is one of the fifteen departmental committees of the House established pursuant to Article 124 of the Constitution of Kenya 2010 and Standing Order 216 of the National Assembly and mandated to:

i. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
ii. Study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;
iii. Study and review all legislation referred to it;
iv. Study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
v. Investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;

vi. Vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*); and

vii. Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee on Agriculture and Livestock specifically deals with the following sectors Agriculture, Livestock, Irrigation, Fisheries, Development, Production and Marketing. It oversights the following Agencies/ Departments: -

1. State Department for Crops and Development & Agricultural Research Services
2. State Department for Livestock
3. State Department for Fisheries & Blue Economy

COMMITTEE MEMBERSHIP

Hon. Adan Haji Ali, MP. **(Chairperson)**

MP for Mandera South Constituency

Jubilee Party

Hon Emmanuel Wangwe, MP. **(Vice-Chairperson)**

MP for Navakholo Constituency

Jubilee Party

Hon. Maison Leshoomo, MP.

MP for Samburu County

KANU

Hon. Ferdinard Wanyonyi, MP.

MP for Kwanza Constituency

Ford Kenya

Hon. Florence Mutua, MP.

MP for Busia County

Orange Democratic Movement

Hon. Simba Arati, MP.

MP for Dagoretti Constituency

Orange Democratic Movement

Hon. Francis Munyua Waititu, MP.

MP for Juja Constituency

Jubilee Party

Hon. Silas Kipkoech Tiren, MP.

MP for Moiben Constituency

Jubilee Party

Hon. Yegon Brighton Leonard, MP.

MP for Konoin Constituency

Jubilee Party

Hon. Gabriel Kago Mukuha, MP.

MP for Githunguri Constituency

Jubilee Party

Hon. John Paul Mwirigi, MP.

MP for Igembe South

Independent Member

Hon. Dr. John Kanyuithia Mutunga, MP.

MP for Tigania West Constituency

Jubilee Party

Hon. Adan Haji Yussuf, MP.

MP for Mandera West Constituency

Economic Freedom Party

Hon. Janet Jepkemboi Sitienei, MP.

MP for Turbo Constituency

Independent Member

Hon. Dr. Daniel Kamuren Tuitoek, MP.

MP for Mogotio Constituency

Jubilee Party

Hon. Fred Ouda, MP.

MP for Kisumu Central Constituency

Orange Democratic Movement

Hon. Joyce Kamene, MP.

MP for Wiper Democratic Party

Machakos County

Hon. Justus Makokha Murunga, MP

MP for Matungu Constituency

Amani National Congress

Hon. Silvanus Osoro Onyiego, MP.

MP for South Mungirango Constituency

Kenya National Congress

1.3 COMMITTEE SECRETARIAT

Mr. Ahmad Kadhi

Clerk Assistant I – Head of Secretariat

Mr. Nicodemus Maluki

Clerk Assistant III

Mr. Alex Mutuku

Sergeant At Arms I

Mr. Salem Lorot

Legal Counsel II

Ms. Faith Makena

Sergeant At Arms II

Mr. Luteshi Eugene

Audio Officer III

Mr. Robert Ngetich

Fiscal Analyst III

Mr. David Ngeno

Research Officer III

Ms. Deborah Ghati

Media Relations Officer

RECOMMENDATIONS

The Committee having scrutinized and reviewed the Budget Policy Statement 2020 recommends the following:

1) That Committee approves the Budget Ceilings as provided in the Budget Policy Statement for various votes under the purview of the Committee, that is; State Department for Crops and Development & Agricultural Research Services, State Department for Livestock, and State Department for Fisheries & Blue Economy.

2) An addition allocation to:

State Department for Crop Development and Agricultural Research:

(a) **Ksh. 460 million** for management of **Locust Invasion** an imminent threat to food security and community livelihoods;

(b) **Ksh. 177 million** towards **Fall Armyworm Mitigation Project**, the project is underfunded which poses a great danger to the achievement of food security.

(c) **Ksh. 100 million** to **Cotton Industry Revitalization project**: H. E. the President has lifed the ban on BT cotton. These funds will revitalise the Cotton Industry.

(d) **Ksh. 150 million** towards Equipping of Tea Research Development Factory.

State Department for Livestock

(e) **Ksh. 398 million** has a counterpart funding gap and Loans A-i-A gap of **KShs. 4,289 Million** for **Livestock Value Chain Support Project** that has 11 contracts.

3) The Ministry gives its records of extension officers. Funds be made available as a conditional grant to counties to facilitate employment of the officers.

1.0 INTRODUCTION

4) On Thursday, 13th February 2020, the Budget Policy Statement (BPS) was laid on the floor of the House by the Majority Leader pursuant to the provisions of the Standing Order No. 232 of the Kenya National Assembly and section 25 of the Public Finance Management Act (2012).
5) According to the Public Finance Management Act (2012), the Cabinet Secretary for the National Treasury is to table the BPS in the House on or before 15th February of every year. Pursuant to the provisions of the Standing Order No 232 (4), the BPS subsequently **'shall stand committed to each Departmental Committee without question put'.**
6) In considering the Budget Policy Statement, the Budget and Appropriations Committee shall consult each Departmental Committee and table a report containing its recommendations on the statement to the House for consideration.
7) Following the tabling of the BPS 2020, the Departmental Committee on Agriculture and Livestock was briefed on the BPS 2020 by the Parliamentary Budget Office and thereafter proceeded to hold consultative meetings with the State Departments on the 20th February, 2020. The Committee deliberated on the issues and thereafter adopted the report.
8) Standing Order, No 232 (4) further provides that *the Departmental Committees shall deliberate on the Budget Policy Statement according to their respective mandates and make recommendations to the Budget and Appropriations Committee. In considering the Budget Policy Statement, the Budget and Appropriations Committee shall consult each Departmental Committee and table a report containing its recommendations on the statement to the House for consideration.*

The State Departments and Commission under the purview of the Committee are-

(i) State Department for Crops and Development & Agricultural Research Services;
(ii) State Department for Livestock;
(iii) State Department for Fisheries & Blue Economy

2.0 SUBMISSIONS BY PARLIAMENTARY BUDGET OFFICE

2.1.1 Highlights of the 2020 BPS

9) The BPS 2020 whose theme is '*Harnessing the Big Four for job creation and economic prosperity*' outlines the broad strategic government priorities and policy goals of the government over the medium term. This is intended to provide the basis for preparing the budget estimates for the next financial year and over the medium term by both the National and county governments.
10) In 2020/21 and over the medium term as presented in the BPS 2020, the government intends to pursue the fiscal consolidation path while at the same time support the big four agenda and

the various enablers. Thus, the government will be cutting expenditures in the non-core areas of spending and direct resources to more productive areas and the big four sectors.

11) Thus, the Budget Policy Statement 2020 emphasizes on socio-economic transformation agenda envisaged by the government meant to deliver economic transformation through the four key strategic areas of focus identified by the Government.

Table 1: Areas of Focus-The Big Four Agenda	
Key Strategic area	**Medium Term Targets**
Health care	Providing universal health care hence guaranteeing quality and affordable healthcare to Kenyans by 2022.
Housing	Providing at least 500,000 affordable new houses to Kenyans by 2022
Manufacturing	Supporting value addition and raising manufacturing sector's share of GDP to 15% by 2022
Food Security	Expansion of food production and supply, reduction of food prices to ensure affordability in order to guarantee food security and improve nutrition

Source: National Treasury

2.1.2 Overall Fiscal Framework

12) The BPS 2020 targets revenue collections including Appropriation-in-Aid (AIA) of Kshs 2,134 billion (18.3% of GDP) whereas the overall nominal expenditure were projected at Kshs 2,874 billion. In view of this, the government projects the fiscal deficit (including grants) at Kshs. 571.2 billion in 2020/21. The government intends to address the financing shortfall through both domestic and external borrowing.

13) Under the 2020/21 expenditure framework, the National Executive (that is the various spending agencies) and the consolidated fund services (pensions, interest on loans) have the largest share of the proposed resource ceilings; shown below.

2020/21 Proposed Expenditure Framework					
Details	**Baseline 2019/20**	**2020/21 BPS Ceiling**	**% share**	**Projections**	
				2021/22	**2022/23**
National Executive	1,947.9	1,778.1	65.3	1,897.1	2,067.1
CFS	550.1	574.7	21.1	675.3	729.9
Parliament	39.9	36.2	1.3	38.5	40.5
Judiciary	19.2	19.2	0.7	18.6	19.3
County Governments	316.5	316.5	11.6	325.7	334.8
Total	**2,873.6**	**2,724.7**	**100.0**	**2,955.2**	**3,191.6**

Source: BPS 2020

2.1.3 Sector Policy Proposals

The 2020 BPS focuses on the following policy proposals:

14) The government policy on agricultural sector aims at ensuring food and nutrition security to all Kenyans by 2022. The sector is a key player in economic and social development of the country through food production, job creation, and foreign exchange earnings amongst others. The policy focus is on expansion of irrigation schemes; enhancing the provision of agricultural inputs; provision of support programmes to smallholder farmers and pastoralists; promotion of appropriate farming techniques; as well as supporting large-scale production of staples.

15) The focus is to align all policies under the agriculture sector towards increasing food production, boosting smallholder productivity and reducing the cost of food. Overall, the strategies under the Food and Nutrition Security Pillar targets to: reduce the cost of food, reduce the number of food insecure Kenyans, reduce chronic malnutrition among children under 5 years, increase agriculture contribution to GDP and create 1,000 production SMEs and 600,000 direct and indirect jobs and increase the average daily income of farmers.

16) The realization of the agenda on food and nutrition security appears to be a bleak unless concerted effort is met on diminishing agricultural productivity, declining land sizes, underfunding, and prevalence of pest and diseases among others. Efforts must be enhanced on expanding irrigation, adopting climate smart farming and modern agricultural technologies, support investments in infrastructure including feeder roads and water, as well as establish and sustain efficient market infrastructure to facilitate food access.

A. ANALYSIS PROPOSED EXPENDITURE CEILINGS AND RESOURCE REQUIREMENTS FOR THE SECTOR

17) A quick view of the proposed ceilings to the sector indicates that the 2020/21 budget is being contracted slightly. The total budget to all the state departments under the Committee in 2019/20 is Ksh. 51.7 billion, this is set to reduce by 1% to Ksh. 51.2 billion in 2020/21. The ceilings of Ksh. 51.2 billion is against a resource requirement of Ksh. 105 billion in 2020/21.

Table: showing Programme allocations in 2019/20 and under BPS					
	2019/20	2020 BPS Allocation	Variation	% change	Resource Requirement in 2020/21
State Department for Livestock	6,965	**6,344**	-622	-9%	**13,787**
Livestock resources management and development	6,965	6,344	-622	-9%	13,787
State Department for Crop Development	**28,768**	**27,751**	-1,016	-4%	**61,113**

General administration, planning and support services	4,130	3,314	-816	-20%	4,843
Crop development and management	16,801	16,303	-498	-3%	47,137
Agribusiness and Information Management	1,582	1,590	8	0%	1,857
Agricultural Research and Development	6,254	6,544	290	5%	7,276
State Department for Fisheries, Aquaculture and Blue Economy	6,550	**6,550**	0	0%	**10,332**
Fisheries development and management	3,891	4,110	219	6%	6,883
General administration, planning and support services	126	145	19	15%	326
Development and coordination of Blue economy	2,532	2,295	-238	-9%	3,123
State Department for irrigation	9,416	**10,575**	1,159	12%	**20,232**
Irrigation and land reclamation	7,697	8,852	1,155	15%	14,044
Water Harvesting and storage for Irrigation	1,055	1,723	668	63%	5,972
General administration, planning and support services	664	-	664		216
Total	**51,698**	**51,219**	-479	-1%	**105,464**

Source: 2020 BPS

18) In terms of recurrent and development allocations, the total recurrent allocations were proposed to reduce by ksh. 208 million, from an allocation of Ksh. 14,248 in 2019/20 to Ksh. 14,040 million. The total development allocations to the departments is proposed to reduce by Ksh. 271 million from an allocation of Ksh. 37,451 in 2019/20 to Ksh. 37,180 million.

Table: showing allocations as per Recurrent and Development allocations

		2019/20	Ceilings	Variation	% change
State Department for livestock	Current	2,067	2,066	-1	0%
	Capital	4,898	4,277	-621	-13%

	Total	6,965	6,344	-622	-9%
State Department for Crop Development & Agricultural Research	Current	9,631	9,196	-435	-5%
	Capital	19,137	18,555	-582	-3%
	Total	28,768	27,751	-1,016	-4%
State Department for Fisheries and Blue Economy	Current	1,655	2,029	374	23%
	Capital	4,895	4,521	-374	-8%
	Total	6,550	6,550	0	0%
State Department for irrigation	Current	895	749	-146	-16%
	Capital	8,521	9,826	1,305	15%
	Total	9,416	10,575	1,159	12%

Source: 2020 BPS

B. VOTE, PROGRAMME, PROJECT ANALYSIS

(i) State Department of Livestock

19) The 2020 BPS is proposing to reduce the budget to the department by Ksh. 622 million. The proposed budget ceiling to the state department in 2020/21 is Ksh. 6,344 million comprising of Ksh. 2,066 million for recurrent expenditure and Ksh. 4,277 million for development expenditure.

20) The proposed allocation is a reduction of Ksh. 622 million from an allocation of Ksh. 6,965 million in FY 2019/20. Recurrent allocation is proposed to reduce by Ksh 1 million while the development allocation is reducing by Ksh. 621 million.

21) The state department of livestock is implementing one programme called Livestock Resources Management and Development programme it is meant to deliver the following outputs; Promotion of commercial Feedlot and livestock export zones, Kenya Livestock Insurance Project, Livestock Disease and Pest Control, Promotion of leather development, Smallholder Dairy Commercialization Project, Regional Pastoral Livelihood Resilience Project, Integrated Agricultural Research for Development, and Disease free zones.

Table: Proposed Outputs and Performance indicators of the Programme – BPS 2020

Project	Key output	Key indicator	2020/21 target
Kenya Livestock Insurance Scheme	Vulnerable pastoral communities cushioned against drought	No. of Tropical Livestock Units insured through full and partial subsidy	160,000

		No. of Counties covered	**12**
Regional Pastoral Livelihood Support Project	Infrastructures for water resources access developed	Boreholes	7
		Water Pans	7
Disease Free Zone	Disease Free Zones established to facilitate access to markets	% completion of Livestock Export Zone facilities in Bachuma	90
Livestock value Chain Support Project	Operational milk coolers	No. of coolers procured	300

Source: 2020 BPS.

(ii) State Department for Crop Development and Agricultural Research

22) The allocation to the state department is set to reduce by Ksh. 1,016 million, from an allocation of Ksh. 28,768 million in 2019/20 to Ksh. 27,751 million. The proposed ceiling of Ksh. 27,751 million comprises Ksh. 9,196 million recurrent expenditure and Ksh. 18,555 million development expenditure.

23) Allocation to recurrent expenditure is reducing by Ksh. 435 million from an allocation of Ksh. 9,631 million to Ksh. 9,196 million under the BPS. The development expenditure is proposed to reduce from Ksh. 19,137 million in 2019/20 to Ksh. 18,555, a reduction of Ksh. 582 million.

24) The department is implementing four programmes namely: the General Administration, Planning and Support Services; Crop Development and Management; Agri-Business and Information Management; and Agricultural Research and Development. The allocation to the programmes were as shown in the following table.

Table: showing allocations to the Programmes

	2019/20	2020 BPS Allocation	Variation	% change
General administration, planning and support services	4,130	3,314	-816	-20%
Crop development and management	16,801	16,303	-498	-3%
Agribusiness and Information Management	1,582	1,590	8	0%
Agricultural Research and Development	6,254	6,544	290	5%

Totals	28,768	27,751	-1,016	

25) The programme of Crop Development and Management has a ceiling of Ksh. 16,303 million comprising of Ksh. 816 million for recurrent and Ksh. 15,487 development allocation. The development allocation goes to fund a number of projects and key amongst are; conservation of Mau and Embobut Forest Complex, cotton revitalization project, Crop insurance project, strengthening mechanization, National Agriculture and Rural Growth Inclusive Project, Drought Resilience and Sustainable Livelihoods Programme in Horn of Africa (DRSLP), fertilizer subsidy programme, National Food Security Programme, Food security and crop diversification project among others.

(iii) State department for Fisheries and Blue Economy

26) The proposed ceiling to the state department of fisheries and blue economy is Ksh. 6,550 million composed of Ksh. 2,029 million for recurrent expenditure and Ksh. 4,521 million for development expenditure. The allocation to the department is similar to the 2019/20 allocation.

27) The allocation for recurrent expenditure is reducing by Ksh. 374 million, from an allocation of Ksh. 1,655 million in 2019/20 to Ksh. 2,029 in 2020/21. The development expenditure is reducing by Ksh. 374 million, from an allocation of Ksh. 4,895 million in 2019/20 to Ksh. 4,521 in 2020/21.

28) The state department was implementing three programmes namely; Fisheries Development & Management, General Admin. Planning & Support Services, and Development & Coordination of the Blue Economy. The allocation to the programs is as shown below.

Allocations to programmes			
	2019/20	2020 BPS Allocation	Variation
Fisheries development and management	3,891	4,110	219
General administration, planning and support services	126	145	19
Development and coordination of Blue economy	2,532	2,295	-238
Total	**6,550**	**6,550**	**0**

29) The planned outputs of the programs includes: development of Fish Levy Trust Fund policy and regulations; operationalization of the Kenya Fishing Industries Corporation (KFIC); development of maritime spatial plan; Four (4) domestic fishing fleets developed, Fisheries

infrastructure in Kwale, Mombasa, Kilifi, Lamu developed, renovation and operationalization of Liwatoni fisheries complex.

3.0 REVIEW AND SUBMISSIONS BY THE MINISTRY

3.1 State Department for Crops and Development & Agricultural Research Services;

On Wednesday 20th February, 2020 the Principal Secretary, State Department for Crop Development and Agricultural Research Prof. Boga Hamadi, appeared before the Committee to make a presentation on the 2020 BPS. He informed the Committee that: -

30) The proposed ceiling to the department is Ksh. 27,751 million consisting of Ksh. 9,196 million recurrent expenditure and Ksh. 18,555 million development expenditure.

31) The resource requirement to the department is Ksh. 61,113 million comprising of Ksh. 21,230 million recurrent and Ksh. 39,883 inillion development expenditure.

32) The resource gap will have an impact on implementation of the projects as discussed in the next table.

Impacts of the Resource Gaps/ shortfalls to project Implementation

Project	Resource gap (Ksh. Million)	Impact on Project Implementation
National Value Chain Support Programme	1,990	Affects implementation of Big 4 food security targets
Construction of Educational complex at Bukura Agricultural college	100	Will not complete the required works in the year
Crop Insurance	22	The targeted number of farmers may not be reached with this risk mitigation measure for food security which aims at reducing dependency on food aid
Development of Mau Buffer Tea Zone	556	Will not meet the tea zone acreage planned for the year
Pyrethrum Industry Recovery	117	Will not achieve the target for seedling development for Big 4 support to manufacturing
Strengthening Mechanization	80	Will not get all machinery supporting the identified big 4 value chains and associated capacity building
Development of Agriculture Technology Innovation Centre	41	Under funding will negatively affect technology development and testing to support BIG 4 Agenda

Food Security and Crop Diversification Project	500	Will not fully implement big 4 target namely for increasing production of food, fruit, oils and nut crops value chains
Construction of a Residue Laboratory at PCPB	184	Project completion dates will be pushed forward
Mechanization of Agricultural development	300	ADC will not meet its targets for quality seed production
Cotton Industry Revitalization Project	100	will lead to slowed progress in revival of textile subsector and support to manufacturing pillar
Fall Army Worm Mitigation	177	Pest mitigation measures will be affected with a real possibility compromising food production through pre harvest losses.

Projects Not Funded FY 2020/21

33) A number of projects have not been funded in the proposed ceiling for 2020/21 as listed below-

1) Strategic Food Reserve – Ksh.10,949Million
2) Warehouse Receipt System – Ksh.267Million
3) Nutrition Sensitive Programme --Ksh.128Million
4) Kenya Agricultural Data Management and Digitization Project --Ksh.267Million
5) Sugar Reforms Support Project - Phase II (Cane Testing Units) – Ksh.500Million
6) Construction of Resource Centre at PCPB – Ksh.20Million
7) Commodities Fund - Value Chain Financing – Ksh.1,050Million
8) Commodities Fund - Integrated Coffee Productivity – Ksh.300Million
9) Equipping of Tea Research Development Factory – Ksh.367Million

PENDING BILLS

34) The department has pending bills to the tune of Ksh. 12,355 million as shown below.

YEAR	OUTSTANDING AMOUNT	REASONS
2018/2019 Pending Bills	43,000,000	Various suppliers; Office Furniture and Fittings-KSh 29,050,500; Purchase of computers, printers and other IT equipment-KSh 9,065,542 and General Office Supplies-KSh 4,883,958.
Historical Pending Bills 2017/2018 for the fertilizer	8,348,000,000	For Fertilizer subsidy programme under KCB bank facility

subsidy programme		
Historical Pending Bills 2016/2017 and 2017/2018 FY	3,964,289,373.70	Owed to maize millers and traders.
TOTAL	12,355,394,878	

3.2 State Department for Livestock;

On Wednesday 20th February, 2020 the Principal Secretary, State Department for Crop Development and Agricultural Research Prof. Boga Hamadi (sitting in for the Principal Secretary, State Department for Livestock) appeared before the Committee to make submissions on BPS 2020. The Chief Finance Officer who presented on behalf informed the committee that:

35) The total allocation to the department under the 2020 BPS is Ksh. 6,344 million. The recurrent allocation is Ksh. 2,066 million and Ksh. 4,277 million for development.

36) The resource requirement in 2020/21 is Ksh. 2,389 recurrent budget and Ksh. 11,457 development budgets.

37) The resource gap of KShs. 7,502.4 Million will affect major areas/operations that include:

(a) **Slowed pace** in realization of interventions towards Big Four Plan and implementation of livestock sub-sector commitments in Malabo Declaration, 2014

(b) Counterpart funding gap of **KShs. 398 Million**; Loans AiA gap of **KShs. 4,289** Million for Livestock Value Chain Support Project that has 11 contracts

(c) Slowed completion time of fully funded GoK projects in agencies; training institutions, reference laboratories and regional investigation laboratories that have a deficit of KShs. **1,615 Million**

(d) Constrained recurrent operations in Directorates; KVB personnel recruitment and regional offices that have a resource gap of **KShs. 322.8 Million**

(e) Long term sustainability of KMC that has faced cash flow constraints amidst pending bills of **KShs. 722 Million.**

Pending bills

38) FY 2018/19 pending bills were development in nature amounting to KShs. 96 Million. KShs. 20.3 Million were AGPO in nature whereas KShs. 75.7 Million were NON-AGPO. Pendings bills have been settled fully by December 2019.

Unfunded Requests

(a) Enhance loan AIA ceiling for implementation of LVCSP (KShs. 8.3 Billion for three years)

(b) Request for funds to settle debts accrued by KMC (KShs. 250 Million dues to farmers)
(c) Request for additional recurrent transfers to KVB personnel recruitment (KShs.79 Million in 2020/21)
(d) Commitment and payment plan for settlement of court awards to Halal Ltd of KShs. 4 B
(e) Request for additional GoK allocation of KShs. 398 Million in FY 2020/21 to unlock implementation of 11 Contracts under Livestock Value Chain Support Project (LVCSP)

3.3 State Department for Fisheries & Blue Economy

On Wednesday 20th February, 2020 the Principal Secretary, State Department for Fisheries and Blue Economy Prof. Micheni Japhet Ntiba, appeared before the Committee to make a presentation on the 2020 BPS. He informed the Committee that: -

39) In the FY 2020/21, the proposed recurrent budget allocation is **Kshs. 2.029 Billion.** This is an increase of **Kshs. 374 million** compared to our current allocation of **Kshs. 1.655 Billion**. The increase is due to enhanced allocation for compensation of employees, current transfers to KEMFRI and other recurrent.
40) The development budget for the FY 2020/21, as compared to FY 2019/20, declined by Kshs. **374 Million**. The decline is principally due to the scaling down of our proposed GoK allocation from **Kshs. 4.497 Billion** in FY 2019/20 to **Kshs. 4.124 Billion** in FY 2020/21.

ALLOCATIONS VS REQUIREMENTS, THE SHORTFALLS AND THE AFFECTED PROGRAMMES/PROJECTS

i) Recurrent Budget

41) The department requested to be allocated **Kshs. 3.864 billion** in the FY 2020/21. However, secured only **Kshs. 2.029 Billion** leading to a shortfall of **1.835 Billion** in the FY 2020/21. This deficit will negatively affect several areas/activities, which include:
   a) Optimal ooperationalization of Kenya fish Marketing Authority, Kenya Fisheries advisory Council, Kenya Fisheries Services, Kenya Fishing Industries Corporation (KFIC), Kenya Fisheries Advisory Council (KFAC), and the Fish Levy Trust Fund (FLTF) will make it difficult for the agencies to attain their mandates;
   b) Monitoring and evaluation of capital projects;
   c) Participation in international activities related to our mandate;
   d) Staff training;
   e) Staff recruitment and succession management;
   f) Maintenance of vehicles and other assets;
   g) Acquisition of office space and office equipment for staff; and
   h) Purchase of motor vehicles;

Recurrent Budget: Requirements, Allocation and Shortfall

No.	Description	FY 2020/21		Shortfall
		Requirements	Allocation	
		Kshs. Millions		
1.	Compensation of Employees	461	354	107
2.	Transfers	2,725	1,454	1,271
3.	Other Recurrent	678	221	457
	Total	**3,864**	**2,029**	**1,835**

ii) Development Budget

42) The department is implementing a number of capital projects to enhance food and nutritional security and to increase the incomes of the fisher folks. Consequently, we expected **Kshs. 6.458 Billion** in the FY 2020/21. Nevertheless, we got **Kshs. 4.521 Billion** during the resource bidding exercise. The deficit of **Kshs. 1.937 Billion** will affect the exploitation of living resources under the blue economy and the rolling out of more fish landing sites in our inland waters. The under-funding will also lead to delayed completion of projects and the piling of unnecessary pending bills.

Table 1: Development Budget: Requirements, Allocation and Shortfall

No.	Description	FY 2020/21		Shortfall
		Requirements	Allocation	
		Kshs. Millions		
1.	GoK	4,830	4,124	706
2.	Loans	1,603	372	1,231
3.	Grants	25	25	0
	Total	**6,458**	**4,521**	**1,937**

COMMITTEE OBSERVATIONS

State Department for Crop Development & Agricultural Research

Under the state department, the Committee made the following observations:

(i) It is essential to support tea, coffee, and sugarcane research as it is crucial in improving and sustaining the productivity performance of the crops. There is need to fund tea, sugar and coffee research in the next financial year.

(ii) There is need to enhance resource allocations to enable completion of projects within stipulated time and resources; and improve project/programme monitoring and evaluation.

(iii) From the available records its sated that; The state department has total pending bills of Ksh. 12,355 million relating to financial year: 2016/17 of Ksh 3,964 million owed to maize millers and traders; 2017/18 of Ksh. 8,348 million for Fertilizer subsidy programme under KCB bank facility, and Ksh. 43 million for 2018/19.

(iv) Cotton Industry Revitalization project has been allocated Ksh.100 million in the financial year 2020/21. Committee notes the amount is insufficient and be enhanced.

(v) The invasion, multiplication and spread of the desert locust is a great threat to food security and community livelihoods. The BPS has not factored in any funds for management of these locusts. There is a need to factor in a budget for the control of the locust. The ministry requested Ksh. 460 million to fight the locust menace.

(vi) Fall Army Worm Mitigation which is crucial in mitigation of fall army worm is underfunded to the tune of Ksh. 177 million. Control and mitigation measures will be affected with a real possibility compromising food production through pre harvest losses.

State Department for Livestock

Under the state department, the Committee made the following observations:

(i) From the availed documents, the department has a counterpart funding gap of KShs. 398 Million; Loans A-i-A gap of KShs. 4,289 Million for Livestock Value Chain Support Project that affects 11 Programs.

(ii) As at December 2019, the department had cleared all the pending bills relating to the FY 2018/19. Though there are departments/SAGAS such as the KMC which owes farmers **700 Million.**

State Department for Fisheries, Aquaculture & the Blue Economy

Under the state department, the Committee made the following observations:

(i) The department has a proposed allocation of Ksh. Ksh. 6,550 million in 2020/21 which is similar to the 2019/20 allocations.

(ii) The recurrent expenditure was increased by Ksh. 374 million was from the development allocation is reduced by the same amount.

(iii) The department's absorption is below expectations. In the financial year 2018/19, the department utilized a paltry 50% of the total development budget.

5.0 GENERAL OBSERVATIONS

43) Annual work plans, procurement plans and clearance of pending bills were delayed due to late uploading of the budgets by the Treasury.

44) Several projects were ongoing in compliance with executive orders.

45) The sector's resource requirement stands at Kshs 105.4 billion against an allocation of Kshs 51.2 billion in the FY 2020/21. This was a meagre allocation in terms of food security as part of the Governments "Big 4 agenda"

46) There is acute shortage of agricultural extension officers in the sector.

47) Disease and pest control- the resource requirement for the control and management of pest and diseases should be allocated. The government needs to be strategic and efficient in procuring and distribution of pesticides to affected counties such as the Locust menace.

6.0 RECOMMENDATIONS

The Committee having scrutinized and reviewed the Budget Policy Statement 2020 recommends the following:

48) That Committee approves the Budget Ceilings as provided in the Budget Policy Statement for various votes under the purview of the Committee, that is; State Department for Crops and Development & Agricultural Research Services, State Department for Livestock, and State Department for Fisheries & Blue Economy.

49) An addition allocation to:

State Department for Crop Development and Agricultural Research:

(f) **Ksh. 460 million** for management of **Locust Invasion** an imminent threat to food security and community livelihoods;

(g) **Ksh. 177 million** towards **Fall Armyworm Mitigation Project**, the project is underfunded which poses a great danger to the achievement of food security.

(h) **Ksh. 100 million** to **Cotton Industry Revitalization project**: H. E. the President has lifed the ban on BT cotton. These funds will revitalise the Cotton Industry.

(i) **Ksh. 150 million** towards Equipping of Tea Research Development Factory.

State Department for Livestock

(j) **Ksh. 398 million** has a counterpart funding gap and Loans A-i-A gap of **KShs. 4,289 Million** for **Livestock Value Chain Support Project** that has 11 contracts.

50) The Ministry gives its records of extension officers. Funds be made available as a conditional grant to counties to facilitate employment of the officers.

Signed.....

Date.....26/02/2020.....

THE HON. EMMANUEL WANGWE, MP.
VICE – CHAIRPERSON
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

DEPARTMENTAL COMMITTEE ON

COMMUNICATION, INFORMATION AND INNOVATION

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION

REPORT ON CONSIDERATION OF 2020 BUDGET POLICY STATEMENT AND MEDIUM TERM FOR THE MINISTRY OF ICT, INNOVATION AND YOUTH AFFAIRS

Votes:

State Department for Information Communication and Technology & Innovation (Vote 1122)

State Department for Broadcasting and Telecommunication (Vote 1123)

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY 2020

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1.0 PREFACE

Mr. Chairman,

1) On behalf of the Departmental Committee on Communication, Information and Innovation and pursuant to provisions of Standing Order 207(6), it is my pleasant privilege and honour to present to the Budget and Appropriations Committee the report of the Committee on its consideration of the 2020 Budget Policy Statement and Medium Term for the Ministry of ICT, Innovation and Youth Affairs.

1.1 Mandate of the Committee

2) The Departmental Committee on Communications, Information and Innovation is established under Standing Order 216 whose mandate pursuant to the Standing Order 216(5) is as follows :—

a. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;

b. Study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;

c. Study and review all legislation referred to it;

d. Study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;

e. Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;

f. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);

(fa) examine treaties, agreements and conventions;

g. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;

h. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;

i. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and

j. Examine any questions raised by Members on a matter within its mandate.

3) In accordance with Second Schedule of the Standing Orders, the Committee is mandated to oversee Communication, Information, media and broadcasting (except for broadcast of parliamentary proceedings), Information Communications

Technology (ICT) development and advancement of technology and modernization of production strategies.

4) The Committee oversees the following votes as well as the Semi-Autonomous Government Agencies (SAGAS) under the purview of respective State Departments, namely, Vote 1122 (State Department for ICT) and Vote 1123 (State Department for Broadcasting & Telecommunications)

1.2 Committee Membership

5) The Departmental Committee on Communication, Information and Innovation was constituted by the House in December 2017 and comprises of the following Members:

Hon. Kisang William Kipkemoi, M.P **(Chairperson)**
MP for Marakwet West Constituency
Jubilee Party

Hon. George Macharia Kariuki **(Vice Chairperson)**
MP for Ndia Constituency
Jubilee Party

Hon. Liza, Chelule Chepkorir, MP
M.P for Nakuru County
Jubilee Party

Hon. Alfah O. Miruka, MP
M.P for Bomachoge Chache Constituency
Kenya National Congress

Hon. Annie Wanjiku Kibeh, MP
MP for Gatundu North Constituency
Jubilee Party

Hon. Joshua Kimilu, Kivinda, MP
MP for Kaiti Constituency
Wiper Democratic Party

Hon. Marwa Kitayama Maisori, MP
MP for Kuria East Constituency
Jubilee Party

Hon. Mwambu Mabongah, MP
MP for Bumula Constituency
Independent

Hon. Maritim Sylvanus, MP
MP for Ainamoi Constituency
Jubilee Party

Hon. Mwangaza Kawira, MP
MP for Meru County
Independent

Hon. Jonah Mburu, MP
MP for Lari Constituency
Jubilee Party

Hon. Gertrude Mbeyu Mwanyanje, MP
MP for Kilifi County
Orange Democratic Party

Hon.Wamuchomba, Gathoni, MP
MP for Kiambu County
Jubilee Party

Hon. (Eng.) Mark Nyamita Ogola, MP
MP for Uriri Constituency
Orange Democratic Party

Hon. John Kiarie Waweru, MP
MP for Dagoretti South
Jubilee Party

Hon. Erastus Nzioka Kivasu, M.P.
MP for Mbooni
New Democrats Party

Hon. Innocent Momanyi Obiri, MP
Bobasi Constituency
People's Democratic Party

Hon. Godfrey Osotsi Atieno, MP
Nominated
African National Congress

Hon. Anthony, Tom Oluoch, MP
MP for Mathare Constituency
Orange Democratic Party

1.3 Committee Secretariat

6) The Committee is facilitated by the following secretariat:-

i.)	Ms. Hellen Kina	- Clerk Assistant II/ Lead Clerk
ii.)	Ms. Ella Kendi	- Clerk Assistant II
iii.)	Ms. Marlene Ayiro	- Senior Legal Counsel
iv.)	Mr. Abdirahman Gorod	- Fiscal Analyst II

1.4 Overview of the examination of the Budget Policy Statement and Medium Term

7) The Budget Policy Statement (BPS) was submitted for consideration to Parliament in accordance with section 25 of the Public Finance Management Act (PFM), 2012. Consequently, Parliament shall, not later than 14 days after the BPS is submitted to Parliament, table and adopt its report with or without amendments.

8) The 2020 BPS, was submitted on 13th February 2020. The policy document outlines the medium term expenditure framework, policy and programmed strategic priorities detailing the proposed sectoral expenditure ceilings and overall funding including ICT, Broadcasting and Telecommunication sub sectors for the FY 2020/21 and 2022/2023.

9) Following the tabling of the BPS, the Departmental Committee on Communications, Information and Innovation held a briefing meeting by the Parliamentary Budget Office and subsequently held consultative meetings with the Ministry of Information, Communication and Technology (ICT) Innovation and Youth Affairs The Committee meetings took place on Tuesday 18th February, 2020 to be briefed by the Parliamentary Budget Office and on Thursday 20th February, 2020 with the Ministry who made oral and written submissions to the Committee which is recorded herein.

1.4.1 Committee Observations

10) Based on the review and scrutiny of the Budget Policy Statement and supporting documents as well as engagements with State Departments and respective agencies, the Committee makes the following key observations, :-

State Department of ICT

I. The proposed ceilings is an overall reduction of 12 % compared to current baseline allocation of the state Department due to constraints in the current fiscal space and outlined fiscal consolidation strategy in the medium term. Moreover, this is comprised of a decrease of Kshs 3.43 billion and an increase of kshs 141.7 million under recurrent sub vote, thereby indicating substantial underfunding of key ICT programmes.

II. Review of proposed ceiling allocation by programme indicates a continued allocation towards current on-going priorities into the FY 2020/21 with no new

programmes and projects planned for the same period. However, review of budgeting for programmes and projects allocation in the FY 2019/20 saw the introduction of major connectivity projects under the big four plans of manufacturing (special economic zones for Textile and leather parks and Konza City, etc) and Universal Health Care (Health Facilities). This points to lack of policy and planning coherence in budgeting and potential duplication of functions across participating ministries which may likely occur in the medium term period. This coupled with lack of clear implementation framework to underpinning specific roles of sector enablers in achieving the big four plans poses major risks to the strategies outlined in the 2020 BPS and subsequently to the sector budget implementation.

III. In view of the role of the sector as enabler towards realization of the objective of big four plans through undertaking connectivity projects, there is need for policy measures to be put in place and where possible be condition precedent to guide the State Department going forward. The policy measures is to close existing gaps while mitigating risk of duplication associated with the same being undertaken by other functional players.

IV. That the proposed key performance indicators and expected targets were indicated by programme and further by project. However, the performance indicators and outlined expected targets were not comprehensive and reflected a number of gaps including variances between what the Ministry submitted vis a vis supporting documents underpinning the 2020 BPS on the same. While the State Department undertook to harmonize the performance results matrix and in line with the resource allocation in the medium term, such inconsistences may hamper budget performance and accountability.

V. With regards to payment of pending bills, the Committee noted on the on-going effort in settling pending bills that amounted to kshs 71 million as at December 23rd December 2019 compared to kshs 255 million as at end of June 2019. However, the Committee noted substantial variations between submissions from the National Treasury vis a vis the state Department with major differences noted particularly under the submissions relating to SAGAs which amounts to kshs 1.059 billion, of which kshs 773 million (Under ICTA) is disputed and outstanding since 2016. This is likely to affect the stock of pending bills under the sector, and a major credibility risk to sector fiscal ceilings for the FY 2020/21 and the performance of the budget in the medium term.

VI. That the Programme Based Budget framework for the State Department of ICT & Innovation requires further clarity in the design and classification of its programmes and projects including comprehensiveness of its KPIs. This is to ensure proper categorization and classification of expenditure as well as enhance accountability and to mitigate duplication of interventions across the ministry and its SAGAs.

VII. The Committee noted some of the policy challenges include delayed clearance of imported project materials including equipment, among others. This particularly affected the implementation of the Supply and installation of an internet based 4000 Network (County Connectivity -CCP phase III) Project.

Broadcasting and Telecommunications

I. The proposed ceilings for the State Department are an overall increase of kshs 554.2 (or 11.89%) compared to current baseline allocation of kshs 4.760 billion. Moreover, this is comprised of an increase of kshs 54.7 million or (13 %) million under recurrent sub vote and Kshs 18 million under the Development.

II. The half year budget performance was 42% for recurrent and 91% for development projects under implementation which is within the require performance margin. However, budget for state department is mostly recurrent and comprised of transfers to SAGAs.

III. The total pending bills including historical bills under the State Department amounts to kshs 5.76 billion against payment made (to date) of ksh 1.059 billion, leaving a balance of Ksh 4.7 billion. Out of the total amount pending, Kshs 4.638 is under KBC relating to outstanding payments for pensions, Saccos, KRA and other creditors, Kshs 71 million under the Media Council of Kenya . The committee was informed of establishment of Pending Bills Committee to give recommendations on outstanding amounts carried from the previous FY 2018/19 as well as reconcile with National Treasury on the exact status of pending bills before finalization of the Estimates and end of the current financial period.

IV. That there were plans to further reduce the current high cost of government advertisement model mainly on account of the cost by the media houses in printing and distribution of the same. However, the committee notes the policy objectives has not been achieved as intended and there is need for review of the policy to ensure well centralized and responsive government advertisement including using other agencies such the Kenya Year Book to supplement certain functions.

1.4.2 Committee Recommendations

11) Based on the foregoing observations, the Committee recommends as follows:

State Department of ICT

Financial Recommendations

I. That the proposed ceiling measures by sub vote and by programme be approved in-line with the proposed measures as contained in the 2020 BPS and medium term.

Policy Recommendations

I. That implementation of the ICT connectivity projects (to various levels of health facilities and Special Economic Zones) under the big four plan be informed by an elaborate Responsibility and Accountability Framework with costed activities and timelines. This to ensure clear resource needs, mitigate duplication and harmonized engagement with other functional players such as respective counties, Ministry of Health and State Department for Industry as well as non-state actors such as NGOs and private sector players.

II. That the Digital Literacy Programme be indicated as a fully-fledged programme within the meaning and provisions of the Programmed Based Budget Framework with clear sub programmes and comprehensive KPIs.

III. That the Ajira projects/activities be also considered as a fully-fledged programme, or as sub programme, within the meaning and provisions of the Programmed Based Budget Framework with clear sub programmes and comprehensive KPIs

IV. That the following flagship projects be renamed or re-designed taking into account the need for clarity of the project and linked with the overall programme objective under which the project falls as well as comprehensive KPIs and actionable outputs:

- Konza EPCF - Engineer, Procure, Construct and Finance of Infrastructure projects (EPC-F)
- Access Roads-Konza(/ Streetscape/ Wastewater Reclamation Facility)
- Master Delivery Partner (MDP – 2)
- Supply and installation of an internet based 4000 network county connectivity - CCP phase III
- ICT Shared Services

V. To ensure priority allocation and completion of on-going projects, state department of ICT to factor all payable pending bills within the ceilings

measures provided in the 2020 BPS if current effort to settle outstanding bills in the current year is not achievable, and subsequently ensure curtailing of pending bills in the medium term.

VI. That the state department to ensure prioritization of policies and priorities under the creative sector to improve employment creation and enhance utilization of youth talents and the same be considered under the Film development Services Programme and ICT and Infrastructure Development Programme.

State Department for Broadcasting and Telecommunication

Financial Recommendations

I. That the proposed ceiling measures as contained in the 2020 BPS and medium term by sub vote and by programme be approved.

Policy Recommendations

II. That the State department follows through the proposal to further reduce the cost of government advertisement by printing through the Kenya Year Book and distributed through cost effective means such as the Postal Corporation of Kenya and other means as per the Cabinet Memo of 2017

III. That the State Department of Broadcasting and Telecommunication and National Treasury to ascertain the correct amount of the pending bills and type and nature of the historical pending bills particularly under KBC. Further, all payable pending bills be prioritized in the current fiscal year and the same provided in the finalization of the 2020/21 budget estimates

IV. That in light of the underfunded priorities in the Broadcasting and Telecommunication such as priories under the Kenya Year Book and Media council be further prioritized or reallocated within the sector by the Ministry. This will be line with cost effective measures that includes reduction of costs associated with printing and distribution of centralized advertisement.

1.5 Acknowledgements

12) The Committee appreciates the support offered by the Offices of the Speaker and the Clerk of the National Assembly for both logistical and technical support during its sittings and deliberations. The Committee wishes to thank the Ministry of ICT, Innovation and Youth Affairs for actively participating during the scrutiny of the Budget Policy Statement and relevant documentation.

13) Finally, I wish to express my appreciation to the Honourable Members of the Committee who made useful contributions towards the preparation and production of this Report.

14) Honorable Chair, It is my pleasant duty and privilege, on behalf of the Departmental Committee on Communication, Information and innovation to submit its Report on the scrutiny of the 2020 Budget Policy Statement and Medium Term.

SIGNATURE:..... DATE:25/02/2020

THE HON.GEORGE MACHARIA KARIUKI, MP – VICE CHAIRPERSON

DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION

2.0 SECTOR PRIORITIES AND ALLOCATION IN THE 2020 BPS

2.1 Submissions by the Parliamentary Budget Office.

15) The Committee held a briefing session with the Parliamentary Budget Office on Tuesday 18th February, 2020 as follows:

State Department of ICT & Innovation

16) The proposed overall resource allocation is almost half of the total resource requirement for the same period with the ICT Infrastructure Development Programme the most underfunded by 56%

17) The proposed ceiling for the State Department is at kshs 25.69 billion, a decrease of 12% from current approved allocation of kshs 29.13 billion, a reduction affecting the core ICT programmes of ICT Infrastructure Development (-12%) and E- government Services (-15%). However, the Film Development Services Programme is enhanced by 12%, meaning that the marginal increase is to cater for priorities under the development of film and film related priories.

18) Moreover and given the overall obtaining resource gap, the ministry is expected to prioritize completion of ongoing projects, curtail new projects primarily to fasten completion of existing projects while ensuring uptake of external committed funds.

Resource requirements vis-a- vis current allocation and proposed ceilings, Kshs Millions

ICT Sub Sectors	Approved Allocation 2019/20	Resource requirement for 2020/21	FY 2020/21 proposed Ceiling			BPS proposed Ceiling compared to Approved Baseline (2019/20)	BPS programme ceiling as share of total proposed allocation	BPS Ceiling as % of resource requirement (2019/20)
			Rec	Dev't	Total			
State Department for ICT & Innovation	**29,136.00**	**52,948.00**	**2,721.70**	**22,975.30**	**25,697.00**	**-12%**	**100%**	**49%**
General Administration Planning and Support Services	206.80	259.00	245.30	-	245.30	19%	1%	95%
ICT Infrastructure Development	21,717.20	43,647.00	501.00	18,549.00	19,050.00	-12%	74%	44%
E-Government Services	6,139.60	8,783.00	961.00	4,237.30	5,198.30	-15%	20%	59%
Film Development Services Programme	1,072.40	259.00	1,014.40	189.00	1,203.40	12%	5%	465%

Source: 2020 BPS and 2020 Sector Reports

19) The import of the huge resource gap is that major ICT infrastructure projects such as Konza and associated infrastructure, creation of Business Processing and Outsourcing Development (BPO) and countrywide connectivity critical for job creation and enhancing

country's competitiveness through quality ICT services is delayed. It against this backdrop that proposed resources should be apportioned towards completion of on-going projects and at the same time curtail initiation of new programmes and projects

Programmes' KPI Indicators and Expected Target Output

20) Under the ICT Infrastructure Development Programme, some of the key Performance Indicators (KPIs) and expected targets for the period 2020/21 and medium term include:

(i) Maintenance of 2100km of NOFBI phase II and fiber networks under phase II Expansion by ICTA,

(ii) Rehabilitation of 101 km of fiber under NOFBI Phase I in the FY 2020/21 and another 284 km in the subsequent FY, 2021/22. However, its not clear where the rehabilitation will take place and extent or scope of work to be undertaken by ICTA. Moreover, rehabilitating more than 385 KM of the fiber constructed in Phase I may point to some serious concerns as to the quality of work done and requires further clarification to ensure value for money which subsequently may also inform the ongoing works under phase II

(iii) Establish 290 Constituency Innovation Hubs with an achievement of 134 in the FY 2018/19. However, the targets under this particular project is inconsistent with the commitment approved under previous approved budgets and appears to be a moving target. The ministry also intends to achieve similar targets in the medium term period of 2021/22 and another 156 hubs in the FY 2022/23, indicating lack of project timelines to inform completion and thus impact negatively the realization of the objectives of creating tech based and online jobs particularly equalizing digital and online access to opportunities between urban and rural youths as outlined in the 2020 BPS.

(iv) Undertake completion of Konza Complex, Phase IB by 20% in 2020/21, following completion of Konza Complex under phase IA in 2019/20 period.

(v) Continue construction of the Konza Data Center by another 50% in 2020/21 by KoTDA, and to be completed by the FY 2021/22. However, given the complexities and requirements of such tech based infrastructure, the committed KPIs and outputs are inadequate, thus require comprehensive performance indicators to ensure robust legislative oversight to track progress and value for money during implementation phase of the budget.

(vi) recruit and train 400 ICT graduates under the Presidential Digital Talent Programme by ICTA ;

(vii) last mile connectivity to counties under the county connectivity projects that targets 220 county buildings, However, the disaggregated data under this target by counties is not provided;

(viii) Procurement and distribution of 400,000 devices for digital learning, and a similar target in each of the medium term fiscal years ending 2022/23.

21) Other targets into the medium term presents a scenario with no costed framework for the digital learning programme and with no end date. This is likely to pose implementation challenges and risks to proposed allocation in the absence of accompanying policy framework to guide predictable resource allocation to the programme, priority

distribution of learning devices that is targeted (beneficiary in terms of schools and pupils, etc.), which in-turn is expected to foster accountability as well as provide feedback/review mechanism from previous interventions (2014/15 - 2018/19).

22) Under the E-Government Services Programme, the State Department plans to connect Level 4 and Level 5 health facilities numbering 60 and 30 in the FYs 20/21 and 21/22, respectively. In addition the Department has programmed to connect SEZ in Naivasha Park (by 60%) , Kananie Industrial Leather Park (by 60%) , Dongo Kondu SEZ (by 60%) and Konza Data Centre and Smart City Facilities.

23) In the Film Development Programme with enhanced allocation of Kshs 1.20 billion, some of the key expected targets include:

a) **Department of Film Services:** 85 film documentaries produced and disseminated compared to current target of 70, students trained on film talent (50) and modernization of the Kenya Film School that is also ongoing

b) **Kenya Film Classification Board**: Regulatory licenses issued to exhibitors and distributors in the FY 2020/21 (7200, and projected to 7400 in the subsequent year), films examined and classified (630 against current target of 600), refurbishing and equipping the Cinema Centre Theatre (60%), and set to be completed by the FY 2021/22.

c) **Kenya Film Commission:** Training of film makers to build film development capacity (350, compared to current target of 300), development and completion of online portal for location in Kenya (by 50%). However, achievement of similar target in 2018/19 was not achieved.

d) **Copy Right Protection Board:** 100% completion of the copyright laws and compilation of traditional knowledge repository established and maintained. However, the targets given are general and may not help in oversight during the budget implementation. Moreover, the Board plans are not in line with the Presidential Directive to streamline royalty management and payment management, and is thus not comprehensive. The Committee may task the Board to re-align Board's priorities and operations to be achieved in line with the expected targets and KPIs.

State Department for Broadcasting and Telecommunication

24) The proposed overall resource allocation is approximately 52% of the total resource requirement for the same period.

25) Even though the proposed allocation is below the sub sector resource requirement, the proposed allocation for the State Department is a marginal increase of 12% relative to current approved baseline of Kshs 4.76 billion to Kshs 5.3 billion.

Resource requirements vis-a- vis current allocation and proposed ceilings, Kshs Millions								
Broadcasting and Telecommunications	Approved Allocation 2019/20	Resource requirement for 2020/21	FY 2020/21 proposed Ceiling			BPS proposed Ceiling compared to Approved Baseline (2019/20)	BPS programme ceiling as share of total proposed allocation	BPS Ceiling as % of resource requirement (2019/20)
			Rec.	Dev't	Total			
State Department for Broadcasting & Telecommunications	**4,760.50**	**10,186.00**	**4,725.70**	**599.00**	**5,324.70**	**12%**	**100%**	**52%**
General Administration Planning and Support Services	218.30	258.00	243.00	-	243.00	11%	5%	94%
information and communication Services	4,163.00	9,458.00	4,280.70	530.00	4,810.70	16%	90%	51%
Mass Media Development Skills	379.20	470.00	202.00	69.00	271.00	-29%	5%	58%

Programme's KPI Indicators and Expected Target Output

26) Allocation under the Mass Media Skills Development programme amounting to kshs 271 million is to cater for completion of the catering unit for KIMC to 50%, completion of KIMC (Eldoret Campus), train media practitioners (575), among others,

27) Under the Information and Communication Services programme with total proposed allocation of kshs 4.8 billion, the expected targets are aligned to ensure well informed citizenry. However, and in view of the current baseline allocation, the allocation under this programme are recurrent in nature (89%) and are composed of transfers to SAGAS including Media Council, Kenya Year Book, KBC, among others, thus less resources (11%) towards capital projects.

28) Some of the key expected targets under this programme are:

(i) Delivery of weekly MYGOV Publications comprising of government advertisement and other information (50 pull out)

(ii) Establishment of studio mashinani (5) with current on-going works for 2 studios. There is need to evaluate the status of and progress of studio mashinani as this projects is likely to go beyond its timelines due to downward revisions of its

committed allocations.

(iii) Achieving 90% national digital signal coverage in the FY 2020/21 by KBC, and subsequently 100% in 2021/22. This is also linked to attaining cumulative target of 2,920 hours of public broadcasting services by KBC. To ensure optimal use of signal and institutional resources including frequency and signal resources, there is need to evaluate the comprehensiveness and realism of this target by KBC including undertaking gap review that also compares with its competitors in the same sector.

29) In addition, the state departments also mandated to oversee and make policy recommendations on the operationalization and use of the universal service fund. To ensure legislative accountability of the Fund that also includes annual scrutiny of its programmes and projects, there is need to link the fund's performance framework to the annual programme based budget. This will put the fund to more legislative scrutiny by the committee and enhance delivery of services to Kenyans in areas with un(der)served telecommunication infrastructure and support.

2.2 Submission by the State Department for Broadcasting and Telecommunications

30) The Principal Secretary appeared before the Committee on 20th February, 2020 and informed them as follows;

31) The Key focus areas during the 2020 BPS and the Medium Term (up to 2022/23) will be;

(i) Formulation, review and implementation of appropriate Broadcasting and Telecommunications policies, legal and institutional frameworks that improve efficiency of service delivery.

(ii) Provision of Centralized Government Communication Services

(iii) Collection, collation and dissemination of credible information to promote a competitive knowledge-based society through KNA, KYEB and KBC

(iv) Training, building and strengthening mass media skills through KIMC.

(v) Expansion of the development of the Digital Broadcast Infrastructure for KBC.

(vi) Provision of Government Advertising services to MDAs.

(vii) Enforcement standards governing journalists, media practitioners and media enterprises through the Media Council of Kenya.

(viii) Regulation of the Telecommunication, Broadcasting and Media subsectors

State Department's Expenditure Proposals for FY 2020/21 as contained in the 2020 Draft BPS

32) In the FY 2020/21, the State Department of Broadcasting and Telecommunications has been allocated KSh.5, 324.7 million against a resource requirement of KSh.10, 181 million. The shortfall thereof is KSh.4, 856.3 Million.

33) The proposed allocation of KSh.5, 324.7 million comprises of KSh.4, 725.7 million under the Recurrent Budget and KSh.599 million under the Development Budget. This will be utilized for the following programmes currently under implementation, namely General Administration Planning and Support Services, Information and Communication Services and Mass Media Skills Development

34) Under the Recurrent Budget, the proposed budget will cater for:

- Personnel emoluments amounting to KSh.394 million,
- Operations and maintenance at the State Department Headquarters including the over 72 No. field offices amounting to KSh.1,338 million,
- Five (5) SAGAs and the National Communication Secretariat amounting to KSh.2,993.7 million.

35) Under the Development Vote, the Vote will utilize the proposed KSh. 599million to complete its ongoing projects namely;

(i) KShs.273 million – Expansion of the digital TV Services by KBC
(ii) KSh.57 million - Studio Mashinani
(iii) KSh.69 million – Equipping o the catering unit under the 405 Bed capacity Hostel project at KIMC
(iv) KSh.200mililion for modernization of the Kenya News Agency by the Department of Information

36) The Recurrent budget is financed from GoK (KSh.2,195.7 million) and AIA collections (KSh.2,530million) while the Development budget is fully financed from GoK.

Proposed Programmes and Projects in the FY 2020/21

37) In the FY 2020/21, the State Department has a proposed allocation of Ksh.5, 324.7million. This is an increase of KSh.564.2million from the allocation of Ksh.4, 760.5 in the FY 2019/20 as shown below:

No.	Programme	FY 2019/20 Revised Estimates I	FY 2020/21 Proposed Allocations
1	General Administration Planning and Support Services	218.3	243.0
2	Information and Communication Services	4,163.0	4,810.7
3	Mass Media Skills Development	379.2	271.0
	Total	**4,760.5**	**5,324.7**

FY 2020/21 Programmes/Projects, Key performance Indicators and expected Outputs and Targets

38) During the 2020/21 -2022/23 Medium Term period the subsector will implement the following projects.

(i) Continue to modernize KIMC equipment and facilities
(ii) Construction of KIMC Eldoret Campus
(iii) Expand the digital TV broadcast from 86% to 100%
(iv) Increase the number of Studio Mashinani from 5 to 47
(v) Modernize Kenya News Agency operations and facilities
(vi) Install and operationalize a digital printing press to cut cost of production of Mygov and other KYEB publications
(vii) Fully restructure KBC and PCK to viable corporations
(viii) Migrate KBC Radio Services from medium wave radio broadcast to FM Radio Broadcast.

Proposed Project Allocations and Status of pending bills

39) The State Department of Broadcasting and Telecommunications will utilize the proposed allocation of KSh.599 million under the Development Budget to implement the current ongoing projects.

Programmes, projects and implementing Agencies

No.	Name of Project	Programme	Implementor	FY 2019/20 Revised Estimates I	FY 2020/21 Allocations
1	Analogue to Digital Migration	Information and Communication Services	KBC	310	273
	Studio Mashinani		KBC	0	57
2	Modernization of KIMC Film	Mass Media Skills Development	KIMC	118	0
3	405 Bed Capacity Hostel		KIMC	51	69
4	Modernization of KNA:	Information and Communication Services	Ministry HQs (Department of Information)	102	200
Total				**581**	**599**

40) The agencies under the State Department have pending bills amounting to KSh. 4,709,733,974 in respect of the following;

(i) **KBC - KSh.4,638,733,974** – relate to outstanding payments to KRA, Pension, SACCOs and other creditors, and
(ii) **Media Council of Kenya - KSh. 71 million** – relate to outstanding payments to the KRA, medical cover and rent arrears

41) The State Department has established a pending bills committee to verify and give recommendations on non-compliant pending bills carried over from the FY 2018/19 amounting to KSh.2, 198,218,903.

Actual Financial Performance as at 14th February, 2020

42) The State Department has utilized KSh.2,288,435,057 out of its total budgetary allocation of KSh.4,760,925,489. The absorption level is therefore 48%

Budget	Revised Estimates I	Expenditure/Utilization as at 14th February, 2020	Absorption Level (%)
Recurrent	4,179,925,489	1,759,291,152	42
Development	581,000,000	529,143,905	91
Total	4,760,925,489	2,288,435,057	48

43) The Vote had projected to collect an Appropriation in Aid of KSh.2,492million with the major contributors being Kenya Broadcasting Corporation at KSh.1,300 million and the Government Advertising Agency at KSh.1,000 million. As of the date of this report, the GAA had collected KSh.400million and KBC Ksh 553,793,571.

44) Budget versus absorption by Economic Classification – Recurrent Budget

Recurrent Budget	Budget Allocation	Accumulated Expenditure	Absorption (%)	Remarks
Gross	4,179,925,489			
AIA	2,492,000,000			
Net	1,687,557,764			
Gross of which:				
Compensation to Employees	**393,000,000**	**195,696,013.35**	50.0	
Use of Goods and Services	**1,338,125,489**	**825,942,021**	62.0	
Government Advertising				
SAGAS	**2,448,800,000**	1,393,807,921	57.0	
KBC	*1,736,000,000*	*989,000,000*	57	
KIMC	*210,200,000*	*117,614,000*	56	
KYEB	*105,000,000*	*78,750,000*	75	
MCK	*217,600,000*	*144,744,244*	67	
MCC	*10,000,000*	*7,400,000*	74	
NCS	*170,000,000*	*56,299,677*	33	

45) Details on the SAGAs – Recurrent and Development

No.	Name of the SAGA	Recurrent Budget	Development Budget	Total Budget Allocation	Total Accumulated Expenditure
1	KBC	1,736	310.0	2,046.0	1,093.0
2	KIMC	210.2	169.0	379.2	202.1
3	KYEB	105.0	-	105.0	78.5
4	MCK	217.6	-	217.6	144.7
5	MCC	10.0	-	10.0	7.4
6	NCS	170.0	-	170.0	56.3
	Total	**2,448.8**	**479.0**	**2,927.8**	**1,582**

46) Budget Versus Absorption By Economic Classification – Development Budget

No.	Name of Project	Implementor	Budget Allocation	Utilization/Expenditure to Date	Absorption level (%)
1	Analogue to DigitalMigration	KBC	310.0	104	34
2	Modernization of KIMC Film	KIMC	118.0	59.0	50
3	405 Bed Capacity Hostel	KIMC	51.0	25.5	50
4	Modernization of KNA:	Ministry HQs (Department of Information)	102.0	50.1	50
Total			**581**	**238.6**	**41**

2.3 Submission by the State Department for ICT and Innovation

47) The Principal Secretary appeared before the Committee on 20th February, 2020 and briefed the Committee as follows:

48) The Summary of the Recurrent Budget is as shown in the table below

RECURRENT REQUIREMENT VERSUS ALLOCATION BY SECTOR/SUB-SECTOR (AMOUNT IN KSH.MILLION)								
		BASELINE	REQUIREMENT			ALLOCATION		
	Economic Classification	2019/20	2020/21	2021/22	2022/23	2020/21	2021/22	2022/23
R-VOTE	Gross	**2,580.00**	**3,917.30**	**4,320.70**	**4,538.70**	**2,721.70**	**2,743.4**	**2,739**
	AIA	48.00	76.40	108.90	161.40	48	50	50
	NET	**2,532.00**	**3,840.90**	**4,211.80**	**4,377.30**	**2,673.7**	**2,693.40**	**2,689.00**
	Compensation to employees	234.00	267.00	257.5	265.2	267	258	237
	Transfers	1,739.30	2,386.50	2,703.8	2,873.4	1,763.3	1,863	1,848.3
	Other Recurrent	606.70	1,263.80	1,359.40	1,400.10	691.4	622.4	654

49) Kenya Copyright Board is under GJLOS (Governance, Justice,Law & Order) sector at the baseline year 2019/2020 with a budget of Ksh.122million. However, the ceiling of Ksh.127.7million has been transferred to Energy, Infrastructure and ICT (EII) sector in FY 2020/21

50) Summary of Development Budget is as follows;

DEVELOPMENT REQUIREMENT VERSUS ALLOCATION BY SECTOR/SUB-SECTOR (AMOUNT IN KSH.MILLION)								
Vote and Vote Details-		Approved Budget	REQUIREMENT			ALLOCATION		
	Description	2019/20	2020/21	2021/22	2022/23	2020/21	2021/22	2022/23
D 1122	Gross	26,555.92	50,578.00	49,890.20	33,258.60	22,975.30	27,731	33,905
	GoK	9,094.92	32,745.00	34,240.20	30,008.60	8,975.3	13,031	24,723
	Loans	17,461.00	17,833.00	15,650.00	3,250.00	14,000	14,700	9,182.00

51) The Programme Targets, Key Performance Indicators and Expected Outputs was as follows

Programme	Delivery Unit	Key Outputs	Key Performance Indicators	Target 2018/19	Actual Achievement 2018/19	Target (Baseline) 2019/20	Target 2020/21	Target 2021/22	Target 2022/23
PROGRAMME 1: GENERAL ADMINISTRATION, PLANNING AND SUPPORT SERVICES									
SP 1.1: General Administration Planning and Support Services	State Department of ICT and Innovation	Key ICT Policies reviewed and developed- Digital Economy Strategy, National Film Policy, Huduma No. Digital Integration Policy, ICT Sector Competition Policy, Review of the Film and Stage Plays Act Cap 222, ICT Policy, Data Protection Bill AND National Copyright Policy	No. of Policies, legal and institutional programme	3	1	3	7	4	4
PROGRAMME 2: E GOVERNMENT SERVICES									
SP 2.1 E-government Services	ICTA	Government Data center (GDC) maintenance	% of maintenance	100	100	100	100	100	100
	MOICT	ICT equipment's and services	% of equipment acquired and distributed to	-	-	100	100	100	100

		procured	MDAs						
	MOICT	Connected Health Facilities L4-L6	No. of health Facilities connected	-	-	60	103	103	101
		Connected SEZ Naivasha	% of the park connected	-	-	10	60	30	-
		Connected to industrial leather park - Kenanie	% of the park connected	-	-	5	65	30	-
		Connected to Dongo Kundu SEZ	% of the park connected	-	-	5	65	30	-
		Connected Konza data Centre and Smart City Faility	% of the Data Centre Connected	-	-	40	50	10	-
PROGRAMMME 3: ICT INFRASTRUCTURE DEVELOPMENT									
SP 3.1: ICT - Infrastructure Connectivity	MOICT	Disaster recovery Centre	% of Completion of recovery Centre	-	-	5	25	25	25
	ICTA	National Fiber infrastructure Network Connectivity	% of Maintenance of 2100KM NoFBI Phase II Network	100	100	100	100	100	100
			% of maintenance of the Fiber Network under NoFBI Phase II Expansion	-	-	100	100	100	-
			No. of KM of fiber rehabilitated under NoFBI Phase I	-	-	-	101	284	-
	ICTA		No. of KM of fiber Rehabilitated under East Africa Regional Transport Trade and Development Facilitation Project	500	0	630	-	-	-
			No. of Km of Fiber Network Constructed		-	-	200	200	230
		Government Common Core Network (GCCN) phase II	% of Government Common Core Network (GCCN)	-	-	25	25	25	25

			Upgraded						
		Constituency innovation Hubs	No. of innovation hubs established	290	134	290	290	290	156
		Last Mile County Connectivity	No. of Government buildings connected to the Government backbone network	506	184	264	220	220	220
		ICT Skills	No. of graduate interns recruited and trained on high end skills under Presidential Digital Talent Programme	400	400	400	400	400	400
		Digital literacy devices procured and distributed	No. of devices for upper primary procured and distributed	120,000	120,000	75,000	400,000	400,000	400,000
P 3.2 ICT and EPO Development	KoTDA	Konza Complex-Office Block	% of completion	100	75	100	-	-	-
		Konza Complex-Conference facilities	% of completion	-	-	5	20	20	20
		Konza Consultancy Services	% of deliverables completed by MDP 2	100	40	60	80	90	100
		Konza Horizontal Infrastructure	% completion of Waste Water Reclamation Facility (WRF) / Water Treatment Plant (WTP)	20	20	40	70	100	-
			No of KM of Streetscape developed to paved standards	-	-	12	24	39	-

			% completion of public buildings and park	-	-	-	40	100	-
		Konza Data Cente and Smart City Facility	% of completion	-	-	10	50	100	-
PROGRAMME 4: FILM DEVELOPMENT SERVICES									
Sub-programme 4.1: Film Development Services	Department of Film Services	Film Documentaries and features	No. of Film documentaries produced and disseminated	80	85	70	80	85	90
		Film Talent	No. of students trained	30	30	45	50	60	70
		Kenya Film School	% of modernization	20	20	20	30	40	50
	Kenya Film Commission	Local and international Films produced in Kenya	No. of local and foreign films produced on location Kenya	-	-	290	300	330	363
		Film Industry capacity development	No. of filmmakers trained	180	223	300	350	400	450
		Online portal for film locations in Kenya	% of project completion	100	0	25	50	65	75
Film Development Services	Kenya Film Classification Board	Film and broadcast content regulation	No. of regulatory Licenses issued to exhibitors and distributors	6,494	6,077	6,800	7,200	7,400	7,500
			No. of Films examined and Classified	700	441	600	630	662	695
			% of refurbishment equipping the Cinema theatre	30	32	43	60	100	-
Sub-programme 4.2: Copyright Protection	Kenya Copyright Board	Copyright and related laws Compliance	% of compliance	100	58	100	100	100	100
		Traditional knowledge repository Established and maintained	% of completion	-	-	15	30	50	100

Projects with pending bills

52) The total pending bills is Kshs. 1,059.67M which is broken down as follows;

(i) NOFBI II has a pending bill of Kshs.271 to cater for 2019 maintenance invoices

(ii) ICT Shared Services has a pending bill of Kshs.15.67M and the payments are in process

(iii) Kenya Transparency Communication Infrastructure Programme (KTCIP) has a pending bill of Kshs.773M. These pending bills relates to KTCIP (World bank funded) project that closed in December, 2016. The ICT Authority sort legal advice on the validity of the pending bills from the Attorney General and was advised to undertake adjudication and arbitration with services provider. The bills are under validation and are owed to Oracle, Microsoft and IBM for supply of software to ICT Authority.

Summary of Recurrent Actual Performance as at 14th February, 2020

53) The overall absorption rate for the recurrent performance is 72.9%.

54) General Administration Services 74.1%, E-Government Services 71.6%, ICT Infrastructure Development 75.6% and Film Development Services 68.9%

55) Development actual performance as at 14th February, 2020

Project Title	Approved Budget FY 2019/20 (Ksh. million)	Expenditure as at 14th February, 2020 (Ksh.million)	% of Absorption	Implementing Agencies	Remarks
Programme 2: E-Government Services					
Government Shared Services	654	654	100	ICT Authority	
ICT Shared Services	2,220	1,000	45	State Department for ICT	
Connectivity to Health Facilities	495.5	10.2	2.1	State Department for ICT	
Connectivity to Special Economic Textile Park-Naivasha	10	0	0	State Department for ICT	
Connectivity to Leather Industrial Park-Kinanie	10	0	0	State Department for ICT	
Connectivity to Dongo Kundu Special Economic Zone	7.9	0	0	State Department for ICT	
Connectivity to Konza Data Centre and Smart City Facilities	1,851.4	21.2	1.1	State Department for ICT	
Total for Programme 2	**5,248.8**	**1,685.4**	**32.1**		

Project Title	Approved Budget FY 2019/20 (Ksh. million)	Expenditure as at 14th February, 2020 (Ksh.million)	% of Absorption	Implementing Agencies	Remarks
Programme 3: ICT Infrastructure Development					
Sub-programme 1: ICT and BPO Development					
Konza Complex	490	245	50	KoTDA	
Access Roads	116	58	50	KoTDA	
Master Delivery Partner (MDP-2)	630	315	50	KoTDA	
Engineer, Procure, Construct and Finance of Infrastructure Project (EPC-F)	7,200	1,874.7	26	KoTDA	
Konza Data Centre and Smart City Facilities	5,080	3,343.8	64.2	KoTDA	
Sub-Programme2: ICT Infrastructure Connectivity					
Kenya Transparency Communication Project (KTCIP)	11.2	11.2	100	ICTA	
Constituency Innovation Hub (CIH)	76	0	0	State Department for ICT	
Eastern Africa Regional Transport, Trade and trade development Facilitation Project (EARTTDFP)	400	81.3	20.3	ICTA	
Supply and installation of an internet based 4000 network county connectivity -CCP phase III	917.6	0.08	0.01	State Department for ICT	Delays in clearance of goods at the port has affected project implementation
NOFBI Phase II	371.5	295.3	79.4	ICTA	
NOFBI Phase II Expansion to all Sub Counties	3,874	2,461.9	63.5	ICTA	
Sub-Programme 3: Digital Learning					
Digital Literacy Programme- laptop	2,000	2,000	100	ICTA	
Total for Programme 3	**21,307**	**10,606.38**	**49.8**		
Programme 4: Film Development Services					
Acquisition and refurbishment of cinema theatre	80	80	100	Kenya Film Classification Board	

Project Title	Approved Budget FY 2019/20 (Ksh. million)	Expenditure as at 14th February, 2020 (Ksh.million)	% of Absorption	Implementing Agencies	Remarks
Film Location Mapping	30	30	100	Kenya Film Commission	
Kenya Film School	30	19.2	64	Kenya Film School	
Total for Programme 4	**140**	**129.2**			
Grand TOTAL	**26,555.5**	**12,500.88**	**47.0**		

56) Detailed Development Budget

Project Title	Approved Budget FY 2019/20 (Ksh.million)	Proposed Budget FY 2020/21 (Ksh.million)	Variance	Implementing Agencies	Source of Funding	Remarks
Programme 2: E-Government Services						
Government Shared Services	654	700	46	ICTA	GOK	
ICT Shared Services	2,220	1,700	(520)	State Department for ICT	GOK	
Connectivity to Health Facilities	495.5	680	184.5	State Department for ICT	GOK	
Connectivity to Special Economic Textile Park-Naivasha	10	258	248	State Department for ICT	GOK	
Connectivity to Leather Industrial Park-Kinanie	10	83.5	73.8	State Department for ICT	GOK	
Connectivity to Dongo Kundu Special Economic Zone	7.9	66	58.1	State Department for ICT	GOK	
Connectivity to Konza Data Centre and Smart City Facilities	1,851.4	800	(1,051.4)	State Department for ICT	GOK	
Total for Programme 2	**5,248.8**	**4,287.5**	**(961.3)**			
Programme 3: ICT Infrastructure Development						

Sub-Programme 1: ICT and BPO Development						
Konza Complex	490	490	0	KoTDA	GOK	
Access Roads	116	145	29	KoTDA	GOK	
Master Delivery Partner (MDP-2)	630	630	0	KoTDA	GOK	
Engineer, Procure, Construct and Finance of Infrastructure Project (EPC-F)	7,200	7767	567	KoTDA	Italy	
Konza Data Centre and Smart City Facilities	5,080	5200	120	KoTDA	China Exim Bank/ GOK	
Sub-programme 2: ICT Infrastructure Connectivity						
Kenya Transparency Communication Project (KTCIP)	11.2	14.2	2.6	ICTA	IDA/GOK	Donor component ended in 2016/17
Constituency Innovation Hub (CIH)	76	76	0	State Department for ICT	GOK	
Eastern Africa Regional Transport, Trade and trade development Facilitation Project (EARTTDFP)	400	400	0	ICTA	IDA/GOK	
Supply and installation of an internet based 4000 network county connectivity - CCP phase III	917.6	500.6	(417)	State Department for ICT	Belgium/GOK	
NOFBI Phase II	371.5	642	270.5	ICTA	China Exim Bank/GOK	Donor component ended in 2019/20
NOFBI Phase	3,874	1,134	(2740)	ICTA	China Exim	

II Expansion to all Sub Counties					Bank/GOK	
Sub-Programme 3: Digital Learning						
Digital Literacy Programme-laptop	2,000	1,500	(500)	ICTA	GOK	
Total for Programme 3	**21,166.3**	**18,498.8**	**(2,667.5)**			
Programme 4: Film Development Services						
Acquisition and refurbishment of cinema theatre	80	124	44	Kenya Film Classification Board	GOK	
Film Location Mapping	30	15	(15)	Kenya Film Commission	GOK	
Kenya Film School	30	50	20	Kenya Film School	GOK	
Total for Programme 4	**140**	**189**	**49**			
Grand TOTAL	**26,555.5**	**22,975.3**	**(3,580.2)**			

57) Status of big four projects

Name of Project	Approved Budget FY 2019/20 (Ksh.million)	Status of project	Challenges	Remarks
Connectivity to Health Facilities	495.5	Tenders have been advertised and will be opened next week- 26th Feb.	Time limitation before closure of financial year	-Target to implement ICT connectivity to 14 health facilities in level 5 and 6 -The advertised tenders are for Fiber Connectivity and Local Area Network
Connectivity to Special Economic Textile Park-Naivasha	10	Tendering process on-going	Time limitation before closure of financial year	Tender for consultancy for ICT Network Connectivity
Connectivity to Leather Industrial Park-Kinanie	10	Tendering process on-going	Time limitation before closure of financial year	Tender for consultancy for ICT Network Connectivity
Connectivity to Dongo Kundu Special Economic Zone	7.9	Tendering process on-going	Time limitation before closure of financial year	Tender for consultancy for ICT Network Connectivity
Connectivity to Konza Data Centre and Smart City Facilities	1,851.4	Preparation of tender documents on-going	Time limitation before closure of financial year	Tenders are for ICT Infrastructure Connectivity with Konza Data Centre

58) List of health projects and status of connectivity and allocation for the FYS 2019/20 and FY 2020/21 is as attached

Recurrent Budget Shortfall

59) The shortfall under recurrent is as flows

(i) ICT Shared services has a variance of Kshs.(284) and this Short fall will affect supply of ICT equipment to MDAs

(ii) Department of Film services has a shortfall of Kshs.(45.8) and this will affect operations of HQ and field units.

(iii) Ajira and BPO has a shortfall of (59.6) and this will affect training of youths on access to online jobs.

(iv) Operations budget –Administration has a shortfall of (70.4)which will affect fuel, maintenance of vehicles, training for promotional courses and office facilities.

(v) KoTDA-(Other recurrents) has a variance of Kshs.50M. 15% budget cut was applied on gross recurrent instead of other recurrent. The correct budget cut should have been KES 8.85 M (15% of KES 59M).

(vi) ICT Authority has a variance of Kshs. 175.2M The deficit will affect recruitment of the 400 interns under PDTP (KES 130.2 M). The shortfall will also affect payment of rent (KES 45M).

(vii) Kenya Film School has a variance of Kshs. 37.4M .15% budget cut was applied on gross of the total allocation which will affect the operations of the school.

Development Budget Shortfall

60) Government Shared Services (ICTA)has a variance of (660). Funds are used for:

a) Government internet,

b) maintenance and upgrade of government ICT infrastructure(GCCN equipment, GCCN OFC fibre and leased lines, GDC, CCP Colocation services),

c) Maintenance of GDC and upgrading of government ICT infrastructure.

61) The deficit will affect, upgrade of GCCN (KES300M); security of government applications and systems (KES 140M)

(i) ICT Shared Services (Consolidated ICT) has a variance of (597.5). Funds required for procurement of MDAs' ICT equipment, Expansion of Data Centres, Upgrading of LANs across MDAs, implementation of Various systems under immigration, Upgrade and expansion of Huduma Centre equipment and Implementation of Land MIS and National Identity Information Management Systems (NIIMS). The deficit will affect implementation of planned projects for MDAs

(ii) Digital Literacy Programme- laptop has a variance of Kshs. (20,588). The funds are required for phase 2 to equip 450 schools out of targeted 8,000 schools 2. 7,550 schools will not be equipped due to the deficit of KES 20,588 M.

3.0 COMMITTEE OBSERVATIONS

Based on the review and scrutiny of the Budget Policy Statement and supporting documents as well as engagements with State Departments and respective agencies, the Committee makes the following key observations.

3.1 State Department of ICT and Innovation

62) The proposed ceilings is an overall reduction of 12 % compared to current baseline allocation of the state Department due to constraints in the current fiscal space and outlined fiscal consolidation strategy in the medium term. Moreover, this is comprised of a decrease of Kshs 3.43 billion and an increase of kshs 141.7 million under recurrent sub vote, thereby indicating substantial underfunding of key ICT programmes.

63) Review of proposed ceiling allocation by programme indicates a continued allocation towards current on-going priorities into the FY 2020/21 with no new programmes and projects planned for the same period. However, review of budgeting for programmes and projects allocation in the FY 2019/20 saw the introduction of major connectivity projects under the big four plans of manufacturing (special economic zones for Textile and leather parks and Konza City, etc) and Universal Health Care (Health Facilities). This points to lack of policy and planning coherence in budgeting and potential duplication of functions across participating ministries which may likely occur in the medium term period.
This coupled with lack of clear implementation framework to underpinning specific roles of sector enablers in achieving the big four plans poses major risks to the strategies outlined in the 2020 BPS and subsequently to the sector budget implementation.

64) In view of the role of the sector as enabler towards realization of the objective of big four plans through undertaking connectivity projects, there is need for policy measures to be put in place and where possible be condition precedent to guide the State Department going forward. The policy measures is to close existing gaps while mitigating risk of duplication associated with the same being undertaken by other functional players.

65) That the proposed key performance indicators and expected targets were indicated by programme and further by project. However, the performance indicators and outlined expected targets were not comprehensive and reflected a number of gaps including variances between what the ministry submitted vis a vis supporting documents underpinning the 2020 BPS on the same. While the State Department undertook to harmonize the performance results matrix and in line with the resource allocation in the medium term, such inconsistences may hamper budget performance and accountability.

66) With regards to payment of pending bills, the committee noted on-going effort in settling pending bills that amounted to kshs 71 million as at December 23rd December 2019

compared to kshs 255 million as at end of June 2019. However, the Committee noted substantial variations between submissions from the National Treasury vis a vis the state Department with major differences noted particularly under the submissions relating to SAGAs which amounts to kshs 1.059 billion, of which kshs 773 million (Under ICTA) is disputed and outstanding since 2016. This is likely to affect the stock of pending bills under the sector, and a major credibility risk to sector fiscal ceilings for the FY 2020/21 and the performance of the budget in the medium term.

67) That the Programme Based Budget framework for the State Department of ICT & Innovation requires further clarity in the design and classification of its programmes and projects including comprehensiveness of its KPIs. This is to ensure proper categorization and classification of expenditure as well as enhance accountability and to mitigate duplication of interventions across the ministry and its SAGAs.

68) The Committee noted some of the policy challenges include delayed clearance of imported project materials including equipments, among others. This particularly affected the implementation of the Supply and installation of an internet based 4000 Network (County Connectivity -CCP phase III) Project.

3.2 State Department of Broadcasting

69) The proposed ceilings for the State Department is an overall increase of kshs 564.2 (or 11.89%) compared to current baseline allocation of kshs 4.760 billion. Moreover, this is comprised of an increase of kshs 54.7 million or (13 %) million under recurrent sub vote and Kshs 18 million under the Development.

70) The half year budget performance was 42% for recurrent and 91% for development projects under implementation which is within the require performance margin. However, budget for state department is mostly recurrent and comprised of transfers to SAGAs.

71) The total pending bills including historical bills under the State Department amounts to kshs 5.76 billion against payment made (to date) of ksh 1.059 billion, leaving a balance of Ksh 4.7 billion. Out of the total amount pending, Kshs 4.638 is under KBC relating to outstanding payments for pensions, Saccos, KRA and other creditors, Kshs 71 million under the Media Council of Kenya . The committee was informed of establishment of Pending Bills Committee to give recommendations on outstanding amounts carried from the previous FY 2018/19 as well as reconcile with National Treasury on the exact status of pending bills before finalization of the Estimates and end of the current financial period.

72) That there were plans to further reduce the current high cost of government advertisement model mainly on account of the cost by the media houses in printing and distribution of the same. However, the committee notes the policy objectives has not been achieved as

intended and there is need for review of the policy to ensure well centralized and responsive government advertisement.

4.0 COMMITTEE RECOMMENDATION

4.1 State Department of ICT & Innovation

Financial Recommendations

73) That the proposed ceiling measures by sub vote and by programme be approved in-line with the proposed measures as contained in the 2020 BPS and medium term.

Policy Recommendations

74) That implementation of the ICT connectivity projects (to various levels of health facilities and Special Economic Zones) under the big four plan be informed by an elaborate Responsibility and Accountability Framework with costed activities and timelines. This to ensure clear resource needs, mitigate duplication and harmonized engagement with other functional players such as respective counties, Ministry of Health and State Department for Industry as well as non-state actors such as NGOs and private sector players.

75) That the Digital Literacy Programme be indicated as a fully-fledged programme within the meaning and provisions of the Programmed Based Budget Framework with clear sub programmes and comprehensive KPIs.

76) That the Ajira projects/activities be also considered as a fully-fledged programme, or as sub programme, within the meaning and provisions of the Programmed Based Budget Framework with clear sub programmes and comprehensive KPIs

77) That the following flagship projects be renamed or re-designed taking into account the need for clarity of the project and linked with the overall programme objective under which the project falls as well as comprehensive KPIs and actionable outputs:

i. Konza EPCF - Engineer, Procure, Construct and Finance of Infrastructure projects (EPC-F)
ii. Access Roads-Konza(/ Streetscape/ Wastewater Reclamation Facility)
iii. Master Delivery Partner (MDP – 2)
iv. Supply and installation of an internet based 4000 network county connectivity - CCP phase III
v. ICT Shared Services

78) To ensure priority allocation and completion of on-going projects, state department of ICT to factor all payable pending bills within the ceilings measures provided in the 2020 BPS if current effort to settle outstanding bills in the current year is not achievable, and subsequently ensure curtailing of pending bills in the medium term.

79) That the state department to ensure prioritization of policies and priorities under the creative sector to improve employment creation and enhance utilization of youth talents and the same be considered under the Film development Services Programme and ICT and Infrastructure Development Programme

4.2 State Department for Broadcasting and Telecommunication

Financial Recommendations

80) That the proposed ceiling measures as contained in the 2020 BPS and medium term by sub vote and by programme be approved.

Policy Recommendations

81) That the State department follows through the proposal to further reduce the cost of government advertisement by printing through the Kenya Year Book and distributed through cost effective means such as the Postal Corporation of Kenya and other means as per the Cabinet Memo of 2017

82) That the State Department of Broadcasting and Telecommunication and National Treasury to ascertain the correct amount of the pending bills and type and nature of the historical pending bills particularly under KBC. Further, all payable pending bills be prioritized in the current fiscal year and the same provided in the finalization of the 2020/21 budget estimates

83) That in light of the underfunded priorities in the Broadcasting and Telecommunication such as priories under the Kenya Year Book and Media council be further prioritized or reallocated within the sector by the Ministry. This will be line with cost effective measures that includes reduction of costs associated with printing and distribution of centralized advertisement.

ADOPTION LIST

25/02/2020

ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE BUDGET POLICY STATEMENTS 2020

	NAME	SIGNATURE
1.	The Hon. William Kisang, MP – **Chairperson**	
2.	The Hon. George Kariuki , MP – **Vice Chairperson**	
3.	The Hon. Gathoni Wamuchomba, MP	
4.	Hon. Mwambu Mabonga, MP	
5.	The Hon. Sylvanus Maritim, MP	
6.	The Hon. Kawira Mwangaza, MP	
7.	The Hon. Erastus Kivasu , MP	
8.	The Hon. Jonah Mburu , MP	
9.	The Hon. Liza Chelule , MP	
10	The Hon. John Kiarie, MP	
11	The Hon. Marwa Maisori , MP	
12	The Hon. Annie Wanjiku , MP	
13	The Hon. Mark Nyamitta, MP	
14	The Hon. Antony Oluoch, MP	
15	The Hon. Getrude Mbeyu, MP	
16	The Hon. Innocent Momanyi , MP	
17	The Hon. Joshua Kimilu, MP	
18	The Hon. Godffrey Osotsi, MP	
19	The Hon. Alfa Miruka, MP	

DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION – 2020

DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

REPORT OF THE COMMITTEE ON THE CONSIDERATION OF THE BUDGET POLICY STATEMENT 2020 AND THE MEDIUM TERMFOR THE MINISTRY OF EDUCATION AND THE TEACHERS SERVICE COMMISSION

Directorate of Committees Services
Clerks Chamber
National Assembly
NAIROBI

February, 2020

PREFACE

1) INTRODUCTION

Mr. Chairman,

On behalf of the Departmental Committee on Education and Research and pursuant to provisions of Standing Order 207(6), it is my pleasant privilege and honor to present to the Budget and Appropriations Committee the report of the Committee on its consideration of the Budget Policy Statement for 2020 and the Medium Term.

The report is the outcome of the examination of the Budget Policy Statement 2020 by the Committee for the Agencies under the purview of the Departmental Committee on Education and Research and consultative meetings with the Ministry of Education and TSC.

2) MANDATE AND MEMBERSHIP OF THE COMMITTEE

The Departmental Committee on Education and Research is established under Standing Order 216 and mandated to consider all matters relating to the Education Sector. Thus, in terms of budget oversight, the Committee covers the Ministry of Education and the Teachers Service Commission. Thus, the Committee has its oversight role covering the following Agencies:

i. State Department for Early Learning Basic Education
ii. State Department for University Education and Research
iii. State Department of Vocational and Technical Training
iv. State Department for Post Training and Skills Development
v. Teachers Service Commission

The Education and Research Committee comprises the following Members;

1. Hon. Julius Melly, MP - **Chairperson**
2. Hon. (Dr.) Amos Kimunya, EGH, MP - **Vice-Chairperson**
3. Hon. Moses MaluluInjendi, MP
4. Hon. Geoffrey Makokha Odanga, MP
5. Hon. (Dr.) Pamela Ochieng, MP
6. Hon. (Eng.) NzambiaThuddeus Kithua, MP

7. Hon. (Prof.) Zadoc Abel Ogutu, MP
8. Hon. Catherine Wambilyanga, MP
9. Hon. Eric Muchangi Njiru, MP
10. Hon. Eve Obara, MBS, MP
11. Hon. Jackson Lekumontare, MP
12. Hon. Jerusha Mongina Momanyi, MP
13. Hon. John Oroo Oyioka, MP
14. Hon. Joseph Kipkosgei Tonui, MP
15. Hon. Lilian Cheptoo Tomitom, MP
16. Hon. Omboko Milemba, MP
17. Hon. Peter Lochakapong, MP
18. Hon. Wilson Sossion, MP
19. Hon. Wilson Kipngetich Kogo, MP

The Committee is supported by the following members of the Secretariat;

1.	Mr. Daniel Mutunga	Principal Clerk Assistant I
2.	Mr. Philip Lekarkar	Clerk Assistant III
3.	Mr. Eric Kanyi	Fiscal Analyst
4.	Ms. Annceta Gacheri	Research Officer
5.	Ms. Christine Odhiambo	Legal Counsel
6.	Ms. Winnie Kiziah	Media Relations Officer
7.	Ms. Catherine Mukunyi	Serjeant-at-Arms

3) ACKNOWLEDGEMENT

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. On behalf of the Committee, it is therefore my pleasant duty and privilege, to present this report on the Budget Policy Statement 2020 and Medium Term for the Ministry of Education and the Teachers Service Commission pursuant to provisions Section 25(2) of the Public Finance Management Act, 2012 and Standing Order 207(6).

Signed.....Date.....

HON. JULIUS MELLY, M.P,

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

4) OVERVIEW ON THE EXAMINATION OF THE BUDGET POLICY STATEMENT 2020

1) On Thursday 14th February 2020, the Budget Policy Statement (BPS) for 2020 was tabled in the House by pursuant to the provisions of Standing Order 232 of the National Assembly and Section 25(2) of the Public Finance Management Act, 2012.

2) Standing Order 232(4) provides that the Departmental Committee is to deliberate on the Budget Policy Statement according to its mandate and make recommendations to the Budget and Appropriations Committee. Thus, pursuant to the provisions of Standing Order No 232(4), the BPS was referred to the Committee for consideration and subsequent reporting to the Budget and Appropriations Committee.

3) Following the tabling of the BPS, the Departmental Committee on Education and Research was briefed on the contents of the BPS 2020 and thereafter proceeded to hold consultative meetings with the four Departments within the Ministry of Education and the Teachers Service Commission.

4) In considering the Budget Policy, the Committee held a total five sittings. The Committee deliberated on the Sector policy issues contained in the budget policy statement as well as the proposed resource ceilings for the next MTEF period and subsequently adopted the report.

5) BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE

The Committee was briefed by PBO and the following were the key highlights of the presentation regarding the various policies, priorities and proposed resource ceilings for the Education Sector:

i. That the Government policy on education in 2020/21 and over the medium term is the continued support to various institutions of learning in order to expand access to education and training in the country in line with the education for all goal.

ii. That the government has prioritized the following key areas in 2020/21 and over the medium term: Improvement of infrastructure in learning institutions and more so in secondary schools to support the 100% transition policy; Support to through capitation to learners in primary, secondary, Tertiary and University levels of Education; Recruitment of teachers and teacher

interns; Provision of examination fees for all KCPE and KCSE students; Construction and equipping of Technical Training Institutes; and Support to University education.

iii. That to support the big four plan, the sector is also focusing on the following areas; Improving and expanding the industry-led Technical and Vocational Education and Training (TVET) Colleges and Universities in order to equip the youth with relevant skills required to drive the industrialization agenda, Education curriculum reforms to promote a focus on learning and competencies and develop quality and relevant skills for the job market; Ensure that students have access to internship and apprenticeship opportunities to gain hands on experience.

iv. That the key areas of priority in 2020/21 and over the medium term, in the sector as outlined in the BPS 2020:

- Provide access, equity, quality and relevant education and training at all levels;
- To establish, maintain and manage professional teaching and learning service at all levels;
- Formulate, review and implement appropriate policies, legal and institutional frameworks;
- Promote innovativeness and popularize research, technology and innovation in industry and learning institutions;
- Promote vibrant industry-institutional linkages in the area of skilling and employability

v. That the sector will continue to implement the 12 programmes in 2020/21 financial year and over the medium term and that this programmes are spread through four State Departments within the Ministry of Education and the Teachers Service Commission.

vi. That to support these programmes, the 2020/21 proposed resource ceiling to the Ministry is **Kshs 497.7 Billion**. This proposed expenditure ceiling represents a 0.2 % increase from the 2019/20 allocation of Kshs **496.7 Billion**.

vii. That out of the Kshs **497.7 Billion** proposed expenditure ceiling, Kshs 479.1 Billion **(96%)** goes towards recurrent expenditure which is an indication the sector spending is largely driven by the nature of the sector where most spending is recurrent, that is, issues of capitation and compensation to employees are the huge spenders in the sector. A summary is presented in the table below.

MDA's	2020/21 Ceiling (Millions)		
	Recc	Dev	Total
Basic Education	89,418	6,203	**95,621**
Technical Education	16,836	6,778	**23,614**
University Education	108,334	5,097	**113,431**
Post Training and Skills Development	128	0	**128**
TSC	264,405	600	**265,005**
TOTAL	**479,121**	**18,678**	**497,799**

viii. That the resource requirement for the sector is Kshs 627 Billion compared to the proposed resource ceiling of Kshs 498 Billion (78% level of funding) and thus the sector needs to prioritize its programmes to ensure the strategic objectives and key deliverables/targets are realized.

Annex 1 is the presentation made by the Parliamentary Budget Office on the BPS 2020

6) SUBMISSIONS BY THE MINISTRY OF EDUCATION

The Ministry appeared before the Committee on Wednesday 19th February 2020 to apprise the Committee the various policies as contained in the budget policy statement. The various State Departments made presentations as summarized below.

Detailed presentations made by the various state Departments are annexed in this report.

(a) State Department for Early Learning and Basic Education

The Principal Secretary submitted that the proposed 2020/21 proposed ceilings for the State Department is Kshs 95.6 Billion which comprises of Kshs 89.4 Billion for Recurrent expenditure and Kshs 6.2 Billion for development expenditure.

That during the medium term period the State Department will implement its activities and projects within four programmes namely Primary Education, Secondary Education, Quality Assurance and Standards and General Administration, Planning and Support Services.

That some of the key expenditure priorities earmarked for implementation 2020/21 and the medium term are: Free Primary Education, Primary School Infrastructure, Free Day Secondary Education (FDSE), Secondary Infrastructure, Special Needs Education (SNE) capitation, Examination Fee (KCPE & KCSE) , curriculum implementation, school feeding programme, digital literacy programme among other areas.

That on the Contribution of Basic Education to the Big 4 Agenda, the State Department will focus on laying the foundation for skills development at later years for the youth, contributing to basic health as well as lifelong learning by preparing learners adequately. Some of the programmes in the Department aligned to the big 4 is the school feeding programme and the NHIF insurance to secondary school students.

That some of the critical areas with a funding gap within the Department are:

i. School feeding programme - Kshs 1.1 Billion
ii. Free Day Secondary Education to support 100% transition- Kshs 7.8 Billion.
iii. School infrastructure (primary and secondary) - Kshs 2.7 Billion.
iv. Digital Literacy programme- Kshs 700 Million.

(b) State Department for Vocational and Technical Training

That the mandate for the Department is to provide access to quality technical education and training in

the Country and that in order to achieve this, the Department is implementing three programmes namely Technical Education and Training, Youth Training and Development and the General Administration Programme.

That the proposed 2020/21 recurrent allocation for the Department is Kshs 16.8 Billion whereas the proposed development allocation is Kshs 6.7 Billion. The Department will be implementing three programmes in 2020/21 and over the medium term.

That the State Department has been identified as an enabler in the Big Four Agenda and as such the Department has focused on the following broad areas:

(i) Training of skilled manpower in disciplines that support the realization of the Big Four Agenda

(ii) Infrastructure Development by expanding the number of TVET institutions countrywide by ensuring that each constituency has at least one (1) Technical training institute and each county has at least one National Polytechnic

(iii) Promoting access and equity in technical training through subsidizing the cost of training by making the courses affordable through capitation.

(iv) Equipping the Technical Institutions with State of the Art Equipment in various disciplines focused on the Big Four initiatives

That the Department has allocated Kshs 2 Billion as a conditional grant for Vocational Training Centres and the overall objective is to provide these conditional grants to VTCs is to ensure access, quality, relevance and equity in vocational skills acquisition to the Kenyan youth. The grant has been introduced as incentive to enable access and retention of trainees in VTCs as they undergo quality skills training.

That in 2019/20, the Department received a Presidential directive to start paying capitation to NYS students enrolled in TVET institutions and that a total of 19,125 NYS students are currently enrolled in TVET Institutions. This new directive will require the Department to review the existing MOU with the NYS to ensure that this directive is implemented.

That the NYS owes the Department close to Kshs 2.3 Billion in unpaid tuition fees dating back to 2018 and this has severely crippled the operations of the TVET institutions since a bulk of the NYS trainees are boarders. The process of settlement of the pending payments is taking long with the negative effects persisting.

That some of the key funded areas for the Department in 202/21are:

i. Capitation to cover 173,333 students in TVET intuitions- Kshs 5.2 Billion
ii. Transfer to SAGAS (TVETA, CDACC,KNQA)- Kshs 809 Million
iii. Conditional grant to VTC's- Kshs 2 Billion
iv. Construction and equipping of existing TTI's- 252 million
v. Equipping of 30 TTI's- Kshs 180 Million
vi. Establishment of centers of excellence in Kisumu, Meru and Coast National polytechnics through the EASTRIP Project funded by the World Bank- Kshs 700 Million.

That some of the key underfunded areas in the Department 202/21 are:

i. Infrastructure upgrade- Kshs 520 Million required for enhance of sanitation facilities in TVETS as a result of enhanced enrolment;
ii. Capitation for 350,000 students who did not qualify to join University are targeted to be enrolled in May 2020. The National Treasury has indicated that the Department should explore other options to achieve the intended placement of the 2019 candidates.
iii. Recruitment of TVET instructors- Kshs 2 Billion
iv. Infrastructure development- completion of the 30 new TTI's- Kshs 400 Million
v. Equipping of TTI's (18) that did not get equipment under the GOK/China project- Kshs 1.9 Billion.
vi. Provision of high voltage power to 119 institutions to run the equipment- Kshs 256 Million

(c) State Department for Research and University Education

That the State Department for University Education and Research derives its mandate from the Presidential Circular No. 1 of June 2018. Its responsibilities include University education policy, University education management, Management of continuing education, Public Universities Management and Education Research and policy.

That the State Department is supported by several State Agencies which play different roles in management of University Education. The Commission for University Education deals with quality assurance and regulation, the Higher Education Loans Board manages student financing, University Funds Board deals with funding of Universities and the Kenya Universities and Colleges Central Placement Service deals with the placement of students.

That the Department is implementing three programmes with the key programme being the University Education. The proposed 2020/21 resource allocation is Kshs 113.4 Billion, comprising of Kshs 108.3 Billion recurrent budget and Kshs 5 Billion development budget.

That the allocated funds for the Department will be utilized towards the implementation of planned activities as per the Ministry strategic plan and that value for money will be achieved.

That the 2019 KCSE results were released after the resources allocated to the Education sector has been shared among the various subsectors. The number of students who scored C+ and above and are eligible for government sponsored increased from 90,000 in 2018 to 125,000 in 2019 resulting to an addition of 35,000 students who require support.

The following are the critical underfunded areas in the Department:

i. Kshs 6 Billion for grants to the public universities and Kshs 1.3 Billion to HELB towards loans to cater for the additional 35,000 students.
ii. Kshs 3 Billion – to complete stalled projects in various universities.
iii. Kshs 3.8 Billion –to support ongoing projects in various universities.
iv. Kshs 3.5 Billion to support research and innovation in universities which is a key component of vision 2030.

(d) State Department for Post Training and Skills Development

That the Department mandate is to provide an institutional framework to implement National, Sectoral and Workplace strategies for developing and improving the skills of the Kenyan workforce. That the State Department is fairly a new vote and was funded for the first time in 2018/19 budget.

That in order to achieve its mandate, the department has identified the following key strategic objectives:

i. To review/formulate, appropriate supportive policy and legal frameworks to guide skills development
ii. To institutionalize National wide work-based learning strategies
iii. To develop standards to guide National Skills Development
iv. To integrate skills development to the National Qualification Framework
v. To promote research for skills management for sustainable development
vi. To integrate modern technology in skills development, improvement and management

That the Department intends to implement three programmes in the next financial year and over the medium term, that is, Workplace Readiness Services, Post-Training Information Management and General Administration Planning and Support Services

In terms of resource requirement for 2020/21, the department had projected recurrent resources requirement of Kshs 2.9 billion whereas the proposed allocation in the BPS 2020 IS Kshs 128 Million.

That the Department has prioritized the following two projects in 2020/21 financial year:

i. National Apprenticeship project which is aimed at enhancing employability of out of school youth- with a proposed budget of Kshs 284 Million.

ii. Development National Skills Management information system to promote knowledge sharing and networking towards reducing the imbalance in supply and demand of skills in Kenya- requires Kshs 115 Million.

That some of the achievements made by the Department since inception include:

i. Operationalized the office of the PS
ii. Developed career services manual
iii. Sensitized 59 tertiary institutions on career management
iv. Sensitized youth on the use of science and technology for employment creation
v. Establishment of 3 county work based learning committees

That some of the challenges facing the Department are:

i. Stoppage of imitation of new projects- being newly established he Department is affected by this directive. The Department does not have budgetary provision for capital projects.
ii. Inadequate personnel- has 42 staff only most of whom are lower cadres and has hardly no technical staff
iii. Inadequate office equipment.

That despite skills creation being a key impact/success metric for the BIG-4 especially targeting the unemployed youth, the department is not adequately allocated funds to facilitate skills development.

7) SUBMISSIONS BY TEACHERS SERVICE COMMISSION

The Teachers Service Commission appeared before the Committee to apprise the Committee the various policies as contained in the budget policy statement. The TSC made a presentation before the Committee and the following is a summary of the submissions made:

That in 2020/2021 financial year the Commission budget estimates is proposed at 265 billion to implement its three programmes and this allocation represents an enhancement of Kshs 12 Billion. That the Kshs 12 Billion enhancement will cater for the following:

i. Kshs 2 Billion- recruitment of 5,000 secondary school teachers for a period of 7 months

ii. Kshs 1.2 Billion- recruitment of intern teachers in both primary (4,300) and secondary(6,000) schools for a period of 9 months

iii. Kshs 8.8 Billion- to cater for teachers wage bill drift

That some of the achievement made by the commission in the first half of 2019/20 financial year include:

i. Recruitment of 5,000 secondary teachers
ii. Recruitment of 6,000 secondary schools interns
iii. Recruitment of 4,300 primary schools interns

That the key activities/targets earmarked in 2020/21 financial year based on the allocated resources include: -

i. Recruitment of 4,300 intern teachers for primary schools
ii. Recruitment of 5,000 secondary school teachers
iii. Recruitment of 6,000 intern teachers for secondary schools

That the Commission has funding gaps in the following areas:

i. Recruitment of 30,000 interns- Kshs 3.6 Billion
ii. Recruitment of 20,000 teachers- Kshs 13.4 Billion
iii. Competence based curriculum training- Kshs 1.3 Billion
iv. Field operations- Kshs 300 Million.

8) COMMITTEE OBSERVATIONS

The Committee having scrutinized the BPS 2020 for the sector and also having considered the various submissions during the scrutiny, made the following observations regarding the sector policies and priorities: -

i. That the sector proposed 2020/21 resource ceiling is Kshs 497 Billion. This represents 0.2 % increase from the 2019/20 allocation of Kshs 496 Billion. The proposed ceiling for recurrent spending is Kshs 479 Billion (96%) whereas Kshs 18 Billion (4%) is the proposed ceiling for development spending. Through this allocation, the Ministry and its various Agencies will be implementing a total of 12 programmes.

ii. That the proposed 2020/21 budget ceiling for the sector is less compared to the resource requirement for the sector which stood at Kshs 637 Billion. This calls for efficient utilization of available resources to curb wastage and to ensure that the key programmes are prioritized to ensure strategic objectives of the sector are achieved.

iii. That some of the key performance indicators (KPI's) and targets within the sector are not based on the resource ceilings provided for each agency in the budget policy statement. For instance, the KPI for the TSC is recruitment of 20,006 secondary school teachers. However the Commission has resources to only recruit only 5,000 secondary school teachers.

iv. That the School feeding programme is a critical programme aimed at retaining learners in primary schools in ASAL areas. The Committee is concerned that this programme only covers the ASAL areas thus leaving out other deserving areas in the country such as the slums and other pockets of poverty across the country.

v. That in every financial year, resources have been provided towards infrastructure improvement in both primary and secondary schools. However, there are still infrastructural challenges in many public schools evidenced by many public schools missing basic educational facilities especially with the 100% transition policy.

vi. The Committee observes and commends the State Department for Vocational and Technical Training for reviving the following TTI's which had stalled, that is, North rift TTI, Riatirimba TTI, Garbatulla TTI and Liakipia West TTI.

vii. The Committee observed that the State Department for Vocational and Technical Training has pointed out a resource gap in the provision of high voltage power for a number of TTI's whereas this is supposed to be provided by the NGCDF under the collaborative framework of establishing the TTI's.

viii. The Committee observed that there are a number of institutions which offer training in various fields and are not within the supervision of any agency within the Ministry of Education in

terms of the contents and the curriculum which is being applied. This puts to question the quality of these trainings.

ix. The Committee observed that the current capitation which is offered to both primary and secondary school learners is not sensitive to the prevailing economic circumstances hence exerting pressure on public schools thus straining these institutions.

x. The Committee observed that the State Department for Vocational and Technical Training has not yet developed any policy guidelines for the management of TVET instructors (Trainers) one year after this function was transferred to it from TSC.

9) RECOMMENDATIONS

The Committee having scrutinized and reviewed the Budget Policy Statement 2020 and the Medium Term makes the following recommendations: -

a) Policy Recommendations

i. The Committee recommends that the National Treasury and the Ministry of Education reconciles some of the targets set to be in line with the available resources within the next one month.

ii. The Committee recommends that during the submission of the Budget estimates for 2020/21, the conditional for VTC's should not be lumped together under the development budget since part of it is being utilized as capitation to VTC students which is a recurrent spending. It should be disintegrated between recurrent and development budget.

iii. The Committee recommends that the Ministry of Education undertakes a costing of the free primary and free day Secondary Schools programmes within the next three months to ensure that the resources allocated to these flagship programmes are sufficient and responsive to the current economic realities.

iv. The Committee recommends that the State for Vocational and Technical Training and the NGCDF collaborate to ensure that the newly established TTI's that lack adequate power are connected to the required power to ensure that the various equipment are able to function.

v. The Committee recommends that the Ministry begins the process of engaging other government agencies to ensure that all trainings modules in various institutions across the country are harmonized and placed under the education sector for quality checks by ensuring that the training guidelines are uniform and adhered to.

vi. The Committee recommends that within the next one month, the State Department for Early Learning and Basic Education reviews the school feeding programme policy to expand access to other areas such as slums in urban areas and other pockets of poverty within the country.

vii. The Committee recommends that the State Department for Vocational and Technical Training develop policy guidelines and framework for the management of TVET instructors (Trainers) in the next six months. The policy should among other things include a framework for the distribution of trainers to ensure equity.

b) Financial recommendation

The Committee recommends that the 2020/21 proposed resource ceilings for the various State Departments in the Ministry of Education as well as the Teachers Service Commission as contained in the Budget Policy Statement 2020 be **APPROVED**.

COMMITTEE ON EDUCATION AND RESEARCH

ADOPTION LIST OF THE REPORT ON 2020/21 BUDGET POLICY STATEMENT FOR THE MINISTRY OF EDUCATION AND THE TEACHERS SERVICE COMMISSION

	NAME	SIGNATURE
1.	Hon. Julius Melly, MP - Chairperson	
2.	Hon. Dr. Amos Kimunya, EGH, MP - Vice-Chair	
3.	Hon. Moses Malulu Injendi, MP	
4.	Hon. Geoffrey Makokha Odanga, MP	
5.	Hon. (Dr.) Pamela Ochieng, MP	
6.	Hon. (Eng.) Nzambia Thuddeus Kithua, MP	
7.	Hon. (Prof.) Zadoc Abel Ogutu, MP	
8.	Hon. Catherine Wambilyanga, MP	
9.	Hon. Eric Muchangi Njiru, MP	
10.	Hon. Eve Obara, MBS, MP	
11.	Hon. Jackson Lekumontare, MP	
12.	Hon. Jerusha Mongina Momanyi,	
13.	Hon. John Oroo Oyioka, MP	
14.	Hon. Joseph Kipkosgei Tonui, MP	
15.	Hon. Lilian Cheptoo Tomitom , MP	
16.	Hon. Omboko Milemba, MP	
17.	Hon. Peter Lochakapong, MP	
18.	Hon. Wilson Sossion, MP	
19.	Hon. Wilson Kipngetich Kogo, MP	

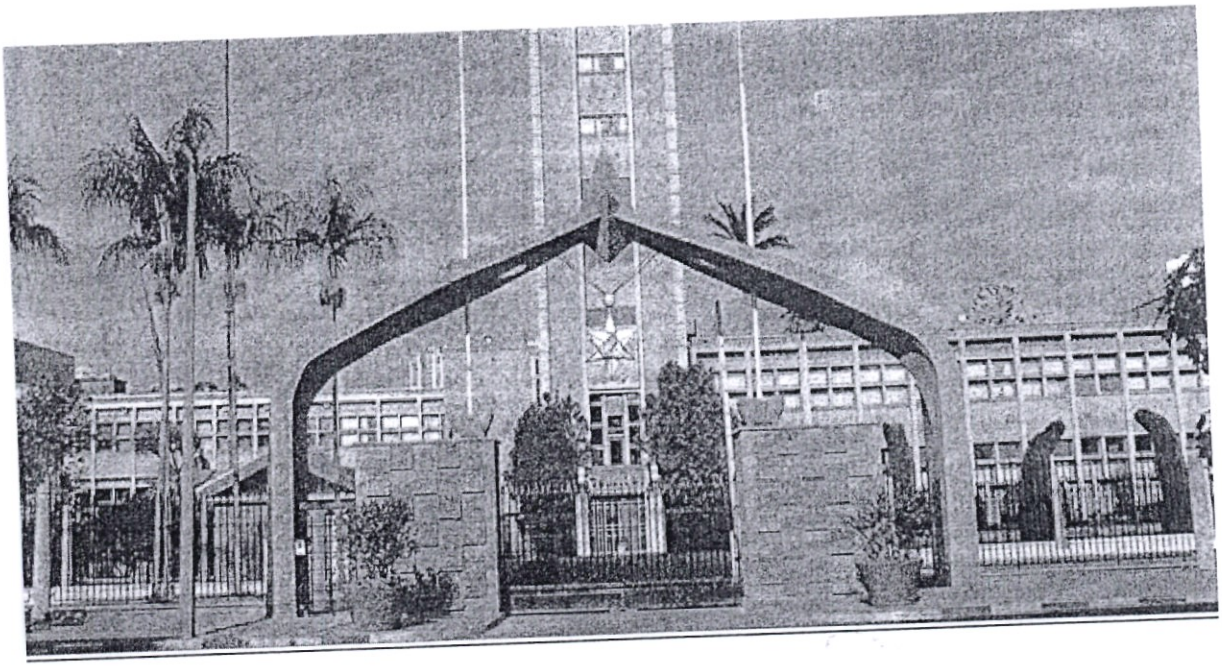
DEPARTMENTAL COMMITTEE ON

DEFENCE AND FOREIGN RELATIONS

REPUBLIC OF KENYA

NATIONAL ASSEMBLY- TWELFTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON DEFENCE & FOREIGN RELATIONS



REPORT ON CONSIDERATION OF THE 2020/21 BUDGET POLICY STATEMENT AND THE MEDIUM TERM FOR THE MINISTRIES OF DEFENCE, FOREIGN AFFAIRS, EAST AFRICAN COMMUNITY AND REGIONAL DEVELOPMENT & THE NATIONAL INTELLIGENCE SERVICE (NIS)

February, 2020

Clerk's Chamber
National Assembly
NAIROBI

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CHAIRPERSON'S FOREWORD

According to the Public Finance Management Act (2012), the Cabinet Secretary for the National Treasury is to table the BPS in the House on or before 15th February of every year. Pursuant to the provisions of the Standing Order No 232 (4), the BPS subsequently **'shall stand committed to each Departmental Committee without question put'.**

The Budget Policy Statement was tabled before the House on Thursday 13th February, 2020 pursuant to Standing Order No. 232 and thereafter committed to relevant Departmental Committees for deliberation according to respective mandates.

Following the tabling of the BPS, the Departmental Committee on Defence and Foreign Relations held a briefing session with the Parliamentary Budget Office and subsequently held consultative meetings with the ministries and agencies under its docket and on which it exercises oversight.

On behalf of the Departmental Committee on Defence and Foreign Relations and pursuant to provisions of Standing Order 232, it is my pleasant privilege and honour to present to the Budget and Appropriation Committee, the Report on its consideration of the Budget Policy Statement for the Ministries, Agencies and State Departments that falls under its purview.

Signed.....

Hon. Katoo Ole Metito, EGH, MGH, M.P

(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON DEFENCE & FOREIGN RELATIONS

Date.....25/2/2020.....

1.1 Mandate of the Committee

1) The Departmental Committee on Defence and Foreign Relations is established under Standing Order No 216 Its mandate pursuant to Standing Order 216(C) is -

a) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments,

b) to study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation,

c) to study and review all legislation referred to it,

d) to study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives,

e) investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House,

f) to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointment), and

g) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation

1.2 Committee Membership

2) The Committee Membership is as follows:

The Hon. Katoo Ole Metito, EGH, MGH, MP **(Chairperson)**
MP for Kajiado South Constituency
Jubilee Party

The Hon. Richard Tongi, MP
(Vice Chairperson)
MP for Nyaribari Chache Constituency
Jubilee Party

The Hon. Yusuf Hassan Abdi, MP
MP for Kamukunji Constituency
Jubilee Party

The Hon. Charles Kilonzo, MP
MP for Yatta Constituency
Independent

The Hon. Patrick Makau King'ola, MP
MP for Mavoko Constituency
WDM-K Party

The Hon. Memusi Ole Kanchory, MP
MP for Kajiado Central Constituency
ODM Party

The Hon. Martha Wangari Wanjira, MP
MP for Gilgil Constituency
Jubilee Party

The Hon. Major (Rtd.) Bashir Sheikh Abdullah, MP
MP for Mandera North Constituency
Jubilee Party

The Hon. (Dr.) Lilian Gogo, MP
MP for Rangwe Constituency
ODM Party

The Hon. Nelson Koech, MP
MP for Belgut Constituency
Jubilee Party

The Hon. Dido Ali Raso, MP
MP for Saku Constituency
Jubilee Party

The Hon. John Lodepe Nakara, MP
MP for Turkana Central Constituency
ODM Party

The Hon. Peter Mungai Mwathi, MP
MP for Limuru Constituency
Jubilee Party

The Hon. Beatrice Nkatha Nyaga, HSC, MP
MP for Tharaka Nithi County
Jubilee Party

The Hon. Moses Nguchine Kirima, MP
MP for Central Imenti Constituency
Jubilee Party

The Hon. Vincent Kipkurui Tuwei, MP
MP for Mosop Constituency
Jubilee Party

The Hon. Ernest Ogesi Kivai, MP
MP for Vihiga Constituency
ANC Party

The Hon. Caleb Amisi, MP
MP for Saboti Constituency
ODM Party

The Hon. Asha Hussein Mohamed, MP
MP for Mombasa County
ODM Party

1.3 Committee Secretariat

1	Mr Victor Weke Imbo	-	First Clerk Assistant
2	Mr Abdiaziz Shobay	-	Third Clerk Assistant
3	Mr Edison Odhiambo	-	Fiscal Analyst
4	Mr Ronald Walala	-	Legal Counsel
5	Ms Grace Karanja Wahu	-	Research & Policy Analyst
6	Mr. Andrew Shangarai	-	Senior Sergeant at- Arms
7	Mr Yaqub Ahmed	-	Media Relations Officer
8	Ms Mercylyn Kerubo	-	Audio-Recording Officer

ACKOWLEDGEMENT

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate. The Committee also thanks the Ministry of Defence, Ministry of Foreign Affairs, Ministry of East African Community and Regional Development and the National Intelligence Service (NIS) for the fruitful deliberations they held with the Committee.

Finally, I wish to express my appreciation to the Honorable Members of the Committee who sacrificed their time to participate in the activities of the Committee and preparation of this report. It is therefore, my pleasant duty and privilege, on behalf of the Departmental Committee on Defence & Foreign Relations, to present this report on the Budget Policy Statement 2020 and the medium term.

LIST OF RECOMENDATIONS

Policy Recommendations

The Committee makes the following policy recommendations;

Ministry of Foreign Affairs

1. The Cabinet Secretary in charge of the National Treasury, going forward to consider clustering the Ministry of Foreign Affairs under the National Security Sector given the role of the Ministry in global peace and security and being a member of the National Security Advisory Council;
2. The Cabinet Secretary Ministry of Foreign Affairs jointly with the Cabinet Secretary in charge of Public Works to fastrack the development of an asset acquisition and management policy, which provides for design and standards for its mission buildings. This should be done before commencement of any new project, but not later than 31st December 2020.

Ministry of Defence

3. The Cabinet Secretary, National Treasury and the Cabinet Secretary, Ministry of Defence to involve the Committee and The National Assembly from inception, before negotiation, of projects funded under the Export Credit Arrangement; Further, the Ministry to submit disaggregated list of projects with proposed allocation for FY 2020/21 reconcilable with its development expenditure by 30th April 2020.
4. The Ministry hastens the development of the Peace Support Operations Policy and submits it to the National Assembly by 30th June 2020.

State Department for Regional and Northern Corridor Development

5. The Cabinet Secretary, Ministry of East African Community and Regional Development Authorities to fastrack the finalization of the Regional Development Policy by 31st December 2020. Further, the Cabinet Secretary to liaise with the Office of the Attorney General to ensure the Bill on Regional Development Authorities is submitted to Parliament for debate by 31st December 2020.
6. The Treasury and State Department should justify why the projects undertaken by the development authorities under it have not been fast-tracked and fully funded.

Financial Recommendations

The Committee recommends the House approves;

1. The proposed expenditure ceiling of **Kshs. 16,478.3 million** for the Ministry of Foreign Affairs, Vote 1052;
2. The proposed expenditure ceiling of **Kshs. 120,268.7 million** for the Ministry of Defence, Vote 1041;
3. The proposed expenditure ceiling of **Kshs. 662.5 million** for the State Department of East African Community, Vote 1221;
4. The proposed expenditure ceiling of **Kshs. 2,994.2 million** for the State Department of Regional and Northern Corridor Development, Vote R1222;
5. The proposed ceiling of **Kshs. 39,051 million** for the National Intelligence Service, Vote 1281.

Other Recommendations

The Committee noted the following gaps that require critical funding;

Ministry of Foreign Affairs

1. **Kshs. 2.2 billion** be sourced from elsewhere to enhance the ceilings of the Ministry of Foreign Affairs. The resources will go towards the following;
    i) Kshs. 1.3 billion to its development budget to honour existing contractual obligations
    ii) Kshs. 250 million to restore dilapidated assets abroad
    iii) Kshs. 400 million to operationalize the UNSC office once secured
    iv) Kshs. 250 million for the maritime border dispute with Somalia

2. **Kshs. 3.18 billion** be sourced from elsewhere in the medium term for the Ministry of Foreign Affairs to cater for a chancery in London (Kshs. 2 billion) and an ambassador's residence in Geneva (Kshs. 1.18 billion)

Ministry of Defence

3. **Kshs. 4.7 billion** be sourced from elsewhere to fund the operations of the Ministry of Defence. The resources will go towards a one-off funding to operationalizing the Peace Support Fund.

State Department for East African Community

4. **Kshs. 289 million** be sourced from elsewhere to fund the operations of the State Department for East African Community. The resources will go towards the following critical aspects;
    i) Kshs. 36 million to facilitate responsibilities that come with chairing the EAC
    ii) Kshs. 77 million for counterpart funding for the Busia market. Trademark EA Has committed Kshs. 500 million for the project
    iii) Kshs. 26 million to provide for a local area network (LAN) which is crucial for teleconferencing
    iv) Kshs. 150 million to facilitate hosting of the EAC Heads of State summit in November 2020.

State Department for Regional Development

5. Funding for the State Department be enhanced to reduce its development budget deficit of **Kshs. 10 billion**.

National Intelligence Service

6. **Kshs. 3.3 billion** be sourced from elsewhere to fund critical security operations.

2.0 INTRODUCTION

According to the Public Finance Management Act (2012), the Cabinet Secretary for the National Treasury is to table the BPS in the House on or before 15th February of every year. On Thursday, 13th February, 2020, the Budget Policy Statement (BPS) was laid on the floor of the House by the Leader of the Majority Party pursuant to the provisions of the Standing Order No. 232 of the National Assembly and section 25 of the Public Finance Management Act (2012). Pursuant to the provisions of the Standing Order No 232 (4), the BPS subsequently **'shall stand committed to each Departmental Committee without question put'.**

The Standing Order No 232 (4) further provides that the Departmental Committee is to deliberate on the BPS according to its mandate and make recommendations to the Budget and Appropriations Committee (BAC).

In considering the BPS, the BAC shall consult each Departmental Committee and table a report containing its recommendations on the statement to the House for consideration.

Following the tabling of the BPS, the Departmental Committee on Defence and Foreign Relations held a briefing meeting by the Parliamentary Budget Office (PBO) and subsequently held consultative meetings with the Ministries under its purview and on which it exercises oversight. The committee meetings took place on 18th, 19th and 20th February, 2020.

The Ministries and departments under the purview of the Committee are;

(i) Ministry of Defence
(ii) Ministry of Foreign Affairs
(iii)Ministry of East African Community and Regional Development
(iv)National Intelligence Service

The deliberations of the meetings together with the contents of the BPS, informed the Committee's compilation of this report regarding the proposed allocation of the resources among the programs and projects in the relevant sectors.

In MTEF Sector classifications, the Ministry of Defence and the National Intelligence Service are classified under the National Security Sector. The Ministry of Foreign Affairs is classified under the Public Administration and International Relations (PAIR), whereas the Ministry of East African Community and Regional Development is classified under the General Economic, Commercial Affairs (GECA). These sectors are key in the delivery of goals and objectives of the Big Four as enablers, the three Pillars of Vision 2030 and the Sustainable Development Goals.

3.0 BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE

The Committee held a briefing session with the Parliamentary Budget Office on Tuesday 18th February, 2020. Concisely, the fiscal analyst informed the Committee as follows, while the detailed brief is annexed to this report;

Ministry of Defence

The Ministry of Defence would be implementing four programmes of Defence, Civil Aid, General Administration, Planning and Support Services and National Space Management with a proposed ceiling of 120,268.7 million comprising of recurrent of Kshs. 106,294.4 million and capital of Ksh.13,974.3 million.

In the medium term, the allocation to the Ministry was projected to fall to KSh.116, 080.7 in 2021/22 before rising marginally to Kshs. 121,253.7 million in 2022/23.

Ministry of Foreign Affairs

The Ministry of Foreign Affairs would be running four programmes of General Administration, Planning and Support Services, Foreign Relations and Diplomacy, Economic and Commercial Diplomacy, Foreign Policy Research, Capacity Development and Technical Cooperation with a ceiling of Kshs. 16,478.3. million against a resource requirement of KShs. 39,718.9 million. This was a reduction in proposed budgetary allocation compared to revised estimates of 2019/20 which stands at Kshs. 19,399 million.

The resource allocation for the Ministry was projected to grow to Kshs. 18,039.9 million and Kshs. 18,501.4 million in the medium term. The projections however may not be giving the true picture given the past trend which has cast doubt on the applicability of the MTEF process in Kenya.

The major programme on Foreign Relations and Diplomacy ceiling for 2020/21 was at Kshs. 13,593.3 million and projected to rise to Kshs. 14,951.2 million and Kshs. 15,372.8 million in the Medium Term. Similarly, the projections for General Administration, Planning and Support Services will rise from Kshs. 2,580.3 million in 2020/21 and marginally increase to Kshs. 2,694 million and Kshs 2,778.9 million in the Medium Term.

Generally, the Ministry had been over-achieving in most areas with resources which were meant for lesser targets.

State Department for East African Community

The State Department had only one programme of East African Integration with a ceiling of Kshs. 662.5 million. The programme entailed; Policy on East African Community, East African Community Affairs, Implementation of the East African Treaty, Coordination of Implementation of EAC Regional Programmes and Projects, Promotion and Fast Tracking of EAC Integration, Coordination of Government's participation in East African Community Affairs and East African Community meetings and Institutions

Some of the Key policy priorities for the state department include;

i. Re-engineering of Kenya's position in the EAC. Over time Kenya has lost her competitiveness in terms of trade performance and attraction of investment. In order to reposition, the Ministry plans to engage in comprehensive research that will inform her policies on EAC
ii. Implementation of the East African Community Customs Union
iii. Implementation of the East African Community Common Market
iv. Implementation of the Monetary Union road map

State Department for Regional and Northern Corridor Development

The State Department's mandate include; coordination of Regional Development Authorities, monitoring and evaluation of the implementation of the Northern Corridor development and fast tracking the identified northern corridor integration projects. The State Department majorly drives the deliverables under the Integrated Basin Based Development programme running across the country and at which various projects and activities aimed at uplifting the livelihood of Kenyans are implemented.

The proposed ceiling for Integrated Regional Development amounts to Kshs. 2,994.2 million against a resource requirement of Kshs. 13,612 million. Further it is observed that the proposed ceiling is a reduction in allocation from Kshs 4.9 billion to Kshs. 2.9 billion.

The integrated based development as a policy had not been prioritized and the proposed ceiling may not give the RDAs any allocation to initiate any meaningful development. Further, an analysis of achievement of targets reveals that projects which are key to the livelihoods of communities are not being achieved as targeted. The problems facing the RDAs have further been exacerbated by governance challenges facing the implementation of projects and programmes.

The National Intelligence Service

In the BPS 2020 and the Medium Term, the service will provide a role of an enabler to the Big Four agenda through the provision of secure and protected nation which is necessary for the achievement of the Big Four. Under the Programme Based Budgeting, the Service will be implementing one program of National security Intelligence with a resource ceiling of Kshs. 39,051 million.

The proposed resources will be utilized to fund service operations, projects and activities to deliver an outcome of a secure and protected nation through the provision of the following outputs;

i) Provision of competitive, reliable and actionable intelligence that adds value to decision making process
ii) Effective counter terrorism operations
iii) Effective counter intelligence to detect and neutralize threats to national security among others.

The Medium-Term priorities include; Modernization of Intelligence operation tools, equipment, systems and infrastructure include surveillance systems, Capacity building; Renovation and maintenance of existing development of new facilities, Research and development and Undertaking emergency security operations. It was however critical to note that the outputs of the Service are not measurable.

4.0 MEETING WITH MINISTRIES, STATE DEPARTMENTS AND STATE AGENCIES

4.1 Ministry of Foreign Affairs

On Wednesday, 19th February, 2020 the Committee held a meeting with the Cabinet Secretary and Principal Secretary, Ministry of Foreign Affairs. Thy briefed the Committee as follows;

The ministry had a proposed ceiling of **Kshs. 16.478 billion** for the financial year 2020/21, and would be expended on its existing four programmes and 10 sub-programmes. This ceiling was a reduction of Ksh. 2.9 billion from the preceding financial year, 2019/20.

Of note was that the ministry would be pursuing the same policies/ strategic objectives and projects that were running from the preceding financial year, with the exception of Kenya's embassy in London whose lease was coming to an end in October of 2021 and would therefore need provision for purchase of premise.

The ministry had neither stalled projects nor variations to existing programmes, and all of its financing was from the exchequer.

On its 2018/19 financial performance, the ministry had expended up to 97% of its budgetary allocation and the balance was due to under-exchequer release. In the current financial year 2019/20, the ministry had so far absorbed 50% of the same. On the development component, four new missions in Accra, Dakar, Bern and Djibouti had been opened and were operational.

The following capital projects were also at various stages of completion;

i) Construction of mission in Geneva; expected completion date of September 2020 with a contract sum of Kshs. 3 billion, with Kshs. 1.16 billion expended so far;
ii) Construction of mission and staff housing in Pretoria at a contract sum of Kshs. 1.155 billion, with Kshs. 910.58 million expended so far. Only the ambassador's residence was incomplete at 75%;
iii) Construction of mission in Mogadishu at a sum of Kshs. 227.7 million which had been completed and was in use;
iv) Renovation of mission in Dar es Salaam with an expected completion date of February 2020 at a contract sum of Kshs. 22.7 million, with Kshs. 11 million expended so far;
v) Renovation of mission in New York expected to be completed in June 2020 at a contract sum of Kshs. 300 million, with Kshs. 123 million expended so far;

On non-financial performance, the ministry had made 16 outbound state visits by H.E The President, participated in regional peace and security meetings, hosted two major international conferences (ICPD25 and ACP), enhanced Kenya's cooperation in trade through various meetings e.g. Russia-Africa summit in Sochi, TICAD and operationalization of AfCTA. Moreover, the ministry had pursued individual and country campaigns for various seats including the current UNSC non-permanent seat campaign, trained three cohorts of diplomats and deployed staff to the 4 new missions abroad.

The Cabinet Secretary decried the underfunding of the ministry's programmes, especially cuts on already executed contracts. This, she said, would expose the country to litigation, reputational risk and further loss. She also pushed for the ministry to be clustered under the security sector, based on the unique nature of its operations, which invariably had implications to peace and security of the country and the region.

The ministry requested an enhanced ceiling to cater for critical non-funded areas, as follows;

i) Adequate provision for purchase of representational and utility motor vehicles;
ii) Kshs. 250 million for maintenance of dilapidated assets abroad;
iii) Allocation (and ring-fencing) of Kshs. 1 billion for participation in international conferences that was cut from the 2019/20 FY budget;
iv) Kshs. 400 million to operationalize the office of the non-permanent seat in the UNSC once elected;
v) Kshs. 250 million to facilitate pursuit of the maritime border dispute with Somalia;
vi) Increase of the development budget provision to at least Kshs. 2 billion (from the proposed Kshs. 701 million) to fulfil contractual obligations;
vii) An additional Kshs. 3.18 billion to purchase a chancery in London (Kshs. 2 b) and the ambassador's residence in Geneva (Kshs. 1.18 b).

4.2 National Intelligence Service

On Thursday, 20th February, 2020 the Committee held a consultative meeting with the Director General, National Intelligence Service.

The Director General presented the Committee with a detailed national security threat assessment that informs the resource requirements of the service. The country continued to face various threats from its enemies, as well as cyber-criminal elements and divisive political rhetoric.

The service had a resource ceiling of **Kshs. 39.051 billion** under one programme, National Security Intelligence. This was an increase from Kshs. 37.66 billion in the preceding financial year, of which 51.5% had been expended as at 31st December 2019. During the last three financial years, the service has had an average absorption rate of 99.2%.

The service's strategic objectives were driven by the following operational programmes;

i) Counter terrorism
ii) Counter intelligence
iii) Domestic intelligence
iv) External intelligence
v) Information, communication and technology
vi) Human capital development
vii) Research and development

The service had no pending bills and no stalled projects.

The service submitted that it had a funding gap of Kshs. 13.565 billion, of which Kshs. 3.345 billion was deemed crucial.

4.3 Ministry of Defence

The Cabinet Secretary accompanied by the Principal Secretary and officers of the ministry and the Kenya Defence Force appeared before the Committee on Thursday, 20th February, 2020. They submitted as follows;

To attain its strategic objectives, the ministry undertakes the following programmes;

i) National defence
ii) Management of national defence policy
iii) Support to civil authorities
iv) Defence intelligence
v) Coordination and implementation of national space policy

These programmes were critical to the Big 4 agenda as they acted as an enabler through addressing contemporary and emerging threats to national security that undermine peace and development.

On financials, the ministry had a proposed ceiling of **Kshs. 120.269 billion**, a reduction from Kshs. 121.61 billion in the preceding financial year. Of the latter, the ministry had so far expended 56% of its budget, with Kshs. 59.609 billion received. Revenue had also been raised from UN/AMISOM reimbursements amounting to Kshs. 2.901 billion plus Kshs. 553.96 million from other sources. These had been remitted to the National Treasury.

On deliverables, the ministry had enhanced its operational capacity through military and intelligence modernization. Notably, Modika barracks had been launched as well as continued development projects including construction of a level II hospital in Garissa, rehab centre in Lang'ata, a slip-way in Mtongwe that was 70% complete, enhanced civil aid through disaster management, housing for its officers and servicemen, acquisition of essential equipment among others. In a nutshell, the KDF had 6 ongoing projects for Kenya Army, 12 for the Air Force, 10 for the Navy and 6 at headquarters.

The Ministry requested for additional Kshs. 4.73 billion for the multi-agency communication information system, and Kshs. 4.7 billion for the peace support operations fund.

4.4 Ministry of East African Community and Regional Development

The Cabinet Secretary accompanied by the Principal Secretaries of the State Departments for East African Community and Regional and Northern Corridor Development and officers of agencies under the ministry appeared before the Committee on Thursday, 20th February, 2020.

State Department for East African Community

The State Department mission was to deepen and widen East African integration and facilitate business transformation. This was pursued through related strategic objectives and functions. These were pursued through three sub-programmes, customs union, common market and monetary union.

On financials, the state department had approved budget of Kshs. 619.6 million in the FY 2019/20. It had so far spent Kshs. 246.4 million. This expenditure achieved the following, among others;

i) Rise in ranking in global index on ease of doing business, from position 61 to 56;
ii) Concluded consultations on review of the common external tariff;
iii) Continued negotiations for removal on non-tariff barriers

The state department had a proposed ceiling of **Kshs. 662.5 million** for the FY 2020/21, all of which is recurrent. The ministry submitted that this left it with a funding gap of Kshs. 1.214 billion based on its requirement.

State Department for Regional and Northern Corridor Development

In pursuit of its mission to facilitate and coordinate regional development authorities in the execution of participatory, integrated basin based development programmes, the State Department undertook its functions through two sub-programmes, integrated basin based development and management of northern corridor integration.

The following regional development authorities existed under the state department;

i) Kerio Valley Development Authority (KVDA)
ii) Tana and Athi River Development Authority (TARDA)
iii) Lake Basin Development Authority (LBDA)
iv) Ewaso Ng'iro South Development Authority (ENSDA)
v) Ewaso Ng'iro North Development Authority (ENNDA)
vi) Coast Development Authority (CDA)

In the FY 2019/20, the state department had absorbed 32% of its approved Kshs. 2.789 billion development budget. Some of the projects had stalled due to lack of funds, governance challenges and land ownership disputes. The detailed analysis has been annexed to this report.

For the FY 2020/21, the state department had a proposed recurrent ceiling of Kshs. 1.938 billion, leaving it with a shortfall of Kshs. 824 million, and proposed development ceiling of Kshs. 927 million, against needs of Kshs. 10.85 billion. The total ceiling is thus **Kshs. 2.865 billion**.

5.0 COMMITTEE OBSERVATIONS

5.1 Ministry of Foreign Affairs

The Committee observed that;

1) The Ministry of Foreign Affairs is grossly underfunded. Its clustering under Public Administration and International Relations (PAIR) sector had the effect of not fully appreciating this crucial role. There is limited provision for capital spending yet some of the assets of the Ministry in foreign missions were in deplorable conditions. Furthermore, the ceilings imposed upon the ministry were in disregard of already existing contractual obligations and had the potential effect of exposing the country to further loss through litigation and reputational risk. Further, the Ministry has expanded its horizon and diplomatic footprint in opening of missions abroad but this is not reflected in its budget. Therefore, targets provided for would not be achieved with the proposed ceilings, unless the same was expanded, or targets revised downwards to reflect resource availability.
2) Kenya as the African Union endorsed candidate was likely to secure the vote to the non-permanent seat of the United Nations Security Council on 17th June 2020. There was however no provision of funds to operationalize the office once this happens;
3) The ministry had no policy on acquisition and/or construction design of missions abroad, allowing for varied and unjustified designs, and possible escalation of costs. This is further evident by the impending expiry in October 2021 of the lease of the London chancery with no foresight of its replacement;

5.2 Ministry of Defence

The Committee observed that:-

1. The Ministry of Defence proposed ceiling of KSh. 120,268.7 million is below its resource requirement of KSh.199,377 million. The ministries budget had funding from the exchequer, as well as an Export Credit Arrangement, managed at Treasury. The latter ran the risk of being pursued without full involvement of this Committee as projects under it had already been negotiated by the National Treasury;
2. The ministry was in the process of developing a Peace Support Operations policy to guide its involvement in peace missions abroad. The Ministry had no provision of Kshs. 4.7 billion for operationalizing the envisaged fund, and this already currently affects reimbursements from UN and AMISOM due to unsuitable equipment.

5.3 National Intelligence Service

The Committee observed that;

1) Given the ever evolving and increasing security threats facing Kenya, there was absolute need to ensure the security agency operations and activities are well funded;
2) The agency had a critical funding gap of Kshs. 3.3 billion to cater for some of its crucial security operations.

5.4 Ministry of East African Community and Regional Development

The Committee observed as follows;

State Department for East African Community

1) The State Department is grossly underfunded in disregard to the important function it plays in the East African Community. The country is poised to assume the Chairmanship of the East African Community this year yet there was no provision of funds to cater for the responsibilities that come with the position;

State Department for Regional and Northern Corridor Development

1) The State Department and the various regional development authorities under it had important projects under its purview but this did not reflect in its budgetary provisions. This gross underfunding puts into question the existence and viability of the projects;
2) These projects had been hampered by widely reported governance challenges and the Committee is concerned that funds already expended risked being sunk as some of the projects had been suspended or scaled down, or hampered by investigations;

6.0 COMMITTEE RECOMMENDATIONS

6.1 Policy Recommendations

The Committee makes the following policy recommendations;

Ministry of Foreign Affairs

7. The Cabinet Secretary in charge of the National Treasury, going forward to consider clustering the Ministry of Foreign Affairs under the National Security Sector given the role of the Ministry in global peace and security and being a member of the National Security Advisory Council;
8. The Cabinet Secretary Ministry of Foreign Affairs jointly with the Cabinet Secretary in charge of Public Works to fastrack the development of an asset acquisition and management policy, which provides for design and standards for its mission buildings. This should be done before commencement of any new project, but not later than 31st December 2020.

Ministry of Defence

9. The Cabinet Secretary, National Treasury and the Cabinet Secretary, Ministry of Defence to involve the Committee and The National Assembly from inception, before negotiation, of projects funded under the Export Credit Arrangement; Further, the Ministry to submit disaggregated list of projects with proposed allocation for FY 2020/21 reconcilable with its development expenditure by 30th April 2020.
10. The Ministry hastens the development of the Peace Support Operations Policy and submits it to the National Assembly by 30th June 2020.

State Department for Regional and Northern Corridor Development

11. The Cabinet Secretary, Ministry of East African Community and Regional Development Authorities to fastrack the finalization of the Regional Development Policy by 31st December 2020. Further, the Cabinet Secretary to liaise with the Office of the Attorney General to ensure the Bill on Regional Development Authorities is submitted to Parliament for debate by 31st December 2020.
12. The Treasury and State Department should justify why the projects undertaken by the development authorities under it have not been fast-tracked and fully funded.

6.2 Financial Recommendations

The Committee recommends the House approves;

6. The proposed expenditure ceiling of **Kshs. 16,478.3 million** for the Ministry of Foreign Affairs, Vote 1052;
7. The proposed expenditure ceiling of **Kshs. 120,268.7 million** for the Ministry of Defence, Vote 1041;
8. The proposed expenditure ceiling of **Kshs. 662.5 million** for the State Department of East African Community, Vote 1221;
9. The proposed expenditure ceiling of **Kshs. 2,994.2 million** for the State Department of Regional and Northern Corridor Development, Vote R1222;

10. The proposed ceiling of **Kshs. 39,051 million** for the National Intelligence Service, Vote 1281.

Other Recommendations

The Committee noted the following gaps that require critical funding;

Ministry of Foreign Affairs

7. **Kshs. 2.2 billion** be sourced from elsewhere to enhance the ceilings of the Ministry of Foreign Affairs. The resources will go towards the following;
    v) Kshs. 1.3 billion to its development budget to honour existing contractual obligations
    vi) Kshs. 250 million to restore dilapidated assets abroad
    vii) Kshs. 400 million to operationalize the UNSC office once secured
    viii) Kshs. 250 million for the maritime border dispute with Somalia

8. **Kshs. 3.18 billion** be sourced from elsewhere in the medium term for the Ministry of Foreign Affairs to cater for a chancery in London (Kshs. 2 billion) and an ambassador's residence in Geneva (Kshs. 1.18 billion)

Ministry of Defence

9. **Kshs. 4.7 billion** be sourced from elsewhere to fund the operations of the Ministry of Defence. The resources will go towards a one-off funding to operationalizing the Peace Support Fund.

State Department for East African Community

10. **Kshs. 289 million** be sourced from elsewhere to fund the operations of the State Department for East African Community. The resources will go towards the following critical aspects;
    v) Kshs. 36 million to facilitate responsibilities that come with chairing the EAC
    vi) Kshs. 77 million for counterpart funding for the Busia market. Trademark EA Has committed Kshs. 500 million for the project
    vii) Kshs. 26 million to provide for a local area network (LAN) which is crucial for teleconferencing
    viii) Kshs. 150 million to facilitate hosting of the EAC Heads of State summit in November 2020.

State Department for Regional Development

11. Funding for the State Department be enhanced to reduce its development budget deficit of Kshs. 10 billion.

National Intelligence Service

12. **Kshs. 3.3 billion** be sourced from elsewhere to fund critical security operations.

Signed.....

Hon. Katoo Ole Metito, EGH, MGH, M.P
(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON DEFENCE & FOREIGN RELATIONS

Date.....25/2/2020.....

ANNEXURES

1 Committee adoption list
2 Minutes of Committee sittings
3 Brief by Parliamentary Budget Office
4 Submissions by Ministries, Departments and Agencies

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS
Adoption Schedule

REPORT OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS ON THE CONSIDERATION OF THE BUDGET POLICY STATEMENT (BPS) FOR FY 2020/21

We, the undersigned Members of the Departmental Committee on Defence & Foreign Relations, today 20th February, 2020 do hereby affix our signatures to this REPORT ON THE CONSIDERATION OF THE BUDGET POLICY STATEMENT FOR FY 2020/21 to affirm our approval and confirm its accuracy, validity and authenticity:-

NO.	NAME	SIGNATURE
1.	The Hon. Katoo Ole Metito, EGH, MGH, M.P - **Chairperson**	
2.	The Hon. Richard Tong'i, M.P - **Vice Chairperson**	
3.	The Hon. Yusuf Hassan Abdi, M.P	
4.	The Hon. Charles Mutavi Kilonzo, M.P	
5.	The Hon. Patrick Makau, M.P	
6.	The Hon. Col. (Rtd) Dido Ali Raso, MBS, M.P	
7.	The Hon. Peter Mungai Mwathi, M.P	
8.	The Hon. Beatrice Nkatha Nyagah, HSC, M.P	
9.	The Hon. Martha Wangari Wanjira, M.P	
10.	The Hon. John Lodepe Nakara, M.P	
11.	The Hon. Memusi Ole Kanchory, M.P	

12.	The Hon. Major (Rtd.) Bashir Abdullahi, M.P	
13.	The Hon. (Dr.) Lilian Gogo, M.P	
14.	The Hon. Nelson Koech, M.P	
15.	The Hon. Moses Nguchine Kirima, M.P	
16.	The Hon. Vincent Kipkurui Tuwei, M.P	
17.	The Hon. Ernest Ogesi Kivai, M.P	
18.	The Hon. Caleb Amisi, MP	
19.	The Hon. Asha Hussein Mohamed, M.P	

MINUTES OF THE SEVENTY-FIFTH (75TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE & FOREIGN RELATIONS HELD IN THE 9TH FLOOR SMALL BOARDROOM, HARAMBEE SACCO PLAZA, PARLIAMENT BUILDINGS ON TUESDAY, 18TH FEBRUARY, 2020 AT 11.30 AM.

PRESENT

1. The Hon. Katoo Ole Metito, EGH, MGH, MP (Chairperson)
2. The Hon. Richard Tong'i, MP (Vice Chairperson)
3. The Hon. Yusuf Hassan Abdi, MP
4. The Hon. Charles Kilonzo, MP
5. The Hon. Patrick Makau King'ola, MP
6. The Hon. Col. (Rtd) Dido Ali Raso, MBS, MP
7. The Hon. Beatrice Nkatha Nyagah, HSC, MP
8. The Hon. John Lodepe Nakara, MP
9. The Hon. Memusi Ole Kanchory, MP
10. The Hon. Major (Rtd.) Bashir Sheikh Abdullah, MP
11. The Hon. Nelson Koech, MP
12. The Hon. Ernest Ogesi Kivai, MP
13. The Hon. Caleb Amisi, MP
14. The Hon. Asha Hussein Mohamed, MP

APOLOGIES

1. The Hon. Peter Mungai Mwathi, MP
2. The Hon. Martha Wangari Wanjira MP
3. The Hon. (Dr.) Lilian Gogo, MP
4. The Hon. Moses Nguchine Kirima, MP
5. The Hon. Vincent Kipkurui Tuwei, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Mr. Victor Weke	-	Clerk Assistant I
2.	Mr. Abdiaziz Shobay	-	Clerk Assistant III
3.	Ms. Grace Wahu Karanja	-	Research Officer
4.	Mr. Edison Odhiambo	-	Fiscal Analyst
5.	Ms. Mercylyn Kerubo	-	Audio Officer

MIN. NO.NA/DC.DFR/2020/006: PRELIMINARIES

The Chairperson called the meeting to order at 11.40 am and said a prayer. The agenda of the meeting was adopted as hereunder after being proposed by The Hon. Charles Kilonzo, MP and seconded by The Hon. Asha Hussein Mohamed, MP.

AGENDA

1. Prayers
2. Adoption of the agenda
3. **Confirmation of minutes of previous sittings**

4. **Substantive agenda: Briefing by the Parliamentary Budget Office (PBO) on the 2019 Budget Policy Statement**
5. Any Other Business

MIN. NO.NA/DC.DFR /2020/007: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

74th sitting

Minutes of the 74th sitting were confirmed as a true record of proceedings after being proposed by The Hon. Yusuf Hassan Abdi, MP and seconded by The Hon. Beatrice Nkatha Nyagah, HSC, MP. There were no matters arising.

MIN. NO.NA/DC.DFR /2020/008: BRIEFING BY THE LEADER OF DELEGATION THAT UNDERTOOK FOREIGN OVERSIGHT INSPECTION VISITS TO KENYAN DIPLOMATIC MISSIONS IN THAILAND AND MALAYSIA

Hon. Col. (Rtd) Dido Ali Raso, MBS, MP, the leader of delegation that undertook foreign oversight inspection visit to the Kenyan diplomatic missions in **Thailand and Malaysia from 4th – 14th January, 2020** briefed the Committee on their successful trip.

The objective of the visit was to undertake an inspection of the two Kenyan Missions and learn about their operations and challenges as well as enable members of the Committee share experiences on matters of defence and foreign affairs with their relevant counterpart committees, among others.

MIN. NO.NA/DC.DFR /2020/009: BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE ON THE 2020/21 BUDGET POLICY STATEMENT

Mr. Edison Odhiambo, fiscal analyst from The Parliamentary Budget Office informed the Committee that the brief provided an analysis of the BPS 2020 and the medium term for the Ministries of Defence and Foreign Affairs, State Departments for Regional and Northern Corridor Development, and East African Community, and the National Intelligence Service.

Ministry of Defence

1. The Ministry of Defence would be implementing four programmes of Defence, Civil Aid, General Administration, Planning and Support Services and National Space Management with a proposed ceiling of 120,268.7 million comprising of recurrent of Kshs. 106,294.4 million and capital of Ksh.13,974.3 million;
2. In the medium term, the allocation to the Ministry was projected to fall to KSh.116, 080.7 in 2021/22 before rising marginally to Kshs. 121,253.7 million in 2022/23;

Ministry of Foreign Affairs

3. The Ministry of Foreign Affairs would be running four programmes of General Administration, Planning and Support Services, Foreign Relations and Diplomacy, Economic and Commercial Diplomacy, Foreign Policy Research, Capacity Development and Technical Cooperation with a ceiling of Kshs. 16,478.3. Million against a resource

requirement of KShs. 39,718.9 million. This was a reduction in proposed budgetary allocation compared to revised estimates of 2019/20 which stands at Kshs. 19,399 million;

4. The resource allocation for the Ministry was projected to grow to Kshs. 18,039.9 million and Kshs. 18,501.4 million in the medium term. The projections however may not be giving the true picture given the past trend which has cast doubt on the applicability of the MTEF process in Kenya.
5. The major programme on Foreign Relations and Diplomacy ceiling for 2020/21 was at Kshs. 13,593.3 million and projected to rise to Kshs. 14,951.2 million and Kshs. 15,372.8 million in the Medium Term. Similarly, the projections for General Administration, Planning and Support Services will rise from Kshs. 2,580.3 million in 2020/21 and marginally increase to Kshs. 2,694 million and Kshs 2,778.9 million in the Medium Term.
6. Generally, the Ministry had been over-achieving in most areas with resources which were meant for lesser targets.

State Department for East African Community

7. The State Department had only one programme of East African Integration with a ceiling of Kshs. 662.5 million. The programme entailed; Policy on East African Community, East African Community Affairs, Implementation of the East African Treaty, Coordination of Implementation of EAC Regional Programmes and Projects, Promotion and Fast Tracking of EAC Integration, Coordination of Government's participation in East African Community Affairs and East African Community meetings and Institutions
8. Some of the Key policy priorities for the state department include;

    i. Re-engineering of Kenya's position in the EAC. Over time Kenya has lost her competitiveness in terms of trade performance and attraction of investment. In order to reposition, the Ministry plans to engage in comprehensive research that will inform her policies on EAC
    ii. Implementation of the East African Community Customs Union
    iii. Implementation of the East African Community Common Market
    iv. Implementation of the Monetary Union road map

State Department for Regional and Northern Corridor Development

9. The State Department's mandate include; coordination of Regional Development Authorities, monitoring and evaluation of the implementation of the Northern Corridor development and fast tracking the identified northern corridor integration projects. The State Department majorly drives the deliverables under the Integrated Basin Based Development programme running across the country and at which various projects and activities aimed at uplifting the livelihood of Kenyans are implemented.
10. The proposed ceiling for Integrated Regional Development amounts to Kshs. 2,994.2 million against a resource requirement of Kshs. 13,612 million. Further it is observed that the proposed ceiling is a reduction in allocation from Kshs 4.9 billion to Kshs. 2.9 billion.
11. The integrated based development as a policy had not been prioritized and the proposed ceiling may not give the RDAs any allocation to initiate any meaningful development. Further, an analysis of achievement of targets reveals that projects which are key to the livelihoods of communities are not being achieved as targeted. The problems facing the RDAs have further been exacerbated by governance challenges facing the implementation of projects and programmes.

The National Intelligence Service

12. In the BPS 2020 and the Medium Term, the service will provide a role of an enabler to the Big Four agenda through the provision of secure and protected nation which is necessary for the achievement of the Big Four. Under the Programme Based Budgeting, the Service will be implementing one program of National security Intelligence with a resource ceiling of Kshs. 39,051 million.
13. The proposed resources will be utilized to fund service operations, projects and activities to deliver an outcome of a secure and protected nation through the provision of the following outputs;
    i) Provision of competitive, reliable and actionable intelligence that adds value to decision making process
    ii) Effective counter terrorism operations
    iii) Effective counter intelligence to detect and neutralize threats to national security among others.
14. The Medium-Term priorities include; Modernization of Intelligence operation tools, equipment, systems and infrastructure include surveillance systems, Capacity building; Renovation and maintenance of existing development of new facilities, Research and development and Undertaking emergency security operations. It was however critical to note that the outputs of the Service are not measurable.

The Committee resolved to schedule a meeting on Thursday 20th February 2020 with the ministries and agencies to discuss the policy issues as contained in the Budget Policy Statement for 2020/21.

MIN. NO.NA/DC.DFR /2020/010: ADJOURNMENT

There being no other business, the meeting adjourned at 1.20 pm. Next sitting would be held on 20th February 2020 at 1.30 pm.

Signed.....

Hon. Katoo Ole Metito, M.P
(CHAIRPERSON)

Date.....

MINUTES OF THE SEVENTY-SIXTH (76TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE & FOREIGN RELATIONS HELD IN SEBULENI BOARDROOM, WHITESANDS HOTEL, MOMBASA, ON WEDNESDAY, 19TH FEBRUARY, 2020 AT 4.30 PM.

PRESENT

1. The Hon. Katoo Ole Metito, EGH, MGH, MP (Chairperson)
2. The Hon. Beatrice Nkatha Nyagah, HSC, MP
3. The Hon. Yusuf Hassan Abdi, MP
4. The Hon. Major (Rtd.) Bashir Sheikh Abdullah, MP
5. The Hon. Caleb Amisi, MP
6. The Hon. Moses Nguchine Kirima, MP

APOLOGIES

1. The Hon. Richard Tong'i, MP (Vice Chairperson)
2. The Hon. Memusi Ole Kanchory, MP
3. The Hon. Col. (Rtd) Dido Ali Raso, MBS, MP
4. The Hon. Charles Kilonzo, MP
5. The Hon. Martha Wangari Wanjira MP
6. The Hon. Ernest Ogesi Kivai, MP
7. The Hon. Asha Hussein Mohamed, MP
8. The Hon. Vincent Kipkurui Tuwei, MP
9. The Hon. Patrick Makau King'ola, MP
10. The Hon. Peter Mungai Mwathi, MP
11. The Hon. (Dr.) Lilian Gogo, MP
12. The Hon. Nelson Koech, MP
13. The Hon. John Lodepe Nakara, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Victor Weke - Clerk Assistant I
2. Ms. Grace Wahu Karanja - Research Officer

MINISTRY OF FOREIGN AFFAIRS

1. Amb. Raychel Omamo, SC - Cabinet Secretary
2. Amb. Macharia Kamau - Principal Secretary

MIN. NO.NA/DC.DFR/2020/011: PRELIMINARIES

The Chairperson called the meeting to order at 4.45pm and said a prayer. The agenda of the meeting was adopted as hereunder after being proposed by The Hon. Caleb Amisi, MP and seconded by The Hon. Beatrice Nkatha, MP.

AGENDA

1. Prayers
2. Adoption of the agenda

3. Confirmation of minutes of previous sittings
4. Substantive agenda: **Briefing by the Ministry of Foreign Affairs on the Budget Policy Statement (BPS), FY 2020/21**
5. Any Other Business

MIN. NO.NA/DC.DFR /2020/012: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The agenda item was deferred to the next sitting.

MIN. NO.NA/DC.DFR /2020/013: BRIEFING BY THE MINISTRY OF FOREIGN AFFAIRS ON THE BUDGET POLICY STATEMENT (BPS), FY 2020/21

The Principal Secretary took the Committee through the following items;

i) Actual financial and non-financial performance for the first half of 2019/20 financial year;
ii) Project information, i.e;
   - Status of projects (actual expenditure to date, remaining project cost to completion, proposed medium term allocations); and,
   - List of projects linked to the Big Four Agenda and their status;
iii) Programmes and key activities earmarked for implementation by each State Department in the 2020/2021 financial year and the medium term;

The ministry had a proposed ceiling of Kshs. 16.478 billion for the financial year 2020/21, and would be expended on its existing four programmes and 10 sub-programmes. This ceiling was a reduction of Ksh. 2.9 billion from the preceding financial year, 2019/20.

Of note was that the ministry would be pursuing the same policies/ strategic objectives and projects that were running from the preceding financial year, with the exception of Kenya's embassy in London whose lease was coming to an end in October of 2021 and would therefore need provision for purchase of premise.

The ministry had neither stalled projects nor variations to existing programmes, and all of its financing was from the exchequer.

On its 2018/19 financial performance, the ministry had expended up to 97% of its budgetary allocation and the balance was due to under-exchequer release. In the current financial year 2019/20, the ministry had so far absorbed 50% of the same. On the development component, four new missions in Accra, Dakar, Bern and Djibouti had been opened and were operational.

The following capital projects were also at various stages of completion;

i) Construction of mission in Geneva; expected completion date of September 2020 with a contract sum of Kshs. 3 billion, with Kshs. 1.16 billion expended so far;

ii) Construction of mission and staff housing in Pretoria at a contract sum of Kshs. 1.155 billion, with Kshs. 910.58 million expended so far. Only the ambassador's residence was incomplete at 75%;
iii) Construction of mission in Mogadishu at a sum of Kshs. 227.7 million which had been completed and was in use;
iv) Renovation of mission in Dar es Salaam with an expected completion date of February 2020 at a contract sum of Kshs. 22.7 million, with Kshs. 11 million expended so far;
v) Renovation of mission in New York expected to be completed in June 2020 at a contract sum of Kshs. 300 million, with Kshs. 123 million expended so far;

On non-financial performance, the ministry had made 16 outbound state visits by H.E The President, participated in regional peace and security meetings, hosted two major international conferences (ICPD25 and ACP), enhanced Kenya's cooperation in trade through various meetings e.g. Russia-Africa summit in Sochi, TICAD and operationalization of AfCTA. Moreover, the ministry had pursued individual and country campaigns for various seats including the current UNSC non-permanent seat campaign, trained three cohorts of diplomats and deployed staff to the 4 new missions abroad.

The Cabinet Secretary decried the underfunding of the ministry's programmes, especially cuts on already executed contracts. This, she said, would expose the country to litigation, reputational risk and further loss. She also pushed for the ministry to be clustered under the security sector, based on the unique nature of its operations, which invariably had implications to peace and security of the country and the region.

The ministry requested an enhanced ceiling, as follows;

i) Adequate provision for purchase of representational and utility motor vehicles;
ii) Kshs. 250 million for maintenance of dilapidated assets abroad;
iii) Allocation (and ring-fencing) of Kshs. 1 billion for participation in international conferences that was cut from the 2019/20 FY budget;
iv) Kshs. 400 million to operationalize the office of the non-permanent seat in the UNSC once elected;
v) Kshs. 250 million to facilitate pursuit of the maritime border dispute with Somalia;
vi) Increase of the development budget provision to at least Kshs. 2 billion (from the proposed Kshs. 701 million) to fulfil contractual obligations;
vii) An additional Kshs. 3.18 billion to purchase a chancery in London (Kshs. 2 b) and the ambassador's residence in Geneva (Kshs. 1.18 b).

The Committee noted that indeed the ministry ought to be clustered under the security sector due to the related nature of its operations. Further, it was observed that the ministry had no policy on acquisition and/or construction design of missions abroad, allowing for varied and unjustified designs.

Moreover, the targets provided for would not be achieved with the proposed ceilings, unless the same was expanded, or targets revised downwards to reflect resource availability.

MIN. NO.NA/DC.DFR /2020/014: ADJOURNMENT

There being no other business, the meeting adjourned at 7.30 pm.

Signed.....

Hon. Katoo Ole Metito, M.P
(CHAIRPERSON)

Date.....

MINUTES OF THE SEVENTY-SEVENTH (77TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE & FOREIGN RELATIONS HELD IN COMMITTEE ROOM 12, MAIN PARLIAMENT BUILDINGS, ON THURSDAY, 20TH FEBRUARY, 2020 AT 1.30 PM.

PRESENT

1. The Hon. Katoo Ole Metito, EGH, MGH, MP (Chairperson)
2. The Hon. Richard Tong'i, MP (Vice Chairperson)
3. The Hon. Yusuf Hassan Abdi, MP
4. The Hon. Charles Kilonzo, MP
5. The Hon. Patrick Makau King'ola, MP
6. The Hon. Col. (Rtd) Dido Ali Raso, MBS, MP
7. The Hon. Peter Mungai Mwathi, MP
8. The Hon. Beatrice Nkatha Nyagah, HSC, MP
9. The Hon. Martha Wangari Wanjira MP
10. The Hon. John Lodepe Nakara, MP
11. The Hon. Major (Rtd.) Bashir Sheikh Abdullah, MP
12. The Hon. (Dr.) Lilian Gogo, MP
13. The Hon. Moses Nguchine Kirima, MP
14. The Hon. Ernest Ogesi Kivai, MP
15. The Hon. Caleb Amisi, MP
16. The Hon. Asha Hussein Mohamed, MP

APOLOGIES

1. The Hon. Memusi Ole Kanchory, MP
2. The Hon. Nelson Koech, MP
3. The Hon. Vincent Kipkurui Tuwei, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Mr. Victor Weke	-	Clerk Assistant I
2.	Mr. Abdiaziz Shobay	-	Clerk Assistant III
3.	Mr. Edison Odhiambo	-	Fiscal Analyst
4.	Ms. Grace Wahu Karanja	-	Research Officer
5.	Ms. Mercylyn Kerubo	-	Audio Officer

THE NATIONAL INTELLIGENCE SERVICE

1.	Maj. Gen. Philip Kameru	-	Director General, NIS
2.	Mrs. A.N Shikuku	-	D.A NIS
3.	Jeremy N. Ndola	-	Ad/Finance NIS
4.	Juma Mafubo	-	NIS

MINISTRY OF DEFENCE

1.	Amb. Monica Juma	-	Cabinet Secretary
2.	Dr. Ibrahim Mohamed	-	Principal Secretary
3.	Hon. Peter Odoyo	-	Ministry of Defence

4. Lt. Gen. Robert Kibochi - Ministry of Defence
5. C.K Muhia - Ministry of Defence
6. Col. E Nyamodi - Ministry of Defence
7. Col. M. Owende - Ministry of Defence

MINISTRY OF EAST AFRICAN COMMUNITY & REGIONAL DEV'T

1. Hon. Adan Mohamed - Cabinet Secretary
2. Dr. Margaret Mwakima - Principal Secretary
3. Dr. Kevit Desai - Principal Secretary
4. Dr. Alice Yalla - EAC
5. Mr. Sammy Naporos - MD, KVDA
6. Dr. Raymond Omollo - MD, LBDA
7. Dr. Mohamed Keinan - MD, CDA

MIN. NO.NA/DC.DFR/2020/015: PRELIMINARIES

The Chairperson called the meeting to order at 1.35pm and said a prayer. The agenda of the meeting was adopted as hereunder after being proposed by The Hon. Yusuf Hassan Abdi, MP and seconded by The Hon. Peter Mungai Mwathi, MP. The Chairperson then proceeded to welcome Honorable Members present and the visitors to the meeting. This was followed by a round of introductions.

AGENDA

1. Prayers
2. Adoption of the agenda
3. Confirmation of minutes of previous sittings
4. Substantive agenda: **Meeting with the following Ministries and SAGA's to consider the FY 2020/21 Budget Policy Statement.**
   a) The National Intelligence Service at 1:30pm – 2:30pm
   b) Ministry of Defence at 2:30pm – 3:30pm
   c) Ministry of EAC & Northern Corridor Development at 3:30pm – 4:30pm
5. Any Other Business

MIN. NO.NA/DC.DFR /2020/016: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

75th sitting

Minutes of the 75th sitting were adopted as a true record of proceedings after being proposed and seconded by Hon. Richard Tongi, MP and Hon. Charles Kilonzo, MP. There no matters arising.

76th sitting

Minutes of the 76th sitting were adopted as a true record of proceedings after being proposed and seconded by Hon. Beatrice Nkatha, MP and Hon. Caleb Amisi, MP. There no matters arising.

MIN. NO.NA/DC.DFR /2020/017: BRIEFING BY THE NATIONAL INTELLIGENCE SERVICE ON THE BUDGET POLICY STATEMENT (BPS), FY 2020/21

The Meeting had been convened following request from the National Treasury for Parliamentary approval for the 2020/21 Budget Policy Statement for MDA's under the purview of the Committee. The Committee had sought clarification from the MDA's on various salient issues following a briefing from the presentation by the Parliamentary Budget Office (PBO).

The Director General National Intelligence Service, Maj. Gen. Philip Kameru took the Committee through the following items;

1. The service had a resource ceiling of **Kshs. 39.051 billion** under one programme, National Security Intelligence.
2. This was an increase from Kshs. 37.66 billion in the preceding financial year, of which 51.5% had been expended as at 31st December 2019.
3. During the last three financial years, the service has had an average absorption rate of 99.2%.
4. The service's strategic objectives were driven by the following operational programmes;
   i) Counter terrorism
   ii) Counter intelligence
   iii) Domestic intelligence
   iv) External intelligence
   v) Information, communication and technology
   vi) Human capital development
   vii) Research and development
5. The service had no pending bills and no stalled projects.
6. The service submitted that it had a funding gap of Kshs. 13.565 billion, of which Kshs. 3.345 billion was deemed crucial.

MIN. NO.NA/DC.DFR /2020/018: BRIEFING BY THE MINISTRY OF DEFENCE ON THE BUDGET POLICY STATEMENT (BPS), FY 2020/21

The Cabinet Secretary for Defence Amb. Monica K. Juma, Dphil, CBS took the Committee through the following items;

1. On financials, the ministry had a proposed ceiling of **Kshs. 120.269 billion**, a reduction from Kshs. 121.61 billion in the preceding financial year.
2. Of the latter, the ministry had so far expended 56% of its budget, with Kshs. 59.609 billion received.
3. Revenue had also been raised from UN/AMISOM reimbursements amounting to Kshs. 2.901 billion plus Kshs. 553.96 million from other sources. These had been remitted to the National Treasury.
4. On deliverables, the ministry had enhanced its operational capacity through military and intelligence modernization. Notably, Modika barracks had been launched as well as continued development projects including construction of a level II hospital in Garissa, rehab Centre in Lang'ata, a slip-way in Mtongwe that was 70% complete, enhanced civil aid through disaster management, housing for its officers and servicemen, acquisition of essential equipment among others.

5. In a nutshell, the KDF had 6 ongoing projects for Kenya Army, 12 for the Air Force, 10 for the Navy and 6 at headquarters.
6. The Ministry requested for additional Kshs. 4.73 billion for the multi-agency communication information system, and Kshs. 4.7 billion for the peace support operations fund.

MIN. NO.NA/DC.DFR /2020/019: BRIEFING BY THE MINISTRY OF EAST AFRICAN COMMUNITY & REGIONAL DEVELOPMENTS ON THE BUDGET POLICY STATEMENT (BPS), FY 2020/21

The Cabinet Secretary Hon. Adan Mohamed, EGH took the Committee through the following items;

1. On financials, the state department had approved budget of Kshs. 619.6 million in the FY 2019/20. It had so far spent Kshs. 246.4 million.
2. The state department had a proposed ceiling of **Kshs. 662.5 million** for the FY 2020/21, all of which is recurrent. The ministry submitted that this left it with a funding gap of Kshs. 1.214 billion based on its requirement.

State Department for Regional and Northern Corridor Development

3. The following regional development authorities existed under the state department;
   i) Kerio Valley Development Authority (KVDA)
   ii) Tana and Athi River Development Authority (TARDA)
   iii) Lake Basin Development Authority (LBDA)
   iv) Ewaso Ng'iro South Development Authority (ENSDA)
   v) Ewaso Ng'iro North Development Authority (ENNDA)
   vi) Coast Development Authority (CDA)

4. In the FY 2019/20, the state department had absorbed 32% of its approved Kshs. 2.789 billion development budget.
5. Some of the projects had stalled due to lack of funds, governance challenges and land ownership disputes. The detailed analysis has been annexed to this report.
6. For the FY 2020/21, the state department had a proposed recurrent ceiling of Kshs. 1.938 billion, leaving it with a shortfall of Kshs. 824 million, and proposed development ceiling of Kshs. 927 million, against needs of Kshs. 10.85 billion. The total ceiling is thus **Kshs. 2.865 billion**.

MIN. NO.NA/DC.DFR /2020/020: ADJOURNMENT

There being no other business, the meeting adjourned at 5.55 pm.

Signed.....

Hon. Katoo Ole Metito, M.P
(CHAIRPERSON)

Date.....25/2/2020.....

DEPARTMENTAL COMMITTEE ON ENERGY

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION

REPORT OF THE DEPARMENTAL COMMITTEE ON ENERGY ON THE 2020 BUDGET POLICY STATEMENT

Clerk's Chamber
Directorate of Committee Service
National Assembly of Kenya
NAIROBI.

FEBRUARY, 2019

LIST OF ABBREVIATIONS

AiA	–	Appropriation in Aid
BPS	-	Budget Policy Statement
EPRA	–	Energy and Petroleum Regulatory Authority
FiTs	-	Feed in Tariffs
GoK	-	Government of Kenya
GDC	-	Geothermal Development Company Limited
KenGen	-	Kenya Electricity Generating Company Limited
KEPTAP	-	Kenya Petroleum Technical Assistance Project
KETRACO	-	Kenya Electricity Transmission Company Limited
KPC	-	Kenya Pipeline Company
KPIs	-	Key Performance Indicators
KPLC	-	Kenya Power & Lighting Company Limited
KPRL	–	Kenya Petroleum Refineries Limited
KWh	–	Kilo-Watt hour
LPG	–	Liquefied Petroleum Gas
MDAs	–	Ministries Department and Agencies
MoE	-	Ministry of Energy
MTPIII	-	Medium Term Plan
MW	–	Mega Watts
NOCK	-	National Oil Corporation of Kenya
NuPEA	–	Nuclear Power & Energy Agency
P.V	–	Photovoltaic Systems
PSC	-	Production Sharing Contract
REREC	-	Rural Electrification and Renewable Energy Authority
S.O.	-	Standing Order
SAGAs	-	Semi-Autonomous Government Agencies
ToU	-	Time of Use Tariff

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CHAIRMAN FOREWORD

The Budget Policy Statement (BPS) for the Financial Year 2020/2021 and Medium term was tabled in the House on Thursday 13th February, 2020 and subsequently referred to the relevant Departmental Committees for consideration.

The Second Schedule of the National Assembly Standing Order assigns the Departmental Committee on Energy, the mandate to consider matters related to fossil fuel exploration; development, production, maintenance and regulation of energy.

In this regard, the Committee is mandated to review and scrutinize the BPS for the State Department for Energy (Vote 1152) and the State Department of Petroleum (Vote 1193) as well as the Agencies under the respective State Departments. The Committee is equally tasked with the responsibility of scrutinizing budget related policies, programmes and their objectives as well as the comprehensiveness and effectiveness of such programmes.

Following the committal of the BPS to the relevant Departmental Committees including the Departmental Committee on Energy for timely legislative processing, the Committee engaged key stakeholders including the Parliamentary Budget Office and the relevant State Departments and Agencies. Thereafter, the Committee reviewed submissions in consideration of the proposed expenditure and revenue measures (Ceilings) as well as policies, programmes, projects and other measures contained in the 2020 BPS and the Medium Term.

The Committee wishes to record its appreciation to the Offices of the Speaker and Clerk of National Assembly for the services rendered in facilitating the Committee to execute this exercise in the limited time allocated to it.

On behalf of the Committee, it is my singular duty and honour to forward the Committee report to the Budget and Appropriations Committee for consideration.

The Hon. (Dr.) Robert Pukose, MP
Vice Chairperson

EXECUTIVE SUMMARY

The Budget Policy Statement (BPS) for the financial year 2020/21 and Medium term was tabled in the National Assembly on Thursday 13th February, 2020 and subsequently referred to the relevant Departmental Committees for consideration. The Departmental Committee on Energy received submissions from key stakeholders such as the Parliamentary Budget Office, the State Department of Energy and the State Department of Petroleum as well as respective SAGAs.

With regards to the BPS 2020, the State Department for Energy has been allocated Kshs. 72.52 Billion, of which the allocation to development is Kshs. 66.73 Billion and recurrent Kshs. 5.79 Billion. The State Department for Petroleum on the other hand has been allocated Kshs 4.09 billion out of which recurrent expenditure is Kshs. 254 Million while Development is proposed at Kshs 3.84 Billion. The proposed allocation for the State Department of Petroleum is a reduction of approximately 28% while that of the State Department for Energy has been reduced by 14% mainly on account of overall reduction in proposed ceilings due to fiscal constraints as well as reduction in external funding for some key projects.

The Committee observed that:-

State Department of Energy

1. The proposed ceiling measures for the State Department for Energy is Kshs 72.52 billion for FY 2020/21, of which Kshs 66.73 billion is for Development allocation while Kshs 5.79 billion is for recurrent allocation, representing a decrease of approximately 14 percent compared to current baseline.
2. With regards to pending bills, the Committee was informed that the State Department had settled all its outstanding obligations as at 23rd December 2019. However, the Committee noted that the amounts settled was in respect of outstanding claims under the Ministry Headquarter thereby excluding outstanding amounts owed by respective SAGAs under the Ministry.
3. With regards to budget performance for the current FY 2019/20, the actual expenditure for recurrent budget stands at 72% while that of development is at 32%. However, the low performance under development is attributed to introduction of Big Four connectivity Projects during the supplementary budget which are expected to be fast-tracked in the remaining period.
4. The Committee was informed that there were no outstanding guarantees payable under the sector on account of contractual obligations and proposed ceilings will be utilized towards actual completion of on-going priorities.

State Department of Petroleum

1. The proposed ceiling measures for the State Department of Petroleum is Kshs 4.09 billion for FY 2020/21, of which Kshs 3.844 billion is for Development allocation while Kshs 254.00 million is for recurrent allocation, representing a decrease of approximately 28 percent compared to current baseline.
2. Moreover, submissions on the Early Oil Pilot Scheme (EOPS) implementation status for the FY 2019/20 indicates delivery of 177,654 barrels of crude oil against a target of 400,000 barrels and improved community relationship.
3. Further review of the proposed FY 20/21 allocation towards the projects under the main

program indicates a continued allocation to on-going priorities, with no new programs and projects planned for the same period.

4. With regards to budget performance for the current FY 2019/20, the actual expenditure for recurrent budget stands at 53% while that of development is at 26% with procurement for most development programmes having been undertaken..
5. With regards to payment of payable pending bills, the committee was informed that a total of Kshs. 248 million was outstanding as at 30th June 2019, of which the whole amount has since been settled.

The Committee recommends that:-

Under the State Department of Energy

1. The proposed expenditure ceilings and programme allocation totaling Kshs 72.52 billion, which is broken down as Kshs. 66.73 billion for development and kshs 5.79 billion for recurrent, and as provided in the 2020/21 Budget Policy Statement be approved.
2. That the approved ceilings for fiscal year 2020/21 and per program as well as subsequent finalization of the same per project/activities is subject to payment of pending bills which are currently outstanding under GDC, KENGEN, KPLC and KETRACO.
3. That, the State Department and National Treasury to submits the status of contingent liabilities/guarantees including any insurance covers or commitment for all electricity transmission projects as well as the status of the funding each respective project and the same be submitted to the relevant Committee of the National Assembly within sixty days upon adoption of the 2020 BPS report by the House.

State Department of Petroleum

1. The proposed ceiling measures by vote and program totalling to Kshs 4.09 billion, which is broken down as Kshs. 3.84 billion for development sub-vote and Kshs 254 million for recurrent sub-vote as contained in the 2020/21 Budget Policy Statement be approved.
2. The National Treasury and State Department of Petroleum to fast track regulations to govern the fiscal management of proceeds from sale of crude oil and use of the same as well as the legal basis to ensure effective and accountable control of expenditure and other investments incurred both in the pilot phase and subsequent development of associated infrastructure in the upstream petroleum operations. A status report on the Early Oil Pilot Scheme (EOPS) including recommendations on financial management of proceeds from sale of the crude oil be submitted to National Assembly within ninety days upon adoption of the report by the House.
3. To enhance budget performance and accountability, including transfers to SAGAs, the State Department to submit quarterly status reports of both financial and non-financial performance of 2019/20 allocations to the Controller of Budget for onward transmission to National Assembly.
4. To ensure priority allocation and completion of on-going projects, the State Department to prioritise payment of all pending bills in the current FY and before the finalization of the 2020/21 estimates.

PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

Article 124 (1) of the Constitution provides that each House of Parliament may establish committees, and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its Committees. The Departmental Committee on Energy -established on 20th December, 2017- commenced its work in December 2017.

The Departmental Committee on Energy is established pursuant to the provisions of Standing Order No. 216. The Committee is mandated to;

a. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
b. study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
c. study and review all legislation referred to it;
d. study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
e. investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
f. to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
fa. examine treaties, agreements and conventions;
g. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
h. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
i. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
j. examine any questions raised by Members on a matter within its mandate.

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters relating to the Fossil Fuel Exploration, Development, Production, Maintenance and Regulation of Energy.

1.2 OVERSIGHT

In accordance with Second Schedule of the Standing Orders (S.O), the Committee is mandated to oversee all matters pertaining to Fossil fuels exploration, Development, Maintenance and regulation of energy. In executing its mandate, the Committee oversees the following government State Departments and their respective SAGAs:

i. **State Department for Energy,**
   - Kenya Electricity Transmission Company Limited (KETRACO)
   - Geothermal Development Company Limited (GDC)

- Rural Electrification and Renewable Energy Corporation (REREC)
- Kenya Power & Lighting Company Limited (KPLC)
- Kenya Electricity Generating Company Limited (KenGen)
- Nuclear Power and Energy Agency (NuPEA)
- Energy & Petroleum Regulatory Authority (EPRA)

ii. **State Department for Petroleum**

- Kenya Pipeline Company (KPC)
- National Oil Corporation of Kenya (NOCK)

1.3 COMMITTEE MEMBERSHIP

The Departmental Committee comprises of the following Members: -

Chairperson
The Hon. David Gikaria, MP
Nakuru Town East Constituency
Jubilee Party

Vice Chairperson
The Hon. (Dr.) Robert Pukose, M.P
Endebess Constituency
Jubilee Party

The Hon. Cecily Mbarire, M.P.
Nominated Member
Jubilee Party

The Hon. Joseph Wathigo Manje, M.P.
Kajiado North Constituency
Jubilee Party

The Hon. Oscar Sudi Kipchumba, M.P.
Kapseret Constituency
Jubilee Party

The Hon. Amina Gedow Hassan, M.P
Mandera Women Representative
Economic Freedom Party

The Hon. Clement Muturi Kigano, M.P
Kangema Constituency
Jubilee Party

The Hon. Elsie Muhanda, MP
Kakamega Women Representative

The Hon. James Lomenen Ekomwa, M.P.
Turkana South Constituency
Jubilee Party

The Hon. Lemanken Aramat, M.P
Narok East Constituency
Jubilee Party

The Hon. (Eng.) Vincent Musyoka, M.P.
Mwala Constituency
Maendeleo Chap Chap Party

The Hon. Osman A. Mohamed, M.P
Fafi Constituency
Kenya Africa National Union

The Hon. Elisha Odhiambo, MP
Gem Constituency
Orange Democratic Movement

The Hon. Faith Wairimu Gitau, M.P.
Nyandarua Women Representative

Orange Democratic Party

The Hon. Julius Musili Mawathe, MP
Embakasi South Constituency
Wiper Democratic Movement-Kenya

The Hon Nicholas Tindi Mwale, MP
Butere Constituency
Amani National Congress (ANC)

The Hon. Mohammed Ali Lokiro, MP
Turkana East Constituency
Orange Democratic Movement

Jubilee Party

The Hon. Richard Ken Chonga, MP
Kilifi South Constituency
Orange Democratic Movement

The Hon. Walter Owino, MP
Awendo Constituency
Orange Democratic Movement

1.4 COMMITTEE SECRETARIAT

The Committee is resourced with the following technical staff, representing the Office of the Clerk;

Ms. Rose Wanjohi
Clerk Assistant I

Mr. Douglas Katho
Clerk Assistant II

Mr. Ronald Walala
Legal Counsel I

Mr. Abdirahman Gorod
Fiscal Analyst II

Mr. David Ngeno
Research Officer III

Ms Deborah Mpusi
Media Relations Officer

Sheila Jebotibin
Sergeant at arms

2.0 INTRODUCTION

The Budget Policy Statement (BPS) for the financial year 2020/21 and Medium term was tabled in the National Assembly on Thursday 13th February, 2020 and subsequently referred to the relevant Departmental Committees for consideration.

The Budget Policy Statement (BPS) is submitted for consideration to Parliament in accordance with section 25 of the Public Finance Management Act, 2012. Consequently, Parliament shall, not later than fourteen (14) days after the BPS is submitted to Parliament, table and discuss a report containing its recommendations and pass a resolution to adopt it with or without amendments.
The Second Schedule of the National Assembly Standing Order assigns the Departmental Committee on Energy, the mandate to consider matters related to fossil fuel exploration; development, production, maintenance and regulation of energy. In that regard, the Committee oversights the State Department of Energy and Petroleum and the respective SAGAs.

In reviewing and examining the 2020 BPS and its broad policy proposals and implications, the committee engaged various stakeholders including the State Departments under the purview of the committee.

The submissions covered key priority measures under implementation, revenue sources financing the expenditure proposals including funding priorities for the various programmes and projects in view of the proposed sub sector overall ceiling, current baseline allocation and performance as well as strategies to fast-tracking implementation of key flagship interventions. Further, the submissions also included funding gaps occasioned by the resource constraints and measures taken to clear pending bills pursuant to the Presidential Directive on the same.

2.1 SUBMISSIONS

2.1.1 Parliamentary Budget Office

The 2020 BPS was tabled on 13th February 2020 and outlines the medium term expenditure framework, policy and programmed strategic priorities such as the 'Big 4' and sectoral expenditure ceilings including energy and petroleum sub sectors for the FY 2020/21 and for the outer years 2021/22. In considering the 2020 BPS and outlined framework, there was need to consider the interlinkages between the overall policies and programmes as well as the expenditure proposals espoused in the BPS and key broader policies such as the ministerial/sector policies, Vision 2030 and Medium Term Plan (MTPIII)

Further on the Standing Orders 232 (4), upon being laid in the House, the Committee is to deliberate on the BPS according to the mandate and make recommendations to the Budget and Appropriations Committee of the National Assembly which is expected to submit a report to the House for consideration and approval.

OVERALL RESOURCE CEILINGS AND MEDIUM-TERM PRIORITIES

The overall resource allocation has been proposed to reduce marginally (5%) to a total of Kshs. 2.72 trillion in 2020/21 down from Kshs 2.873 in 2019/2020. However, the allocation for outer

medium term period is proposed to increases to Kshs 2.95 trillion and Kshs 3.19 trillion in FYs 2021/22 and 2022/2023, respectively.

The Equitable share to the county governments to finance devolved functions is proposed at Kshs 316.5 billion, with no change to the current baseline. Moreover, allocations to national Eexecutive (ministerial) , Parliament and Judiciary is proposed to reduce by 9% each with the judiciary also reducing by 6% while allocation to the Consolidated Funds Services , which is mainly towards debt repayment and debt services and pensions, is increasing by 4% (or Kshs 25 billion).The allocation to Parliament and Judiciary will remain stable in 2019/20 and the medium Term at approximately 1.4 percent and 0.6 percent respectively.

Due to the constraining fiscal space given the increase in mandatory expenditure (like consolidated fund services) and other measures such as fiscal consolidation, sectoral expenditure ceilings are likely to be affected in the medium term compared to current levels.

ROLE OF ENERGY IN ECONOMIC GROWTH

The Energy and petroleum sub sectors are critical enabler for sustained economic growth, development and poverty reduction and towards the achievement of vision 2030 for improved quality of life. The policy goal is aimed at closing the infrastructure gaps and improve the quality of service delivery. However, slow project implementation pace in some cases resulting into actual penalties (deemed generation), pending bills and reduced fiscal space are major challenges that pose substantial risks to financing the sub-sectors.

Over the years substantial resources have been deployed in this subsectors with share of the Energy allocations against total National Government ministerial expenditure for FY 2017/18 and 2018/19 estimated approximately between 6 percent and 5 Percent, respectively. In addition, the energy (electricity supply) subsector growth contribution to GDP is estimated at 1.8 % for the period 2018, although an increase compared to 1% in 2014 it has marginally declined from 1.9% in 2016.

SECTOR PERFORMANCE

In the last three financial years from 2016/17 to 2018/19, the sub sectors had been allocated a total of Kshs. 250.39 billion compared to the preceding three FYs which stood at Kshs 283.39 billion. This compares to actual expenditure performance of Kshs. 200.14 billion. Moreover, resource flow to the sector has been steady with actual expenditure performance at approximately 80%.

Table 2: approved allocation Vis a Vis actuals for the period 2015/16 to 2017/18

Programme	Approved Budget			Actual Budget			Absorption			
	16/17	17/18	18/19	16/17	17/18	18/19	% 16/17	% 17/18	% 18/19	Overall absorption
Administration Planning and Support Services	1,111	745	521	858	562	482	77%	75%	93%	80%
Power Generation	28,139	10,561	9,483	18,185	9,974	9,059	65%	94%	96%	
Power Transmission and Distribution	80,196	57,651	30,830	57,098	50,278	43,888	71%	87%	66%	
Alternative Energy Technologies	1,981	8,148	977	1,767	7,556	705	89%	93%	72%	
Total	**111,427**	**77,105**	**61,861**	**77,908**	**68,370**	**54,134**	**70%**	**89%**	**88%**	

Source: National Treasury, 2020 sector reports

Some of the major achievement under the sub sector during the FY 2018/19, and in view of the approved KPIs and targets include:

i. Achievement of 174 MWe by Geothermal Development Corporation in FY 2018/19 against a target of 194.4 MW. This should bolster policy priorities to have investors' contractual agreement fast tracked in developing harnessed steam so far in Menangai.

ii. Achievement of one stakeholders' engagement on Lamu coal. However, the target of having one Resettlement Action Plan Report was not achieved, pointing to non-compliance.

iii. The connection to electricity of 440,822 new customers against an annual target of 800,000, almost half of the stated target. This may further influence the budget proposals in the medium term and the basis for expenditure allocation.

iv. The connection of 24,447 street lighting points compared to a committed target of 30,000. However, there is need to address the emerging inter-governmental challenge of pending bills arising from Counties failing to honour electricity bills accruing from use of street lighting.

OPPORTUNITIES AND CHALLENGES

The sub sectors are critical enablers and a source of growth especially towards enhancing the productive capacity and competitiveness of the country and the manufacturing sector. Indeed, the energy and petroleum sub sectors are critical to employment creation and value addition, innovation and promoting entrepreneurship making it a key enabler in the poverty reduction strategies while improving incomes and welfare of the citizenry.

The subsector faces some challenges which include:

i. High cost of power – industrial power costs averages $ 0.17 per KWh compared to $ 0.06 in South Africa and USA $ 0.03 in China. Recent investigations show that lack of oversight capacity within the Ministry required to reign on excess of sector utilities (KPLC, KPC) on consumers and the market. There is also need to further enhance oversight on the scheduling plans that inform uptake of power (Dispatch framework) from different sources with a view to scale up accountability.

ii. Slow completion of projects which is partly on account of too many projects going on at the same time thus putting a strain on both ministerial oversight capacity to monitor project completion and the implementing agencies to commit to contractual obligation/mandate (for instance REREC, KETRACO AND KPLC). This also means constrains to available resource which compromises completion of ongoing projects based on contractual timeliness and approved budgets.

iii. critical projects allocation and transfers between State Department and SAGAs with no clear modalities and responsibility framework underpinning service delivery to actualize committed targets and subsequent reporting. For instance, between REREC AND KPLC,

and recently between KETRACO and KPLC in treatment of contingent liabilities/guarantees and payment for transmission lines.

iv. A disconnect and lack of policy coherence and planning as well as budgeting process given recent supplementary budgets requesting approvals for new projects and overdue outstanding obligations in excess of 10% of the approved budget. This also includes inadequate framework for utilizing external funds often occasioning delays in project implementation and other contractual risks.

v. Accumulating pending bills which substantially affects subsequent appropriations partly due to below expected exchequer performance and poor project implementation on the part of the implementing agencies. Moreover, the lack of clarity on the status of pending bills between the State Department and the National Treasury may compromise sector budget and further impede the overall ceiling strategies contained in the BPS.

vi. Corporate governance issues in the petroleum sector particularly under KPC, affecting tariff of petroleum products. Consequently, this may have affected regional market share and performance of the overall economy due to inefficiencies of the pipeline infrastructure.

SECTOR PRIORITIES AND ALLOCATION - 2020 BPS AND MEDIUM TERM

Energy sub sector

The proposed overall resource allocation is approximately half of the total resource requirement for the same period with programmes such as power transmission and Distribution and Power Generation underfunded at 51% and 61% , respectively.

Moreover, the proposed ceiling for the State Department of Energy is at Kshs 72.52 billion, a decrease of 14% from current approved allocation of Kshs 84.01 billion, a substantial scale down that majorly affects projects under Transmission and Distribution Programme. Given the huge obtaining gap, the Ministry should prioritize completion of ongoing projects, curtail new projects primarily to fast-track completion of existing projects while ensuring uptake of external committed funds.

Table 3 gives a breakdown of proposed resource allocation by programme and sub votes vote vis a vis resource requirements for the sub sectors

Table 3 : Resource requirements vis-a- vis current allocation and proposed ceilings, Kshs Millions

Energy sub sectors	Approved Allocation 2019/20	Resource requirement for 2020/21	FY 2020/21 proposed Ceiling			Change compared to Approved Baseline (2019/20)	BPS programme ceiling as share of total proposed allocation	BPS Ceiling as % of resource requirement (2019/20)
			Rec.	Dev't	Total			
State Department for Energy	84,015.20	153,056.00	5,792.00	66,735.70	72,527.70	-14%	100.0%	-53%
Administration Planning and Support Services	550	560	396	128	524.00	-5%	0.7%	-6%
Power Generation	10,754.00	28,030	1,574	9,346	10,920.00	2%	15.1%	-61%
Power Transmission and Distribution	68,835.60	117,240	3,603	53,585	57,187.70	-17%	78.8%	-51%
Alternative Energy Technologies	3,875.60	7,226	219	3,677	3,896.00	1%	5.4%	-46%

Under the Power Generation Programme with proposed allocation of Kshs 10.92 billion, the key Performance Indicators (KPIs) and expected targeted output include additional an 83.3 MW as compared to the baseline target of 82 MW by KenGen, the development of geothermal steam

equivalent of 260 MWe through exploration and appraisal drilling by GDC and the further drilling of exploratory geothermal wells expected to be 20.

In addition, GDC has planned to realize 35 MW in the FY 2020/21 through Public Private Partnership (PPP) , and subsequently 35 MW for each of the other years in the medium term. However, achieving this target has been a moving target in the last medium term and there is need to scale up monitoring and oversight to ensure commitment to contractual timelines. This ensures delivery of additional relatively cheaper geothermal input into grid power, and most importantly mitigate against inherent risks in such arrangements that have huge fiscal and reputation consequences both to market and the country as well as and contracting parties.

Other key targets under this programme include: training of officers on nuclear related courses (115) and undertaking public awareness and campaigns on nuclear energy by NUPEA (70), completion of coal Feasibility study report (50%), by the relevant Directorate at the Headquarters, among others.

With regard to the programme on Power Transmission and Distribution, mainly towards construction of transmission lines and rural electrification activities, it is proposed that it is allocated Kshs 57.18 billion, a decrease compared to the current allocation of Kshs 68.35 billion. This programme is also critical to ensure equitable supply of power, reduce system losses and enhance national grid infrastructure outreach across the country as well as rural electrification. Some of the KPIs and expected targets under the Power Transmission and Distribution Programme are:

i. Transmission lines and substations: Construction of four hundred and sixty seven (467) km of transmission lines and four (4) sub stations by KETRACO. However, the specific lines and the substations are not provided and thus not clear whether it relates to on-going or new projects.
ii. Transmission lines and substations: construction of five hundred (500) km of distribution lines and construction of twenty (20) distribution sub stations by KPLC. The specific lines and the substations to be constructed though provided but it's not clear whether it relates to on-going or new projects.
iii. Connectivity : connecting to electricity of 800,000 new customers by KPLC. This an annual target and review of past performance (FY 2018/19) reflect only 55% of the approved target was achieved which means that the target needs to be reviewed on whether its still realistic vis a vis the proposed allocation before approvals are made.
iv. Street Lighting : 30,000 street lighting points by KPLC. Notably, for a similar target in the FY 2018/19, 24,447 (82%) was achieved, which also requires a review of amounts proposed against realistic proposed targets.
v. Installation of transformers: installation of 1995 transformers in the FY 2020/21 and a similar target in the subsequent fiscal year. However, there are no targets given in the near term period of 2022/23 and there is need for clarity as the status of the project and whether its planned to be completed in the FY 2021/22.

vi. Electrification of public facilities: connection of 7332 Public facilities to electricity and a similar target in each of the medium term year up to 2022/23. However, the target achieved for the FY 2018/19 is only 263 public facilities, a substantial contrast to the proposed target. This may need reviewing and harmonization in the absence of fundamental change in execution including approved strategies and work plans with strict timelines to ensure delivery in line with the universal access to electricity by 2020/21 timeframe.

vii. Maintenance of Solar PVs in primary schools- and maintenance of 1,819 solar panels in various primary schools by REREC for the FY 2020/21 and similar target for the FY 2021/22

In view of the funding level for the programme where there are no major adjustments from the baseline allocation, some of the committed targets for 2019/20 particularly under the distribution and transmission may not be achievable. In addition, it's not clear from the submissions in the BPS 2020, as to the respective level of counterpart funding for all the transmission and distribution lines programmed for implementation as well as that of donor funding.

With regard to the Program of Alternative Energy Technologies Programme, the expected output FY 20/21 include:

i. A 100% maintenance of previously installed solar P.V systems in public institutions numbering 1,443 by the Renewable Energy Directorate in the Ministry. It's not clear how the allocation will cater for each of the installation looking at the high target number. To address that there is need to gauge the status of the current performance for each installation and when construction was undertaken and at what cost to ensure value for money. This may also inform other trade-offs given the proposed plan to undertake similar maintenance in the subsequent FY 2021/22.

ii. Construction of four (400) domestic household biogas digesters. Given the implementation of the same under the initial pilot phase, perhaps the ministry can scale up demonstration and awareness to encourage private sector and household to participation. This may minimize allocation towards actual construction and redirect the savings to other critical unfunded areas.

Petroleum Sub Sector

Under the State Department of Petroleum, the proposed overall resource allocation is approximately 67% the total resource requirement for the same period indicating that the programme is underfunded. Moreover, the proposed ceiling allocation for the FY 2020/21 for the State Department is at Kshs 4.09 billion, a decrease of 27% from current approved allocation. This is therefore need to prioritize completion of on-going projects and prompt review and impact evaluation of externally funded project that may be coming to an end such as KEPTAP (including the training component).

The key projects under implementation in the petroleum sector are the Early Oil Pilot Scheme and implementation of the Kenya Petroleum Technical Assistance Program (KEPTAP); and Mwananchi Gas involving purchase and distribution of gas cylinders to poor households relaying on hazardous biomass and charcoal.

Under the Petroleum Exploration and Distribution Programme, the State Department plans to sign and license five (5) Production Sharing Contract (PSC) with international Oil companies and finalize agreements with signing of another six (6) PSC in the medium term .

In the same year 2020/21, the State Department intends to review for creation and gazettement of additional blocks (63 blocks) for purposes of upstream petroleum exploration. In addition, the state department has programmed to market oil blocks (31) for the FY 2020/21. However, submissions on blocks creation indicate a similar number have been achieved in the FY 2018/19. The accuracy and achievement of said similar outputs needs scrutiny.Other major output programmes to be achieved in the period under consideration include:

i. **Early Oil Project**: Trucking 400,000 barrels of crude oil for onward export to the KPRL storage facility where current achievements as per submissions on the budget implementation for 2019/20 indicate delivery and shipment of 240,000 barrels. However, submissions from the National Treasury reflect export of 204,044 barrels of crude oil in the same period. Furthermore, the cost of the early oil is not clear in view of the current approved allocation and treatment of the proceeds from oil vis a vis the provisions of the underlying contractual provision. The governance framework underpinning the Early Oil Project that include the fiscal regime, cost control and audit of the project partners' activities is ambiguous. This also covers the status of the project to inform the approval of the proposed delivery of 400,000 barrels of crude oil as the target for the FY 2020/21 and a similar target for each of the medium term outer years (FY 2021/22 and 2022/2023).

ii. **KEPTAP**: Expected Training of over six hundred and forty (640) officers under the Kenya Petroleum Technical Assistance Project (KEPTAP) after which there are no targets indicated in the last medium term years, perhaps indicating the end of the program component. However there is need for review and evaluation of the impact of the program ahead of the full field development and export of crude oil in the near term.

iii. **Mwananchi Gas Project**: cylinders to be purchased, tagged and distributed to low income households (150,000), with same target expected to be achieved in each year of the medium term.

Policy Options for the Sub Sectors

Energy Sub-sector

1. ***Fiscal Risks and Contingent Liability/guarantees***: between the fiscal year 2017/18 and 2019/20, a substantial amount, in excess of 10% of the sector budget has been paid under deemed generation for failure to construct transmission lines on time. There is need to look at any outstanding bills in the period under considerations and prompt review of all energy transmission and generation projects whose total contract cost is in excess of Kshs 10 billion with a view to establish such risks and probability of materializing. The National Treasury to provide for such provisions outside the sector budget, with proper budgeting

of the same done under the National Treasury Budget to enhance disclosure and transparency.

2. ***Strengthening the Programme Based Budget framework***: Review of all indicators and targets reflected under each programme and projects are not comprehensive and completely change (both in metric and KPIs) towards the end of the medium term. There is need for comprehensiveness in the proposed targets and the same be reported to the Controller of Budget on quarterly basis for parliamentary scrutiny.

3. ***Prioritization and fast tracking of on-going projects***: Proposed allocation reflect declining sector funding, although it's not clear by source in the 2020 BPS. In that regard, priority should be to ongoing projects and big four related projects.

4. ***Budget Predictability and Consistency***: Review of the 2019/20 budget process reflects challenges in budget predictability and consistency in both planning and budgeting. A number of new projects were introduced at the supplementary level, key among them in Transmission lines (Loiyangalani-Marsabit 400 KV Transmission Line with underlying contractual arrangements), Key off grid solar project (Kenya Off-grid Solar Access Project –KOSAP, which is an ongoing project) , outstanding contractual obligations due for more than one fiscal year, among others . The downside to this is that this type of expenditures have the potential to distort appropriations , approved annual budget and sector financing framework and may pose legal challenges.

5. ***Counterpart Funding***: In view of the review of past capital budget performance, component of exchequer funds/AiA to supplement externally funded projects has been subject to frequent in –year revisions. This is often common in projects under the power transmission and distribution programme (transmission lines) and AiA component of geothermal projects thus also pointing to weak or non-existent framework underpinning counterpart funding. Additional disclosures of projects and their specific counterpart funding with accompanying contractual provisions would mitigate this.

6. ***Incentivizing the private sector participation in projects under Alternative Energy Technologies Programme***: In view of the proposed target to construct over four (400) domestic household biogas digesters following a pilot phase in the previous periods, recommending the involvement of the private sector and private households ,the ministry is limited to awareness creation and promotion of renewable energy technologies and to free up resources to be directed to other key interventions within sector programmes.

7. ***Risks to budget performance***: Pending bills have remained a major risk to sector budgets in last medium term period. However, submissions from the National Treasury indicate settlement of all outstanding pending bills. Constant monitoring and sanction emergence of pending bills in the medium term should be undertaken with a view to curtailing appropriations for programmes with longer than accepted outstanding bills until status of previous appropriation is justified.

Another key risk to the budgeting and budget performance is the inordinate delay in appointing the Auditor General. It creates a risk to the approved allocations and decisions to subsequent allocation. The appointment of the Auditor General will ensure approval of the 2020 Estimates is informed by the findings of the auditor general on sectors programmes and projects.

Petroleum Sub-sector

1. ***Strengthening the Programme Based Budget framework***: Review of all indicators and targets reflected under each programme and projects are not comprehensively indicated and are subject to change or revision at different stages of the budget process. This is quite prevalent particularly under the Early Oil Project and exploration activities. Moreover, there is no consistency in the number of targets achieved with different documents indicating different outputs. There is need to ensure the state department addresses such risks to budget performance and the same are reported to the Controller of Budget on quarterly basis for parliamentary scrutiny upon approval.
2. ***Programme Design and reorganization***: The state Department has one main programme, in which there are other sub programmes including General Administration Planning and Support Services. However, the General Administration Planning and Support Services is a standalone programme within the budgeting framework of government and in line with requirements of the underlying framework PBB. This is to ensure clarity in the classification of government functions and economic classification of government allocations. It can be elevated to a main programme or the current main programme further re-designed and unbundle with a view to have more programmes to fully align with various roles of the State Department
3. ***Risks to budget performance***: One of the key risks to the state department budget and programmes under implementation is pending bills. While there has been effort to clear eligible pending bills, which was Kshs 248.14 million by December 2019, an amount of Kshs 18.4 million remains outstanding due to court cases and which relates to tender awarded for supply and delivery of cylinders in the FY2016/17. Other risks include lack of regular reports to the CoB relating to non-financial performance of transfers to SAGAs particularly grants towards NOCK, which need further scrutiny.
4. ***Risk factors in up-stream activities and Early Oil Project*** – There is need to ensure adherence to timelines underpinning critical upstream activities in line with government objectives to achieve the targets under the early oil pilot scheme and towards the final investment decisions and full field development. However, there has been noncompliance to given timelines is likely to affect project objectives and may require review and audit to ascertain status of upstream activities. This also impedes a critical objectives under the National Export Development and Promotion Strategy enlisting the oil and gas sector as critical sector to support the country's exports. Other major risk to be mitigated in the upstream sector is ensuring regular updates on the audit process and outcomes primarily to control associated development costs and expenses to maximize potential returns from crude exports.

2.2.2 State Department of Energy

The State Department for Energy made its submissions with regards to the budget policy statements for 2020 and over the medium term. The state department made its presentations focusing on the broad policy priorities and legal framework underpinning the sub sector strategic focus for the period under considerations.

Some of the thematic areas of focus and key highlights based on the submission include:

List of Laws, Policies and Programmes

a) **The Energy Policy** overall objective is to ensure affordable, competitive, sustainable and reliable supply of energy at the least cost in order to achieve the national and county development needs, while protecting and conserving the environment for inter-generational benefits. The document sets out the national policies and strategies for the energy sector. The policy recommendations contained seek to address challenges in the energy sector. It encourages wider adoption and use of renewable energy technologies to enhance their role in the country's energy supply matrix.

b) **The National electrification Strategy** provides a roadmap to achieving universal access to electricity for all Kenyans by 2022. The Policy was launched in December 2018 and is under implementation.

c) **The Gender Policy** guides the mainstreaming of gender in institutions, policies and programs in the MoE, County Governments and amongst the stakeholders. The policy was launched in November, 2019 and is being implemented.

d) **The Energy Act, 2019** is currently the primary law governing the energy sector in Kenya and provides the regulatory framework. The Act was assented to in 12th March, 2019 paving the way for the energy sector to take further steps towards its modernization and development. The Ministry is currently undertaking measures such as reviews of existing regulations, developing of standards among others to operationalize the new Act.

The new Act has several amendments to the repealed Energy Act intended to consolidate the laws relating to energy, properly delineate the functions of the national and devolved levels of government in relation to energy, provide for the exploitation of renewable energy sources, regulate midstream and downstream coal activities and supply and use of electricity.

The new Act has established several new 'energy sector entities' that will replace those existing under the repealed laws and has gone further to restate and expand their mandates where this is necessary for them to properly discharge their functions.

A Taskforce to steer the implementation of the Act was established on 16th April 2019. It has so far identified actions for implementation by MoE and Energy Sector Entities. It has identified and started review and formulation of relevant regulations. Further it has started sensitization of all the energy players on Act and implementation of the immediate action plans. REREC, NuPEA and EPRA are being operationalized as stipulated in the ACT.

Programmes and sub-programmes:

	Programmes	Sub-programmes
a)	Power Generation; Objective: To increase energy availability through power generation	Geothermal Generation
		Coal Exploration and mining
		Nuclear Energy Development
b)	Power Transmission and Distribution; Objective: To increase access to electricity	National Grid
		Rural Electrification
c)	Alternative Energy Technologies Objective: To promote utilization and development of alternative energy Technologies	Alternative energy Technologies
d)	General Administration and Planning Support Services Objective: To improve efficiency in service Delivery	Administration services
		Planning Services
		Finance services

Source: State Department of Energy

The key performance indicators for each programmes and sub-programmes are as attached

The resource allocation for the Ministry of Energy –Vote 1152 in the FY2020/21 is

VOTE 1152: MINISTRY OF ENERGY			
	PROPOSED ALLOCATION 2020/21 Kshs. (Millions)		
	Gross Expenditure	Foreign Financing	GOK
	Kshs.	Kshs.	Kshs.
VOTE 1152	72,528	47,924	24,604

The State Department for Energy – Vote 1152 in the 2020/21 Financial has been allocated Kshs. 72.528 Million. GOK comprises of Local AIA under Development of Kshs **7,072M** and Recurrent **Kshs. 4,369M** and Exchequer of **Kshs. 1,423M** recurrent component and **11,740M** Development component.

This resource allocation using Supplementary 1 2019/20 as a baseline is further broken down as follows:-

VOTE 1152	Supplementary I Kshs. (Millions)	Proposed Allocation Kshs. (Millions)		
BUDGET	2019/20	2020/21	2021/22	2022/23
RECURRENT	6,315	5,792	6,069	6,060
DEVELOPMENT	77,699	66,736	70,407	92,108
VOTE 1152	84,014	72,528	76,476	98,168

The breakdown of funding is shown in the table below.

Details/Items	Supplementary Estimates I	Requirement	Allocation		
	2019/20	2020/21	2020/21	2021/22	2022/23
Gross	77,699	145,834	66,736	70,407	92,108

GoK	21,050	45,511	11,740	15,412	17,113
Loans	49,497	90,514	47,924	47,923	67,923
Grants	-	-	-		
Local AIA	7,152	9,809	7,072	7,072	7,072

Recurrent transfers (GOK) to SAGAS to implement programmes and projects

SAGAs	SUPPLEMENTARY ESTIMATES 1 2019/20		REQUIREMENT 2020/21	ALLOCATION 2020/21	
	GOK	AIA		GOK	AIA
KETRACO	270	2,669	3,258	0	2,669
NuPEA	255	0	718	255	0
REREC	430	523	990	363	523
GDC	575	900	1,548	375	900
TOTAL	**1,530**	**4,092**	**6,514**	**1,003**	**4,092**

The program resource allocation for both recurrent and development is as follows: -

PROGRAMME /SUB- PROGRAMME	Suppl. 1 Estimates	REQUIREMENT	ALLOCATION		
	2019/20	2020/21	2020/21	2021/22	2022/23
1. POWER GENERATION					
Coal exploration and mining	559	557	556	558	852
Geothermal Generation	9,446	25,696	9,594	9,357	10,200
Development of nuclear energy	750	1,777	770	833	829
Total Programme 1	**10,755**	**28,030**	**10,920**	**10,748**	**11,881**
2. POWER TRANSMISSION AND DISTRIBUTION					
National Grid System	60,134	97,649	50,591	54,619	74,244
Rural Electrification	8,700	19,591	6,596	6,675	7,598
Total Programme 2	**68,834**	**117,240**	**57,187**	**61,294**	**81,842**
3. ALTERNATIVE ENERGY TECHNOLOGIES					
Alternative Energy Technologies	3,876	7,226	3,896	3,899	3,888
Total Programme 3	**3,876**	**7,226**	**3,896**	**3,899**	**3,888**
4. GENERAL ADMINISTRATION, PLANNING AND SUPPORT SERVICES					
Administrative Services	316	303	291	293	271
Planning and Project Monitoring	23	26	25	25	35
Financial Services	211	231	208	217	251
Total Programme 4	**550**	**560**	**524**	**535**	**557**
TOTAL VOTE 1152	**84,014**	**153,056**	**72,528**	**76,476**	**98,168**

The following are the sources of revenue that the Ministry has:-

Recurrent

SOURCE	AGENCY	SUPPLEMENTARY 1. 2019/20 AMOUNT KSHs.	ALLOCATION 2020/21 AMOUNT KSHs.
Sale of Stream	GDC	900	900
Sale of electricity	KETRACO	2,669	2,669
5% Electricity Levy	REREC	523	523
Kenya Oil Storage Facilities (KOSF)	MoE	203	203
Sale of Wood fuel Burners Jiko	MoE	4	4
Geothermal Royalties	MoE	70	70
TOTAL RECURRENT AIA		**4,369**	**4,369**

Development

SOURCE	AGENCY	SUPPLEMENTARY 1. 2019/20 AMOUNT KSHs.	ALLOCATION 2020/21 AMOUNT KSHs.
Sale of Stream	GDC	2,100	2,100
5% Electricity Levy	REREC	2,300	2,300
Kenya Oil Storage Facilities (KOSF)	MoE	70	70
Kenya Oil Storage Facilities (KOSF)	REREC	54	54
Petroleum Development Levy (PDL)	MoE	590	590
Petroleum Development Levy (PDL)	REREC	1,236	1,236
Geothermal Royalties	MoE	722	722
TOTAL RECURRENT AIA		**7,072**	**7,072**

Under the Recurrent vote, the Exchequer has been reduced by **Kshs. 523 Million** as follows:-

1. Recurrent Transfers for KETRACO. The 100% reduction Kshs. 270M. This will affect servicing of its loans and transmission infrastructure development.
2. Recurrent Transfers for REREC. The13% reduction Kshs. 57 M. The state corporation uses the exchequer to cater for Salaries. Any to reduction will result to pending bills relating to payroll obligations especially remittances to KRA and other statutory remittances.
3. Recurrent Transfers for GDC 35% Reduction Kshs. 200M. This will affect payment of taxes to KRA, repayment of Loans and Staff Salaries.
4. There was an increase on Salaries for Headquarters of Kshs. 4 Million for annual increment.

For the Development vote, under the current financial year 2019/20, the ministry has a development exchequer of Kshs. 21,050M as per supplementary 1 2019/20. However the BPS ceilings shows an exchequer allocation of Kshs. 11,740M against the resource requirement of Kshs. 145,834M, affecting the allocation under Big Four Agenda projects by Kshs. (598M). The Ministry is grossly underfunded under Development exchequer and this may result to stalled projects where GOK is required to acquire way leaves hence additional costs on projects where contractors are on site.

Key areas that require additional funding include:

- For KETRACO the list below shows the additional funding required for each transmission line project.

Details	Requirements 2020/21 (Amount in Kshs. Millions)	Allocation 2020/21 (Amount in Kshs. Millions)	Deficit 2020/21 (Amount in Kshs. Millions)
KETRACO			
Nairobi 220 Kv Ring	1,177	-	1,177
Nanyuki Isiolo	773	150	623
Lessos Tororo	2,720	-	2,720
Kamburu - Embu - Thika	527	350	177
Konza Technopolis	960	400	560
Gilgil - Thika	4,000	-	4,000
Lolyangalani - Marsabit	870	-	870
KETRACO Sub Total	**11,027**	**900**	**10,127**

- **Electrification of Public Facilities**- a deficit of Kshs. 7,800 Million. The continued underfunding for this programme means that, the universal access by the year 2020 in the government medium term Agenda will not be achieved

- **Electrification of Water Facilities**- the Ministry of Energy is partnering with Ministry of water to electrify 2000 facilities over a period 5 years. The target for 2020/21 is 400 facilities at cost of Kshs. 4 Billion

- **Last Mile Connectivity**. The programme has continuously been underfunded. The amount required Kshs.3, 700 million is part of the counterpart funding for existing donor funded contracts. This will assist in achieving the Government universal electricity access targets.

2.2.3 State Department for Petroleum

In executing our mandate, the State Department is guided by the following policies and Acts;

1. **The Petroleum Act, 2019**

An Act of Parliament which provide a framework for the contracting, exploration, development and production of petroleum; cessation of upstream petroleum operations; it gives effect to relevant articles of the Constitution in so far as they apply to upstream petroleum operations, regulation of midstream and downstream petroleum operations; and for connected purposes.

2. **The Energy Act, 2019**

An Act of Parliament which consolidate the laws relating to energy, to provide for National and County Government functions in relation to energy, to provide for the establishment, powers and functions of the energy sector entities; promotion of renewable energy; exploration, recovery and commercial utilization of geothermal energy; regulation of midstream and downstream petroleum and coal activities; regulation, production, supply and use of electricity and other energy forms; and for connected purposes.

3. National Energy and Petroleum Policy 2015

The overall objective of the energy and petroleum policy is to ensure affordable, competitive, sustainable and reliable supply of energy to meet national and county development needs at least cost, while protecting and conserving the environment.

The State Department for petroleum – Vote 1193, in the 2020/21 Financial Year, has been allocated Kshs 4,098 billion. GOK Comprises of Local AIA (Development Kshs 3,844 Billion and Recurrent Kshs. 254 Million). This resource allocation and distribution is further broken down as follows:

Vote	Source	Approved Budget FY2019/20	Allocation FY2020/21
Recurrent	GOK	189,962,500	207,000,000
	Local AIA	47,000,000	47,000,000
	Sub-Total	**236,962,500**	**254,000,000**
Development	GOK	1,800,000,000	800,000,000
	Grants	330,000,000	130,000,000
	Loans	1,464,102,900	1,070,000,000
	Local AIA	1,844,000,000	1,844,000,000
	Sub-Total	**5,438,102,900**	**3,844,000,000**
Total for the Vote		**5,675,065,400**	**4,098,000,000**

In terms of Programmes and Sub – Programmes, the resources have been distributed under the main programme which is Exploration and Distribution of Oil and Gas

Actual financial performance for the FY 2019/20 approved budget as at 14th February 2020

A) Recurrent

Programme	Implementing Agency	APPROVED BUDGET FY 2019/20	ACTUAL EXPENDITURE 2019/20	ABSORPTION RATE
Exploration and Distribution of Oil and Gas				
Recurrent		236,962,500	126,724,116	53
Total		**236,962,500**	**126,724,116**	**53**

B) Development

Programme	Implementing Agency	Approved Budget FY 2019/20	Actual Expenditure 2019/20	Absorption Rate	Remarks
Exploration and Distribution of Oil and Gas					
1193100100 Kenya Petroleum Technical Assistance project (KEPTAP)	KEPTAP	1,794,102,900	549,677,509	30.6	The percentage will increase because currently invoices amounts to 348 million for November, December and January are in process and could not be paid due to restructuring process which entailed freezing the accounts. However the amended financing agreements is expected to be signed this week.
1193100200 Petroleum	NOCK	280,000,000	140,000,000	50	Capital transfer to NOCK

exploration in Block 14T					
1193100404 Early Oil Pilot Scheme	SDP	500,000,000	28,707,185	5.8	EOPS activities scaled down in 2nd quarter but will be fast-tracked in the 3rd and 4th quarter
1193100407 Monitoring of Exploration & Appraisal Drilling, South Lokichar Field Development Studies, Research & Feasibility Studies in unlicensed Petroleum Blocks and Regional Promotion of Exploration Potential	SDP	945,500,000	499,001,550	52.8	Project activities will be implemented as scheduled
1193100401 Preparatory Activities for Lokichar Lamu crude oil pipeline	SDP	777,500,000	183,931,491	23.7	Project activities will be fast-tracked in 3rd and 4th quarter
1193100300 Fuel Marking	EPRA	45,000,000	-	-	Allocation omitted in EPRA budget
1193100401 LPG Distribution and Infrastructure	SDP	1,096,000,000	-	-	Evaluation for the tender is ongoing; The tender for the procurement of the goods had been advertised; The tender for the procurement of the service has been advertised; Eligibility criteria is in place
TOTAL		**5,438,102,900**	**1,401,317,735**	**25.8**	

Actual half year absorption by projects performance for the first half of FY 2018/2019

Details	APPROVED BUDGET FY 2018/19	EXPENDITURE	ABSORPTION RATE
Kenya Petroleum Technical Assistance project (KEPTAP)	250,000,000	118,997,812	48%
Petroleum exploration in Block 14T	140,000,000	-	-
Early Oil Pilot Scheme	250,000,000	53,820,264	22%
Monitoring of Exploration & Appraisal Drilling, South Lokichar Field Development Studies, Research & Feasibility Studies in unlicensed Petroleum Blocks and Regional Promotion of Exploration Potential	584,000,000	296,391,297	51%
Preparatory Activities for Lokichar Lamu crude oil pipeline	388,750,000	40,675,783	10%
Fuel Marking	16,500,000	-	-
LPG Distribution and Infrastructure	-	-	
TOTAL	**1,629,250,000**	**509,885,156**	**31%**

Status of pending bills.

The State Department had a total of **Kshs 248,141,302.15** outstanding pending bills as at 30th June 2019 but was later reduced to Kshs. 1,948,746 as of 30th December 2019. To date all the outstanding bills have been cleared. We also have pending bills for LPG cylinders at NOCK depot at industrial areas estimated at **Kshs 216 million** and will be paid once the outstanding issues surrounding them are resolved.

3.0 COMMITTEE OBSERVATIONS

Based on the review and scrutiny of the 2020 BPS and deliberations with key stakeholders including examination of written submissions, the Committee makes the following observations:

3.1 State Department of Energy

5. The proposed ceiling measures for the State Department for Energy is Kshs 72.52 billion for FY 2020/21, of which Kshs 66.73 billion is for Development allocation while Kshs 5.79 billion is for recurrent allocation, representing a decrease of approximately 14 percent compared to current baseline. However, the resource requirement for the State Department to implement the current programmes is between Kshs. 145 to Kshs. 153.05 Billion reflecting substantial underfunding thus affecting completion of energy programs and other policy objectives in the medium term.
6. With regards to pending bills, the Committee was informed that the State Department had settled all its outstanding obligations as at 23rd December 2019. However, the Committee noted that the amounts settled was in respect of outstanding claims under the Ministry Headquarter thereby excluding outstanding amounts owed by respective SAGAs under the Ministry. Subsequently, this led to gross understatement of the stock of pending bills under the sector in view of the published information by the National Treasury. Moreover, the total pending bills under the SAGAs amounts to approximately Kshs. 23.39 Billion as at November 2019 with these amounts under key parastatals such as GDC (Kshs. 859 Million), KPLC (Kshs 20.45 billion), KETRACO (Kshs.2.08 billion). The Committee is concerned with the pace of settling of pending bills within the sector as well as disclosure of the same contrary to the Presidential Directive which is likely to affect the current ceiling measures if not addressed within the current fiscal year.
7. With regards to budget performance for the current FY 2019/20, the actual expenditure for recurrent budget stands at 72% while that of development is at 32%. However, the low performance under development is attributed to introduction of Big Four connectivity Projects during the supplementary budget which are expected to be fast-tracked in the remaining period. Moreover, a number of key flagship projects mainly under transmission component are nearing completion such as the Olkaria – Lessos - Kisumu line (80%) and the Kenya – Ethiopia Interconnector (75%), among others. This is expected to reduce transmission losses, avail cheaper power with the overall impact to improving the overall cost and current mix of power. Moreover, profile review of the sector project such as timelines and overall cost to completion of programmed activities points to a number challenges that may further impede sector performance and medium term policy goals.
8. The Committee was informed that there were no outstanding guarantees payable under the sector on account of contractual obligations and proposed ceilings will be utilized towards actual completion of on-going priorities.

3.1 State Department of Petroleum

9. The proposed ceiling measures for the State Department of Petroleum is Kshs 4.09 billion for FY 2020/21, of which Kshs 3.844 billion is for Development allocation while Kshs 254.00 million is for recurrent allocation, representing a decrease of approximately 28 percent compared to current baseline. However, the resource requirement for the State Department to

implement the current programmes is Kshs. 6.14 Billion representing 67 percent funding which is likely to affect completion of petroleum activities and other policy objectives.

7. Moreover, submissions on the Early Oil Pilot Scheme (EOPS) implementation status for the FY 2019/20 indicates delivery of 177,654 barrels of crude oil against a target of 400,000 barrels and improved community relationship. In addition, the total number of crude oil export realized so far is 240,000 barrels. However, the State Department indicated suspension of trucking operations due to poor road status at Sebit and Ortum areas that were damaged by the heavy rains experienced in West Pokot and Turkana Counties.
8. Further review of the proposed FY 20/21 allocation towards the projects under the main program indicates a continued allocation to on-going priorities, with no new programs and projects planned for the same period. This also includes a transfer of Kshs. 280 million to NOCK for purposes of petroleum exploration in block 14T, a similar allocation in the current fiscal year. The State Department submitted that there were controls in place including a separate banking arrangement to ensure that the allocation is used for exploration activities including laboratory services and that quarterly reports must be submitted as a basis for subsequent releases to ensure accountability. However, the Committee raised concern with the use and accountability of this transfer and whether it is used for the approved objectives.
9. With regards to budget performance for the current FY 2019/20, the actual expenditure for recurrent budget stands at 53% while that of development is at 26% with procurement for most development programmes having been undertaken. A review of committed targets for the same period reflects some achievements especially under fuel marking, preparatory activities under Lokichor-Lamu-crude oil pipeline and provision and monitoring of exploration and appraisal drilling as well as undertaking stakeholders engagement and sensitization workshops in active petroleum blocks. However, there are inconsistencies in the various KPIs and performance targets which the committee noted as a source of concern.
10. With regards to payment of payable pending bills, the committee was informed that a total of Kshs. 248 million was outstanding as at 30th June 2019, of which the whole amount has since been settled. In addition, the State Department submitted that an estimated amount of Kshs. 216 million relating to purchase and delivery of LPG cylinders was outstanding due to on-going court action and is awaiting resolution. However, the Committee noted variations between submissions from the National Treasury vis a vis the State Department, with a balance of Kshs. 18 million yet to be settled and a further discrepancy as to the total amount of pending bills disclosed by June 2019.

4.0 COMMITTEE RECOMMENDATIONS

Arising from the review and scrutiny of the policy proposals and sector specific expenditure and revenue measures in the 2020 BPS as well as the committee observations on the various ministerial submissions, the Committee recommends the following:

4.1 State Department of Energy

Financial Recommendation

1. The proposed expenditure ceilings and programme allocation totaling Kshs 72.52 billion, which is broken down as Kshs. 66.73 billion for development and kshs 5.79 billion for recurrent, and as provided in the 2020/21 Budget Policy Statement be approved.

Policy Recommendation

2. That the approved ceilings for fiscal year 2020/21 and per program as well as subsequent finalization of the same per project/activities is subject to payment of pending bills which are currently outstanding under GDC, KENGEN, KPLC and KETRACO.
3. That, the State Department and National Treasury to submits the status of contingent liabilities/guarantees including any insurance covers or commitment for all electricity transmission projects as well as the status of the funding each respective project and the same be submitted to the relevant Committee of the National Assembly within sixty days upon adoption of the 2020 BPS report by the House.

4.2 State Department of Petroleum

Financial Recommendations

4. The proposed ceiling measures by vote and program totaling to Kshs 4.09 billion, which is broken down as Kshs. 3.84 billion for development sub-vote and Kshs 254 million for recurrent sub-vote as contained in the 2020/21 Budget Policy Statement be approved.

Policy Recommendations

5. The National Treasury and State Department of Petroleum to fast track regulations to govern the fiscal management of proceeds from sale of crude oil and use of the same as well as the legal basis to ensure effective and accountable control of expenditure and other investments incurred both in the pilot phase and subsequent development of associated infrastructure in the upstream petroleum operations. A status report on the Early Oil Pilot Scheme (EOPS) including recommendations on financial management of proceeds from sale of the crude oil be submitted to National Assembly within ninety days upon adoption of the report by the House.
6. To enhance budget performance and accountability, including transfers to SAGAs, the State Department to submit quarterly status reports of both financial and non-financial performance of 2019/20 allocations to the Controller of Budget for onward transmission to National Assembly.

7. To ensure priority allocation and completion of on-going projects, the State Department to prioritise payment of all pending bills in the current FY and before the finalization of the 2020/21 estimates.

Sign..... Date.....26/2/2020

THE HON. (DR.) ROBERT PUKOSE, MP

VICE CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ENERGY

MINUTES OF THE 12TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN SMALL BOARDROOM 9TH FLOOR, HARAMBEE PLAZA, PARLIAMENT BUILDINGS ON TUESDAY 25TH FEBRUARY, 2020 AT 9.30 AM

PRESENT

1. The Hon. David Gikaria, MP - **Chairperson**
2. The Hon. (Dr.) Robert Pukose, MP - **Vice Chairperson**
3. The Hon. Cecily Mbarire, MP
4. The Hon. Joseph Wathigo Manje, M.P
5. The Hon. Lemanken Aramat, M.P
6. The Hon. Abdikhaim Osman Mohamed, MP
7. The Hon. Clement Muturi Kigano, MP
8. The Hon. Elsie Muhanda, MP
9. The Hon. Faith Wairimu Gitau, M.P
10. The Hon. Julius Musili Mawathe, MP
11. The Hon. Richard Chonga, MP
12. The Hon. Walter Owino, MP

APOLOGIES

1. The Hon. Amina Gedow Hassan, M.P
2. The Hon. Mohammed Ali Lokiro, MP
3. The Hon. Elisha Odhiambo, MP
4. The Hon. (Eng.) Vincent Musyoka Musau, MP
5. The Hon. Nicholas Mwale Tindi, MP
6. The Hon. Ekomwa Lomenen James, M.P.
7. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE

COMMITTEE SECRETARIAT

1. Ms. Rose M. Wanjohi - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant II
3. Mr. Abdirahman Gorod - Fiscal Analyst II
4. Mr. David Ngeno - Research Officer III
5. Ms. Sheila Chebotibin - Serjeant-At-Arms
6. Ms. Christine Maeri - Audio Officer

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chair
3. Confirmation of Minutes
4. Matters Arising
5. **Consideration and Adoption of the draft Budget Policy Statement 2020**
6. Any Other Business
7. Adjournment/ Date of the next meeting

MIN. NO. NA/ENERGY/2020/045: PRELIMINARIES AND ADOPTION OF AGENDA

The Vice Chairperson called the meeting to order at ten o'clock and said the Prayer. The Agenda was adopted as proposed by Hon. Lemanken Aramat, MP and as seconded by Hon. Clement Kigano, MP respectively.

MIN. NO. NA/ENERGY/2020/046: CONFIRMATION OF MINUTES

The Agenda item is deferred. There were no matters arising.

MIN.NO.NA/ENERGY/2020/047: CONSIDERATION AND ADOPTION OF THE DRAFT REPORT ON THE BUDGET POLICY STATEMENT 2020

The Committee considered the report on the Budget Policy Statement 2020 and made the following observations and recommendations:-

Committee Observations

State Department of Energy

1. The proposed ceiling measures for the State Department for Energy is Kshs 72.52 billion for FY 2020/21, of which Kshs 66.73 billion is for Development allocation while Kshs 5.79 billion is for recurrent allocation, representing a decrease of approximately 14 percent compared to current baseline. However, the resource requirement for the State Department to implement the current programmes is between Kshs. 145 to Kshs. 153.05 Billion reflecting substantial underfunding thus affecting completion of energy programs and other policy objectives in the medium term.
2. With regards to pending bills, the Committee was informed that the State Department had settled all its outstanding obligations as at 23rd December 2019. However, the Committee noted that the amounts settled was in respect of outstanding claims under the Ministry Headquarter thereby excluding outstanding amounts owed by respective SAGAs under the Ministry. Subsequently, this led to gross understatement of the stock of pending bills under the sector in view of the published information by the National Treasury. Moreover, the total pending bills under the SAGAs amounts to approximately Kshs. 23.39 Billion as at November 2019 with these amounts under key parastatals such as GDC (Kshs. 859 Million), KPLC (Kshs 20.45 billion), KETRACO (Kshs.2.08 billion). The Committee is concerned with the pace of settling of pending bills within the sector as well as disclosure of the same contrary to the Presidential Directive which is likely to affect the current ceiling measures if not addressed within the current fiscal year.
3. With regards to budget performance for the current FY 2019/20, the actual expenditure for recurrent budget stands at 72% while that of development is at 32%. However, the low performance under development is attributed to introduction of Big Four connectivity Projects during the supplementary budget which are expected to be fast-tracked in the remaining period. Moreover, a number of key flagship projects mainly under transmission component are nearing completion such as the Olkaria – Lessos – Kisumu line (80%) and the Kenya – Ethiopia Interconnector (75%), among others. This is expected to reduce transmission losses, avail cheaper power with the overall impact to improving the overall cost and current mix of power. Moreover, profile review of the sector project such as timelines and overall cost to completion of programmed activities points to a number challenges that may further impede sector performance and medium term policy goals.
4. The Committee was informed that there were no outstanding guarantees payable under the sector

on account of contractual obligations and proposed ceilings will be utilized towards actual completion of on-going priorities.

State Department of Petroleum

1. The proposed ceiling measures for the State Department of Petroleum is Kshs 4.09 billion for FY 2020/21, of which Kshs 3.844 billion is for Development allocation while Kshs 254.00 million is for recurrent allocation, representing a decrease of approximately 28 percent compared to current baseline. However, the resource requirement for the State Department to implement the current programmes is Kshs. 6.14 Billion representing 67 percent funding which is likely to affect completion of petroleum activities and other policy objectives.
2. Moreover, submissions on the Early Oil Pilot Scheme (EOPS) implementation status for the FY 2019/20 indicates delivery of 177,654 barrels of crude oil against a target of 400,000 barrels and improved community relationship. In addition, the total number of crude oil export realized so far is 240,000 barrels. However, the State Department indicated suspension of trucking operations due to poor road status at Sebit and Ortum areas that were damaged by the heavy rains experienced in West Pokot and Turkana Counties.
3. Further review of the proposed FY 20/21 allocation towards the projects under the main program indicates a continued allocation to on-going priorities, with no new programs and projects planned for the same period. This also includes a transfer of Kshs. 280 million to NOCK for purposes of petroleum exploration in block 14T, a similar allocation in the current fiscal year. The State Department submitted that there were controls in place including a separate banking arrangement to ensure that the allocation is used for exploration activities including laboratory services and that quarterly reports must be submitted as a basis for subsequent releases to ensure accountability. However, the Committee raised concern with the use and accountability of this transfer and whether it is used for the approved objectives.
4. With regards to budget performance for the current FY 2019/20, the actual expenditure for recurrent budget stands at 53% while that of development is at 26% with procurement for most development programmes having been undertaken. A review of committed targets for the same period reflects some achievements especially under fuel marking, preparatory activities under Lokichor-Lamu-crude oil pipeline and provision and monitoring of exploration and appraisal drilling as well as undertaking stakeholders engagement and sensitization workshops in active petroleum blocks. However, there are inconsistencies in the various KPIs and performance targets which the committee noted as a source of concern.
5. With regards to payment of payable pending bills, the committee was informed that a total of Kshs. 248 million was outstanding as at 30th June 2019, of which the whole amount has since been settled. In addition, the State Department submitted that an estimated amount of Kshs. 216 million relating to purchase and delivery of LPG cylinders was outstanding due to on-going court action and is awaiting resolution. However, the Committee noted variations between submissions from the National Treasury vis a vis the State Department, with a balance of Kshs. 18 million yet to be settled and a further discrepancy as to the total amount of pending bills disclosed by June 2019.

Committee Recommendations

Arising from the review and scrutiny of the policy proposals and sector specific expenditure and revenue measures in the 2020 BPS as well as the committee observations on the various ministerial submissions, the Committee recommends the following:

State Department of Energy

Financial Recommendation

1. The proposed expenditure ceilings and programme allocation totaling Kshs 72.52 billion, which is broken down as Kshs. 66.73 billion for development and Kshs 5.79 billion for recurrent, and as provided in the 2020/21 Budget Policy Statement be approved.

Policy Recommendation

2. That the approved ceilings for fiscal year 2020/21 and per program as well as subsequent finalization of the same per project/activities is subject to payment of pending bills which are currently outstanding under GDC, KENGEN, KPLC and KETRACO.
3. That, the State Department and National Treasury to submits the status of contingent liabilities/guarantees including any insurance covers or commitment for all electricity transmission projects as well as the status of the funding each respective project and the same be submitted to the relevant Committee of the National Assembly within sixty days upon adoption of the 2020 BPS report by the House.

4.2 State Department of Petroleum

Financial Recommendations

1. The proposed ceiling measures by vote and program totalling to Kshs 4.09 billion, which is broken down as Kshs. 3.84 billion for development sub-vote and Kshs 254 million for recurrent sub-vote as contained in the 2020/21 Budget Policy Statement be approved.

Policy Recommendations

2. The National Treasury and State Department of Petroleum to fast track regulations to govern the fiscal management of proceeds from sale of crude oil and use of the same as well as the legal basis to ensure effective and accountable control of expenditure and other investments incurred both in the pilot phase and subsequent development of associated infrastructure in the upstream petroleum operations. A status report on the Early Oil Pilot Scheme (EOPS) including recommendations on financial management of proceeds from sale of the crude oil be submitted to National Assembly within ninety days upon adoption of the report by the House.
3. To enhance budget performance and accountability, including transfers to SAGAs, the State Department to submit quarterly status reports of both financial and non-financial performance of 2019/20 allocations to the Controller of Budget for onward transmission to National Assembly.
4. To ensure priority allocation and completion of on-going projects, the State Department to prioritise payment of all pending bills in the current FY and before the finalization of the 2020/21 estimates.

MIN. NO. NA/ENERGY/2020/048: ANY OTHER BUSINESS

The Committee resolved to proceed with the workshop on the operationalization of the Energy Act, 2019 with the Ministry. The taskforce appointed to advice on the implementation of the Energy Act, 2019 will take the Committee through what is the status of implementation of the Act.

MIN. NO. NA/ENERGY/2020/049: ADJOURNMENT/ DATE OF NEXT MEETING

The meeting was adjourned at half past two o'clock. The next meeting will held on notice.

SIGNED..... DATE .....

(CHAIRPERSON)

MINUTES OF THE 7TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN BOARDROOM 11TH FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS ON THURSADY 20TH FEBRUARY, 2020 AT 11.30 AM

PRESENT

1. The Hon. David Gikaria, MP - **Chairperson**
2. The Hon. (Dr.) Robert Pukose, MP - **Vice Chairperson**
3. The Hon. Mohammed Ali Lokiro, MP
4. The Hon. Lemanken Aramat, M.P
5. The Hon. (Eng.) Vincent Musyoka Musau, MP
6. The Hon. Abdikhaim Osman Mohamed, MP
7. The Hon. Elisha Odhiambo, MP
8. The Hon. Elsie Muhanda, MP
9. The Hon. Faith Wairimu Gitau, M.P
10. The Hon. Julius Musili Mawathe, MP
11. The Hon. Richard Chonga, MP
12. The Hon. Walter Owino, MP

APOLOGIES

1. The Hon. Cecily Mbarire, MP
2. The Hon. Amina Gedow Hassan, M.P
3. The Hon. Joseph Wathigo Manje, M.P
4. The Hon. Clement Muturi Kigano, MP
5. The Hon. Nicholas Mwale Tindi, MP
6. The Hon. Ekomwa Lomenen James, M.P.
7. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE

MINISTRY OF ENERGY (MoE)

1. Hon. Charles Keter, EGH - Cabinet Secretary
2. Hon. Simon Kachapin Kitalei, - Chief Administrative Secretary
3. Mr. Pavel Oimeke - Director General , EPRA
4. FCPA John Mudany - Ag. MD/CEO KenGen
5. Eng. Johnson P Nchoe - MD/CEO, GDC
6. Mr. Bernard Ngugi - MD/CEO, KPLC
7. FCPA Fernandes Barasa - MD/CEO, KETRACO
8. CPA Peter K. Mbugua - CEO, REREC
9. Mr. William Mbaka - SCFO, MoE
10. Mr. Steven Lusweti - Human Resource, Director, MoE
11. Ms. Jacqueline Rono - PA, CS
12. Mr. Bernard Munane - Communication Advisor to CS
13. Eng. Isaac Kiva - Secretary, Renewable Energy
14. Mr. Martin Nyaga - Communication Officer, MoE

COMMITTEE SECRETARIAT

1	Ms. Rose M. Wanjohi	-	Clerk Assistant I
2	Mr. Douglas Katho	-	Clerk Assistant II
3.	Mr. Abdirahman Gorod	-	Fiscal Analyst II
4.	Mr. David Ngeno	-	Research Officer III
5.	Ms. Sheila Chebotibin	-	Serjeant-At-Arms
6.	Ms. Christine Maeri	-	Audio Officer

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chair
3. Confirmation of Minutes
4. Matters Arising
5. **Meeting with the Ministry of Energy on the Budget Policy Statement 2020**
6. Any Other Business
7. Adjournment/ Date of the next meeting

MIN. NO. NA/ENERGY/2020/028: PRELIMINARIES AND ADOPTION OF AGENDA

The Chairperson called the meeting to order at eleven thirty o'clock. The Hon. Elisha Odhiambo, MP said the Prayer. The Agenda was adopted as proposed by Hon. Lemanken Aramat, MP and as seconded by Hon. Elisha Odhiambo, MP respectively. The Chairperson welcomed the Cabinet Secretary and Ministry officials to the meeting.

MIN. NO. NA/ENERGY/2020/029: CONFIRMATION OF MINUTES

The Agenda item is deferred. There were no matters arising.

MIN.NO.NA/ENERGY/2020/030: MEETING WITH THE MINISTRY OF ENERGY ON THE BUDGET POLICY STATEMENT 2020 FOR THE STATE DEPARTMENT FOR ENERGY

Hon. Charles Keter, the Cabinet Secretary, Ministry of Energy accompanied by heads of parastatals under the Ministry and other Ministry officials appeared before the Committee and made the following submissions:-

The state department focused on the broad policy priorities and legal framework underpinning the sub sector strategic focus for the period under consideration. Some of the thematic areas of focus and key highlights based on the submission include:

The Ministry is governed by laws, policies and programmes which include the following:-

a) **The Energy Policy** whose overall objective is to ensure affordable, competitive, sustainable and reliable supply of energy at the least cost in order to achieve the National and County development needs, while protecting and conserving the environment for inter-generational benefits. The document sets out the national policies and strategies for the energy sector. The policy recommendations contained seek to address challenges in the energy sector. It encourages wider adoption and use of renewable energy technologies to enhance their role in the Country's energy supply matrix.

b) **The National Electrification Strategy** provides a roadmap to achieving universal access to electricity for all Kenyans by 2022. The policy was launched in December 2018 and is under implementation.

c) **The Gender Policy** guides the mainstreaming of gender in institutions, policies and programs in the MoE, County Governments and amongst the stakeholders. The policy was launched in November, 2019 and is being implemented.

d) **The Energy Act, 2019** is currently the primary law governing the energy sector in Kenya and provides the regulatory framework. The Act was assented to on 12th March, 2019 paving the way for the energy sector to take further steps towards its modernization and development. The Ministry is currently undertaking measures such as reviews of existing regulations, developing of standards among others to operationalize the new Act.

The new Act has several amendments to the repealed Energy Act intended to consolidate the laws relating to energy, properly delineate the functions of the National and devolved levels of government in relation to energy, provide for the exploitation of renewable energy sources, regulate midstream and downstream coal activities and supply and use of electricity.

The new Act has established several new 'energy sector entities' that will replace those existing under the repealed laws and has gone further to restate and expand their mandates where this is necessary for them to properly discharge their functions.

A Taskforce to steer the implementation of the Act was established on 16th April 2019. It has so far identified actions for implementation by MoE and Energy Sector Entities. It has identified and started review and formulation of relevant regulations. Further it has started sensitization of all the energy players on Act and implementation of the immediate action plans. REREC, NuPEA and EPRA are being operationalized as stipulated in the ACT.

The Programmes and sub-programmes under the Ministry include:

	Programmes	Sub-programmes
a)	Power Generation; *Objective: To increase energy availability through power generation*	Geothermal Generation
		Coal Exploration and mining
		Nuclear Energy Development
b)	Power Transmission and Distribution; Objective: *To increase access to electricity*	National Grid
		Rural Electrification
c)	Alternative Energy Technologies *Objective: To promote utilization and development of alternative energy Technologies*	Alternative energy Technologies
d)	General Administration and Planning Support Services *Objective: To improve efficiency in service Delivery*	Administration services
		Planning Services
		Finance services

Source: State Department of Energy

The resource allocation for the Ministry of Energy –Vote 1152 in the FY2020/21 is

VOTE 1152: MINISTRY OF ENERGY			
	PROPOSED ALLOCATION 2020/21 Kshs. (Millions)		
	Gross Expenditure	Foreign Financing	GOK
	Kshs.	Kshs.	Kshs.
VOTE 1152	72,528	47,924	24,604

The State Department for Energy – Vote 1152 in the 2020/21 Financial Year has been allocated Kshs.

72.528 Million. GOK comprises of Local AIA under Development of Kshs **7,072M** and Recurrent **Kshs. 4,369M** and Exchequer of **Kshs. 1,423M** recurrent component and Kshs. **11,740M** Development component.

This resource allocation using Supplementary I 2019/20 as a baseline is further broken down as follows:-

VOTE 1152	Supplementary I Kshs. (Millions)	Proposed Allocation Kshs. (Millions)		
BUDGET	2019/20	2020/21	2021/22	2022/23
RECURRENT	6,315	5,792	6,069	6,060
DEVELOPMENT	77,699	66,736	70,407	92,108
VOTE 1152	**84,014**	**72,528**	**76,476**	**98,168**

The breakdown of funding is shown in the table below.

	Supplementary Estimates I	Requirement	Allocation		
	2019/20	2020/21	2020/21	2021/22	2022/23
Gross	**77,699**	**145,834**	**66,736**	**70,407**	**92,108**
GoK	21,050	45,511	11,740	15,412	17,113
Loans	49,497	90,514	47,924	47,923	67,923
Grants	-	-	-		
Local AIA	7,152	9,809	7,072	7,072	7,072

The recurrent transfers (GOK) to SAGAS to implement programmes and projects are shown in the table below.

SAGAs	SUPPLEMENTARY ESTIMATES I 2019/20		REQUIREMENT 2020/21	ALLOCATION 2020/21	
	GOK	AIA		GOK	AIA
KETRACO	270	2,669	3,258	0	2,669
NuPEA	255	0	718	255	0
REREC	430	523	990	363	523
GDC	575	900	1,548	375	900
TOTAL	1,530	4,092	6,514	1,003	4,092

The program resource allocation for both recurrent and development is as follows:-

PROGRAMME /SUB- PROGRAMME	Supplementary 1 Estimates	REQUIREMENT	ALLOCATION		
	2019/20	2020/21	2020/21	2021/22	2022/23
1. POWER GENERATION					
Coal exploration and mining	559	557	556	558	852
Geothermal Generation	9,446	25,696	9,594	9,357	10,200
Development of nuclear energy	750	1,777	770	833	829
Total Programme 1	**10,755**	**28,030**	**10,920**	**10,748**	**11,881**
2. POWER TRANSMISSION AND DISTRIBUTION					
National Grid System	60,134	97,649	50,591	54,619	74,244
Rural Electrification	8,700	19,591	6,596	6,675	7,598
Total Programme 2	**68,834**	**117,240**	**57,187**	**61,294**	**81,842**
3. ALTERNATIVE ENERGY TECHNOLOGIES					
Alternative Energy Technologies	3,876	7,226	3,896	3,899	3,888
Total Programme 3	**3,876**	**7,226**	**3,896**	**3,899**	**3,888**
4. GENERAL ADMINISTRATION, PLANNING AND SUPPORT SERVICES					
Administrative Services	316	303	291	293	271
Planning and Project Monitoring	23	26	25	25	35
Financial Services	211	231	208	217	251
Total Programme 4	**550**	**560**	**524**	**535**	**557**
TOTAL VOTE 1152	**84,014**	**153,056**	**72,528**	**76,476**	**98,168**

The following are the sources of revenue that the Ministry has:-

1. **Recurrent**

SOURCE	AGENCY	SUPPLEMENTARY 1. 2019/20 AMOUNT KSHs.	ALLOCATION 2020/21 AMOUNT KSHs.
Sale of Stream	GDC	900	900
Sale of electricity	KETRACO	2,669	2,669
5% Electricity Levy	REREC	523	523
Kenya Oil Storage Facilities (KOSF)	MoE	203	203
Sale of Wood fuel Burners Jiko	MoE	4	4
Geothermal Royalties	MoE	70	70
TOTAL RECURRENT AIA		**4,369**	**4,369**

2. **Development**

SOURCE	AGENCY	SUPPLEMENTARY 1. 2019/20 AMOUNT KSHs.	ALLOCATION 2020/21 AMOUNT KSHs.
Sale of Stream	GDC	2,100	2,100
5% Electricity Levy	REREC	2,300	2,300
Kenya Oil Storage Facilities (KOSF)	MoE	70	70
Kenya Oil Storage Facilities (KOSF)	REREC	54	54
Petroleum Development Levy (PDL)	MoE	590	590
Petroleum Development Levy (PDL)	REREC	1,236	1,236
Geothermal Royalties	MoE	722	722
TOTAL RECURRENT AIA		**7,072**	**7,072**

Under the Recurrent vote, the Exchequer has been reduced by **Kshs. 523 Million** as follows:-

1. Recurrent Transfers for KETRACO, a 100% reduction of Kshs. 270Million. This will affect servicing of its loans and transmission infrastructure development.

2. Recurrent Transfers for REREC, a 13% reduction of Kshs. 57 Million. The State Corporation uses the exchequer to cater for salaries. Any to reduction will result in pending bills relating to payroll obligations especially remittances to KRA and other statutory remittances.

3. Recurrent Transfers for GD, 35% Reduction of Kshs. 200 Million. This will affect payment of taxes to KRA, repayment of loans and staff salaries.

4. There was an increase on salaries for Headquarters of Kshs. 4 Million for annual increment.

For the Development vote, under the current financial year 2019/20, the Ministry has a development exchequer of Kshs.21, 050 Million as per supplementary 1 2019/20. However the BPS ceilings shows an exchequer allocation of Kshs. 11,740Million against the resource requirement of Kshs. 145,834Million, affecting the allocation under Big Four Agenda projects by Kshs. (598Million). The Ministry is grossly underfunded under Development exchequer and this may result in stalled projects where GOK is required to acquire way leaves hence additional costs on projects where contractors are on site.

Status of pending bills

The Ministry of Energy has no pending bills as at 31st December 2019. The pending bills for its SAGAs have been removed under the Ministry's vote and are reflecting under each individual SAGA. Rural Electrification and Renewable Energy Corporation, Nuclear Power Regulatory Authority, Kenya Electricity Generating Company and Energy and Petroleum Regulatory Authority reported no pending bills as at 31st December 2019.

Kenya Electricity Generating Company Limited has pending bills under the power evacuation program. Kshs. 1.6 Billion on the Lolyangalani which they anticipate to clear in a month's time. Kshs. 3.9 Million owed to absentee land owners in Rabai and Malindi area although the project was completed two years ago and they received no allocation to clear the bill in the current FY. Kshs. 4.7 million for wayleave payments which has not been provided for in the current FY. Geothermal Development Company has pending bills of Kshs 286 million, Kshs, 132 Million and Kshs. 32 Million totaling Kshs. 400 Million. GDC is owed by KENGEN over Kshs. 1 Billion of which KENGEN will begin to clear by making a payment of Kshs.100 Million. Kenya Power & Lighting Company pending bills are to energy suppliers REREC, GDC and KETRACO and to general suppliers.

The Ministry reported that it requires additional funding for key areas that include:

- KETRACO, the list below showing the additional funding required for each transmission line project.

Details	Requirements 2020/21 (Amount in Kshs. Millions)	Allocation 2020/21 (Amount in Kshs. Millions)	Deficit 2020/21 (Amount in Kshs. Millions)
KETRACO			
Nairobi 220 Kv Ring	1,177	-	1,177
Nanyuki Isiolo	773	150	623

Details	Requirements 2020/21 (Amount in Kshs. Millions)	Allocation 2020/21 (Amount in Kshs. Millions)	Deficit 2020/21 (Amount in Kshs. Millions)
Lessos Tororo	2,720	-	2,720
Kamburu - Embu - Thika	527	350	177
Konza Technopolis	960	400	560
Gilgil - Thika	4,000	-	4,000
Lolyangalani - Marsabit	870	-	870
KETRACO Sub Total	11,027	900	10,127

- **Electrification of Public Facilities**- a deficit of Kshs. 7,800 Million. The continued underfunding for this programme means that the universal access by the year 2020 in the government medium term Agenda will not be achieved.

- **Electrification of Water Facilities**- the Ministry of Energy is partnering with Ministry of Water and Sanitation to electrify 2000 facilities over a period 5 years. The target for 2020/21 is 400 facilities at cost of Kshs. 4 Billion.

- **Last Mile Connectivity**. The programme has continuously been underfunded. The amount required Kshs. 3,700 million is part of the counterpart funding for existing donor funded contracts. This will assist in achieving the Government universal electricity access targets.

Committee Observations

The Committee observed that

1. In regards to the Ministry's assertion that the National Treasury would keep track of the pending bills assigned to each respective SAGA under the Ministry, the Committee noted that although noble, it takes responsibility from the Ministry of Energy oversight role. Further, it can be opened to abuse if the National Treasury chooses not to release funds to the SAGA until pending bills are paid, which could cripple the institutions.
2. The Committee noted with concern that despite a resolutions for all pending bills to be paid and despite money allocated for payment of the pending bills under the Supplementary estimates, and timelines agreed to, the clearance rate was still low for instance in respect to GDC, KenGen, KPLC and KETRACO. The Committee noted that each SAGA had adopted a pending bill payment plan with names, timelines and amounts and provided to the Ministry for tracking.
3. That the SAGAs owe money among themselves for instance KenGen owes GDC over Kshs. 1 Billion while KPLC owes money to REREC, GDC and KETRACO, as pending bills whose payment rate has been very low. The amounts are provided as AIA in the institutions owed. The Committee noted that payment of these pending bills should be fast tracked.
4. The Committee noted that the biogas program has been allocated Kshs. 20 million for quite a number of years yet the status of the pilot project is unknown.
5. The fate of the Gilgil- Thika-Konza transmission line and the Lolyogalani-Marsabit Transmission lines is unclear as there was no additional allocation to the project in the BPS 2020 despite an insurance provision of Kshs.2.8 Billion, an allocation of Kshs. 500 million and the Ministry's request for Kshs. 4.8 Billion towards the program.

Committee recommendations

The Committee recommends that

1. No new project is initiated until the pending bills attached to the previous projects are cleared.
2. That the Ministry of Energy tables before the Committee quarterly reports on the list of pending bills and their status.
3. That money is allocated to the Gilgil-Thika-Konza transmission line and the Lolyogalani-Marsabit Transmission line a project that will create demand for electricity and utilize the already allocated amounts puts towards the project.
4. The Committee undertakes an inspection visit to the pilot schemes under the biogas project for instance at UON Kabete campus.

MIN. NO. NA/ENERGY/2020/031: ANY OTHER BUSINESS

The Committee resolved to proceed with the workshop on the operationalization of the Energy Act, 2019 with the Ministry. The taskforce appointed to advice on the implementation of the Energy Act, 2019 will take the Committee through what is the status of implementation of the Act.

MIN. NO. NA/ENERGY/2020/032: ADJOURNMENT/ DATE OF NEXT MEETING

The meeting was adjourned at half past two o'clock. The next meeting will held on notice.

SIGNED..... **DATE** 26/2/2020

(CHAIRPERSON)

MINUTES OF THE 6TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN BIG BOARDROOM 9TH FLOOR, HARAMBEE PLAZA, PARLIAMENT BUILDINGS ON WEDNESDAY 19TH FEBRUARY, 2020 AT 12.30 PM

PRESENT

1. The Hon. David Gikaria, MP - **Chairperson**
2. The Hon. (Dr.) Robert Pukose, MP - **Vice Chairperson**
3. The Hon. Cecily Mbarire, MP
4. The Hon. Joseph Wathigo Manje, M.P
5. The Hon. Clement Muturi Kigano, MP
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Lemanken Aramat, M.P
8. The Hon. (Eng.) Vincent Musyoka Musau, MP
9. The Hon. Abdikhaim Osman Mohamed, MP
10. The Hon. Elisha Odhiambo, MP
11. The Hon. Elsie Muhanda, MP
12. The Hon. Gitau Faith Wairimu, M.P
13. The Hon. Richard Chonga, MP
14. The Hon. Amina Gedow Hassan, M.P
15. The Hon. Tindi Nicholas Mwale, MP
16. The Hon. Ekomwa Lomenen James, M.P.
17. The Hon. Walter Owino, MP

APOLOGIES

1. The Hon. Julius Musili Mawathe, MP
2. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE

STATE DEPARTMENT FOR ENERGY

1. Mr. Andrew Kamau - Principal Secretary
2. Mr. Andrew Kiseri - Principal Finance Officer
3. Mr. Mathew Musyoka - CFO , SDoP
4. Mr. Moses Gathui - Principal Budget Officer, the National Treasury,
5. Mr. Zephaniah Chebet - Chief Supt. Geologist
6. Mr. Kevin Macharia - Finance Officer
7. Mr. Maurice Chichi - Finance Officer KEPTAP
8. Mr. Muznah Sisiwa - Ag. Manager, Finance and Accounting
9. Mr. Andrew Muriungi Ringera - Ass. Manager Financial Reporting
10. Mr. George Kubai - Ag. CEO NOCK
11. Mr. Alex Magu - CFO NOCK
12. Mr. John Ego - Manager, Development(NOCK)
13. Mr. Pavel Oimeke - Director General/EPRA

COMMITTEE SECRETARIAT

1. Ms. Rose M. Wanjohi - Clerk Assistant I

2. Mr. Douglas Katho - Clerk Assistant II
3. Mr. Abdirahman Gorod - Fiscal Analyst II
4. Ms. Sheila Chebotibin - Serjeant-At-Arms
5. Ms. Christine Maeri - Audio Officer

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chair
3. Confirmation of Minutes
4. Matters Arising
5. **Meeting with the State Department for Petroleum regarding the Budget Policy Statement 2020**
6. Any Other Business
7. Adjournment/ Date of the next meeting

MIN. NO. NA/ENERGY/2020/024: PRELIMINARIES AND ADOPTION OF AGENDA

The Chairperson called the meeting to order at ten o'clock. The Hon. Dr. Robert Pukose, MP said the Prayer. The Agenda was adopted as proposed by Hon. Lemanken Aramat, MP and as seconded by Hon. Elisha Odhiambo, MP respectively. The Chairperson welcomed the officials from the State Department for Petroleum to the meeting.

MIN. NO. NA/ENERGY/2020/025: CONFIRMATION OF MINUTES

The Agenda item is deferred. There were no matters arising.

MIN.NO.NA/ENERGY/2020/026: MEETING WITH THE STATE DEPARTMENT FOR ENERGY REGARDING THE BUDGET POLICY STATEMENT 2020

Mr. Andrew Kamau, the Principal Secretary, State Department of Petroleum accompanied by other Ministry officials appeared before the Committee and submitted that:-

i. The overall objective of the energy and petroleum policy is to ensure affordable, competitive, sustainable and reliable supply of energy to meet national and county development needs at least cost, while protecting and conserving the environment.

ii. Recurrent and Development Expenditure proposals contained in the 2020 BPS and the breakdown of the revenue sources is shown in the table below.

Vote	Source	Approved Budget FY2019/20	Allocation FY2020/21
Recurrent	GOK	189,962,500	207,000,000
	Local AIA	47,000,000	47,000,000
	Sub-Total	236,962,500	254,000,000
Development	GOK	1,800,000,000	800,000,000
	Grants	330,000,000	130,000,000
	Loans	1,464,102,900	1,070,000,000

	Local AIA	1,844,000,000	1,844,000,000
	Sub-Total	5,438,102,900	3,844,000,000
Total for the Vote		5,675,065,400	4,098,000,000

iii. Kenya Petroleum Technical Assistance Project (KEPTAP) has trained 320 staff, distributed 6,969 Metric Tonnes of petroleum products and produced four (4) task order reports.

iv. Petroleum Exploration in Block 14T is being implemented by NOCK who has completed the Acquisition of Gravity, magnetelluric and magnetics data; reprocessing vintage seismic data and geochemical analyses of the gas found in Kipetu area

v. The Early Monetization of First Oil Project has delivered 400,000 barrels; is proceeding with drilling of 20 oil development wells and 63 petroleum blocks review and gazettement of new blocks; Monitoring and Supervising Crude Oil Production, Transportation and Storage at the KPRL Facilities in Mombasa as well as technical verification of the oil production (metering)

vi. Fuel Marking programme is being implemented by EPRA who have conducted sampling of 9,500 distribution points and undertaken Monitoring and Testing to check the presence of export marker in local products and fuel adulteration

vii. In regards to the key major activities of Preparatory activities for the Lokichar – Lamu Crude Oil Pipeline they have made FID for the project; acquired land for the 823Km pipeline; identify and secured project financier; procured an EPC Contractor. They have tendered for long lead items and Negotiated and sign Pipeline project agreements

viii. LPG Distribution and Infrastructure program was to Up-scaling the LPG distribution to Mwananchi Cylinders; Construction of 1 bulk LPG storage facility; Distribution of 150,000 LPG cylinders and construction of 70 LPG cylinder outlets

ix. Oil exploration and Monitoring program involves the acquisition of 1 Geological and Geophysical data; Drilling one (1) exploratory well; Purchase of geochemical laboratory equipment; Review and approve of the final FDP for the south Lokichar foundation phase; Acquisition for land for the South Lokichar upstream development area (CPA); Undertaking 24 Stakeholder Engagement and Sensitization Workshops in active Petroleum Blocks and Review and approve of the Final South Lokichar FDP and finally Monitoring drilling of Exploratory/ Appraisal Wells.

x. Regarding Pending Bills- the State Department had a total of Kshs 248,141,302.15 outstanding pending bills as at 30th June 2019. To date all the outstanding bills have been cleared. We also have pending bills for LPG cylinders at NOCK depot at industrial areas estimated at Kshs 216 million and will be paid once the outstanding issues surrounding them are resolved.

Committee Observations

The Committee observed that

1. There were inconsistencies in the number of barrels produced between the data provided by the Ministry and the National Treasury.
2. That the Kshs. 280 Millions that been allocated to NOCK has been utilized for other activities other than what it was intended for.
3. That the list of pending bills was inconsistent with what was being reported by the National Treasury. Therefore, there was need to update it and provide the Committee with an updated list of pending bills.
4. The current status of the EOPS was worrying especially with the media allegations on the availability and quantity of oil. The Ministry needs to set the record straight including the financial capability and continued relations with Tullow Oil Kenya
5. The fiscal and legal framework governing the revenue sharing of eth oil was unclear including the Production Sharing Contracts which the Ministry needs to clarify.
6. EPRA service delivery is a matter of concern as there is an inordinate delay in provision of licenses.

Committee recommendations

The Committee recommended that

1. The Ministry provides the legal and fiscal framework of revenue sharing regime for the crude oil.
2. The results of the audit exercise being carried out by the Ministry in regards to the workings of Tullow oil
3. EPRA to improve service delivery on the issuance of licenses.

MIN. NO. NA/ENERGY/2020/027: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at two o'clock. The next meeting will held on Thursday 20th February, 2020.

SIGNED..... **DATE** 26/2/2020

(CHAIRPERSON)

MINUTES OF THE 5TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN BIG BOARDROOM 9TH FLOOR, HARAMBEE PLAZA, PARLIAMENT BUILDINGS ON WEDNESDAY 19TH FEBRUARY, 2020 AT 10.00 AM

PRESENT

1. The Hon. David Gikaria, MP - **Chairperson**
2. The Hon. (Dr.) Robert Pukose, MP - **Vice Chairperson**
3. The Hon. Cecily Mbarire, MP
4. The Hon. Joseph Wathigo Manje, M.P
5. The Hon. Clement Muturi Kigano, MP
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Lemanken Aramat, M.P
8. The Hon. (Eng.) Vincent Musyoka Musau, MP
9. The Hon. Abdikhaim Osman Mohamed, MP
10. The Hon. Elisha Odhiambo, MP
11. The Hon. Elsie Muhanda, MP
12. The Hon. Gitau Faith Wairimu, M.P
13. The Hon. Richard Chonga, MP
14. The Hon. Amina Gedow Hassan, M.P
15. The Hon. Tindi Nicholas Mwale, MP
16. The Hon. Ekomwa Lomenen James, M.P.
17. The Hon. Walter Owino, MP

APOLOGIES

1. The Hon. Julius Musili Mawathe, MP
2. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE

STATE DEPARTMENT FOR ENERGY

1. Hon. Simon Kachapin – Chief Administrative Secretary
2. Mr. Evans Mutari – Secretary Administration
3. Mr. William O. Mbaka - Senior Chief Finance Officer
4. Mr. Stephen Lusweti - Director Human Resource
5. Mr. Kemoli Sagala - Adviser CS Office
6. Mr. Moses Gitari - AAG
7. Mr. Longal Donato - PA to CAS
8. Ms. Gladys Mumbe - Finance Officer, Budget

COMMITTEE SECRETARIAT

1. Ms. Rose M. Wanjohi - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant II
3. Mr. Abdirahman Gorod - Fiscal Analyst II
4. Ms. Sheila Chebotibin - Serjeant-At-Arms
5. Ms. Christine Maeri - Audio Officer

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chair
3. Confirmation of Minutes
4. Matters Arising
5. **Consultation with the State Department for Energy regarding the Budget Policy Statement 2020**
6. Any Other Business
7. Adjournment/ Date of the next meeting

MIN. NO. NA/ENERGY/2020/019: PRELIMINARIES AND ADOPTION OF AGENDA

The Chairperson called the meeting to order at twenty two minutes past ten o'clock. The Hon. (Dr.) Robert Pukose, MP said the Prayer. The Agenda was adopted as proposed by Hon. Lemanken Aramat, MP and seconded by Hon. Elisha Odhiambo, MP respectively. The Chairperson welcomed the officials from the State Department for Energy to the meeting.

MIN. NO. NA/ENERGY/2020/020: CONFIRMATION OF MINUTES

The Agenda item is deferred. There were no matters arising.

MIN.NO.NA/ENERGY/2020/021: CONSULATATION WITH THE STATE DEPARTMENT FOR ENERGY REGARDING THE BUDGET POLICY STATEMENT 2020

The Committee deferred this agenda item and resolved that the Cabinet Secretary appears in person to make the presentation the following day 20th February, 2020 at 11.30am to allow continuity and institutional memory on the previous consultations on the Budget Policy Statements. Further, the deliberations are for policy matters contained in the Budget Policy Statement which are within his docket.

The Committee resolved to be appraised on the employment status of Mr. William Mbaka as the Chief Financial Officer and what happened to Walter Oseri, who was the substantive CFO before being replaced by Mr. Mbaka.

The Committee resolved to be appraised on the status of pending bills of the Ministry.

MIN. NO. NA/ENERGY/2020/022: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at half past eleven o'clock. The next meeting will held on Wednesday 19th February, 2020 in the afternoon.

SIGNED..... **DATE** .....

(CHAIRPERSON)

MINUTES OF THE 4TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN BIG BOARDROOM 9TH FLOOR, HARAMBEE PLAZA, PARLIAMENT BUILDINGS ON TUESDAY 18TH FEBRUARY, 2020 AT 10.00 AM

PRESENT

1. The Hon. David Gikaria, MP - **Chairperson**
2. The Hon. (Dr.) Robert Pukose, MP - **Vice Chairperson**
3. The Hon. Cecily Mbarire, MP
4. The Hon. Joseph Wathigo Manje, M.P
5. The Hon. Clement Muturi Kigano, MP
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Lemanken Aramat, M.P
8. The Hon. (Eng.) Vincent Musyoka Musau, MP
9. The Hon. Abdikhaim Osman Mohamed, MP
10. The Hon. Elisha Odhiambo, MP
11. The Hon. Elsie Muhanda, MP
12. The Hon. Gitau Faith Wairimu, M.P
13. The Hon. Julius Musili Mawathe, MP
14. The Hon. Richard Chonga, MP
15. The Hon. Walter Owino, MP

APOLOGIES

1. The Hon. Amina Gedow Hassan, M.P
2. The Hon. Tindi Nicholas Mwale, MP
3. The Hon. Ekomwa Lomenen James, M.P.
4. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE

DELEGATION OF RESEARCH OFFICERS FROM PARLIAMENT OF UGANDA

1. Mr. Herbert Ngabirano - Principal Research Officer and Head of Delegation
2. Ms. Esther Namukasa
3. Ms. Charity Alesi
4. Mr. Gerald Rubale
5. Ms. Sylvia Nanyonjo

COMMITTEE SECRETARIAT

1. Ms. Rose M. Wanjohi - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant II
3. Mr. Abdirahman Gorod - Fiscal Analyst II
4. Mr. David Ngeno - Research Officer III
5. Ms. Sheila Chebotibin - Serjeant-At-Arms
6. Ms. Christine Maeri - Audio Officer

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chair
3. Confirmation of Minutes
4. Matters Arising
5. **Brief from Parliamentary Budget Officer on Budget Policy Statement 2020**
6. Any Other Business
7. Adjournment/ Date of the next meeting

MIN. NO. NA/ENERGY/2020/014: PRELIMINARIES AND ADOPTION OF AGENDA

The Chairperson called the meeting to order at ten o'clock. The Hon. Faith Gitau said the Prayer. The Agenda was adopted as proposed by Hon. Lemanken Aramat, MP and as seconded by Hon. Elisha Odhiambo, MP respectively. The Chairperson welcomed the visiting delegation of researchers from the Parliament of Uganda who are on a study visit to the National Assembly. The Chairperson gave them a brief on the workings of National Assembly and the Committee on Energy.

MIN. NO. NA/ENERGY/2020/015: CONFIRMATION OF MINUTES

The Agenda item is deferred. There were no matters arising.

MIN.NO.NA/ENERGY/2020/016: BRIEF PRESENTED BY THE PARLIAMENTARY BUDGET OFFICE ON THE BUDGET POLICY STATEMENT FOR THE STATE DEPARTMENTS FOR ENERGY AND PETROLEUM

The Committee was informed that the Budget Policy Statement (BPS) was submitted for consideration by Parliament on 13th February 2020 in accordance with section 25 of the Public Finance Management Act (PFM), 2012. Consequently, Parliament shall, not later than 14 days after the BPS is submitted table and adopt its report with or without amendments.

The 2020 BPS, outlines the medium term expenditure framework, policy and programmed strategic priorities detailing the proposed sectoral expenditure ceilings and overall funding including energy and petroleum sub sectors for the FY 2020/21 and 2022/2023.

In that regard, the Committee is mandated to scrutinize the proposed sectoral allocations and budget related policies, programmes and their objectives as well as the comprehensiveness, realism and effectiveness of such programmes in achieving the stated objectives.

In considering and reviewing the 2020 BPS, the Committee should look at the interlinkages between the overall policies and proposed programmes as well as expenditure proposals in meeting the ministerial/sector policy objectives, Vision 2030 and Medium Term Plan (MTP III). This calls for predictable funding that takes into account ongoing priorities and measures to address current challenges such as pending bills and slow pace of implementing current project portfolios in the sector.

The Committee heard that the overall resource allocation has been proposed to reduce marginally (5%) to a total of Kshs. 2.72 trillion in 2020/21 down from Kshs 2.873 in 2019/2020. However, the allocation for outer medium term period is proposed to increases to Kshs 2.95 trillion and Kshs 3.19 trillion in 2021/22 and 2022/2023 FY, respectively.

The table below outlines this.

Table 1: Summary of Resource Allocations for 2020/21 and MTEF Budget, Kshs Billion					
Details	FY 2019/20	FY 2020/21	% increase/ Reduction	Outer Medium Term Years	
	Approved Revised	proposed BPS		FY 2021/22	FY 2022/2023
National Government (Executive)	1,947.87	1,778.13	-9%	1,897.11	2,067.14
Parliament	39.89	36.22	-9%	38.47	40.53
Judiciary	19.20	18.05	-6%	18.57	19.31
Consolidated Fund Services	550.06	574.65	4%	675.29	729.89
County Government	316.50	316.50	0%	325.69	334.84
Total	2,873.53	2,723.56	-5%	2,955.13	3,191.70

Source: National Treasury (2020 BPS)

Allocations to national executive (ministerial) , Parliament and Judiciary is proposed to reduce by 9% each with the judiciary also reducing by 6% while allocation to the Consolidated Funds Services , which is mainly towards debt repayment and debt services and pensions, is increasing by 4% (or Kshs 25 billion). Due to the constraining fiscal space given the increase in mandatory expenditure (like consolidated fund services) and other measures such as fiscal consolidation, sectoral expenditure ceilings are likely to be affected in the medium term compared to current levels.
The BPS 2020 outlines key criteria in apportioning allocation to capital projects which include:

i. **On –going projects** whose completion is vital because energy and petroleum sub sectors programmes are key enablers including realization of the Big 4 Plans.
ii. **Counter- part funds** to ensure that the exchequer component is provided in time to support some key energy projects such as transmission lines. This has not been clear and the exchequer amount often subject to reallocation.
iii. **Strategic policy intervention** involves priority given to policy interventions that have overarching impact (national and regional, social equity and environmental conservation), like those under Energy and Petroleum.

Energy sub sectors are key enabler for economic growth, development and poverty reduction to improved quality of life. The policy goals underpinning the infrastructure sector is aimed at closing existing gaps and improve the quality of service delivery and ease of doing business. However, slow project implementation pace in some cases resulting into actual penalties (deemed generation), pending bills and reduced fiscal space are major challenges and pose substantial risks to financing the sub-sectors.

The table below provides summaries of key policies under the sector and their linkages with programmes under implementation, summary of Energy and Petroleum Sub sector polices and priorities and achievement of key targets.

MDA	Polices	Programmes/Sub programmes	Summary of past targets achieved
State Department of Energy	• National Energy Policy	• Power Generation programme • Power Transmission and Distribution programme • Alternative Energy Technologies programme	• promote capacity building within the sector through research, development and training, and also empower local manufacture of plant, equipment, appliances and materials. • One renewable energy policy reviewed and progressed from Feed IN Tariff (F-i-T) to Energy Auctions • Encourage generation of electricity from renewable resources, build and maintain the necessary distribution and transmission infrastructure. • Stimulate the 24 hour economy and catalyse the manufacturing sector, the energy charge rates for commercial and industrial customers will be reduced by 50 per cent for all consumption above set thresholds to stimulate economic growth under the Energy Regulatory Commission (EPRA). This is partly achieved through street electrification with approximately 24,000 street lighting point undertaken • gazette Time of Use Tariffs (ToU).
	• Rural Electrification and Renewable Energy	• Power Transmission and Distribution programme with sub programmes of Rural Electrification and National Grid System (Transmission)	• Connecting 123,750 new customers through and another 440 new consumers connected in 2018/19, • 150 low income consumers through transformer densifications in 2016/17 • 383,000 households though the last mile connection and 1 million through the connectivity subsidy in 2016/17 among others • 22140 : No. of schools, market centers, health centers other public facilities and households connected through REREC • 1450 Transformers installed • towns /cities to be lit through the street lighting programme • Construction and completion of 132, 220, 400 ,220/400 kv lines in terms of km, towers including compensation of project affected persons • Enhanced grid extension network and upgrade. High voltage transmission lines
	• Integrated Energy Plan to National Energy Policy	• Alternative Energy Technologies programme/sub programme • Power Generation Programme power	• Enactment of Energy Act 2019 providing legal basis for integration • 800 solar projects maintained and serviced • Completion of Garissa Wind Project (55MW) costing approximately 13 billion.
	• Feed in Tariffs Policy •	• Alternative Energy Technologies programme/sub programme • Power Generation programme	• One renewable energy policy reviewed and progressed from Feed IN Tariff to Energy Auctions • Confirmation Small Hydro Power projects such as the Imenti tea factory 28MW (See also annex III for list of PPPs with status of call guarantees) • Power Technology Solutions Ltd. Gikira Kianjora Small Hydro Power Stations 0.514MW (See also annex III for list of PPPs with status of call guarantees)

MDA	Polices	Programmes/Sub programmes	Summary of past targets achieved
			• Updated Small hydropower atlas • Co-generation by Mumias Sugar and resumption

Source: MTPII, and MTPIII, Sector Reports and 2019 BPS

Review of sector priorities contained in the second MTP, 2019/2020 sector report and the 2020 BPS reflect consistency and predictability in sector funding. However, there is need to ensure consistency in target achievements and reported outputs so as to gauge programme performance to primarily inform subsequent allocations.

In the last three financial years from 2016/17 to 18/19, the sub sectors has been allocated a total of Kshs 250.39 billion compared to the proceeding three FYs which stood Kshs 283.39 billion. This compares to actual expenditure performance of Kshs 200.14 billion. Moreover, resource flow to the sector has been steady with actual expenditure performance at 80%.

A review of trend analysis reflects a decreasing allocation, partly due to scale down in generation after change in policy in pursuing generation above +5000MW in the medium term, which also informed reduction in external funding and GoK Counterpart funding and initiation of associated key transmission projects.

Some of the major achievement under the sub sector of State Department of Energy during the FY 2018/19, and in view of the approved Key Performance Indicators and targets include:

i. Achievement of 174 MWe by GDC in 2018/19 against a target of 194.4 MW. This should bolster policy priorities to have investors' contractual agreement fast tracked in developing harnessed steam in Menangai.
ii. Achievement of one stakeholders' engagement on Lamu coals. However, missed target of having one Resettlement Action Plan Report impedes this.
iii. Connection of 440,822 new customers connected to electricity against annual target of 800,000.
iv. Connection of 24,447 street lighting points compared to committed target of 30,000. However, there is need to address the emerging intergovernmental challenge of pending bills arising from counties failing to honour electricity bills accruing from use of street light.

On the financial performance of the State Department for Petroleum, the table below gives a summary analysis of past expenditure, reflecting an improved absorption capacity.

Table shows approved allocation vis a vis actuals for the period 2016/17 to 2018/19

Programme	Approved Budget			Actual Budget			Absorption			
	16/17	17/18	18/19	16/17	17/18	1819	% 16/17	% 17/18	% 18/19	Overall absorption
Exploration and Distribution of oil and gas	3,073	4,145	3,491	1,656	3,033	2,879	54%	73%	82%	71%
Total	3,073	4,145	3,491	1,656	3,033	2,879	54%	73%	82%	

Source: National Treasury, Various Sector Reports

Opportunities and Challenges

The Committee heard that the Key challenges in the sub sectors include:

1. High cost of power- this appears to be due to compromises to affordability of power and lack of oversight capacity by the Ministry.
2. Slow completion of projects. This partly on account of too many projects going on at the same time putting a strain on Ministry oversight, implementation capacity of projects as well as resources provided.
3. Critical projects allocation and transfers between State Department and SAGAS with no clear modalities and responsibility framework underpinning service delivery to actualize committed targets and subsequent reporting. For instance REREC AND KPLC, and recently between KETRACO and KPLC.
4. Disconnect and lack of policy coherence and planning as well as budgeting process given recent supplementary budgets requesting approvals for new projects and overdue outstanding obligations in excess of 10% of the approved budget. This also includes inadequate framework for utilizing external funds and implementation of projects as per contractual timelines.
5. Accumulating pending bills which substantially affects subsequent appropriations partly due to exchequer performance and slow pace of project implementation on the part of the implementing agencies. However, the National Treasury submitted that all pending bills amounting to Kshs 13.8 million have been fully settled by December 2019. The amount provided might indicate an understatement and require further clarification.
6. Corporate governance issues in the petroleum sector particularly under KPC, affecting tariff of petroleum products. Consequently, this may have affected regional market share and performance of the overall economy due to inefficiencies of the pipeline infrastructure.

SECTOR PRIORITIES AND ALLOCATION IN THE 2020 BPS

State Department of Energy

The proposed ceiling for the State Department of Energy is at Kshs 72.52 billion, a decrease of 14% from current approved allocation of Kshs 84.01 billion, substantial scale down that majorly affects projects under Transmission and Distribution Programme. Given the huge obtaining gap, the ministry should prioritize completion of ongoing projects, curtail new projects primarily to fasten completion of existing projects while ensuring uptake of external committed funds.

The table below gives a breakdown of proposed resource allocation by programme and sub votes vote Vis a Vis resource requirements for the sub sectors

Table 5: Resource requirements vis-a- vis current allocation and proposed ceilings, Kshs Millions

Energy sub sectors	Approved Allocation 2019/20	Resource requirement for 2020/21	FY 2020/21 proposed Ceiling			Change compared to Approved Baseline (2019/20)	BPS programme ceiling as share of total proposed allocation	BPS Ceiling as % of resource requirement (2019/20)
			Rec.	Dev't	Total			
State Department for Energy	84,015.20	153,056.00	5,792.00	66,735.70	72,527.70	-14%	100.0%	-53%
Administration Planning and Support Services	550	560	396	128	524.00	-5%	0.7%	-6%
Power Generation	10,754.00	28,[illegible]	1,574	9,346	10,920.00	2%	15.1%	-61%
Power Transmission and Distribution	68,835.60	117,240	3,603	53,585	57,187.70	-17%	78.8%	-51%
Alternative Energy Technologies	[illegible]	[illegible]	219	[illegible]	3,896.00	[illegible]	[illegible]	[illegible]

Source: 2020 Sector report and 2020 BPS and 2019/20 revised Budget

1. Under the Power Generation Programme with proposed allocation of Kshs 10.92 billion, the key Performance Indicators (KPIs) and expected targeted output include:
   i. Additional 83.3 MW as compared to baseline target of 82 MW by KenGen and development of geothermal steam equivalent of 260 MWe through exploration and appraisal drilling by GDC as well as further drilling of exploratory geothermal wells expected to be 20.

ii. GDC has planned to realize 35 MW in FY 2020/21 through PPP, and subsequently 35 MW for each of the other years in the medium term. However, achieving this targets has been a moving target in the last medium term and there is need to scale up monitoring and oversight to ensure commitment to contractual timelines.

iii. Training of officers on nuclear related courses (115) and undertaking public awareness and campaigns on nuclear energy by NUPEA (70), completion of coal Feasibility study report (50%), by the relevant Directorate at the Headquarters, among others.

2. On Power Transmission and Distribution Programme, mainly towards construction of transmission lines and rural electrification activities, is proposed to be allocated Kshs 57.18 billion, a decrease when compared to current allocation of Kshs 68.35 billion. This programme is also critical to ensure equitable supply of power, reduce system losses and enhance national grid infrastructure outreach across the country as well as rural electrification. Some of the KPIs and expected targets under the Power Transmission and Distribution Programme are:

i. **Transmission lines and substations**: Construction of 467 km of transmission lines and 4 sub stations by KETRACO. However, the specific lines and the substations are not provided and thus not clear whether it relates to on-going or new projects.

ii. **Transmission lines and substations**: construction of 500 km of distribution lines and construction of 20 distribution sub stations by KPLC. Similarly, the specific lines and the substations to be constructed are provided and thus not clear whether it relates to on-going or new projects.

iii. **Connectivity:** 800,000 new customers connected to electricity by KPLC. This an annual target and review of past performance (FY 2018/19) reflect only 55% of the approved target was achieved meaning that there is need to evaluate the realism of the target given Vis a Vis the proposed allocation before approvals.

iv. **Street Lighting:** 30,000 street lighting points by KPLC. Notably, for a similar target in the FY 2018/19, 24,447 translating 82% was achieved, which also requires a review of amounts proposed against realism of the proposed targets.

v. **Installation of transformers:** installation of 1995 transformers in the FY 2020/20 and a similar target in the subsequent fiscal year. However, there are no targets given in the near term period of 2022/23 and there is need for clarity as the status of the project and whether it's planned to be completed in the FY 2021/22.

vi. **Electrification of public facilities:** connection of 7332 Public facilities to electricity and a similar target in each of the medium term year up to 2022/23. However, the target achieved for the FY 2018/19 is 263 public facilities, a substantial contrast to the proposed target. This may need review and harmonization in the absence of fundamental change in execution including approved strategies and work plans with strict timelines to ensure delivery in line with the universal access to electricity by 2020/21 timeframe.

vii. **Maintenance of Solar PVs in primary schools**- and maintenance of 1,819 solar panels in various primary schools by REREC for the FY 2020/21 and similar target for the FY 2021/22.

3. Under the Alternative Energy Technologies Programme, the expected output FY 20/21 include:

i. 100% maintenance of previously installed solar P.V systems in public institutions numbering 1,443 by the Renewable Directorate in the Ministry. While maintenance is key to the productive capacity and life of the asset under maintenance, the number given is quite high and it's not clear how the allocation will cater for each of the installation.

ii. Construction of 400 domestic household biogas digesters. Given the implementation of the same under the initial pilot phase, the committee may consider if the ministry can scale up

demonstration and awareness to encourage private sector and household to participation. This may minimize allocation towards actual construction and redirect the savings to other critical unfunded areas.

Summary of Key Issues and Policy Options for the state Department of Energy.

1. **Fiscal Risks and Contingent Liability as well as guarantees**: between the fiscal year 2017/18 and 2019and20, a substantial amount, in excess of 10% of the sector budget has been paid under deemed generation for failure to constructs transmission lines on time. The committee may undertake establish if there are such outstanding bills in the period under considerations and prompt review of all energy Transmission and generation projects whose total contract cost is in excess of Kshs. 10 billion with a view to establish such risks and probability of materializing. Consequently, the Committee to direct that National Treasury to provide for such provisions outside the sector budget, with proper budgeting of the same done under the National Treasury Budget to enhance disclosure and transparency.
2. **Strengthening the Programme Based Budget framework:** Review of all indicators and targets reflected under each programme and projects are not comprehensive and completely change (both in metric and KPIs) towards the end of the medium term. There is need for comprehensive of proposed targets and the same be reported to the Controller of Budget on quarterly basis for parliamentary scrutiny
3. **Prioritization and fast tracking of on-going projects:** Proposed allocation reflect declining sector funding, although it's not clear by source in the 2020BPS. In that regard, priority should be to ongoing projects and big four related projects.
4. **Budget Predictability and Consistency:** Review of the 2019/20 budget process reflects challenges in budget predictability and consistency in both planning and budgeting. A number of new projects were introduced at the supplementary level, key among them in Transmission lines (Lolyangalani-Marsabit 400 KV Transmission Line with underlying contractual arrangements), Key off grid solar project (Kenya Off-grid Solar Access Project –KOSAP, which is an ongoing project) , outstanding contractual obligations due for more one fiscal year, among others . The downside to this is that this type of expenditures have the potential to distort appropriations, approved annual budget and sector financing framework and may pose legal challenges.
5. **Counterpart Funding:** In view of the review of past capital budget performance, component of exchequer funds/AiA to supplement externally funded projects has been subject to frequent in – year revisions. This is often common in projects under the power transmission and distribution programme (transmission lines) and AiA component of geothermal projects thus also pointing to weak or nonexistent framework underpinning counterpart funding. Consequently, the committee may seek additional disclosures of projects and their specific counterpart funding with accompanying contractual provisions.
6. **Incentivizing the private sector participation in projects under Alternative Energy Technologies Programme:** In view of the proposed target to construct over 400 domestic household biogas digesters following a pilot phase in the previous periods, the committee may consider recommending the involvement of the private sector and private households while the ministry is limited to awareness creation and promotion of renewable energy technologies and direct such resources to other key interventions within sector programmes.
7. **Risks to budget performance:** Pending bills have remained a major risk to sector budgets in last medium term period. However, submissions from the National Treasury indicate settlement of all outstanding pending bills although this requires clarification to the actual status by MDA

The Committee should constantly monitor and sanction emergence of pending bills in the medium term with a view to curtailing appropriations for programmes with longer than accepted outstanding bills until status of previous appropriation is justified. A key risk to the budgeting and budget performance is the inordinate delay in appointing the Auditor General, which needs to be fast tracked to ensure approval of the 2020 Estimates is informed by the findings of the auditor general on sectors programmes and projects.

State Department of Petroleum

The proposed overall resource allocation is approximately 67% the total resource requirement for the same period indicating that the programme is underfunded. The proposed ceiling allocation for the FY 2020/21 for the State Department is at Kshs 4.09 billion, a decrease of 27% from current approved allocation. This portends that there is need to prioritize completion of on-going projects and prompt review and impact evaluation of externally funded project that may be coming to an end such as KEPTAP (including the training component).

The table gives a breakdown of proposed resource allocation by programme and sub votes vote Vis a Vis resource requirements for the sub sectors

Table : Resource requirements vis-a- vis current allocation and proposed ceilings, Kshs Millions

petroleum sub sectors	Approved Allocation 2019/20	Resource requirement for 2020/21	FY 2020/21 proposed Ceiling			Change compared to Approved Baseline (2019/20)	BPS programme ceiling as share of total proposed allocation	BPS Ceiling as % of resource requirement (2019/20)
			Rec.	Dev't	Total			
State Department for Petroleum	5,675.10	6,147.00	254.00	3,844.00	4,098.00	-27.79%	100%	67%
Exploration and Distribution of oil and gas	5,675.10	6,147.00	254.00	3,844	4,098.00	-27.79%	100%	67%

Source: 2020 Sector report and 2020 BPS and 2019/20 revised Budget

Programmes' Key Performance Indicators and Expected Target Output

1. On the Exploration and Distribution Programme, the state department plans to sign and license five (5) Production Sharing Contract (PSC) with international Oil companies and finalize agreements with signing of another six (6) PSC in the medium term.
2. On the review for creation and gazettement of additional blocks (63 blocks) for purposes of upstream petroleum exploration. In addition, the state department has programmed to market oil blocks (31) for the FY 2020/21. However, submissions on blocks creation indicate a similar number have been achieved in the FY 2018/19, thus the committee may subject this particular target to further scrutiny to determine accuracy and is evidence based.
3. **Early Oil Project:** Trucking 400,000 barrels of crude oil for onward export to the KPRL Storage facility where current achievements as per submissions on the budget implementation for 2019/20 indicate delivery and shipment of 240,000 barrels. However, submissions from the National Treasury reflect export of 204,044 barrels of crude oil in the same period. Moreover, the cost of the early oil is not clear in view of the current approved allocation and treatment of the proceeds from oil Vis a Vis the provisions of the underlying contractual provision. The committee may apprise itself on the governance framework underpinning the Early Oil Project including the fiscal regime, cost control and audit of the project partners' activities. This also includes the status of the project to inform the approval of the proposed delivery of 400,000 barrels of crude oil as the target for the FY 2020/21 and a similar target for each of the medium term outer years (FY 2021/22 and 2022/2023).
4. **KEPTAP:** Expected Training of over 640 officers under the Kenya Petroleum Technical Assistance Project (KEPTAP) after which there are no targets indicated in the last medium term years, perhaps

indicating the end of the program component. However there is need for review and evaluation of the impact of the program ahead of the full field development and export of crude oil in the near term.

5. **Mwananchi Gas Project:** cylinders to be purchased, tagged and distributed to low income households (150, 000), with same target expected to be achieved in each year of the medium term.

Policy Options for the Sub Sectors

1. **Strengthening the Programme Based Budget framework:** Similarly, a review of all indicators and targets reflected under each programme and projects are not comprehensively indicated and are subject to change or revision at different stages of the budget process. This is quite prevalent particularly under the Early Oil Project and exploration activities. Moreover, there is no consistency in the number of targets achieved with different documents indicating different outputs. There is to ensure the state department addresses such risks to budget performance and PBB framework and the same are reported to the Controller of Budget on quarterly basis for parliamentary scrutiny upon approval.
2. **Programme Design and reorganization:** The state Department has one main programme, in which there are other sub programmes including Administration Planning and Support Services. However, the Administration Planning and Support Services is standalone programme within the budgeting framework of government and in line with requirements of the underlying framework PBB. This is to ensure clarity in the classification of government functions economic classification of government allocations. The Committee may seek further clarification to have the same as a main programme and whether the current main programme can be further re-designed and unbundle with a view to have more programmes to fully align with various roles of the State Department.
3. **Risks to budget performance:** one of the key risks to the state department budget and programmes under implementation includes pending bills. While there has been effort to clear eligible pending bills which was Kshs 248.14 million by December 2019, an amount of Kshs 18.4 million remains outstanding which relates to tender awarded for supply and delivery of cylinders in the FY2016/17 due to court cases. Other risks include lack of regular reports to the CoB relating to non-financial performance of transfers to SAGAs particularly grants towards NOCK. The committee may consider further disclosure on the performance of these transfers as basis for subsequent approvals.
4. **Risk factors in up-stream activities and Early Oil Project** – There is need to ensure adherence to timelines underpinning critical upstream activities in line with government objectives to achieve the targets under the pilot scheme and towards the final investment decisions and full field development. Adherence to the timelines is also important in actualizing the objectives under the National Export Development and Promotion Strategy enlisting the oil and gas sector as critical sector to support the country's exports. Other major risk to be mitigated in the upstream sector is ensuring regular updates on the audit process and out-comes primarily to control associated development costs and expenses to maximize potential returns from crude exports.

Committee Observations

The Committee observed that

1. The National Treasury assertion that the pending bills under the energy and petroleum sub-sector had all been cleared was doubtful.

2. The list of pending bills was not broken into individual SAGAs including list of contractors and the amounts owed to have an informed view of the matter.

Committee Recommendations

The Committee recommends that

1. It would not be approving the budget of Ministry with pending bills.
2. It receives the list of pending bills, with contractors and amounts owed.

MIN. NO. NA/ENERGY/2020/017: ANY OTHER BUSINESS

The Committee resolved that it would proceed with the Inspection visit to Olkaria and Suswa sub-stations scheduled from 20th to 23rd February 2020.

MIN. NO. NA/ENERGY/2020/018: ADJOURNMENT/ DATE OF NEXT MEETING

The meeting was adjourned at twenty minutes to one o'clock. The next meeting will held on Wednesday 19th February, 2020.

SIGNED..... **DATE** 26/2/2020

(CHAIRPERSON)

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON ENERGY

ADOPTION LIST

REPORT ON THE BUDGET POLICY STATEMENT 2020

DATE: 25/02/2020 VENUE: Small Boardroom, 9th Floor, Harambee Plaza

	NAMES	SIGNATURE
1.	Hon. David Gikaria , MP Chairperson	
2.	Hon. (Dr) Robert Pukose , MP (Vice Chair)	
3.	Hon. Cecily Mbarire , MP	
4.	Hon. James Ekwoma Lomenen, MP	
5.	Hon. Joseph Waithigo Manje ,MP	
6.	Hon. Lemanken Aramat, MP	
7.	Hon. Oscar Sudi Kipchumba , MP	
8.	Hon. (Eng.) Vincent Musyoka Musau ,MP	
9.	Hon. Amina Gedow Hassan ,MP	
10.	Hon. Abdikahim Osman Mohamed ,MP	
11.	Hon. Clement Muturi Kigano, MP	
12.	Hon. Elisha Odhiambo, MP	
13.	Hon. Elsie Muhanda, MP	
14.	Hon. Gitau Faith Wairimu , MP	
15.	Hon. Julius Musili Mawathe , MP	
16.	Hon. Ken Chonga , MP	
17.	Hon. Mohamed Ali Lokiro , MP	

18.	Hon. Tindi Nicholas Mwale , MP	
19.	Hon. Walter Owino ,MP	

DEPARTMENTAL COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURCES

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELVETH PARLIAMENT –FOURTH SESSION

THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

REPORT ON THE BUDGET POLICY STATEMENT FOR THE FY 2020/21 AND MEDIUM TERM FOR THE STATE DEPARTMENTS OF:-

VOTE 1108: MINISTRY OF ENVIRONMENT AND FORESTRY

VOTE 1107: MINISTRY OF WATER & SANITATION AND IRRIGATION

VOTE 1203: STATE DEPARTMENT FOR WILDLIFE

VOTE 1119: STATE DEPARTMENT FOR MINING

DIRECTORATE OF COMMITTEE SERVICES,
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI.

FEBRUARY 2020

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1.0 PREFACE

1.1 Committee Mandate

1. The Departmental Committee on Environment and Natural Resources is established under the National Assembly Standing Orders No. 216 (1). The functions and mandate of the Committee are also contained under the National Assembly Standing Orders, No. 216(5) as:-
   a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
   b) Study the program and policy objectives of the Ministries and departments and the effectiveness of the implementation;
   c) Study and review all legislation referred to it;
   d) Study, access and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;
   e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
   f) Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
   g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

2. The subject matter of the Departmental Committee on Environment and Natural Resources are stated in the Second Schedule of the National Assembly Standing Orders No. 216 (f) as follows: climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural resources, pollution and waste management.

1.2 Oversight

3. In executing its mandate, the Committee oversees the following Government Ministries and Departments namely:-
   i. The Ministry of Environment and Forestry;
   ii. The Ministry of Water and Sanitation;
   iii. The State Department for Wildlife; and
   iv. The State Department for Mining.

1.3 Members of the Committee

4. The Committee comprises the following Members:

The Hon. Kareke Mbiuki, M.P. **(Chairperson)**
MP for Maara Constituency
Jubilee Party

The Hon. Sophia Abdi Noor, M.P. **(Vice Chairperson)**
MP for Ijaara Constituency
Party of Development and Reforms (PDR)

The Hon. Benjamin Jomo Washiali, M.P.,
MP for Mumias East Constituency
Jubilee Party

The Hon. David Kangogo Bowen, M.P.
MP for Marakwet East Constituency
Jubilee Party

The Hon. Francis Chachu Ganya, M.P.
MP for North Horr Constituency
Frontier Alliance Party (FAP)

The Hon. Ali Wario Guyo, M.P.
MP for Garsen Constituency
Wiper Party

The Hon. Beatrice Cherono Kones, M.P.
MP for Bomet East Constituency
Jubilee Party

The Hon. Charity K. Chepkwony, M.P
MP for Njoro Constituency
Jubilee Party

The Hon. Hilary Kiplang'at Kosgei, M.P.
MP for Kipkelion West Constituency
Jubilee Party

The Hon. Peter Kimari Kihara, M. P.
MP for Mathioya Constituency
Jubilee Party

The Hon. Benjamin Dalu Tayari, MP.
MP for Kinango Constituency
Orange Democratic Movement (ODM)

The Hon. Charles Ong'ondo Were, M.P.
MP for Kasipul Constituency
Orange Democratic Movement (Odm)

The Hon. Nasri Sahal Ibrahim, M.P.
MP - Nominated
Forum For Restoration Of Democracy-K

The Hon. Rozaah Buyu. M.P.
MP for Kisumu County
Orange Democratic Movement (ODM)

The Hon. Said Hiribae, M.P.
MP for Galole Constituency
Forum For Restoration Of Democracy– K

The Hon. Hassan Oda Hulufo, M.P.
MP for Isiolo North Constituency
Kenya People's Party (KPP)

The Hon. Amin Deddy Mohamed Ali, M.P.
MP for Laikipia East Constituency
Jubilee Party

The Hon. Rehema Hassan, M.P.
Tana River County
Maendeleo Chap Chap Party (Mcc)

The Hon. (Eng.) Paul M. Nzengu, M.P.
MP for Mwingi North Constituency
Wiper Party

1.4 Committee Secretariat

5. The Committee is serviced by the following Members of Staff:

Ms. Esther Nginyo
Second Clerk Assistant/Lead Clerk

Mr. Dennis Mogare Ogechi
Second Clerk Assistant

Mr. Fredrick Muthengi
Chief Fiscal Analyst

Mr. Sydney Lugaga
Legal Counsel I

1.5 Consideration of the Budget Policy Statement

6. The Budget Policy Statement was tabled in the House on 14th February, 2020 and was referred to the Departmental Committees pursuant to Standing Order 232 (4). The Committee held two Sittings on Wednesday, 19th February, 2020 to deliberate on the Budget Policy Statement during which it met with the Parliamentary Budget Office, the Ministry of Environment and Forestry, the Ministry of Water & Sanitation and Irrigation, State Department for Wildlife and the State Department for Mining.

1.6 Committee Observations and Recommendations

7. The Committee having received submissions from the various State Departments and further deliberated, scrutinized and examined the submissions and content of the 2020/21 Budget Policy Statement, the Committee made the following observations and recommendations:

MINISTRY OF ENVIRONMENT AND FORESTRY

8. The Ministry of Environment and Forestry has a low absorption rate of 35% for the 2nd Half of FY 2019/20, which was attributed to delays in exchequer releases and payment of pending bills as first charge, thereby delaying project implementation. It was also observed that there was need to ensure that procurement plans were done in good time to ensure timely absorption of funds.

Recommendation: The Ministry of Environment and Forestry to ensure that procurement plans are done in good time to ensure timely absorption of funds.

9. There is a reduction on the Development vote for the FY 2020/21 with a total of Kshs. 5.643 billion compared to the FY 2019/20 allocation of Kshs. 7.279 billion.The Ministry's Development budget was heavily reliant on donor funding to the tune of Kshs. 3.309 billion compared to Kshs. 2.334 billion from GOK for the FY 2020/21.

Recommendation: The National Treasury to ensure that development projects reliance on donor funding is progressively reduced.

10. The Ministry is experiencing shortage of staff due to high staff turnover through transfers to other ministries and retirements without replacement. The situation was made worse by the freeze on recruitment by the Public Service Commission. This had affected efficiency in the delivery of service.

    Recommendation: The Ministry of Environment and Forestry together with the National Treasury and the Public Service Commission to jointly work out on a formula for a progressive recruitment process to enhance service delivery.

11. The Ministry's ambitious project of the National Tree Campaign to achieve 10% tree cover by 2022 had received kshs. 1 billion in the FY 2019/20. However, in the proposed budget for the FY 2020/21, the project had received Kshs. 237 million, casting doubt on the viability of the target of 10% tree cover by 2020. The Budget cuts are likely to affect implementation of the national commitment to restoration of 10% forest cover programmes among others.

    Recommendation: The Ministry of Environment and Forestry in collaboration with the National Treasury should ring –fence funds provided for national restoration of 10% forest cover programmes in the current financial year and in the medium term. This will ensure the programme is insulated from irregular budgetary cuts. The parties should also consider introduction of conditional grant to county governments by setting aside funds to for tree planting programme.

12. The European Union has suspended the support to water project due to alleged violation of Human Right in the Kenya Water Towers Protection and Climate Change Mitigation and adaptation (WaTER) project which involves Landscape restoration in 11 Counties in western Kenya and Bamboo planting in forest areas. This adversely affects the project implementation cycle and eventually may lead to withdrawal or even cancellation of the projects altogether.

    Recommendation: The National Treasury and the Ministry of Environment and Forestry should renegotiate and address issues raised by the financier to resolve the stalemate and ensure resumption of the Kenya Water Towers Protection and Climate Change Mitigation and adaptation (WaTER) project which involves Landscape restoration in 11 Counties in western Kenya and Bamboo planting in forest areas.

13. NEMA continues to be affected by the removal of the Environmental Impact Assessment Fees by the National Treasury affecting its AIA and consequently, its effectiveness. Its reliance solely on exchequer had affected the Authority to carry out its inspection mandate due to lack of liquidity.

    Recommendation: The National Treasury to consider reinstating the Environmental Impact Assessment Fees collection by NEMA as AIA to supplement on the exchequer.

14. The KFS a disciplined force is operating below its capacity as 1 guard was allocated 1000 ha of forest to protect against the international standards of 1:400 Ha. The shortage of the forest guards and with proper protective equipment compromised the conservation efforts. There was therefore a gap of 2,500 rangers that needed to be filled for effective conservation and protection of forests.

    Recommendation: The Ministry of Environment and Forestry together with the National Treasury and the Public Service Commission to jointly work out on a formula for a progressive recruitment process to enhance service delivery.

15. The Ministry has several Agencies with Chief Executive Officers in acting capacity, thereby affecting governance of these Agencies. There was need to have the officers who were acting to be confirmed in those positions for efficiency and effectiveness in the execution of mandate.

    Recommendation: The Cabinet Secretary, Ministry of Environment and Forestry to ensure that the Chief Executive Officers in acting capacity, are confirmed in those positions for efficiency and effectiveness in the execution of mandate.

16. The Ministry requested for increased funding to implement its key projects as well as the reinstatement of budgetary allocation of Kshs 591 million in the FY 2020/21 to increase rehabilitation of riparian and degraded areas. These amounts were for: Nairobi River Rehabilitation and Restoration (Kshs 110 million), Urban Rivers Rehabilitation Project (Kshs. 70 million), Imarisha Lake Naivasha Catchment Management in Kenya (Kshs. 140 million), Suswa Lake Magadi – Migori Environment Restoration Project (Kshs. 71 million) and Forest Plantations (Kshs. 200 million). There was no allocation in the FY 2019/20 for these activities and therefore the Ministry has not been able meet its target.

    Recommendation (Financial): The National Treasury to consider allocating Kshs 591 million in the FY 2020/21 beyond the ceiling to increase rehabilitation of riparian and degraded areas. These amounts are for: Nairobi River Rehabilitation and Restoration (Kshs 110 million), Urban Rivers Rehabilitation Project (Kshs. 70 million), Imarisha Lake Naivasha Catchment Management in Kenya (Kshs. 140 million), Suswa Lake Magadi – Migori Environment Restoration Project (Kshs. 71 million) and Forest Plantations (Kshs. 200 million).

17. The Ministry was in arrears for the subscriptions to International bodies amounting to Kshs. 144 million which was hindering the country's participation to ratified and domesticated agreements to enhance international cooperation on environmental conservation.

    Recommendation: The National Treasury to facilitate payment of arrears for the subscriptions to International bodies amounting to Kshs. 144 million which was hindering the country's participation to ratified and domesticated agreements to enhance international cooperation on environmental conservation.

MINISTRY OF WATER, SANITATION AND IRRIGATION

18. The Executive Order No. 6 of 2019 had merged the State Department for Irrigation with the Ministry of Water and Sanitation to establish the Ministry of Water & Sanitation and Irrigation on 22nd August, 2019. Following this merger, the vote was consolidated and hence necessitated the National Assembly to reorganize oversight role on the Irrigation Programmes apportioning it to the Committee on Environment and Natural Assembly. Previously, the State Department for Irrigation was being oversighted by the Departmental Committee on Agriculture and Livestock.

19. The Ministry of Water & Sanitation and Irrigation has designed various dams in the forest with an aim of supplying water resources through force of gravity. However, these projects are experiencing delay in completion due to the Moratorium on forest, thereby restricting the contractors from accessing the projects. Consequently, the project costs were rising due to claims on idle time by the contractors. There is need to have the matter addressed by the Cabinet Secretaries for Environment and Forestry and that of Water & Sanitation and Irrigation for the provision of way leaves for the water projects.

    Recommendation: The Cabinet Secretaries for Environment and Forestry and that of Water & Sanitation and Irrigation to address the issue of the provision of way leaves for the water projects. The Committee has facilitated a meeting of the two Cabinet Secretaries to address the matter.

20. The Ministry is at different stages of processing formulation of several policies and regulations. These include; National Water Policy, Land Reclamation Policy, National Irrigation Policy, Water Services Regulatory Rules, Water Resources Rules, Water Harvesting and Storage Rules, Water Tribunal Rules.

    Recommendation: The Ministry of Water & Sanitation and Irrigation should fast track the implementation and operationalization of the various policies and regulations to ensure service delivery.

21. The Ministry experienced delayed exchequer releases and the budget was not uploaded to the IFMIS system in time and this adversely affected the expected targets achievement.

    Recommendations: The National Treasury in collaboration with other stakeholders should consider fast tracking tax exemptions approvals where applicable to facilitate timely donor-funded projects seamlessly. To this end, the Committee has facilitated a meeting for the Cabinet Secretaries for the National Treasury and that of Water & Sanitation and Irrigation to address the matter expeditiously.

22. The donor funded projects are experiencing delays in completion as the National Treasury was delaying the tax exemptions on equipment for these projects. There was need for the Cabinet Secretaries for the National Treasury and that of Water & Sanitation and Irrigation to address the matter expeditiously.

Recommendation: The National Treasury in collaboration with other stakeholders should consider fast tracking tax exemptions approvals where applicable to facilitate timely donor-funded projects seamlessly. To this end, the Committee has facilitated a meeting for the Cabinet Secretaries for the National Treasury and that of Water & Sanitation and Irrigation to address the matter expeditiously.

23. The water sector is largely dependent on external development partners' support for its capital expenditures. This poses the challenge that the sector may stumble to low development should the development partners withhold or suspend their budgetary support. This makes targeted projects susceptible to development partners funds flow and fluctuations.

    Recommendation: The GOK funding mix should progressively be increased to ensure project sustainability even in event of external financing pulling off to ensure development projects are reliance.

24. The Ministry does not have a provision for Resettlement Action Plan for ongoing projects. This ultimately leads to delays of projects resulting from lengthy process in compensation of project affected persons (PAP) in cases where there are compulsory acquisitions of land which is also compounded by the lengthy exchequer turnaround time.

    Recommendation: The Ministry of Water & Sanitation and Irrigation should ensure timely execution of programmes. The feasibility studies should incorporate all aspects of financial and economic implications before new projects are initiated. This will ensure acquisition of land compensation are synchronized and factored in budget estimates.

25. The stalled Umaa and Badasa Dams have received allocations through supplementary 1 of the FY 2019/20 as payments for consultancy reports on their viability. There is therefore need for the Ministry to fast track receipt of the consultancy reports so as to necessitate allocation for the remaining works for the projects to completion.

    Recommendation: The Ministry of Water & Sanitation and Irrigation to fast track receipt of the consultancy reports so as to necessitate allocation for the remaining works for the projects to completion for the Umaa and Badasa Dams.

STATE DEPARTMENT FOR WILDLIFE

26. The State Department for Wildlife the 1% Resources from the Road Maintenance Levy Fund (RMLF) set aside for the parks maintenance and rehabilitation of roads in national and game reserves was too little to carry out meaningful roads works.

    Recommendation: The State Department for Wildlife to initiate legislative amendment to Kenya Roads Board Act to increase the percentage quantum set aside for access road maintenance in the national and game reserves.

27. On Human Wildlife Conflict Mitigation Programme through fencing, the Department was implementing it through labour contract, which was reported to be very slow and

extraneous. It was therefore necessary for the Department to explore outsourcing the services to contractors with full fencing contracts for efficiency.

Recommendation: On Human Wildlife Conflict Mitigation Programme through fencing, the State Department for Wildlife outsource the services to contractors with full fencing contracts for efficiency.

28. The Department has critical areas that have not been included in the FY 2020/21 include: Recruitment of Rangers, Kenya Parks Sustainability Programme (Kshs. 2.350 billion), Operationalization of Kenya Wildlife Research and Training Institute (kshs. 100 million), Ban of Plastic in Protected Areas (Kshs. 100 million), Beach Management Programme Kshs. 100 million) and new Wildlife Bill, Policy and Regulation (Kshs. 50 million), Human Wildlife Conflict Compensation Insurance Scheme (Kshs. 1 billion) and Securing Wildlife Corridors and Dispersal Areas (Kshs. 100 million).

Recommendation: The National Treasury to expand the Department ceiling for the FY 2020/21 to include funds for the following projects: Recruitment of Rangers, Kenya Parks Sustainability Programme (Kshs. 2.350 billion), Operationalization of Kenya Wildlife Research and Training Institute (kshs. 100 million), Ban of Plastic in Protected Areas (Kshs. 100 million), Beach Management Programme Kshs. 100 million) and new Wildlife Bill, Policy and Regulation (Kshs. 50 million), Human Wildlife Conflict Compensation Insurance Scheme (Kshs. 1 billion) and Securing Wildlife Corridors and Dispersal Areas (Kshs. 100 million).

STATE DEPARTMENT FOR MINING

29. The State Department for Mining had an allocation of Kshs. 999,268,613 in the FY 2019/20. However, in the proposed budget for FY 2020/21, the Department's budget has been reduced to Kshs. 973 million against a resource requirement of Kshs. 2.825 billion. The Department has continued to experience acute under funding despite its importance to the growth of the economy. On its part, the Department needed to redouble its efforts in collection of royalty so as to attract additional GOK funding.

30. The Development vote for the State Department is paltry Kshs. 312 million despite the need for it to purchase specialized equipment in preparation to initiate the next phase after the completion of the National Geo-physical Airborne Survey.
31. The Department priority areas of funding included: National Mining Corporation (Kshs. 200 million)- which is an investment arm of the Government in the mining sector; acquisition of Mines Inspectorate Equipment (Kshs. 110 million), Geo-exploration and Research (Kshs. 250 million) and Mineral Promotion & Value addition (Kshs. 300 million).

Recommendation: The National Treasury to expand the State Department for Mining ceiling and allocate additional Kshs.1.353 billion to address the acute under funding due to its importance to the growth of the economy.

1.7 Acknowledgements

1. The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate. I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.

2. The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

3. Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Environment and Natural Resources, to present this Report to the Budget and Appropriation Committee pursuant to the provisions of section 25 of the Public Finance Management Act (PFM Act) and Standing Order 232 (4).

SIGNED .....

HON. KAREKE MBIUKI, MP
(CHAIRPERSON)
DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
DATE.....27/02/2024.....

2.0 CONSIDERATION OF THE BUDGET POLICY STATEMENT

2.1 Background

4. The 2020 Budget Policy Statement reiterates commitments and the gains made previously in past Budget Policy Statements and the Annual Budget estimates. It is themed *Harnessing The "Big Four" For Job Creation and Economic Prosperity.* It prioritizes and continues with ongoing investments in the "Big Four" Agenda as the guiding focus on the National Development Plan as outlined in the Third Medium Term Plan (MTP III) of the Kenya Vision 2030.
5. Environment plays a key role in the socio economic development. The sector ensures optimal, effective and seamless linkages with all other sectors of the economy thus promoting socio-economic development geared towards the realization of the Kenya Vision 2030, Sustainable Development Goals (SDGs) and various multilateral agreements relating to the sector. The sector also delivers goods and services that are critical enablers/driver for the realization of the "Big Four" Agenda. The sector is also a major player in employment creation.

6. The Environment and Natural Resources sector has been receiving minimal budgetary allocations as a percentage of the government sector. Allocation to the sector has been rising marginally as a percentage of the government total budget. This therefore explains why the sector is largely dependent on external development partners support for its capital expenditure. The sector's total development partner support accounted for 57%, 66.31% and 52.51% in the Financial years 2016/17, 2017/18 and 2018/19 respectively.

7. The sector's resource ceilings for the FY 2020/21 is proposed at Kshs. 96.965 billion against projected resource requirements of Kshs. 162.986 billion. In the medium term, the proposed projected requirements are Kshs. 198.020 billion for FY 2021/22 and Kshs. 220.977 billion for the FY 2022/23.however, the BPS estimates the total sector resource ceiling for FY 2020/21 at Kshs. 96.729 billion, comprising of Kshs. 71.534 billion for development and Kshs. 25.195 billion for recurrent expenditure.

8. The programmes objectives and resource ceilings for FY 2020/21 have been highlighted in the table 1 below:

Table 1: Programmes Objectives and resource ceilings for FY 2020/21 in Kshs in millions

	Programmes	Objectives	Total Resource Allocation 2020/21
	a) Environment and Forestry Sub-sector		**15,797**
1	General Administration, Planning and Support Services	To provide policy and legal framework for efficient and effective management of the environment	301

2	Environment Management and Protection	To sustainably manage and conserve environment.	3,
3	Meteorological Services	To provide reliable weather and climate information for decision-making.	1,
4	Forest and Water Towers Conservation	To sustainably manage, conserve and protect forests and water towers.	10,
b) Water & Sanitation and Irrigation			**70,**
5	General Administration, Planning and Support Services	To promote good governance in the management of water resources and irrigation programs	
6	Water Resources Management	To increase availability of safe and adequate water resources	10,
7	Water Storage and Flood Control	To increase per capita water storage capacity for domestic, industrial and other uses	8,
8	Water and Sewerage Infrastructure Development	To enhance accessibility of water and sewerage services	41,
9	Irrigation and Land Reclamation	To increase agricultural productivity through irrigation and drainage services	8,
10	Water Harvesting and Storage for Irrigation	To increase reliability of irrigation water and build resilience for communities against droughts	1,
c) Wildlife Sub-sector			**9,**
11	Wildlife Conservation and Management	To sustainably conserve and manage Kenya's wildlife	9,
d) Mining Sub-sector			
12	Geological Surveys & Geo information Management	To provide geo-scientific data to prospective investors, research institutions, planners and infrastructure developers.	
13	Mineral Resources Management	To effectively manage licensing and concession, promote minerals value addition and marketing	
14	General Administration, Planning and Support Services	To provide policy and legal framework and efficient and effective support services for management of mineral and geo-information data	

Source: BPS, 2020 and the Sector Report

9. The sector report proposes additional resources to the Environment Protection, Water and Natural Resources sector to implement various policies and programmes, which include: Environment Management and Protection, Modernization of Meteorological Services, Forests and Water Towers Conservation, Securing Wildlife Corridors and Dispersal Areas, Sustainable Development of Mining (Extractive Sub-sector) and Mining Sub-sector.

2.2 Programme Performance for the FY 2020/21

10. The Ministry of Environment and Forestry ceiling for the FY 2020/21 is proposed at Kshs. 15.797 billion. The main programmes are the Forest and Water Towers Conservation and Environmental Management and Protection with a ceiling of Kshs. 10.67 billion and Kshs. 3.14 billion respectively. The sub-sector allocation is lower than that of the FY 2019/20 of Kshs. 17.374 billion arising from the reduced allocation for the Meteorological Services from Kshs. 4.07 billion to Kshs. 1.67 billion.

11. Under the Ministry of Water & Sanitation and Irrigation sub-sector, there are two programmes that have been introduced, which were previously domiciled in the State Department for Irrigation. These two programmes are: Irrigation and Land Reclamation and Water Harvesting and Storage for Irrigation with allocations of Kshs. 8.852 billion and Kshs. 1.723 billion respectively. The Water and Sewerage Infrastructure Development which is implemented through the Water Works Development Agencies (formerly Water Boards) and the National Water Conservation and Pipeline Corporation and the Water Services Trust Fund has a proposed budget ceiling of Kshs. 41.035 billion. However, much of this funding is through the external funding.

12. The Departmental Committee on Environment and Natural Resources requested for the Speaker's guidance on handling the Irrigation aspect of the Ministry of Water & Sanitation and Irrigation Budget Policy Statement for FY 2020/21, which was previously under the Departmental Committee on Agriculture and Livestock. The Speaker in his Communication on Wednesday, 20th February, 2020 directed that all matters Irrigation be handled by the Departmental Committee on Environment and Natural Resources following Executive Order No. 6 of 2019 that merged the State Department for Irrigation and the Ministry of Water and Sanitation.

13. The State Department for Mining sub-sector is implementing three programmes, namely: Geological Surveys & Geo-information Management, Mineral Resources Management and General Administration & Support Services with a proposed ceiling of Kshs. 973 million. The Geological Survey and Geo-information Programme is a new Programme which follows the transfer of the Resources Survey and Remote Sensing Programme to the Ministry of Environment and Forestry.

2.3 Salient Issues

14. The Environment and Natural Resources Sector has various key issues of concern, which include: heavy reliance on development partners budget support, slow achievement of certain critical targets due to inadequate funding and /or delay in exchequer releases leading to pending bills and escalation of project costs, delay in projects implementation arising from lengthy process in compensation of Project Affected Persons (PAPs) as well as frequent reorganization of government resulting to projects transfer leading to delays in project execution.

3.0 SUBMISSION BY THE MINISTRIES AND THE STATE DEPARTMENTS

15. The Departmental Committee on Environment and Natural Resources held meetings with the Ministries and State Departments under its purview on Wednesday, 19th February, 2020. They made their presentations as follows, that:

3.1 Ministry of Environment and Forestry

16. Dr. Chris Kiptoo, CBS, Principal Secretary, Ministry of Environment and Forestry appeared before the Committee on Wednesday, 19th February, 2020 and submitted on the BPS for the FY 2020/2021 and the 2nd Quarter of the FY 2019/20 performance. On the FY 2019/20 2nd Quarter performance, he stated that the Ministry was at 35% absorption rate represented by 44% in recurrent expenditure and 22% in development vote. The low absorption rate was due to delay in exchequer funds as well as suspension of Kshs.1.279 billion on development vote for the implementation of WaTER Project by the donors on allegations of abuse of human rights.

17. The Ministry noted that it did not have any new programs or projects for implementation under the FY 2020/2021 Budget Policy Statement. However, it reported major variation to existing programmes and sub-programmes, including changes in key performance indicators. These programmes included: Environment Management and Protection with a reduction of Kshs. 909 million which is likely to affect the enforcement of the plastic ban and inadequate environmental laboratory space and equipment for pollution control and monitoring.

18. The Meteorological Services Programme has also been varied through a reduction of Kshs 415 million which will affect the early warning services for Disaster Risk Reduction such as landslides, mudslides, floods, drought and severe weather. Under the Forests and Water Conservation Programme, a reduction of Kshs 276 million will affect the production of 2 billion tree seedlings to increase the tree cover to 10& by 2022. It will also affect the purchase of the ICT and Laboratory equipment to assist in the production of high-quality seeds as well as the reclamation of the water towers ecosystem.
19. On the financing of the projects for the FY 2020/21, it was noted that the Ministry proposed ceiling is at Kshs. 5.643 billion represented by Kshs. 2.334 billion from the GOK funding and Kshs. 3.390 billion from the donors. This is a reduction compared to the allocation of Kshs. 7.279 billion in the FY 2019/20.

20. The Ministry cited various challenges that affected its project implementation, which included: Inadequate funding and budget cuts especially in key areas of climate Change Adaptation and Mitigation Activities, implementation of Presidential Directives and Recommendations of the Taskforce reports. The Ministry also experienced delay in exchequer releases for development projects as well as human resources challenges due to high staff turnover through transfers and retirement coupled by the freeze on recruitment by the Public Service Commission.

21. The Ministry requested for increased funding to implement its key projects as well as the reinstatement of budgetary allocation of Kshs 591 million in the FY 2020/21 to increase rehabilitation of riparian and degraded areas. These amounts were for: Nairobi River

Rehabilitation and Restoration (Kshs 110 million), Urban Rivers Rehabilitation Project (Kshs. 70 million), Imarisha Lake Naivasha Catchment Management in Kenya (Kshs. 140 million), Suswa Lake Magadi – Migori Environment Restoration Project (Kshs. 71 million) and Forest Plantations (Kshs. 200 million).

22. The Ministry was in arrears for the subscriptions to International bodies amounting to Kshs. 144 million which was hindering the country's participation to ratified and domesticated agreements to enhance international cooperation on environmental conservation.

3.2 Ministry of Water and Sanitation

23. Mr. Joseph Wairagu, CBS, Principal Secretary, Ministry of Water and Sanitation and Irrigation appeared before the Committee on Wednesday, 19th February, 2020 and noted that the Ministry's mandate had been expanded through a merger vide the Executive Order No. 6 of 2019 which merged the former State Department for Irrigation with the Ministry of Water and Sanitation. The merger had resulted into two additional programmes under the Ministry, namely: Irrigation and Land Reclamation and Water Harvesting and Storage for Irrigation.

24. He stated that the Ministry was undertaking policy and legal reforms in operationalizing the Water Act, 2016. It was developing the National Water Policy, Land Reclamation Policy and the National Irrigation Policy. The Ministry was also formulating Regulations /Rules such as Water Services Regulatory Rules, Water Resources Rules, Water Harvesting and Storage Rules, Water Tribunal Rules, Water Sector Intergovernmental Consultation and Cooperation Framework and National Irrigation Regulations, all in draft form.
25. On the first half performance for the FY 2019/20, the Ministry received a total exchequer of Kshs. 11.654 billion against an exchequer requirement of Kshs. 19.433 billion.

26. On key planned programmes outputs, the Ministry planned to finalize Water Services, Water Harvesting Resources Regulations, amendments to the Water Act, 2016 and KEWI Act 2001 under the General Administration, Planning and Support Services Programme. Under the Water Resource Management Programme, the Ministry planned to establish 135 Water Resources Monitoring Stations, implement 21 Sub-Catchment Management Plans, undertake 58 Abstraction and Pollution surveys as well as rehabilitate 14 km of Riparian land. Under the Water and Sewerage Infrastructure Development, the Ministry proposed to increase access to safe water from 63% to 80% nationally by 2022. Under the Water Storage and Flood Control Programme, the Ministry proposed to implement the following dams under the MTEF Period: Thwake Multi-purpose Dam, Siyoi Muruny Dam and Water Supply, Mwache Dam, Karimenu II Dam, Ruiru II Dam and Yamo Dam.

27. On the BPS ceiling, the Ministry of Water & Sanitation and Irrigation has an allocation of Kshs. 6.292 billion for the Recurrent Expenditure and Kshs. 66.972 billion for development vote represented by Kshs. 28.177 billion GOK fund, 34.748 billion donor fund and Kshs. 4.047 billion in grants.

28. On the BIG FOUR Agenda Projects, the Ministry has a resource requirement of Kshs. 46.495 billion against an allocation of 2.742 billion as an enabler.

29. The Ministry requested for consideration of requirements that had not been accommodate in the ceilings as follows: Resettlement Action Plan (RAP) – Kshs 5.42 billion for ongoing projects in Mwache Dam (2 billion), Kenya Towns (0.9 billion), Ruiru II Dam (1.45 billion), Northern Collector Tunnel (1.07 billion).

30. It also requested for Kshs. 250 million for Courts awards and legal fees, Kshs. 330 million for newly created SAGAs, Kshs. 5.7 billion to clear pending bills, Kshs. 5 billion for counterpart funding for ongoing donor projects and Kshs. 5 billion for last Mile Water and Sewerage Connectivity. Further funding for the ministry's headquarters was requested for Annual Events amounting to Kshs 200 million, Kshs. 33 million for Annual Subscription to International Organizations, Kshs 100 million for Maji House Renovation and Kshs. 100 million for Water Sector Institutions Reforms.

31. The Ministry cited challenges in implementing its budget, which included: budget cuts, destruction of water and sanitation infrastructure by floods (Garissa Sewerage and Baricho Water Works), delay in approval of tax exemptions, inadequate funds to undertake RAP and Land Compensation and delays in issuance of forest permits (Bosto Dam).
32. The Irrigation Sub-sector budgetary allocation is KShs.10.714 billion for 2020/21 FY with recurrent expenditure ceiling of Kshs. 888 million and Kshs 9.826 billion for Development expenditure. This represents an overall growth of 13.7% compared to 2019/20 FY of Kshs. 9.415 billion. Irrigation and Land Reclamation was allocated Kshs 8.8 billion whereas Water Harvesting and Storage for Irrigation was allocated Kshs 1.7 billion.

3.3 State Department for Wildlife

33. Prof. Fred Segor, CBS, Principal Secretary, State Department for Wildlife appeared before the Committee on Wednesday, 19th February, 2020 and submitted that on the first half for the FY 2019/20 performance, the State Department expended Kshs. 4.251 billion against an allocation of Kshs. 7.736 billion.

34. On the planned new policies and Programmes for the Budget Policy Statement for FY 2020/21, the Department proposed to draft a Wildlife Bill and Wildlife Policy to address emerging issue and align wildlife issues with the constitution. The Department also proposed to establish the Human Wildlife Compensation Insurance Scheme to reduce the over-reliance on exchequer. It also proposed to recruit 900 rangers and 100 management trainees so as to replace those who had left on retirement and natural attrition.

35. The Department expected to finance the capital projects through the exchequer and development partners such as UNDP, USAID, JICA and the European Union.

36. The Department has a proposed ceiling for the FY 2020/21 of Kshs8.088 billion for recurrent and Kshs. 924 million for Development Projects. The Department has various development projects that have not received funding in the FY 2020/21, which include: Kenya Wildlife Conservation Project (KWPC-USAID), Species and Habitat Restoration Programme, Nairobi Safari Walk Development and Education Outreach Programme, Kenya Parks Sustainability Programme, and Operationalization of Kenya Wildlife Research and Training Institute.

37. The Department has critical areas that have been underfunded in the FY 2020/21 as follows: Human Wildlife Conflict Compensation with a requirement of Kshs. 1.553 billion has been allocated Kshs. 569 million, Modernization of Anti-Poaching with a requirement of Kshs. 550 million has received Kssh. 80 million, Human Wildlife Mitigation Programme has a requirement of Kshs. 400 million has received Kshs. 240 million, Ranger Housing Programme has a requirement of Kshs. 350 million has an allocation of Kshs. 80 million while maintenance of Access Roads in the Parks Programme has a requirement of Kshs. 1.800 billion has an allocation of Kshs. 200 million.

38. The critical areas that have not been included in the FY 2020/21 include: Recruitment of Rangers, Kenya Parks Sustainability Programme (Kshs. 2.350 billion), Operationalization of Kenya Wildlife Research and Training Institute (kshs. 100 million), Ban of Plastic in Protected Areas (Kshs. 100 million), Beach Management Programme Kshs. 100 million) and new Wildlife Bill, Policy and Regulation (Kshs. 50 million), Human Wildlife Conflict Compensation Insurance Scheme (Kshs. 1 billion) and Securing Wildlife Corridors and Dispersal Areas (Kshs. 100 million).

3.4 State Department for Mining

39. Amb. Peter Kaberia, CBS, Principal Secretary, State Department for Mining appeared before the Committee on Wednesday, 19th February, 2020 briefed the Committee that the State Department for Mining has been given a Gross budgetary allocation of **Kshs 973,000,000** out of a total resource requirement of **Kshs 2,825,000,000 creating** a budget deficit of **Kshs 1,852,000,000** for the financial year 2020/2021. The allocation is distributed as follows: Recurrent Net **Kshs 561,000,000;** Recurrent A.I.A **Kshs 100,000,000;** Development **Kshs 312,000,000.**

40. The State Department for mining plans to implement the Financial Year 2020/21 budget under three (3) programs. They include: Geological Survey and Geo Information Management program, Mineral Resource Management and General Administration, Planning and Support Services.

41. The Budget Review and Outlook Paper (B.R.O.P) 2019 failed to address major budget shortfalls in the State Department for Mining amounting to **Kshs 1,853,000,000** in both the Recurrent and Development vote. The affected areas include:

Item	Deficit/Gap	Remarks
Training & Capacity building	32,000,000	Affect roll out of specialized training and promotional courses for officers in the Ministry's establishment
Operations of the 35 Regional Mining offices	100,000,000	Affect the operations of the Thirty Five (35) regional Mining offices up from Twelve (12) in the F.Y 2019/20

Purchase of Motor Vehicles	100,000,000	New vehicles for the State Department Vehicle fleet which is old and unserviceable
National Mining Corporation	200,000,000	Corporation that will be the investment arm of the Government in the Mining Sector as per the Mining Act 2016
National Mining Institute	150,000,000	Operationalize the institute that will develop tertiary training in Technical areas of mining as per the Minerals Policy
Artisanal Mining Committees	50,000,000	Formalization of Artisanal and small scale mining committees in Counties
Community Development Agreement Committees	50,000,000	Formalization of Artisanal and small scale mining committees (CDA) in Counties
Survey & Rehabilitation of abandoned mines	80,000,000	Survey & rehabilitation of abandoned mines in Migori, Taita-Taveta, Kilifi and Kisumu counties
Acquisition of Mines Inspectorate equipment	110,000,000	Procurement of safety equipment, seismograph and survey kits for the Mines Inspectorate department
Geo- Exploration and Research	250,000,000	Funds for Geo – Exploration of Mineral Resources, Geological surveys, assessment & verification of minerals
Mineral Rights Board	30,000,000	Operationalize the Mineral Rights board in accordance with the Mining Act 2016.
Kenya National Geoscience Research Institute	120,000,000	To establish a National research Centre on Geo Science.
Kenya Seismological Network	200,000,000	Establish a Network for monitoring earth tremors and other seismic activity
Coal exploration in Kilifi & Kwale Counties	80,000,000	Explore and establish economically viable coal deposits in Kilifi and kwale counties
Mineral Promotion & Value addition	300,000,000	Market Kenya as a Mineral hub to existing and new clients.

42. The state department plans to come up with the following new policies in the 2020/2021 FY:

S/No.	New Policy	Justification	Proposed output	Key performance Indicator(s)
1.	National Extractives Policy	The Executive Order No. 1 of 2018 gave the mandate to develop a national Extractives policy to the Ministry of Petroleum and Mining.	A well-coordinated extractives sector	National Extractives policy in place
2.	20 year mining strategy	To implement the 2015 mining sector diagnostic study	A coherent policy and regulatory environment based on a long term view	Strategy in place
3.	National Mining Institute Bill	In order to institutionalize the NMI, there is need to develop a law to guide the Institute	Trained workforce ready to take job opportunities in the extractives sector	Number of persons trained on technical, tertiary and vocational courses in mining and related fields
4.	National Geo data Sharing Policy and bill	There exists a lacuna as to how and who is the custodian of all geological data pertaining to Kenya. Whereas the geological Survey is the principal agency mandated to collect and store geological data from public sources, it is not clear where and how private organizations store and distribute geological data.	Accessible Geo Information data	A centralized National Geo-data Repository and clear modalities of sharing the data
5.	Risk Management Policy	Treasury circular No. 3 0f 2009 requires all public institutions to develop and implement a risk management framework.	Effectively identifying, assessing and mitigating incidences of	Risk management policy

			risks at the State department	

43. The State Department for Mining will finance capital projects in the Financial Year 2020/21 and the Medium Term from exchequer releases (G.O.K) and through development partners (Bilateral and Multilateral).

4.0 COMMITTEE OBSERVATIONS

The Committee therefore made the following observations:

4.1 MINISTRY OF ENVIRONMENT AND FORESTRY

44. The Ministry of Environment and Forestry has a low absorption rate of 35% for the 2nd Half of FY 2019/20, which was attributed to delays in exchequer releases and payment of pending bills as first charge, thereby delaying project implementation. It was also observed that there was need to ensure that procurement plans were done in good time to ensure timely absorption of funds.

45. There is a reduction on the Development vote for the FY 2020/21 with a total of Kshs. 5.643 billion compared to the FY 2019/20 allocation of Kshs. 7.279 billion.

46. The Ministry's Development budget was heavily reliant on donor funding to the tune of Kshs. 3.309 billion compared to Kshs. 2.334 billion from GOK for the FY 2020/21.

47. The Ministry is experiencing shortage of staff due to high staff turnover through transfers to other ministries and retirements without replacement. The situation was made worse by the freeze on recruitment by the Public Service Commission. This had affected efficiency in the delivery of service.

48. The Ministry's ambitious project of the National Tree Campaign to achieve 10% tree cover by 2022 had received kshs. 1 billion in the FY 2019/20. However, in the proposed budget for the FY 2020/21, the project had received Kshs. 237 million, casting doubt on the viability of the target of 10% tree cover by 2020. The Budget cuts are likely to affect implementation of the national commitment to restoration of 10% forest cover programmes among others.

49. The European Union has suspended the support to water project due to alleged violation of Human Right in the Kenya Water Towers Protection and Climate Change Mitigation and adaptation (WaTER) project which involves Landscape restoration in 11 Counties in western Kenya and Bamboo planting in forest areas. This adversely affects the project implementation cycle and eventually may lead to withdrawal or even cancellation of the projects altogether.

50. NEMA continues to be affected by the removal of the Environmental Impact Assessment Fees by the National Treasury affecting its AIA and consequently, its effectiveness. Its reliance solely on exchequer had affected the Authority to carry out its inspection mandate due to lack of liquidity.

51. The KFS a disciplined force is operating below its capacity as 1 guard was allocated 1000 ha of forest to protect against the international standards of 1:400 Ha. The shortage of the forest guards and with proper protective equipment compromised the conservation efforts. There was therefore a gap of 2,500 rangers that needed to be filled for effective conservation and protection of forests.

52. The Ministry has several Agencies with Chief Executive Officers in acting capacity, thereby affecting governance of these Agencies. There was need to have the officers who were acting to be confirmed in those positions for efficiency and effectiveness in the execution of mandate.

32. The Ministry requested for increased funding to implement its key projects as well as the reinstatement of budgetary allocation of Kshs 591 million in the FY 2020/21 to increase rehabilitation of riparian and degraded areas. These amounts were for: Nairobi River Rehabilitation and Restoration (Kshs 110 million), Urban Rivers Rehabilitation Project (Kshs. 70 million), Imarisha Lake Naivasha Catchment Management in Kenya (Kshs. 140 million), Suswa Lake Magadi – Migori Environment Restoration Project (Kshs. 71 million) and Forest Plantations (Kshs. 200 million). There was no allocation in the FY 2019/20 for these activities and therefore the Ministry has not been able meet its target.

53. The Ministry was in arrears for the subscriptions to International bodies amounting to Kshs. 144 million which was hindering the country's participation to ratified and domesticated agreements to enhance international cooperation on environmental conservation.

4.2 MINISTRY OF WATER, SANITATION AND IRRIGATION

54. The Executive Order No. 6 of 2019 had merged the State Department for Irrigation with the Ministry of Water and Sanitation to establish the Ministry of Water & Sanitation and Irrigation on 22nd August, 2019. Following this merger, the vote was consolidated and hence necessitated the National Assembly to reorganize oversight role on the Irrigation Programmes apportioning it to the Committee on Environment and Natural Assembly. Previously, the State Department for Irrigation was being oversighted by the Departmental Committee on Agriculture and Livestock.

55. The Ministry of Water & Sanitation and Irrigation has designed various dams in the forest with an aim of supplying water resources through force of gravity. However, these projects are experiencing delay in completion due to the Moratorium on forest, thereby restricting the contractors from accessing the projects. Consequently, the project costs were rising due to claims on idle time by the contractors. There is need to have the matter addressed by the Cabinet Secretaries for Environment and Forestry and that of Water & Sanitation and Irrigation for the provision of way leaves for the water projects.

56. The Ministry is at different stages of processing formulation of several policies and regulations. These include; National Water Policy, Land Reclamation Policy, National Irrigation Policy, Water Services Regulatory Rules, Water Resources Rules, Water Harvesting and Storage Rules, Water Tribunal Rules.

57. The Ministry experienced delayed exchequer releases and the budget was not uploaded to the IFMIS system in time and this adversely affected the expected targets achievement.

58. The donor funded projects are experiencing delays in completion as the National Treasury was delaying the tax exemptions on equipment for these projects. There was need for the Cabinet Secretaries for the National Treasury and that of Water & Sanitation and Irrigation to address the matter expeditiously.

59. The water sector is largely dependent on external development partners' support for its capital expenditures. This poses the challenge that the sector may stumble to low development should the development partners withhold or suspend their budgetary support. This makes targeted projects susceptible to development partners funds flow and fluctuations.

60. The Ministry does not have a provision for Resettlement Action Plan for ongoing projects. This ultimately leads to delays of projects resulting from lengthy process in compensation of project affected persons (PAP) in cases where there are compulsory acquisitions of land which is also compounded by the lengthy exchequer turnaround time.

61. The stalled Umaa and Badasa Dams have received allocations through supplementary 1 of the FY 2019/20 as payments for consultancy reports on their viability. There is therefore need for the Ministry to fast track receipt of the consultancy reports so as to necessitate allocation for the remaining works for the projects to completion.

4.3 STATE DEPARTMENT FOR WILDLIFE

62. The State Department for Wildlife the 1% Resources from the Road Maintenance Levy Fund (RMLF) set aside for the parks maintenance and rehabilitation of roads in national and game reserves was too little to carry out meaningful roads works.

63. On Human Wildlife Conflict Mitigation Programme through fencing, the Department was implementing it through labour contract, which was reported to be very slow and extraneous. It was therefore necessary for the Department to explore outsourcing the services to contractors with full fencing contracts for efficiency.

64. The Department has critical areas that have not been included in the FY 2020/21 include: Recruitment of Rangers, Kenya Parks Sustainability Programme (Kshs. 2.350 billion), Operationalization of Kenya Wildlife Research and Training Institute (kshs. 100 million), Ban of Plastic in Protected Areas (Kshs. 100 million), Beach Management Programme Kshs. 100 million) and new Wildlife Bill, Policy and Regulation (Kshs. 50 million), Human Wildlife Conflict Compensation Insurance Scheme (Kshs. 1 billion) and Securing Wildlife Corridors and Dispersal Areas (Kshs. 100 million).

4.4 STATE DEPARTMENT FOR MINING

65. The State Department for Mining had an allocation of Kshs. 999,268,613 in the FY 2019/20. However, in the proposed budget for FY 2020/21, the Department's budget has been reduced to Kshs. 973 million against a resource requirement of Kshs. 2.825 billion. The

Department has continued to experience acute under funding despite its importance to the growth of the economy.

66. The Department needed to redouble its efforts in collection of royalty so as to attract additional GOK funding.

67. The Development vote for the State Department is paltry Kshs. 312 million despite the need for it to purchase specialized equipment in preparation to initiate the next phase after the completion of the National Geo-physical Airborne Survey.

68. The Department priority areas of funding included: National Mining Corporation (Kshs. 200 million)- which is an investment arm of the Government in the mining sector; acquisition of Mines Inspectorate Equipment (Kshs. 110 million), Geo-exploration and Research (Kshs. 250 million) and Mineral Promotion & Value addition (Kshs. 300 million).

5.0 COMMITTEE RECOMMENDATIONS

69. The Committee having received submissions from the various State Departments and further deliberated, scrutinized and examined the submissions and content of the Budget Policy Statement for the FY 2020/21 recommends the following:

5.1 MINISTRY OF ENVIRONMENT AND FORESTRY

70. The Ministry of Environment and Forestry to ensure that procurement plans are done in good time to ensure timely absorption of funds.

71. The National Treasury to ensure that development projects reliance on donor funding is progressively reduced.

72. The Ministry of Environment and Forestry together with the National Treasury and the Public Service Commission to jointly work out on a formula for a progressive recruitment process to enhance service delivery.

73. The Ministry of Environment and Forestry in collaboration with the National Treasury should ring –fence funds provided for national restoration of 10% forest cover programmes in the current financial year and in the medium term. This will ensure the programme is insulated from irregular budgetary cuts. The parties should also consider introduction of conditional grant to county governments by setting aside funds to for tree planting programme.

74. The National Treasury to consider reinstating the Environmental Impact Assessment Fees collection by NEMA as AIA to supplement on the exchequer.

75. The National Treasury and the Ministry of Environment and Forestry should renegotiate and address issues raised by the financier to resolve the stalemate and ensure resumption of the Kenya Water Towers Protection and Climate Change Mitigation and adaptation (WaTER) project which involves Landscape restoration in 11 Counties in western Kenya and Bamboo planting in forest areas.

76. The Cabinet Secretary, Ministry of Environment and Forestry to ensure that the Chief Executive Officers in acting capacity, are confirmed in those positions for efficiency and effectiveness in the execution of mandate.

77. The National Treasury to consider allocating Kshs 591 million in the FY 2020/21 beyond the ceiling to increase rehabilitation of riparian and degraded areas. These amounts are for: Nairobi River Rehabilitation and Restoration (Kshs 110 million), Urban Rivers Rehabilitation Project (Kshs. 70 million), Imarisha Lake Naivasha Catchment Management in Kenya (Kshs. 140 million), Suswa Lake Magadi – Migori Environment Restoration Project (Kshs. 71 million) and Forest Plantations (Kshs. 200 million).

78. The National Treasury to facilitate payment of arrears for the subscriptions to International bodies amounting to Kshs. 144 million which was hindering the country's participation to

ratified and domesticated agreements to enhance international cooperation on environmental conservation.

5.2 MINISTRY OF WATER & SANITATION AND IRRIGATION

79. The Cabinet Secretaries for Environment and Forestry and that of Water & Sanitation and Irrigation to address the issue of the provision of way leaves for the water projects. The Committee has facilitated a meeting of the two Cabinet Secretaries to address the matter.

80. The National Treasury in collaboration with other stakeholders should consider fast tracking tax exemptions approvals where applicable to facilitate timely donor-funded projects seamlessly. To this end, the Committee has facilitated a meeting for the Cabinet Secretaries for the National Treasury and that of Water & Sanitation and Irrigation to address the matter expeditiously.

81. The Ministry of Water & Sanitation and Irrigation should fast track the implementation and operationalization of the various policies and regulations to ensure service delivery.

82. The GOK funding mix should progressively be increased to ensure project sustainability even in event of external financing pulling off to ensure development projects are reliance.

83. The National Treasury should endeavor to upload the budget into IFMIS system in time and the procurement modules in time to enable the entities to plan appropriately.

84. The Ministry of Water & Sanitation and Irrigation should ensure timely execution of programmes. The feasibility studies should incorporate all aspects of financial and economic implications before new projects are initiated. This will ensure acquisition of land compensation are synchronized and factored in budget estimates.

85. The Ministry of Water & Sanitation and Irrigation to fast track receipt of the consultancy reports so as to necessitate allocation for the remaining works for the projects to completion for the Umaa and Badasa Dams.

5.3 STATE DEPARTMENT FOR WILDLIFE

86. The State Department for Wildlife to initiate legislative amendment to Kenya Roads Board Act to increase the percentage quantum set aside for access road maintenance in the national and game reserves.

87. On Human Wildlife Conflict Mitigation Programme through fencing, the State Department for Wildlife outsources the services to contractors with full fencing contracts for efficiency.

88. The National Treasury to expand the Department ceiling for the FY 2020/21 to include funds for the following projects: Recruitment of Rangers, Kenya Parks Sustainability Programme (Kshs. 2.350 billion), Operationalization of Kenya Wildlife Research and Training Institute (Kshs. 100 million), Ban of Plastic in Protected Areas (Kshs. 100 million),

Beach Management Programme Kshs. 100 million) and new Wildlife Bill, Policy and Regulation (Kshs. 50 million), Human Wildlife Conflict Compensation Insurance Scheme (Kshs. 1 billion) and Securing Wildlife Corridors and Dispersal Areas (Kshs. 100 million).

5.4 STATE DEPARTMENT FOR MINING

89. The National Treasury to expand the State Department for Mining ceiling and allocate additional Kshs.1.853 billion to address the acute under funding due to its importance to the growth of the economy.

DEPARTMENTAL COMMITTEE ON

FINANCE AND NATIONAL PLANNING

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

12TH PARLIAMENT – FOURTH SESSION - 2020

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON THE CONSIDERATION OF THE 2020 BUDGET POLICY STATEMENT FOR THE FOLLOWING SPENDING AGENCIES:

The National Treasury
State Department of Planning
Ministry of Devolution and ASAL
Salaries and Remuneration Commission
Commission on Revenue Allocation
Controller of Budget

DIRECTORATE OF COMMITTEE SERVICES,
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

FEBRUARY, 2020

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CHAIRPERSON'S FORWARD

The 2020 Budget Policy Statement was tabled in the House on Thursday, 13th February, 2020, and thereafter referred to Departmental Committees for consideration. Upon a brief from the Parliamentary Budget office, the Committee called for a meeting with the Ministries and Government Agencies that it oversights to consider their Budget Policy Statements.

The Budget Policy Statement (BPS) is published in accordance with section 25 of the Public Finance Management Act, 2012. In this case therefore, the 2020 BPS refers to 2020/21 period as the immediate fiscal year after the current 2019/20, and 2021/22 and 2022/23 being the three–year Medium Term Expenditure Framework (MTEF).

Parliament is required to scrutinize the BPS and the programmes that the various spending agencies are undertaking with a view of establishing whether the resources being requested for relate to specific outputs that will lead to results as intended and as provided in the national agenda which is the Vision 2030.

The Second Schedule of the National Assembly Standing Order assigns the Departmental Committee on Finance and National Planning the mandate to consider matters related to public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking and insurance.

It is from this perspective that this Committee is mandated to scrutinize the BPS and estimate proposals for the National Treasury, State Department for Planning, the State Department for Devolution, Commission on Revenue Allocation, Office of the Controller of Budgets and the Salaries and Remuneration Commission. The Committee is equally tasked with the responsibility of scrutinizing budget related policies, programmes and their objectives as well as the comprehensiveness and effectiveness of such programmes.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support that enabled it to discharge its functions in considering the policy document setting the stage for the preparation and submission of the Annual Estimates.

I also wish to express my appreciation to the Honorable Members of the Committee for the useful contributions they made towards the preparation and production of this report.

On behalf of the Committee and Pursuant to Standing Order 232 (5) it is now my duty to forward the Committee's report to the Budget and Appropriations Committee.

THE HON. JOSEPH K. LIMO, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Finance & National Planning is one of the fifteen Departmental Committees of the National Assembly established under ***Standing Order 216***whose mandates pursuant to the ***Standing Order 216 (5)*** are as follows:

    a. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;

    b. **To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;**

    c. To study and review all the legislation referred to it;

    d. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;

    e. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;

    f. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);

    g. To examine treaties, agreements and conventions;

    h. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;

    i. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and

    j. To examine any questions raised by Members on a matter within its mandate.

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.

3. In executing its mandate, the Committee oversees the following government Ministries and departments:

    a. National Treasury and State Planning

    b. State Department for Devolution and ASAL

    c. Commission on Revenue Allocation

    d. Office of the Controller of Budget

e Salaries and Remuneration Commission

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning was constituted by the House in December, 2017 and comprises of the following Members: -

Hon. Joseph K. Limo, MP **(Chairperson)**
MP for Kipkelion East Constituency
Jubilee Party

Hon. Isaac W. Ndirangu **(Vice-Chairperson)**
MP for Roysambu Constituency
JubileeParty

Hon. Jimmy O. Angwenyi, MP
MP for Kitutu Chache NorthConstituency
Jubilee Party

Hon. Christopher Omulele, MP
MP for Luanda Constituency
ODM Party

Hon. Dr. Enoch Kibunguchy, MP
MP for Likuyani Constituency
FORD-K

Hon. Shakeel Shabbir Ahmed, MP
MP for Kisumu Town East
Independent Member

Hon. Abdul Rahim Dawood, MP
MP for North Imenti Constituency
Jubilee Party

Hon. Daniel E. Nanok, MP
MP for Turkana West Constituency
Jubilee Party

Hon. Andrew A. Okuome, MP
MP for Karachuonyo Constituency
ODM Party

Hon. David M. Mboni, MP
MP for Kitui Rural Constituency
CCU Party

Hon. Francis K. Kimani, MP
MP for Molo Constituency
Jubilee Party

Hon. Joseph M. Oyula, MP
MP for Butula Constituency
ODM Party

Hon. Joshua C. Kandie, MP
MP for Baringo Central Constituency
MCC Party

The Hon. Lydia H. Mizighi, MP
MP for Taita Taveta County
Jubilee Party

Hon. Mohamed A. Mohamed, MP
MP for Nyali Constituency
Independent Member

Hon. Purity W. Ngirici, MP
MP for Kirinyaga County
Jubilee Party

Hon. Samuel Atandi, MP
MP for Alego Usonga Constituency
ODM Party

Hon. Stanley M. Muthama, MP
MP for Lamu West Constituency
MCC Party

Hon. Edith Nyenze, MP
MP for Kitui West Constituency
WDM-K

1.4 COMMITTEE SECRETARIAT

5 The Committee is facilitated by the following Secretariat -

Ms. Leah W. Mwaura
Senior Clerk Assistant/Head of Secretariat

Ms Jennifer Ndeto
Principal Legal Counsel I

Ms Laureen Wesonga
Clerk Assistant II

Mr. Josephat Motonu
Fiscal Analyst I

Mr. Chelang'a Maiyo
Research Officer II

Mr. John Njoro
Serjeant-At-Arms

2 INTRODUCTION

6. The principal purpose of the BPS is to provide and avenue for engagement between the executive and the legislature to deliberate and agree on the policy and fiscal framework underpinning the budget in the medium term. It is anticipated that the budget for the ongoing policies is indicated and also a costing of any policy shift to indicate the amount of resources the new policies will require for successful implementation. The legislature is therefore required to scrutinize this document and upon approval, it lays the foundation for the Budget Estimates for the upcoming fiscal year and the medium term.

7. The Budget Policy Statement is published in accordance with Section 25 of the Public Finance Management Act, 2012. In preparing the BPS, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following financial year and over the medium term. The National Treasury is required to include the following in the Budget Policy Statement:-

   i.) an assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
   ii.) the financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
   iii.) the proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
   iv.) the fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

8. The submission and processing of the BPS by the National Assembly is anchored in Standing Order No 232. The Standing Order requires among other things the BPS to indicate total resources to be allocated to individual programmes and projects within a sector and indicate the outputs expected from each such programme or project during the period.

9. The National Assembly Standing Orders assigns the Departmental Committee on Finance and National Planning the mandate to consider matters in relation to *public finance, monetary policies, public debt, financial institutions(excluding those in security exchange), investment and divestiture policies, pricing policies, banking, insurance, population, revenue policies,national planning, and development.*

10. In that regard, the Committee is mandated to scrutinize policy highlights and spending plans as contained in the BPS 2020on the following votes under its purview.

    i.) Vote 1071:The National Treasury

ii.) Vote 1034:State department for Planning
iii.) Vote 1032:State department for Devolution
iv.) Vote 2121:Controller of Budget
v.) Vote 2081:Salaries and Remuneration Commission
vi.) Vote 2061:Commission of Revenue Allocation

3 HIGHLIGHTS OF THE BUDGET POLICY STATEMENT

11. The 2020 Budget Policy Statement comes at a time when the government is focused on accelerating the "Big Four" Agenda which has gained traction over the past two years through investments towards:

    i. supporting construction of at least 500,000 affordable new houses for Kenyans;

    ii. provide universal health coverage to guarantee quality and affordable healthcare to all Kenyans;

    iii. support job creation by increasing value addition and raising the manufacturing sector's share of GDP from the current 9% to 15%; and

    iv. focus on initiatives that guarantee food security and nutrition to all Kenyans.

12. So far, progress include: the increased surveillance on illicit trade to support domestic manufacturing sector; the boosted food security policy focus that has led to improved productivity and subsequent decline in food prices; the piloting of universal health programme in Machakos, Kisumu, Nyeri, and Isiolo counties; and the establishment of the National Housing Development Fund and the Kenya Mortgage Refinance Company that mobilize resources to guarantee funding for the housing programme as well as avail affordable mortgage loans to citizens.
13. The Departmental Committee on Finance and National Planning will play a pivotal role in carrying out oversight in three of the six key enablers of the "Big Four" economic agenda.
14. The first one is the creation and sustaining of a more conducive business environment for investment which would entail achieving and maintaining a stable macroeconomic environment, supporting business regulatory reforms, and promoting trade. Specifically, inflation will continue to be maintained at 5.0 ± 2.5 percent; fiscal consolidation efforts will be enhanced to strengthen debt sustainability and gradually reduce the fiscal deficit from the current 6.3 percent of the Gross Domestic Product (GDP) in FY 2019/20 down to 3.9 percent of GDP in the FY 2020/21 and further to 3.0 percent of the GDP in FY 2023/24 thus attaining the East African Monetary Union protocol target.
15. The second one is the enhancement of service delivery through devolution. This will be achieved through conditional grants aimed at incentivizing County Governments to achieve agreed upon targets; such programmes include the Kenya Urban Support Programme (KUSP) that support infrastructure investments in urban areas and the World Bank Credit that supports delivery, utilization, and quality of health care services. Further, the National Treasury and other stakeholders are implementing a policy framework that proposes various measures among them: legal and administrative reforms, automation of revenue

collection, and enforcement mechanisms with the sole aim of unlocking the County Governments' huge OSR potential.

16. The third is entrenching structural reforms. This will strengthen governance and the fight against corruption, improve public finance management, and foster financial sector development. This will be achieved through reforms and measures that strengthen accountability, improve the Public and Disposal system, rationalize expenditure. The National Treasury has also created a new Public Investment Management Unit to improve project selection, budgeting, and management. The Nairobi International Financial Centre, that will facilitate the development of an efficient and competitive financial sector, will also be operationalized.

3.1 OVERALL FISCAL FRAMEWORK FOR 2020/21

17. This Budget Policy Statement projects the total revenue in the FY 2020/21 at KSh. 2,134.1 billion (18.3 percent of GDP) representing increase from the estimated KSh. 2,084.2 billion (20.1 percent of GDP) in the current financial year, 2019/20. The total revenue will comprise of KSh. 1,856.7 billion in Ordinary Revenue and KSh. 277.4 billion in A-i-A. This will be achieved through the on-going reforms in tax policy as well as enhancement of tax administration. It is worth noting that the ordinary revenue projection has decelerated from 17.8 percent of GDP in the current FY 2019/20 to 16 percent of GDP in the FY2020/21 calling to scrutiny the feasibility and efficacy of the Revenue Enhancement Initiatives (REIs) in the KRA Corporate plan 2019/20 – 2020/21 which indicate revenue targets of KSh. 2,298.3 (18.9 percent of GDP) against the projected revenue of 2,134.1 (18.3 percent of GDP).
18. The total expenditure and net lending is projected at KSh. 2,748.2 billion (23.6 percent of GDP) comprising of KSh. 1,781.0 billion recurrent (15.3 percent of GDP), KSh. 587.3 billion development (5.0 percent of GDP).
19. Looking at the revenue and expenditure projections, an overall deficit of KSh. 571.2 billion (4.9 percent of GDP) is left to be financed through net external financing of KSh. 345.1 billion, net domestic borrowing of KSh. 222.9 billion and other domestic receipts of KSh. 3.2 billion.
20. It is worth pointing out that the fiscal performance in the first half of FY 201/20 suggests a cautious view of the proposed projections since the total revenue has been reported to have underperformed by KSh. 138.7 billion whereas the overall expenditure underperformed by KSh. 163.1 billion. The fiscal deficit which stood at KSh. 228.3 billion was financed through net foreign borrowing of KSh. 73.8 billion and net domestic financing of KSh. 152.9 billion.

3.2 POLICIES AND PRIORITIES IN THE MDAs THAT THE COMMITTEE OVERSIGHTS

21. The table below shows the key programmes and objectives.

Programmes, Objectives and proposed ceilings

Vote	Programme	Objective	Proposed ceili (Ksh. Millions)
The National Treasury	General Administration, Planning and Support Services- National Treasury	To enhance institutional and human resource capacity for quality delivery of services	Ksh. 89,082.2
	Public Financial Management	To increase the reliability, stability and soundness of the financial sector	
	Economic and Financial Policy Formulation and Management	To ensure stable macroeconomic environment	
	Market Competition	To promote and sustain competition.	
State Dep. for Planning & Statistics	Economic policy and national planning	To strengthen the linkage between planning, policy formulation and budgeting at all levels of government.	Ksh. 45,607.0
	National Statistical Information Services	to enhance evidence based decision making for socioeconomic development	
	Monitoring and Evaluation Systems	To improve tracking of implementation of development policies, strategies, and programmes and projects	
	Integrated Regional Development	To promote equitable and sustainable basin based development and land utilization	
	General Administration, Planning and Support Services – Planning	To enhance efficient and effective service delivery in programmes implementation	
State Dept. for Devolution	Devolution support services	To effective implementation of the devolved system of government	Ksh. 5,745.2
	Management of Intergovernmental Relations	To ensure harmonious intergovernmental relations at national and county levels	
	Management of Intergovernmental Relations	To ensure harmonious intergovernmental relations at national and county levels	
	General Administration, Planning and Support Services-Devolution	To provide efficient administrative services that would ensure effective execution of technical mandates of the state department.	
Commission on Revenue Allocation	Inter government revenue and financial matters	To ensure equitable vertical and horizontal sharing of resources; promote good financial management;	Ksh. 400.0

		enhance revenue collection by both levels of government governments; and narrow marginalization gap	
Salaries and Remuneration Commission	Salaries and Benefits Management in the Public Service	To ensure a dynamic and harmonized competitive remuneration structure in the public service that rewards productivity, attract and retains required skills; is transparent and also fiscally sustainable	Ksh. 459.7
Controller of Budget	Control and Management of Public finances.	To promote prudent public financial management by authorizing withdrawals from Public Funds and reporting on budget implementation to National and County Governments to Parliament	Ksh. 663.4

22. The six MDAs are part of the Public Administration and International Relations (PAIR) Sector which provides overall policy direction and leadership to the country. Specifically, some of these MDAs are mandated to coordinate national policy formulation, implementation as well as monitoring and evaluation; resource mobilization and management; oversight on use of public resources and oversight on devolution.

3.3 ANALYSIS OF THE RESOURCE GAPS BY PROGRAMMES AND KEY TARGETS

3.3.1 THE NATIONAL TREASURY

23. To implement the five (5) programmes, the National Treasury made a request of KSh. 138 billion under the sector process. However, the BPS 2019 proposes a ceiling of KSh. 89.14 billion occasioning a resource gap of KSh. 48.8 billion. The biggest gap is on General Administration, Planning and Support Services whose recurrent resource gap is about KSh. 25.3 billion. This may need to be bridged through expenditure rationalization and prioritization.

Key Targets

24. Some of the main outputs expected to be achieved by the National Treasury comprises of the following:-
    (i) Lease of 1200 security vehicles and draft fleet management standards.
    (ii) Achieve, through the Kenya Revenue Authority, revenue at 18.4 percent of GDP in the FY 2020/21 and 18.6 percent of GDP in the medium term.
    (iii) Mobilize external resources at 20 percent of the total budget and disburse 100 percent of it.
    (iv) Conduct 3 feasibility studies on bankable projects under PPP agreements.
    (v) Train 1,000 officers in MDAs on public investment management.

(vi) Train 250 IFMIS users on financial reporting.
(vii) Train 7,000 officers on public finance management.
(viii) Maintain macroeconomic stability; maintain inflation at 5 ± 2.5 percent, 7 months of import cover and fiscal deficit of 3.9 percent.
(ix) Prepare guideline and regulation on the Nairobi International Financial Centre.
(x) Establish Climate Change Fund in 13 counties.
(xi) Maintain Net Present Value of debt at below 9 trillion.

3.3.2 STATE DEPARTMENT FOR PLANNING

25. During the Sector process, the State Department requested for KSh. 49 billion but the 2020 BPS has proposed to allocate KSh. 45.8 billion to the department leaving a KSh. 3 billion resource gap. This seems to be in line with the austerity measures as well as the downscaling of operations after the conclusion of the Kenya Population and Housing Census.

3.3.3 STATE DEPARTMENT FOR DEVOLUTION

26. The resources required to implement the 3 programmes is KSh. 15.2 billion out of which, about KSh. 5.7 billion has been proposed to be allocated leaving a gap of about KSh. 9.5 billion. The most affected programme is the special initiatives.

Key Targets

27. Some of the key targets for the Department are:-
(i) Draft 2 regulations for devolution laws and functions and roll out 2 revised capacity building programmes.
(ii) Conduct civic education on devolution targeting 2,000 participants.
(iii) Ensure full implementation of national and county government coordinating summit resolutions as well as the devolution conference resolutions.
(iv) Unbundle 4 devolved, residual, and concurrent functions for the National and county governments.
(v) Maintain 48 assets registers and conduct 23 assets valuation.
(vi) Distribute relief food to a total of 2.5 million beneficiaries; establish one relief tracking system and beneficiary feedback mechanism and conduct one customer satisfaction survey.

3.3.4 COMMISSIONS AND INDEPENDENT OFFICE

28. The BPS 2020 has proposed to allocate the Office of the Controller of Budget KSh. 663.4 million out of the requirement of KSh. 787.7 million leaving a financing gap of KSh. 124.4 million. The Commission on Revenue Allocation has been allocated Ksh. 400 million against a funding request of KSh. 577.3 million representing a resource gap of KSh. 177.3 million while the Salaries and

Remuneration Commission has been allocated KSh. 459.7 million against a request of KSh. 825.77 million hence a resource gap of KSh. 366.1 million.

The Controller of Budget

29. The Office intends to conduct monitoring and evaluation of projects in 24 counties and conduct research on budget implementation in addition to the usual functions of approving exchequer releases and budget implementation reporting.

The Salaries and Remuneration Commission

30. The Commission plans to issue Collective Bargaining Agreement advisories as well as Remuneration and Benefits advisories and circulars having completed the salary structure for state officers, carrying out compliance audits in 344 counties and MDAs, conducting quarterly wage bill forecasts and drafting the Remuneration and Benefits Bill.

The Commission on Revenue Allocation

31. The Commission intends to produce one marginalization master plan in 2020/21, annual recommendation of recurrent ceiling, review 2 bills on revenue sharing formula, conduct 2 sectorial studies on devolved functions, achieve 60 percent on baseline report on county development index, support the establishment of an integrated data management system in 30 percent of the counties, one annual recommendation on sharing of revenue between the National and County Governments.

3.4 SUMMARY OF KEY ISSUES

Hiring of security vehicles

32. The budget for hiring 1,200 security vehicles in the fiscal year 2020/21 is proposed to be domiciled in the National Treasury and not the relevant security sector.

Revenue growth

33. The revenue target by the National Treasury for the FY 2020/21 stands at 18.4 percent of GDP. This is projected to rise marginally to 18.5 percent and 18.6 percent of GDP in the medium term. This sluggish revenue growth casts doubt on the realism of the economic growth prospects.

Up-scaling relief food coverage

34. The coverage for relief food is proposed to be increased from the current 2,000 beneficiaries to 2,500 beneficiaries. This casts doubt on the focus of government with regard to the agenda on food security: long term food security initiatives such as irrigation and food production enhancements in affected areas ought to be explored.

Salaries and Remuneration Commission (SRC) on wage bill

35. The public wage bill has since 2013 risen from KSh. 300 billion to KSh. 600 billion currently. While job evaluations and harmonization of benefits to employees by the SRC may be the solution to the run-away wage bill at both the national and county levels of government, it has not yet yielded results, this may be because job productivity has not been emphasized.

Third generation revenue sharing formula for counties

36. The third-generation revenue sharing formula for the county governments is still pending in parliament. The second-generation revenue sharing formula is in use until the new one is approved. A review of the new formula indicates and increase in the number of parameters with disregard of unavailability and scantiness of data. Furthermore, the formula includes some pervasive incentives.

Budget implementation reporting by the Controller of Budget (CoB)

37. The Controller of Budget is required by law to report to Parliament and County Assemblies on budget implementation status. This has always been done without fail. Nonetheless, the report only dwells solely on financial performance and excluding non-financial performance that is equally critical.

    It is imperative that the Office starts analysing and reporting the quarterly achievement of both financial and non-financial key performance indicators and targets.

4 CONSIDERATION OF THE BUDGET POLICY STATEMENT

38. In considering the BPS, the Committee held meetings on with the MDAs that it oversights that is; the National Treasury, State Department of Planning, State Department of Devolution and ASAL, Commission on Revenue Allocation, Office of the Controller of Budget and the Salaries and Remuneration Commission.

4.1 PRESENTATION BY THE COMMISSION FOR REVENUE ALLOCATION

The Commission Secretary, Mr. George Ooko submitted that: -

39. The Commission has a proposed allocation of **KSh. 400 million** in the 2020 BPS against a resource requirement of **KSh. 450 million**. The allocation is meant to fund the following programmes:-
    i. Equitable sharing of revenue – KSh. 8 million
    ii. Public Financial Management – KSh. 8 million
    iii. Transitional equalization and stakeholder engagement – KSh. 7 million
    iv. General administration and support services – KSh. 377 million

40. They requested for additional funding of **KSh. 50 million** to fund the following programmes: -
    i. Development and issuance of recommendations on revenue sharing (vertical and horizontal share), **KSh. 12 million.**
    ii. Recommendation on PFM structures, **KSh. 3 million.**
    iii. Integrated Data Management System, **KSh. 10 million.**
    iv. Financing and financial management for counties (OSR curriculum & forecasting model for counties), **KSh. 13 million.**
    v. Development of a Masterplan on demarginalization, **KSh. 8 million.**
    vi. Impact assessment reports on implementation of the 1st policy identifying marginalised areas, **KSh. 4 million.**

4.2 PRESENTATION BY THE CONTROLLER OF BUDGET

Ms. Margaret Nyakang'o, the Controller of Budget submitted that: -

41. The Office proposed resource allocation is **KSh. 663.4 million** in the 2020 Budget Policy Statement against a resource need of **KSh. 787.8 million.**

42. The Office requested for additional funding of **KSh. 98.4 million** to fund the following budget items: -
    i. Domestic travel and subsistence, and other transportation costs, **KSh. 13.8 million.**

ii. Printing, advertising, and information supplies and services, **KSh. 18.7 million.**
iii. Training expenses, **KSh. 10 million.**
iv. Hospitality supplies and services, **KSh. 7.4 million.**
v. Fuel, oil, and lubricants, **KSh. 2.5 million.**
vi. Government pension and retirement benefits, **KSh. 16 million.**
vii. Purchase of vehicles and other transportation equipment, **KSh. 30 million.**

4.3 PRESENTATION BY THE SALARIES AND REMUNERATION COMMISSION

The Chairperson of the Salaries and Remuneration Commission, Ms. Lyn Mengich submitted that:-

43. The Commission has a proposed resource allocation of **KSh. 459.7 million** in the 2020 Budget Policy Statement against a resource need of **KSh. 651.7 million.**
    i. Personnel emoluments – **KSh. 321.6 million**
    ii. Goods and services – **KSh. 138.1 million**

44. They require an additional funding of **KSh. 192 million** shillings to cater for: -
    i. Use of goods and services at **KSh. 150 million**, which consists of:-
        a. Implementation of the staff house loan scheme at **KSh. 100 million;**
        b. refurbishment of buildings at **KSh. 10 million**;
        c. Domestic travel and subsistence and other transport costs at **KSh. 4 million;**
        d. Training expenses at **KSh. 8 million;**
        e. Hospitality supplies and services at **KSh. 4 million;**
        f. Other operating expenses **KSh. 2 million**;
        g. Routine maintenance – vehicles at **KSh. 1 million**;
        h. Routine maintenance – other assets at **KSh. 4 million**; and
        i. Purchase of office furniture and general equipment at **KSh. 9 million**.

    ii. Strengthening of institutional programmes – **KSh. 42 million** broken down into:-
        a. Development of a framework and policy for recognition of performance and productivity in the public sector, **KSh. 8 million.**
        b. Implementation of Job Evaluation activities, **KSh. 24 million**
        c. Remuneration and benefits survey to comply with SRC Act 2011, **KSh. 10 million**

4.4 PRESENTATION BY THE STATE DEPARTMENT FOR DEVOLUTION AND ASALS

The Principal Secretary, Mr. Charles Sunkuli submitted that: -

45. The State Department has an allocation of **KSh. 5.9 billion** in the 2020 BPS against a resource requirement of **KSh. 7.3 billion**.

46. They requested for additional funding of **KSh. 1.4 billion** to fund the following programmes: -
    i. Upgrading and refurbishment of offices, **KSh. 55 million**
    ii. Finalization of transfer of assets and liabilities of the defunct local authorities, **KSh. 500 million.**
    iii. Hosting of the Africities Summit to be held in Kisumu, **KSh. 850 million.**

4.5 SUBMISSIONS FROM THE STATE DEPARTMENT OF PLANNING

The Principal Secretary for Planning, Mr. Saitoti Torome submitted that:-

47. The State Department has been allocated **KSh. 45.6 billion** in the 2020 BPS. The State Department was allocated **KSh. 55.412 billion** in the FY 2019/20. The decline of **KSh. 9.8 billion** is attributed to the completion of the National Housing and Population Census and the Kenya Statistics programme.

48. He informed the Committee that the the State Department needed an additional funding of **KSh. 416 million** to fund the following areas which were critically underfunded:-
    i. Mid term review of MTP III, **KSh. 100 million**;
    ii. To pay for the balance of the running contract for installation, configuration, commissioning and implementation of e-NIMES dashboard in all counties, **KSh. 70 million**;
    iii. Shortfall in PE for the post in KIPPRA, **KSh. 66 million**;
    iv. Shortfall in SRC recommendations – NCPD, **KSh. 25 million**;
    v. Development of a knowledge management framework for Kenya, **KSh. 80 million**; and
    vi. Lack of allocation towards the young professionals programme for KIPPRA, **KSh. 24 million**.

4.6 PRESENTATION BY THE NATIONAL TREASURY

The Principal Secretary for National Treasury, Mr. Julius Muia informed the meeting that:-

49. The National Treasury had an allocation of **KSh. 89 billion** in the 2020 BPS made up of **KSh. 59.4 billion** and **KSh. 29.7 billion** for recurrent and development respectively.

50. The allocation will fund the following programmes:-
    i. General administration, planning and support services, **KSh. 49.3 billion**;
    ii. Public financial management, **KSh. 38.2 billion;**
    iii. Economic and financial policy formulation and management, **KSh. 1.3 billion**;

iv. Market competition and creation of enabling business environment, **KSh. 306.1 million**; and

v. Allocation to Semi-Autonomous Agencies (SAGAs), **KSh. 25.3 billion.**

5 OBSERVATIONS

With regards to the BPS 2020, the Committee observed as follows, THAT -

COMMISSION ON REVENUE ALLOCATION

51. The Commissions proposed resource allocation for the 2020/21 FY has registered a slight decrease of Kshs. 40.4 million compared to the baseline. The proposed allocation for 2020/21 is at KSh. 400 million which is meant to implement its five programmes.

52. The Third Generation Revenue Sharing Formula among county governments was yet to be put in place implying that the Second Generation Revenue Sharing Formula sharing will be used to share revenue among county governments.

CONTROLLER OF BUDGET

53. The 2020/21 proposed ceiling for the Office of the Controller of Budget is KSh. 663.4 million compared to the current year's approved budget of KSh. 651.3 million.

54. The quarterly Budget Implementation Review Reports (BIRR) by the Controller of Budget only focus on the financial performance leaving out non-financial performance aspects. This makes it difficult for Parliament and the county assemblies to carry out effective budget implementation oversight as they are unable to match target/key performance indicators to the budget utilisation.

SALARIES AND REMUNERATION COMMISSION

55. The Commission's proposed expenditure ceiling for 2020/21 is KSh. 459.7 million compared to the current fiscal year's approved budget of KSh. 450.4 million.

56. The public wage bill is still depicting an upward trend despite the efforts by the Commission to contain the same. Some activities such as job evaluation are believed to have been undertaken but the efficacy of the outcome is yet to show significant shift. Perhaps the Commission ought to focus on job productivity analysis which entails matters such as the optimal staffing levels for each job among others.

STATE DEPARTMENT FOR DEVOLUTION

57. The State Department for Devolution has a proposed ceiling of KSh. 5.745 billion against a baseline of KSh. 9.452 billion.

58. The transfer of assets and liabilities of the defunct local authorities to the county government has not been finalized seven years after devolved came into force.

59. The programme on distribution of relief food has had challenges especially it not reaching the intended beneficiaries. This has raised concern as to whether the government has put in place measures to curb abuse of the programme.

60. The State Department in conjunction with Kisumu County Government will be hosting the United Cities and Local Governments of Africa Africities Summit in November 2021.

STATE DEPARTMENT FOR PLANNING

61. The State Department for Planning has a proposed ceiling of KSh. 45.607 billion against a baseline of KSh. 55.412 billion. The decline in the recurrent expenditure may, partly, be attributable to the completion of the Kenya Population and Housing Census with most of the activities having been concluded in the current fiscal year.

62. The key component in the programmes under the State Department is the allocation to the NG-CDF which is proposed to be KSh. 41.714 billion, which is above the minimum 2.5 % of projected ordinary revenue allocated to the National Government.

THE NATIONAL TREASURY

63. National Treasury has a proposed ceiling of KSh. 89.082 billion against a baseline of KSh. 113.552 billion.

64. The BPS projects the total revenue in 2020/21 at KSh. 2.134 trillion which is 18.3% of the GDP while Ordinary Revenue is projected at KSh. 1.857 trillion which is 16% of the GDP. The above projections are lower compared to the current financial year where the total revenue was projected at KSh. 2.084 trillion (20.1% of the GDP) and the Ordinary Revenue was projected at KSh. 1.843 trillion (17.8% of the GDP).

65. The total expenditure and net lending has been projected at KSh. 2.748 trillion which is composed of KSh. 1.781 trillion recurrent, KSh. 587.3 billion

development. The overall deficit of KSh. 571.2 billion including grants, to be financed through net domestic borrowing of KSh. 222.9, and net foreign financing of KSh. 345.1 billion and other domestic financing of KSh. 3.2 billion.

66. The National Treasury is a key enabler of the Big Four agenda hence most of its activities are geared making a conducive business environment by ensuring that it pursue policies that are sustainable.

67. The Kenya Revenue Authority is one of the critical institutions under the National Treasury and as such there is need to rethink of the allocations to the institution to ensure that it continues to pursue sound revenue enhancement initiatives.

68. The National Treasury had not disbursed Ksh. 5 billion allocated to the Equalization Fund in the FY 2019/20. This is due to a judgement by the High Court Petition challenging appropriation and management of the Equalisation Fund. The judgement declared the the Guidelines on the Administration of the Equalisation Fund as unconstitutional, null and void. This declaration essentially disbanded the funds implementation committee.

69. The processing of payment of pensions seems to be too slow. The National Treasury should correct this scenario to ensure retirees access their benefits immediately the pay-outs are due.

6 RECOMMENDATIONS

Having considered the ceilings for each of the spending agencies the Committee has come up with recommendations i.e. Policy and financial as follows:-

5.1 POLICY RECOMMENDATIONS

The Committee recommends that:-

Policy Recommendation

Commission for Revenue Allocation

70. The Commission on Revenue Allocation in consultation with the Council of Governors and the Controller of Budget should develop either a legal framework or an administrative measure to ensure budgeting and implementation of the budgets deliver maximum benefits to the citizenry and as such, counties should be at the epicenter of economic growth.
71. The Commission should consider revenue performance in determining the allocation to county governments as opposed to basing its recommendations entirely on the set formulae or criteria as this may not factor in the realistic situation on the fiscal space.

72. Parliament should fast track the approval of the Third Generation Revenue Sharing criteria among County governments. The current formula has run its course in accordance with the law and therefore, a new one is due.
73. There should be a focus on the implementation of Section 109 (2) of the Public Finance Management Act, 2012 which provides that each County Treasury shall ensure that all money raised or received by or on behalf of the County Government is paid into the County Revenue Fund, except where there is exclusion by an Act of parliament. This will ensure that revenue is not utilized at source as seen in some counties.

Controller of Budget

74. The office of the Controller of Budget should provide quarterly Budget Implementation Review Reports (BIRR) contains both the financial and non-financial performance. The information on non financial should carry details on quarterly achievement targets and key performance indicators in order to facilitate effective oversight by the Parliament and County Assemblies.

Salaries and Remuneration Commission

75. The Salaries & Remuneration Commission should, in 2020/21, focus on analyzing and making recommendation on job productivity which will inform salaries harmonization, if need be. Job productivity encompasses among other things, the optimum staffing levels for each cadre and scheme of service in the public sector.

National Treasury

76. Pragmatic measures should be instituted by the National Treasury in the fiscal year 2020/21 so as to stimulate the economy to enhance revenue yield. This is owing to the fact that revenue is projected at 18.4% of the Gross Domestic product (GDP) in 2020/21, which will remain nearly constant in the medium term at 18.5% and 18.6% respectively. Perhaps the revenue enhancement reforms may have reached the peak. Further, the tax base may have also reached its elastic limit.

77. The National Treasury should fast track within the next six months to automate the pensions system by coming up with an *Integrated Pensions Administration System* that can be shared across all government departments so as to reduce the time taken to receive documents for processing of pensions.

78. The resource allocation towards the leasing of vehicles for the security sector in 2020/21 ought to be domiciled in the user department as opposed to the National Treasury. This is to ensure the ceilings to state departments are realistic.

State Department for Planning

79. The National Treasury through the Intergovernmental Forums should develop a framework of implementation for the stalled projects that were previously implemented through NG-CDF but now under the new Constitution fall within the mandate of the county governments.

State Department for Devolution

80. Under the special initiative of supply of relief food, the Government should develop long term food security initiatives like irrigation and food production enhancement. The funds allocated to the relief food can be used to educate farmers on food storage to avoid post harvest losses and contamination. The initiatives will go along to complement the government agenda on food security.

81. The Department should finalise the transfer of assets and liabilities that belonged to the defunct local authorities to the county governments. For instances where there exists disputes, the departments should through the intergovernmental forums ensure that there are resolved forthwith.

5.2 FINANCIAL RECOMMENDATIONS

The Committee recommends that:-

Proposed reductions

82. The proposed expenditure ceiling of the National Treasury under the programme General Administration, planning and support services be reduced by KSh. 146.7. This proposed reduction should not affect the targets and therefore, the Ministry should make use of efficiency gains.

83. The proposed expenditure ceiling of the Salaries and Remuneration Commission should be reduced by KSh. 9 billion. Considering the zero based budgeting framework, there seems to be no new activities in the Commission to warrant an enhancement of budget from the current fiscal year, in this era of austerity measures.

Proposed increases

84. The ceiling of the Controller of Budget should be enhanced by KSh. 64.7 million to cater for critical under-funded activities as follows:-
    (i) Printing , advertising and information supplies and services - **Kshs.18.7 million,**
    (ii) Government pensions retirement benefits - **KSh. 16 million**
    (iii) Purchase of vehicles and other transportation equipment - **KSh. 30 million**
85. The ceiling proposed to State Department for Planning should be increased by KSh. 91 million to fund critical and under-funded areas as follows:

    (i) Shortfall in personnel emoluments for the post in KIPPRA – **KSh. 66 million**

    (ii) Shortfall in SRC Recommendations for National Council - **KSh. 25 million**

THE HON. JOSEPH K. LIMO, MP,

CHAIRPERSON

SIGNED: ..... DATE: 26/2/2020

SCHEDULE 1: PROPOSED REDUCTION (KSHS. MILLIONS)

MDA	POLICY	PROGRAMME *Recurrent*	2020 BPS CEILING (KSH. M)	PROPOSED REDUCTION (KSH. M)	IMPACT ON TARGETS	JUSTIFICATION / DETAILS
NATIONAL Treasury	Austerity Measure	General Administration, Planning and support services	49,264	146.7	none	Reduction from non-essential services to fund other critical activities
Salaries and Remuneration Commission	Austerity Measure	Salaries and revenue management in the public service.	459.7	9.0	none	The KSh. 9 million is an enhancement from the current budget, without any new activities

SCHEDULE 2: PROPOSED INCREASES (KSHS.MILLIONS)

MDA	POLICY	PROGRAMME	2020 BPS CEILING (KSH. M)	PROPOSED INCREASE (KSH. M)	IMPACT ON TARGETS	JUSTIFICATION / DETAILS
Controller of Budget	Budget implementation reporting to the legislature	Control and Management of Public Finances	663.4	64.7	Reinstatement to current level	Allocation to printing of statutory reports to the current level and cater for pensions as well as purchase of vehicles.
State Department of Planning (KIPPRA)	Funding critical institutions	Economic Policy and National Planning KIPPRA	419.28	66	Enhanced targets	Shortfall personnel emoluments t the post KIPPRA
National Council for Population & Development (NCPD)	Funding critical institutions	Economic Policy and National Planning	410.33	25	Enhanced targets	Shortfall in SR Recommendatio for NCPD

MINUTES OF THE 5TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON TUESDAY, 25TH FEBRUARY, 2020 ON 2ND FLOOR, CONTINENTAL HOUSE AT 9.30 A.M.

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Christopher Omulele, MP
5. Hon. Dr. Enoch Kibunguchy, MP
6. Hon. Abdul Rahim Dawood, MP
7. Hon. Daniel E. Nanok, MP
8. Hon. Andrew A. Okuome, MP
9. Hon. David M. Mboni, MP
10. Hon. Joshua C. Kandie, MP
11. Hon. Mohamed A. Mohamed, MP
12. Hon. Purity Ngirici, MP
13. Hon. Samuel Atandi, MP
14. Hon. Edith Nyenze, MP
15. Hon. Stanley M. Muthama, MP

ABSENT WITH APOLOGIES

1. Hon. Francis K. Kimani, MP
2. Hon. Lydia H. Mizighi, MP
3. Hon. Joseph M. Oyula, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of the Secretariat
2. Ms. Jennifer Ndeto - Principal Legal Counsel I

3. Mr. Josephat Motonu - Fiscal Analyst I
4. Mr. Chelang'a Maiyo - Research Officer II
5. Ms. Euridice Nzioka - Audio Officer
6. Mr. Vitalis Augo - Office Assistant
7. Mr. Faustine Rotich - Intern

AGENDA

1. Prayers
2. Preliminaries/Introductions
3. Communication from the Chair
4. Confirmation of Minutes
5. Matters Arising
6. **Meeting to: -**
    i. **Consider and adopt report on the consideration of the 2020 Budget Policy Statement; and**
    ii. **Be briefed on the Business Laws (Amendment) (No. 2), 2019.**
7. Adjournment/ Date of the next meeting

MIN.NO.NA/F&NP/2020/021: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 10.00 am with prayer from the Chairperson. The Chairperson read the agenda for the day and requested the members to agree on the amendment to the agenda so as to commence the sitting with the consideration of the Business Laws (Amendment) bill, 2019. The proposal to amend the agenda was proposed and seconded by Hon. David Mboni, M.P and seconded by Hon. Jimmy Angwenyi ,M.P respectively.

MIN.NO.NA/F&NP/2020/022: CONFIRMATION OF MINUTES

Agenda deferred

MIN.NO.NA/F&NP/2020/023: BRIEFING ON THE BUSINESS LAWS (AMENDMENT) (NO. 2) BILL, 2019

The Committee was taken through the following clauses 11, 12, 18, 24, 25, 26, 39, 40, and 41 as proposed by the Bill and explained the intention of each of the proposed amendments; these are the clauses within the Committee's mandate.

The Committee agreed to deliberate on and consider the Bill after receiving submissions from stakeholders; stakeholder engagements were scheduled for the next meeting.

MIN.NO.NA/F&NP/2020/024: CONSIDERATION AND ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE 2020 BUDGET POLICY STATEMENT

The Committee was taken through the draft report on the 2020 Budget Policy Statement . The Committee proposed and adopted the report with the following observations and recommendations:-

COMMITTEE OBSERVATIONS

The Committee observed as follows during the consideration of the 2020 Budget Policy Statement: -

COMMISSION ON REVENUE ALLOCATION

1. The Commissions' proposed resource allocation for the FY 2020/21 has registered a slight decrease of Ksh. 40.4 million compared to the baseline. The proposed allocation for 2020/21 stands at Ksh. 400 million which is meant to implement its five programmes.
2. The Third Generation Revenue Sharing Formula among county governments was yet to be put in place implying that the Second Generation Revenue Sharing Formula sharing will be used to share revenue among county governments.

CONTROLLER OF BUDGET

1. The Office proposed allocation for the FY 2020/21 stands at Ksh. 663.4 million against a baseline of Ksh. 651.3 million which is a positive deviation of Ksh. 12.1 million.
2. The Quarterly reports of the Controller of Budget only focus on the financial performance leaving out non-financial performance aspects. This makes it difficult for Parliament and the County Assemblies to carry out effective budget implementation oversight as they are unable to match target / key performance indicators to the budget utilisation.

SALARIES AND REMUNERATION COMMISSION

1. The Commission's proposed resource envelope for the FY 2020/21 has slightly been increased compared to the current FY 2019/20 with a proposed allocation of Ksh. 459.7 million against a baseline of Ksh. 450.4 million.
2. The public wage bill had risen to approximately over Ksh. 600 billion from Ksh. 300 billion since the inception of SRC. This gives a public wage bill to gross domestic product ratio of over 7.5 percent (the global recommended rate). The trend has cast doubt as to whether the Commission is pursuing the right policies to ensure wage bill is sustainable.

MINISTRY OF DEVOLUTION

1. The State Department for Devolution has a proposed ceiling of Ksh. 5.745 billion against a baseline of Ksh. 9.452 billion which is a negative deviation of Ksh. 3.707 billion.
2. The transfer of assets and liabilities of the defunct local authorities to the county government has not been finalized seven years after devolved came into force.
3. The programme on distribution of relief food has had challenges especially it not reaching the intended beneficiaries. This has raised concern as to whether the government has put in place measures to curb abuse of the programme.
4. The State Department in conjunction with Kisumu County Government plans to host the United Cities and Local Governments of Africa Africities Summit in November 2021. This requires an allocation of Ksh. 850 million which has not been covered in the BPS 2020.

STATE DEPARTMENT FOR PLANNING

1. The State Department for Planning has a proposed ceiling of Ksh. 45.607 billion against a baseline of Ksh. 55.412 billion which presents a negative deviation of Ksh. 9.805 billion. The decline in the recurrent expenditure is attributable to the completion of the Kenya Population and Housing Census with most of the activities having been concluded within the current financial year.
2. The key component in the programmes under the State Department is the allocation to the NG - CDF which is proposed to be Ksh. 41.714 billion which is above the minimum 2.5 percent of projected ordinary revenue allocated to the National Government. The ordinary revenue for the national government is projected to be 1.481 trillion.

3. The State Department had, at the beginning of FY 2019/20, pending bills amounting to Ksh. 3.91 billion which it has since settled.

THE NATIONAL TREASURY

1. National Treasury has a proposed ceiling of Ksh. 89.082 billion against a baseline of Ksh. 113.552 billion which presents a negative deviation of Ksh. 24.47 billion
2. The BPS projects the total revenue in the FY 2020/21 at Ksh. 2.134 trillion which is 18.3 percent of the GDP while Ordinary Revenue is projected at Ksh. 1.857 trillion which is 16 percent of the GDP. The above projections are lower compared to the current financial year where the total revenue was projected at Ksh. 2.084 trillion (20.1 percent of the GDP) and the Ordinary Revenue was projected at Ksh. 1.843 trillion (17.8 percent of the GDP).
3. The total expenditure and net lending is projected at Ksh. 2.748 trillion which is composed of Ksh. 1.781 trillion recurrent, Ksh. 587.3 billion development. The overall deficit of Ksh. 571.2 billion including grants, to be financed through net domestic borrowing of Ksh. 222.9, and net foreign financing of Ksh. 345.1 billion and other domestic financing of Ksh. 3.2 billion.
4. The National Treasury is a key enabler of the Big Four agenda hence most of its activities are geared making a conducive business environment by ensuring that it pursue policies that are sustainable.
5. The Kenya Revenue Authority is one of the critical institutions under the National Treasury and as such there is need to rethink of the allocations to the institution to ensure that it continues to pursue sound revenue enhancement initiatives.
6. The National Treasury had not disbursed Ksh. 5 billion allocated to the Equalization Fund in the FY 2019/20. This is due to a judgement by the High Court Petition challenging appropriation and management of the Equalization Fund. The judgement declared the the Guidelines on the Administration of the Equalization Fund as unconstitutional, null and void. This declaration essentially disbanded the funds implementation committee.
7. The processing of payment of pensions has had major inefficiencies and therefore there is need for the National Treasury to revamp operations and automate the systems to improve efficiency.

COMMITTEE RECOMMENDATIONS

Having considered the ceilings for each of the spending agencies, the Committee came up with recommendations i.e. Policy and financial as follows: -

COMMISSION FOR REVENUE ALLOCATION (CRA)

The Committee recommends that: -

Policy Recommendations

1. There is need for the Commission on Revenue Allocation in consultation with the Council of Governors and the Controller of Budget to develop a legal framework to facilitate capping of sector annual budgetary allocation and guide county government expenditure fashioned in the form utilized in the NGCDF for sustained socio-economic growth.
2. The Commission should consider revenue performance in determining the allocation to county governments as opposed to basing its recommendations entirely on the set formulae or criteria as this may not factor in the realistic situation on the fiscal space.

3. Parliament should fast track the approval of the Third Generation Revenue Sharing criteria among County governments. This formula is essential as it is a pre-requisite for determining county allocations under the County Allocation of Revenue Bill and the Constitution presuppose that the criteria be reviewed every three year cycle.

4. An amendment to the PFM Act, 2012 ought to be fast tracked to ensure that county governments are obligated not to utilize funds at source as the case is witnessed currently in many counties. Section 109 (2) provides that each County Treasury shall ensure that all money raised or received by or on behalf of the County Government is paid into the

Financial Recommendation

The Committee recommends that a budget ceiling of **Ksh. 400 million** be approved for the Commission for the FY 2020/21.

CONTROLLER OF BUDGET (COB)

The Committee recommends that: -

Policy Recommendation

1. The office of the Controller of Budget should provide Quarterly reports that not only provide information on the financial performance but also non-financial performance. The

information on non financial should carry details on quarterly achievement targets and key performance indicators in order to facilitate effective oversight by the Parliament and County Assemblies.

Financial Recommendation: -

The Committee recommends an additional funding of **Ksh. 65.7 million** to cater for: -

1. Printing, advertising, and information supplies and services, **Ksh. 18.7 million;**
2. Government pension and retirement benefits, **Ksh. 16 million; and**
3. Purchase of vehicles and other transportation equipment, **KSh. 30 million.**

SALARIES AND REMUNERATION COMMISSION (SRC)

The Committee recommends that: -

Policy Recommendation

1. SRC should develop tools/ mechanism of evaluating job productivity as an alternative solution to the ballooning public wage Bill. The Commission should also fully operationalise the productivity centre.

Financial Recommendation

The Committee recommends that the ceiling of **Ksh. 450.4 million** be approved for the FY 2020/21.

STATE DEPARTMENT FOR DEVOLUTION

The Committee recommends that:-

Policy Recommendations

1. Under the special initiative of supply of relief food, the Government should develop long term food security initiatives like irrigation and food production enhancement. The funds allocated to the relief food can be used to educate farmers on food storage to avoid post harvest losses and contamination. The initiatives will go along to complement the government agenda on food security.
2. The Department should finalise the transfer of assets and liabilities that belonged to the defunct local authorities to the county governments. For instances where there exist disputes, the departments should through the intergovernmental forums ensure that there are resolved forthwith

Financial Recommendation

The Committee recommends that the ceiling of **Ksh. 45.6 billion** be approved for the FY 2020/21.

STATE DEPARTMENT FOR PLANNING

The Committee recommends that: -

Policy recommendations

1. The National Treasury through the Intergovernmental Forums should develop a framework of implementation for the stalled projects that were previously implemented through NG - CDF but now under the new Constitution fall within the mandate of the county governments.

Financial Recommendation

The Committee recommends an additional funding of **Ksh. 91 million** to cater for: -

1. Shortfall in personal emoluments at KIPPRA, **Ksh. 66 million; and**
2. Shortfall in SRC recommendation, NCPD, **Ksh. 25 million**.

THE NATIONAL TREASURY

The Committee recommends that: -

Policy recommendation

1. Pragmatic measures should be instituted by the National Treasury in the fiscal year 2020/21 so as to stimulate the economy to enhance revenue yield. This is owing to the fact that revenue is projected at 18.4% of the Gross Domestic product (GDP) in 2020/21, which will remain nearly constant in the medium term at 18.5% and 18.6% respectively.

2. The National Treasury should fast track within the next six months to automate the pensions system by coming up with an *Integrated Pensions Administration System* that can be shared across all government departments so as to reduce the time taken to receive documents for processing of pensions.

3. The resource allocation towards the leasing of vehicles for the security sector in 2020/21 ought to be domiciled in the user department as opposed to the National Treasury. This is to ensure the ceilings to state departments are realistic.

4. The National Treasury should identify alternative ways of raising revenue instead of introducing new tax measures. It was observed that the economy was experiencing tax elasticity and hence introduction of new measures may not yield expected gains;

Overall Financial Recommendations

5. The proposed ceiling of KSh. 400 million to the Commission on Revenue Allocation be approved;

6. The proposed allocation to the National Treasury under the programme General Administration , planning and support services be reduced by KSh. 146.7 of which **KSh. 64.7 million** will be reallocated to the Controller of Budget as follows:-
   a. Printing , advertising and information supplies and services - **Kshs.18.7 million,**
   b. Government pensions retirement benefits - **KSh. 16 million**
   c. Purchase of vehicles and other transportation equipments - **KSh. 30 million**

7. The proposed allocation to the Salaries and Remuneration be reduced by KSh. 9 billion and the reduction be reallocated to the State Department for Planning. The allocation to State Department for Planning be increased by KSh. 91 million.

   (i) Shortfall in personnel emoluments for the post in KIPPRA – **KSh. 66 million**

   (ii) Shortfall in SRC Recommendations for National Council - **KSh. 25 million**

MEMBERS DELIBERATIONS

1. The Committee noted that the time allocated for the consideration of the Budget Policy Statement was too limited; this restricted extensive deliberations on the fiscal framework.
2. The National Treasury was faulted for not abiding by the House resolutions on the BPS; the Committee emphasized on the need for oversight to ensure the resolutions were implemented as passed by the House.
3. The Committee emphasized on the need to evaluate the achievements and output of SRC with regard to their mandate.

4. The Committee committed to further interrogate the rationale for having full-time Commissioners at the various Commissions noting their mandates could effectively be implemented with part-time commissioners facilitated by a full-time secretariat.
5. The Committee expressed concern over the progress of the transfer of assets and liabilities of the defunct local authorities to the counties given that the item receives a budget allocation every year with little to show seven (7) years down the line; it was agreed upon by Members that the Committee would at a later date engage the State Department for Planning, under which the function lies, to get clarity on the assets and liabilities still pending transfer and the terms of reference and framework that guides the exercise.
6. The details of the budget for the State Department for Planning will be interrogated further during the consideration of the Budget Estimates.
7. Members agreed to engaging the KRA to assess their performance in terms of revenue enhancement; this would also inform the revise, if needed, of the budget estimates for the FY 2020/21.

MIN.NO.NA/F&NP/2019/039: ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 12.20 p.m. The next meeting will be held on Wednesday, 26th February, 2020.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED .....**DATE**.26/2/2020.....

MINUTES OF THE 4TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON THURSDAY, 20TH FEBRUARY, 2020 ON 4TH FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Christopher Omulele, MP
5. Hon. Dr. Enoch Kibunguchy, MP
6. Hon. Abdul Rahim Dawood, MP
7. Hon. Daniel E. Nanok, MP
8. Hon. Andrew A. Okuome, MP
9. Hon. David M. Mboni, MP
10. Hon. Francis K. Kimani, MP
11. Hon. Joseph M. Oyula, MP
12. Hon. Joshua C. Kandie, MP
13. Hon. LydiahMizighi, MP
14. Hon. Mohamed A. Mohamed, MP
15. Hon. Samuel Atandi, MP
16. Hon. Stanley M. Muthama, MP
17. Hon. Edith Nyenze, MP

ABSENT WITH APOLOGY

1. Hon. Shakeel Shabbir Ahmed, CBS, MP

ABSENT

1. Hon. Purity Ngirici, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of the Secretariat
2. Ms. Laureen Wesonga - Clerk Assistant II
3. Mr. JosephatMotonu - Fiscal Analyst I
4. Ms. EuridiceNzioka - Audio Officer
5. Mr. Faustine Rotich - Intern

STATE DEPARTMENT FOR PLANNING

1. Mr. Saitoti Torome - Principal Secretary
2. Mr. Osiri Nyakundi - Chief Financial Officer
3. Mr. Yusuf Mbuno - Ag. Chief Executive Officer, NG - CDF
4. Mr. Joseph Mukui - Economic Planning Advisor

5. Mr. Benson Kimani - Director, Economic Planning
6. Mr. Arthur Nduati - Deputy Director Budget, NT

THE NATIONAL TREASURY

1. Dr. Julius Muia - Principal Secretary
2. Mr. Kimathi Mugambi - Senior Chief Finance Officer
3. Mr. John Njera - Chief Economist
4. Mr. Michael Kagika - Secretary/ Director, Pensions
5. Mr. Stanley Kamau - Ag. Director General, Public Investments/ Portforlio Management

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Meetings to discuss the 2020 Budget Policy Statement with:-**
   i. **State Department for Planning; and**
   ii. **The National Treasury.**
6. Adjournment/ Date of the next meeting

MIN.NO.NA/F&NP/2020/016: COMMUNICATION FROM THECHAIRPERSON

The meeting was called to order at 10.28 am and a prayer was said. The Chairpersonthen welcomed the meeting to deliberate on the day's agenda.

MIN.NO.NA/F&NP/2020/017: CONFIRMATION OF MINUTES

Agenda deferred

MIN.NO.NA/F&NP/2020/018: MEETING WITH STATE DEPARTMENT FOR PLANNING TO DISCUSS THE 2020 BUDGET POLICY STATEMENT (BPS)

The Chairperson called for introduction of those present before inviting the Principal Secretary to make his submission. Mr. Saitoti Torome briefed the Committee as follows, that:-

The Department has an allocation of **KSh. 45.6billion** in the 2020 BPS against a resource requirement of **KSh. 46billion**.

They requested for additional funding of **KSh. 416 million** to fund the following programmes: -

1. Mid Term review of the Medium-Term Plan (MTP) III whose implementation is already underway,**KSh. 100 million.**
2. Payment of balance of the running contract for installation, configuration, commissioning, and implementation of e-NEMIS dashboard in all counties, **KSh. 70 million.**
3. Operationalization of county development planning offices, **KSh. 51 million.**

4. Financing of the shortfall in personal emoluments for Kenya Institute for Public Policy Research and Analysis (KIPPRA), **KSh. 66 million.**
5. Financing of the shortfall at NCPD in the implementation of SRC recommendations, **KSh. 25 million.**
6. Development of a Knowledge Management Framework for Kenya, **KSh. 80 million.**
7. Financing the Young Professionals Programme at KIPPRA, **KSh. 24 million.**

MEMBERS' DELIBERATIONS

1. On why the Kenya National Bureau of Statistics (KNBS) was requesting for resources with regard to the 2019 National Population and Housing Census, yet the enumeration was concluded, Mr. Torome informed the meeting that the resources requested were to facilitate the analysis of the raw data and the subsequent production of elaborative reports.

2. Regarding the availability of population data to the Independent Electoral and Boundaries Commission (IEBC) for use in the review of boundaries, the meeting was informed that the KNBS was working closely with the IEBC to ensure that the data required by the Commission data is readily available to them.

3. Members expressed concern over delay in the disbursement of NG-CDF to the constituencies and requested that the Committee be furnished with an up-to-date schedule of the disbursements made in the FY 2019/20 explaining any disparities in fund proportions between constituencies. The meeting was informed that the delay was occasioned by delay in exchequer releases by the National Treasury. However, the meeting was briefed that the National Treasury had committed to disburse KSh. 2 billion every week going forward. Members were also urged to forward their project proposals to the Board in time as disbursement was subject to the approval of project proposals. The Ag. CEO undertook to submit the up-to-date schedule of disbursements to Constituencies in the FY 2019/20.

4. On stalled projects that were previously funded by NG–CDF but are now under the devolved governments, the meeting was informed that consultations were ongoing with County Governments to ensure the projects are concluded.

5. It was agreed upon by Members that there was need to have a separate consultative meeting with the NG–CDF Board at a later date to discuss pertinent issues not related to the BPS 2020.

MIN.NO.NA/F&NP/2020/019: MEETING WITH THE NATIONAL TREASURY TO DISCUSS THE 2020 BUDGET POLICY STATEMENT (BPS)

The Chairperson called for introduction of those present the invited the Principal Secretary to make his submission. Dr.Julius Muia, the Principal Secretary, submitted that: -

The National Treasury proposed resource allocation for the FY 2020/21 is**KSh. 89.1billion** in the 2020 Budget Policy Statement.

The budget will fund the following programmes: -

1. General Administration, Planning, and Support Services,**KSh. 49.2 billion.**
2. Public Finance Management,**KSh. 38.2 billion.**
3. Economic and Financial Policy Formulation and Management, **KSh. 1.3 billion**
4. Market Competition and Creation of Enabling Business Environment, **KSh. 306.1 million.**

MEMBERS' DELIBERATIONS

1. The Committee observed that revenue collection had continued to underperform despite huge investments in revenue enhancement initiatives. The meeting was informed that KRA has been facing some challenges that had impacted negatively on revenue collection but the National Treasury was addressing the challenges;

2. The Committee was concerned that the National Treasury had not disbursed Ksh. 5 billion allocated to the Equalization Fund in the FY 2019/20. The meeting was informed that a High Court Petition challenging appropriation and management of the Equalisation Fund had declared unconstitutional, null and void , the Guidelines on the Administration of the Equalisation Fund. The National Treasury had been directed to within six (6) months of the date of the Judgment, prepare an appropriate policy and/or statutory instruments on the administration of the Equalisation Fund. In view of the above facts, the Equalisation Funds Advisory Committee stood disbanded. The Principal Secretary stated that the process to develop the appropriate policy (as directed) was still ongoing.

3. On the use of the Contingency Fund, Dr.Muia informed the meeting that so far, KSh. 1.1 billion had been disbursed from the Fund for relief food. He noted that there were several requests still being processed for approval.

4. The Committee observed that the National Treasury had committed to reduce the domestic borrowing during the discussions on raising of the debt ceiling. The Principal Secretary reiterated the government's intention to reduce domestic borrowing and curtail the rising levels of debt. He informed the meeting that the gross debt stood at KSh. 6.2 trillion and that the National Treasury was in consultations with various lenders of low-interest loans in an effort to enhance debt sustainability by restructuring the debt portfolio through retiring expensive commercial loans.

5. On economy performance and fiscal deficit, Dr.Muia informed the meeting that the projected growth of the economy for the FY 2020/21 is 5.6. He emphasized on

austerity measures to reduce the budget deficit, noting that the Executive bore over 80 percent of the cuts in the proposed 2020/21 budget.

6. Members noted that retirees were suffering due to delayed payment of pensions. The meeting was informed that there were inefficiencies in the submission of pension documents to the National Treasury by MDAs. The National Treasury is in the process of automating the pension process so the delays will be a thing of the past.

7. On the requisition of security vehicles by the National Treasury, the PS informed the meeting that the responsibility was earlier transferred to the parent ministry, the Ministry of Interior and Coordination of National Government but the matter was taken to court on the basis that there were flaws in the procurement process. The court ruled that the procurement process should start afresh and owing to the fact that a lot of time had been spent in court, a decision was reached that the National Treasury should procure the vehicles this financial year as it had the leases.

8. On the impact of the outbreak of corona virus on the revenue projections and the economy at large, Dr.Muia stated that the Government was monitoring the situation closely after which they will detail the threat it poses on the country and economy.

MIN.NO.NA/F&NP/2020/020: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 2.23p.m. The next meeting will be held on Tuesday, 25th February, 2020 at 10.00 a.m.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED.....**DATE**.....26/2/2020.....

MINUTES OF THE 3RD SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON WEDNESDAY, 19TH FEBRUARY, 2020 ON 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 9.00 AM

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Jimmy O. Angwenyi, MGH, MP
3. Hon. Christopher Omulele, MP
4. Hon. Dr. Enoch Kibunguchy, MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Abdul Rahim Dawood, MP
7. Hon. Andrew A. Okuome, MP
8. Hon. David M. Mboni, MP
9. Hon. Joshua C. Kandie, MP
10. Hon. Lydiah Mizighi, MP
11. Hon. Purity Ngirici, MP
12. Hon. Samuel Atandi, MP
13. Hon. Edith Nyenze, MP
14. Hon. Stanley M. Muthama, MP

ABSENT WITH APOLOGY

1. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
2. Hon. Daniel E. Nanok, MP
3. Hon. Francis K. Kimani, MP
4. Hon. Joseph M. Oyula, MP

ABSENT

1. Hon. Mohamed A. Mohamed, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of the Secretariat
2. Ms. Laureen Wesonga - Clerk Assistant II
3. Mr. Josephat Motonu - Fiscal Analyst I
4. Ms. Euridice Nzioka - Audio Officer
5. Mr. Faustine Rotich - Intern

COMMISSION ON REVENUE ALLOCATION

1. Mr. Humphrey Wattaya - Vice Chairperson
2. Mr. George Ooko - Commission Secretary
3. Mr. James Katule - Directore of Finance
4. Ms. Angela Kariuki - Director, Corporate Services

5. Ms. Maureen Junge - Finance Manager
6. Mr. Arthur Nduati - Deputy Director Budget, NT

OFFICE OF THE CONTROLLER OF BUDGET

1. Dr. Margaret Nyakango - Controller of Budget
2. Ms. Rhoda Rutto - Director, Legal Services
3. Ms. Pamela Okatch - Chief Manager, Finance
4. Mr. Shadrack Chando - Manager HR and Administration
5. Mr. Patrick Kawore - Chief Fiscal Analyst
6. Mr. Mark Kipkoech - Chief Fiscal Analyst
7. Ms. Hope Keah - Accountant

SALARIES AND REMUNERATION COMMISSION

1. Ms. Lyn Mengich - Chairperson
2. Mr. J.K. Monyoncho - Member
3. Ms. Nelly Ashubwe - Member
4. Ms. Anne Gitau - CEO/Commission Secretary
5. Ms. Margaret Njoka - Director, Corporate Services
6. Mr. Alex Mwangi - Ag. Assistant Director, Finance

STATE DEPARTMENT OF DEVOLUTION

1. Mr. Charles Sunkuli - Principal Secretary
2. Mr. Phillip Tarus - Director, Special Programmes
3. Mr. Reuben Thuku - Ag. Admin
4. Mr. Maurice Ogolla - Deputy Director
5. Mr. Jackson Owuor - Senior Finance Officer
6. Mr. Johnson Njuguna - Assistant Accountant
7. Ms. Constance Zalo - Intern

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Meetings to discuss the 2020 Budget Policy Statement with:-**
   - **i. Commission on Revenue Allocation;**
   - **ii. Office of the Controller of Budget;**
   - **iii. Salaries and Remuneration Commission; and**
   - **iv. State Department for Devolution.**
6. Adjournment/ Date of the next meeting

MIN. NO. NA/F&NP/2020/009: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 9.25 am and a prayer was said. The Chairperson then welcomed the meeting to deliberate on the day's agenda.

MIN. NO. NA/F&NP/2020/010: CONFIRMATION OF MINUTES

Agenda deferred

MIN. NO. NA/F&NP/2020/011: MEETING WITH COMMISSION ON REVENUE ALLOCATION TO DISCUSS THE 2020 BUDGET POLICY STATEMENT (BPS)

The Chairperson called for introduction of those present before inviting the Commission Secretary to make his submission. Mr. George Ooko briefed the Committee as follows, that:-

The Commission has an allocation of **KSh. 400 million** in the 2020 BPS against a resource requirement of **KSh. 450 million**. The allocation is meant to fund the following programmes:-

1. Equitable sharing of revenue – KSh. 8 million
2. Public Financial Management – KSh. 8 million
3. Transitional equalization and stakeholder engagement – KSh. 7 million
4. General administration and support services – KSh. 377 million

They requested for additional funding of **KSh. 50 million** to fund the following programmes: -

1. Development and issuance of recommendations on revenue sharing (vertical and horizontal share), **KSh. 12 million.**
2. Recommendation on PFM structures, **KSh. 3 million.**
3. Integrated Data Management System, **KSh. 10 million.**
4. Financing and financial management for counties (OSR curriculum & forecasting model for counties), **KSh. 13 million.**
5. Development of a Masterplan on demarginalization, **KSh. 8 million.**
6. Impact assessment reports on implementation of the 1st policy identifying marginalised areas, **KSh. 4 million.**

MEMBERS' DELIBERATIONS

1. On why the Commission was requesting for resources to fund the integrated data management system yet official statistics was available at KNBS, Mr. Ooko informed the meeting that they will not collect primary data but analyse the data collected by other institutions and make it available for use.

2. On what the Commission has done to encourage fiscal responsibility in counties, Mr. Ooko stated that the independence of counties has made it difficult for them to ensure this but they have done their best by for instance capping the amount of money that can be used to build a Governor's house at KSh. 50 million.

3. Members noted with concern that CRA was the cause of the gridlock that had been experienced this FY on the Division of Revenue Bill. Members encouraged the Commission to do proper analysis of the actual revenue collected before coming up with

the amount of money to be located to counties. Mr. Ooko stated that the Commission had noted that the BPS usually over projects the ordinary revenue and will therefore be carrying out analytics before proposing a figure for the county governments.

4. Members impressed upon the Commission to demand for accountability of the funds allocated to county governments and must ensure value for money. CRA undertook to actualise this.

MIN. NO. NA/F&NP/2020/012: MEETING WITH OFFICE OF THE CONTROLLER OF BUDGET TO DISCUSS THE 2020 BUDGET POLICY STATEMENT (BPS)

Ms. Margaret Nyakang'o, the Controller of Budget submitted that: -

The Office got a resource allocation of **KSh. 663.4 million** in the 2020 Budget Policy Statement against a resource need of **KSh. 787.8 million.**

The Office requested for additional funding of **KSh. 98.4 million** to fund the following budget items: -

1. Domestic travel and subsistence, and other transportation costs, **KSh. 13.8 million.**
2. Printing, advertising, and information supplies and services, **KSh. 18.7 million.**
3. Training expenses, **KSh. 10 million.**
4. Hospitality supplies and services, **KSh. 7.4 million.**
5. Fuel, oil, and lubricants, **KSh. 2.5 million.**
6. Government pension and retirement benefits, **KSh. 16 million.**
7. Purchase of vehicles and other transportation equipment, **KSh. 30 million.**

MEMBERS' DELIBERATIONS

1. Members noted that while the main responsibility of the Office was to authorise withdrawal of funds by the county governments and MDAs, the Office is also supposed to ensure accountability of the resource especially in counties where there is misuse. The CoB undertook to ensure that this function is executed by doing M&E on county government budgets and reporting on the same.

2. On why the pension figure had risen in this year's BPS, the CoB stated that the contracts for most senior managers will lapse in the next financial year and their gratuity will therefore be paid hence the increase.

3. On the manual signing of the funding requests, the CoB informed the meeting that the process was tedious and noted that the process should be automated to make her Office more efficient. She however noted that she did not budget for the automation owing to the austerity measures but she was in talks with partners to help with this.

4. Members noted with concern that some counties were yet to pay January salaries to their staff. The CoB informed the meeting that counties were supposed to give an explanation on how they intended to clear pending bills before authorisation could be given for them to access funds.

5. On why the CoB did not have an official vehicle, she informed the meeting that the former CoB had been allowed by the Head of Public Service to use the vehicle for six months after the end of her contract.

6. Members impressed upon the CoB to report on the non-financials in her reports in order to encourage accountability and prudent use of resources.

MIN. NO. NA/F&NP/2020/013: MEETING WITH SALARIES AND REMUNERATION COMMISSION TO DISCUSS THE 2020 BUDGET POLICY STATEMENT (BPS)

The Chairperson called for introduction of those present before inviting the Chairperson of the Salaries and Remuneration Commission, Ms. Lyn Mengich to make her submission. She submitted that:-

The Commission got a resource allocation of **KSh. 459.7 million** in the 2020 Budget Policy Statement against a resource need of **KSh. 651.7 million.**

1. Personnel emoluments – **KSh. 321.6 million**
2. Goods and services – **KSh. 138.1 million**

They require an additional funding of **KSh. 192 million** shillings to cater for: -: -

1. Use of goods and services at **KSh. 150 million**, which consists of:-
   i. Implementation of the staff house loan scheme at **KSh. 100 million;**
   ii. refurbishment of buildings at **KSh. 10 million**;
   iii. Domestic travel and subsistence and other transport costs at **KSh. 4 million;**
   iv. Training expenses at **KSh. 8 million;**
   v. Hospitality supplies and services at **KSh. 4 million;**
   vi. Other operating expenses **KSh. 2 million**;
   vii. Routine maintenance – vehicles at **KSh. 1 million**;
   viii. Routine maintenance – other assets at **KSh. 4 million**; and
   ix. Purchase of office furniture and general equipment at **KSh. 9 million**.
2. Strengthening of institutional programmes – **KSh. 42 million** broken down into: -
   i. Development of a framework and policy for recognition of performance and productivity in the public sector, **KSh. 8 million.**
   ii. Implementation of Job Evaluation activities, **KSh. 24 million**
   iii. Remuneration and benefits survey to comply with SRC Act 2011, **KSh. 10 million**

MEMBERS' DELIBERATIONS

1. On whether the Commission attended sectoral meetings to discuss their budgetary allocation, the Chairperson stated that they attended the meetings where the National Treasury advised them to stick to the budget as it was but they later on had a discussion

with National Treasury and reached an understanding that additional funding should be allocated to statutory functions.

2. On who funded the National Wage Bill Conference that was organised by Commission last year but had no budgetary allocation, the Chairperson informed the meeting that the Conference was funded by the Office of the President.

3. Regarding the motor vehicles that the Commission had bought without a budgetary allocation, the Chairperson stated that the audit process was ongoing and they would comply with whatever decision the Office of the Auditor General will make.

MIN. NO. NA/F&NP/2020/014: MEETING WITH THE STATE DEPARTMENT FOR DEVOLUTION TO DISCUSS THE 2020 BUDGET POLICY STATEMENT (BPS)

The Chairperson called for introduction of those present before inviting the Principal Secretary, Mr. Charles Sunkuli to make his submission. Mr. Sunkuli submitted that: -

The State Department has an allocation of **KSh. 5.9 billion** in the 2020 BPS against a resource requirement of **KSh. 7.3 billion**.

They requested for additional funding of **KSh. 1.4 billion** to fund the following programmes: -

1. Upgrading and refurbishment of offices, **KSh. 55 million.**
2. Finalization of transfer of assets and liabilities of the defunct local authorities, **KSh. 500 million.**
3. Hosting of the Africities Summit to be held in Kisumu, **KSh. 850 million.**

MEMBERS' DELIBERATIONS

1. Members were concerned that the Council of Governors could be receiving double funding; from the counties and the National Government through the State Department of Devolution and ASAL. The PS informed the Committee that this was not the case because the State Department caters for rent while counties pay for other expenses incurred by the Council.

2. Members also raised concern that in some cases, relief food is delivered to those who are not supposed to benefit from it. Additionally, the food is delivered to County Headquarters but transport to the affected areas is not provided. The PS informed the Committee that the Government was working on a policy to do cash transfers to the beneficiaries as opposed to the food rations. Further, he stated that the County Commissioners and Deputy County Commissioners are given funds to cater for the transportation of the food.

3. On helping counties to use funds prudently, the PS stated that the State Department had done capacity building to counties with a bid of ensuring prudence in the use of resources.

MIN. NO. NA/F&NP/2020/015: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 2.54 p.m. The next meeting will be held on Thursday, 20th February, 2020 at 10.00 a.m.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED.....**DATE**.....26/2/2020.....

MINUTES OF THE 2ND SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON TUESDAY, 18TH FEBRUARY, 2020 ON 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Dr. Enoch Kibunguchy, MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Abdul Rahim Dawood, MP
7. Hon. David M. Mboni, MP
8. Hon. Francis K. Kimani, MP
9. Hon. Joseph M. Oyula, MP
10. Hon. Joshua C. Kandie, MP
11. Hon. Lydiah Mizighi, MP
12. Hon. Mohamed A. Mohamed, MP
13. Hon. Purity Ngirici, MP
14. Hon. Samuel Atandi, MP
15. Hon. Edith Nyenze, MP

ABSENT WITH APOLOGY

1. Hon. Andrew A. Okuome, MP
2. Hon. Stanley M. Muthama, MP

ABSENT

1. Hon. Christopher Omulele, MP
2. Hon. Daniel E. Nanok, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of the Secretariat
2. Ms. Jennifer Ndeto - Principal Legal Counsel I
3. Ms. Laureen Wesonga - Clerk Assistant II
4. Mr. Josephat Motonu - Fiscal Analyst I
5. Ms. Euridice Nzioka - Audio Officer
6. Mr. Faustine Rotich - Intern

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes

4. Matters Arising
5. **Briefing on the 2020 Budget Policy Statement by the Parliamentary Budget Office**
6. Adjournment/ Date of the next meeting

MIN. NO. NA/F&NP/2020/005: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 10.24 am and a prayer was said. The Chairperson then welcomed Mr. Josephat Mutonu to brief the Committee on the 2020 Budget Policy Statement.

MIN. NO. NA/F&NP/2020/006: CONFIRMATION OF MINUTES

Agenda deferred

MIN. NO. NA/F&NP/2020/007: BRIEFING ON THE 2020 BUDGET POLICY STATEMENT (BPS) BY THE PARLIAMENTARY BUSGET OFFICE

The Committee was informed as follows, that:-

The BPS projects the total revenue in 2020/21 at KSh. 2.134 trillion which is 18.3% of the GDP while Ordinary Revenue is projected at KSh. 1.857 trillion which is 16% of the GDP. The above projections are lower compared to the current financial year where the total revenue was projected at KSh. 2.084 trillion (20.1% of the GDP) and the Ordinary Revenue was projected at KSh. 1.843 trillion (17.8% of the GDP).

The total expenditure and net lending has been projected at KSh. 2.748 trillion which is composed of KSh. 1.781 trillion recurrent, KSh. 587.3 billion development. The overall deficit of KSh. 571.2 billion including grants, to be financed through net domestic borrowing of KSh. 222.9, and net foreign financing of KSh. 345.1 billion and other domestic financing of KSh. 3.2 billion.

The ceilings for the MDAs oversighted by the Committee are as follows:-

1. National Treasury has a ceiling of KSh. 89.082 billion against a baseline of KSh. 113.552 billion which presents a negative deviation of KSh. 24.47 billion;
2. State Department for Planning has a ceiling of KSh. 45.607 billion against a baseline of KSh. 55.412 billion which presents a negative deviation of KSh. 9.805 billion;
3. State Department for Devolution has a ceiling of KSh. 5.745 billion against a baseline of KSh. 9.452 billion which is a negative deviation of KSh. 3.707 billion;
4. Commission on Revenue Allocation has a ceiling of KSh. 400 million against a baseline of KSh. 440.4 million which is a negative deviation of KSh. 40.4 million;
5. Salaries and Remuneration Commission has a ceiling of KSh. 459.7 million against a baseline of KSh. 450.4 million which is a positive deviation of KSh. 9.3 million; and

6. Controller of Budget has a ceiling of KSh. 663.4 million against a baseline of KSh. 651.3 million which is a positive deviation of KSh. 12.1 million.

MEMBERS' DELIBERATIONS

1. Members noted that the 2020/21 budget expenditure vis-à-vis the revenue projection appeared to be more realistic compared to the previous years. The Committee hoped that the country will soon record a surplus in the budget as opposed to the deficits that have been recorded over the years.

2. Members also noted that it is important for the Committee to come up with alternative policies that the Government can implement to spur growth of the economy.

3. Additionally, the Committee noted the importance of having a legal framework in place to guide the expenditure of County Governments to stop the wastage that has been witnessed in counties.

4. Further, the Committee observed that since the inception of the 'Big Four Agenda', most of the pillars were yet to be actualised despite the fact that funds have been allocated. Members noted that there is need to interrogate the actual status of the 'Big Four Agenda'.

5. The following matters arose under the following respective MDAs:-

   i. National Treasury

   a. The Committee observed that processing of pension for retired civil and public servants has had delays yet stoppage of salaries happens almost immediately. The Committee resolved to interrogate the matter with the National Treasury.

   b. The Committee noted the need for the National Treasury to explain why the budgetary allocation for hiring security vehicles was domiciled under the National Treasury and not in the respective ministry;

   c. The Committee further noted the need for the Kenya Revenue Authority to give the performance of tax measures that have been implemented in the past two years;

   d. The Committee further observed that there was need for the National Treasury to identify other ways of raising revenue instead of introducing new tax measures. It was observed that the economy was experiencing tax elasticity and hence introduction of new measures may not yield expected gains;

   e. The Committee further noted a significant reduction in the budget for FY 2020/21 for the National Treasury. The Committee resolved to seek an

explanation for the reduction and the impact it would have on the programmes to be implemented. ;

f. It was further observed that KRA ought come up with proper tax administration measures in order to increase revenue collection; and

g. It was further noted that the revenue target for 2020/21 is at 18.4% of the GDP which rises marginally to 18.5% and 18.6% in the medium term. The sluggish revenue growth casts doubts on the realism of the economic growth prospects.

ii. State Department for Planning

a. The Committee noted that there was need for an explanation on why the Kenya National Bureau of Statistics the BPS 2020 had an allocation of KSh. 4 billion yet the National Housing and Population Census was carried out last year; and

b. The Committee observed that the funding for the National Statistical Information Services has been reduced by KSh. 2.982 billion. It is important to interrogate whether the reduction could affect the goods and services consumed during the census process and can therefore result in pending bills.

iii. State Department for Devolution

a. The Committee observed that the BPS proposes to increase the beneficiaries of relief food from 2000 to 2500. In this regard, long term food security initiatives like irrigation and food production enhancement in affected areas ought to be explored to ensure that this scenario is reversed;

b. The Committee noted the distribution of relief food has had challenges hence the need to interrogate the mode distribution to ensure that the food gets to the intended beneficiaries; and

c. The Committee further observed the need for the Government to come up with appropriate policies that will enable farmers to store food after harvesting in order to cure post harvest losses and contamination and eventually address food security in the country.

iv. Commission on Revenue Allocation

a. The Committee observed that the Third Generation Revenue Sharing Formula among county governments was yet to be put in place implying that the Second Generation Revenue Sharing Formula sharing will be used to share revenue among county governments; and

b. The Committee noted that the number of parameters in the Third Generation Revenue Sharing Formula had been increased despite the fact that the available data was scanty.

v. Controller of Budget

The Committee observed that the Quarterly reports of the Controller of Budget only focus on the financial performance leaving out non-financial performance which is more critical. The Office should start analysing and reporting on the quarterly achievement targets and key performance indicators in order to facilitate effective oversight by the legislature.

vi. Salaries and Remuneration Commission

a. The Committee observed that the wage bill had risen to approximately over KSh. 600 billion from KSh. 300 billion since the inception of SRC as such there was need to evaluate effectiveness of the Commission;

b. The Committee further observed that the Job evaluations and harmonisation of benefits to employees may not be the solution to the run-away public wage bill in the country. It was therefore important for SRC to explore other ways of reducing the wage bill like analysing job productivity;

c. The Committee noted that SRC has been requesting for additional funding for the same functions that they were supposed to have executed in the previous financial years; and

d. The Committee noted the need for SRC to explain where they funded the National Wage Bill Conference given that the Committee did not approve the allocation during the Supplementary Estimates II.

MIN. NO. NA/F&NP/2020/008: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 12.35 p.m. The next meeting will be held on Wednesday, 19th February, 2020 at 09.00 a.m.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

26/2/2020

SIGNED.....DATE.....

DEPARTMENTAL COMMITTEE ON HEALTH

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION

DEPARTMENTAL COMMITTEE
ON
HEALTH

REPORT
ON
THE EXAMINATION OF THE BUDGET POLICY STATEMENT FOR THE YEAR 2020 AND THE MEDIUM TERM

FOR
MINISTRY OF HEALTH

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February 2020

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PART 1

1.0 PREFACE

1.1 INTRODUCTION

Chairperson,

01. This is the report of the Departmental Committee on Health on its consideration of the Budget Policy Statement 2020/21 for the Ministry of Health. The report is as a result of deliberations between the Committee and the officials from the Ministry of Health and it's Semi-autonomous Government Agencies (SAGAs).

02. The report contains the discussions, observations and recommendations of the Committee as regards the proposed 2020/21 Budget Policy Statement for the Ministry of Health alongside its eight Semi-autonomous Government Agencies (SAGAs)

03. The Budget Policy Statement was tabled before the House on Thursday 13th February, 2020 pursuant to Standing Order No. 232 and thereafter committed to relevant Departmental Committees for deliberation according to respective mandates.

1.2 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

04. The Departmental Committee on Health is established pursuant to the provisions of Standing Order No. 216 of the National Assembly and in line with Article 124 of the Constitution which provides for the establishment of the Committees by Parliament. The mandate and functions of the Committee are;

a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;

b) Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;

c) Study and review all legislation referred to it;

d) Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;

e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;

f) Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204;

fa) Examine treaties, agreements and conventions;

g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;

h) Consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and

i) Examine any questions raised by Members on a matter within its mandate

05. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, matters related to health, medical care and health insurance.

06. In executing its mandate, the Committee oversees the following government Ministries and departments;

a. Ministry of Health
b. Kenya Medical Supplies Authority
c. Kenyatta National Hospital
d. Moi Teaching and Referral Hospital (MTRH)
e. Kenya Medical Training College (KMTC)
f. National Hospital Insurance Fund (NHIF)
g. Kenya Medical Research Institute (KEMRI)
h. National Aids and Control Council (NACC) and
i. Kenyatta University Teaching, Referral & Research Hospital (KUTRRH).

1.3 COMMITTEE MEMBERSHIP

07. The Departmental Committee on Health was constituted by the House in December, 2017 and comprises of the following Members:-

Hon. Sabina Chege, MP **(Chairperson)**
County MP for Muranga County
Jubilee Party

Hon. Dr. Swarup Ranjan Mishra, MP **(Vice-Chairperson)**
M.P for Kesses Constituency
Jubilee Party

Hon. (Dr.) James Nyikal, MP
Seme Constituency
ODM Party

Hon. (Dr.) Eseli Simiyu, MP
Tongaren Constituency
FORD-K

Hon. (Dr.) James K. Murgor, MP
Keiyo North Constituency
Jubilee Party

Hon. Muriuki Njagagua, MP
Mbeere North Constituency

Jubilee Party

Hon. (Dr.) Mohamed D. Duale, MP
Daadab Constituency
KANU Party

Hon. Alfred Agoi Masadia, MP
Sabatia Constituency
ANC Party

Hon. Stephen Mule, MP
Matungulu Constituency
WIPER Party

Hon. David Ochieng', MP
Ugenya Constituency
MDG Party

Hon. Esther M. Passaris, MP
Nairobi County
ODM Party

Hon. Gladwell J. Cheruiyot, MP
Baringo County
KANU Party

Hon. Kipsengeret Koros, MP
Sigowet Constituency
Independent Member

Hon. Mercy Wanjiku Gakuya, MP
Kasarani Constituency
Jubilee Party

Hon. Prof. Mohamud S. Mohamed, MP
Wajir South Constituency
Jubilee Party

Hon. Patrick Munene Ntwiga, MP
Chukalgamba Ng'ombe Constituency
Jubilee Party
Hon. Tongoyo Gabriel Koshal, MP
Narok [illegible]st Constituency
CCM Party

1.3.1 SECRETARIAT

08. The Committee is facilitated by the following Secretariat:-

Mr Benjamin Magut
First Clerk Assistant

Mr. Ahmed Hassan Odhowa
Principal Research Officer

Mr. Muyodi Meldaki Emmanuel
Clerk Assistant III

Mr. Eric Kanyi
Fiscal Analyst II

Ms. Lynette A. Otieno
Legal Counsel I

Ms. Winnie Kiziah
Media Officer

Ms. Rahab Chepkilim
Audio Officer

1.4 ACKNOWLEDGEMENTS

09. The Committee is grateful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. On behalf of the Committee, it is therefore my pleasant duty and privilege, to present this report on scrutiny of the 2020/2021 Budget Policy Statement and Medium Term for the Ministry of Health to the Budget and Appropriation Committee pursuant to provisions Section 25(2) of the Public Finance Management Act, 2012 and Standing Order 232 (5)

Thank You

SIGNED .....

HON. (HON. SABINA CHEGE, MP)

(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON HEALTH

DATE 25TH FEBRUARY 2020

PART II

2.0 OVERVIEW ON THE CONSIDERATION OF THE BUDGET POLICY STATEMENT 2020

10. On Thursday 13thFebruary 2020, the Budget Policy Statement (BPS) 2020/2021 was tabled in the House pursuant to the provisions of Standing Order 232 of the National Assembly and Section 25(2) of the Public Finance Management Act, 2012.

11. Standing Order 232(5) provides that the Departmental Committee is to deliberate on the Budget Policy Statement according to its mandate and make recommendations to the Budget and Appropriations Committee. Thus, pursuant to the provisions of Standing Order No 232(4), the BPS was referred to the Committee for consideration and subsequent reporting to the Budget and Appropriations Committee.

12. Following the tabling of the BPS, the Departmental Committee on Health was briefed by the Parliamentary Budget Office and thereafter proceeded to hold consultative meetings with the Ministry of Health on Thursday, 20th February, 2020.

13. In considering the Budget Policy, the Committee held a total four sittings. The Committee deliberated on the sector policy issues contained in the budget policy statement as well as the proposed resource ceilings for the next MTEF period.

3.0 BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE (PBO)

14. While briefing the Committee, the PBO highlighted the following key issues regarding the various policies, priorities and proposed resource ceilings for the Health Sector in the next MTEF period as presented in the BPS 2020

    i) That, the BPS 2020/21 proposes a buildup of policies initiated to support in the implementation of the UHC goal which began in 2018 and which is one of the big four agenda of the government.

ii) The key policy focus for the UHC delivery is the strengthening of the primary health systems in the country to expand deliver affordable health care. Within the strengthening of the primary health systems for UHC, the focus will be on the following;

(a) Addressing health human resource needs
(b) Provision of basic equipment in primary healthcare facilities
(c) Ensure availability of pharmaceuticals and non-pharmaceuticals commodities in all health facilities and,
(d) Strengthening multi sectoral and intergovernmental collaborations in the implementation of UHC.

iii) That, in order to enhance access to affordable healthcare under the UHC, the government envisages to:

(a) Build strong referral systems in the country;
(b) Increase uptake of NHIF especially among the secondary school students, elderly and the vulnerable;
(c) Increase health insurance coverage for the poor under the social health protection programme;
(d) Increase utilization of health facilities for deliveries and basic health services.

iv) That, there is a number of milestones which have been made towards the UHC goal, among them;

(a) Successful piloting of UHC in four counties where the lessons learnt have been adopted where the UHC approach is now on the strengthening of primary health care systems
(b) Operationalization of two referral hospitals: Kenyatta University Referral hospital and Othaya referral hospital;
(c) All the 47 counties have received the beyond zero mobile clinics to improve maternal healthcare and reduce HIV infections among infants;
(d) Decentralization of cancer management services through establishment of 10 chemotherapy units;
(e) Enhanced access to specialized health services across 120 hospitals under the MES programme;
(f) Expanded access to immunization among children.

v) That, in the next MTEF period, key areas of spending will focus of the following areas: addressing health human resource needs; provision of basic equipment in primary healthcare facilities; ensure availability of pharmaceuticals and non-pharmaceuticals commodities in all health facilities; strengthening multi sectoral and intergovernmental collaborations in the implementation of UHC, build strong referral systems in the country; increase uptake of NHIF among other priority areas.

vi) That, the sector will continue implementing the existing five programmes in 2020/21 financial year and over the medium term and the proposed allocation to the sector is **Kshs 114.4 Billion** which is equivalent to 6.2 % of the total sectoral allocations. The allocation is expected to increase to Kshs 130.5 Billion in 2022/23 financial year. The proposed budget ceilings (recurrent and development) for 2020/21 financial year is indicated below.

Table 1: Proposed 2020/21 resource ceilings (Kshs Mlns)

Programmes	2020/21 Ceiling (Millions)		
	Recurrent	Development	Total
Preventive, Promotive and RMNCAH	1,810	6,059	7,869
National Referral and specialized services	29,639	9,830	39,469
Health Research and Development	9,291	587	9,878
General Administration and Planning	7,244	1,195	8,439
Health Policy, Standards and Regulations	15,730	33,091	48,821
Total	63,714	50,762	114,476

vii) Given that conditional grants to the county governments are included in the Ministry of Health budget, it is expected that the Kshs 114.4 Billion allocated in 2020/2021 includes the following conditional grants outlined in the BPS 2020/21;

(a) Kshs 6.2 Billion for leasing of medical equipment

(b) Kshs 900 million for compensation of users fees foregone

(c) Kshs 4.3 Billion for level 5 hospitals

viii) As a result of the resource ceiling proposed in the BPS 2020/21, the sector has a resource gap of Kshs 94.9 Billion as indicated in the table below.

Programmmes	2020/21 Ceiling			Resource requirement 2020/21			
	Recc	Dev	Total	Recc	Dev	Total	% level of funding
Preventive, Promotive and RMNCAH	1,810	6,059	7,869	9,306	18,669	27,975	28.1
National Referral and specialized services	29,639	9,830	39,469	41,713	15,154	56,867	69.4
Health Research and Development	9,291	587	9,878	24,255	2,359	26,614	37.1
General Administration and Planning	7,244	1,195	8,439	12,975	2,275	15,250	55.3
Health Policy, Standards and Regulations	15,730	33,091	48,821	17,734	64,938	82,672	59.1
Total	63,714	50,762	114,476	105,983	103,395	209,378	54.7

ix) The following projects within the sector are proposed to be undertaken through Public Private Partnerships (PPP's):

(a) 300 bed private hospital at KNH

(b) Pwani University Teaching and referral hospital at Pwani University

(c) Amenity wing at Kisii Teaching and Referral Hospital, Kisii County

(d) Cancer centre at Meru Teaching and Referral Hospital ,Meru County

(e) Upgrading of Nyamira level 5 Hospital, Nyamira CountY

4.0 KEY ISSUES/OBSERVATIONS MADE BY THE COMMITTEE

15. The following were the key issues that arose from the BPS 2020 briefing and which the Committee deliberated on:

i) That, the proposed allocation to the sector is Kshs 114.4 Billion. This funds will be utilized to implement the sector's five programmes. The Committee observed that the BPS 2019/20 had envisaged a progressive increase of the allocation to the sector at the national level to reach 15% of the sectoral allocations by 2021/22. However, this may not be achieved given the sector proposed allocation in 2020/21 and over the medium term.

ii) That, the proposed resource ceiling for Health sector is lower compared to the general resource requirement. This means the sector has to prioritize its programmes given the limited resources available to deliver on UHC. The ministry is therefore expected to restructure its priorities to ensure attainment of the set targets using the limited resources.

iii) That, contrary to Standing Order 232 (e), the BPS for F/Y 2020/2021 has not been accompanied by a matrix which indicates resource allocation to the various projects in the Ministry. Thus, it is not possible to ascertain which projects are to be funded in 2020/21 and also assess whether new projects have been introduced. The Ministry therefore needs to present a list of all

capital projects it intends to implement in 2020/21 and over the medium term.

iv) The Committee observed that out of the lessons learnt from the UHC piloting in 4 counties, a new approach for delivery of UHC has been developed. The new approach focuses on strengthening of primary health care facilities hence the need for the Ministry to explain this new approach adopted.

v) The Committee observed that one of the targets which was set at the inception of UHC in 2018 was the establishment of 10 referral hospitals which may not be feasible given the resource constraints. The Committee observed that as a policy option there is need to explore collaboration with the county government to upgrade the former provincial hospitals into national referral hospitals instead of starting new national referrals.

vi) The Committee noted that the intended reforms at NHIF to support the UHC goal have not been achieved since 2018 hence the need to put clear timelines for the intended modernization and reforms in this key institution which will play a critical role in the implementation of UHC.

vii) The Committee observed that Kshs 4.3 billion has been proposed for the Level 5 hospitals meant enhance service delivery in these designated level 5 hospitals. However there is no evidence on whether this fund actually serves the purpose it was meant for, since the services offered in this hospitals are not satisfactory.

viii) The Committee was concerned with a number of Public Private Partnerships (PPP's) projects which were planned to be undertaken in the sector and of which have never be actualized since 2018. The Committee is also concerned regarding the criteria for the selection of the PPP projects and whether proper stakeholder involvement is undertaken.

ix) It was observed that, despite the ongoing efforts to make Othaya Hospital a fully-fledged Referral facility, the Ministry lacks an official guiding framework on the establishment or upgrading of level six (6) hospital to become referral hospitals and to ensure equity.

4.0 SUBMISSIONS FROM THE MINISTRY OF HEALTH ON THE BPS 2020/21

16. Appearing before the Committee on Thursday 20th February,2020, the Ministry of Health submitted on the following:
    i) The policies and priorities the sector will pursue in the medium term
    ii) The resource allocation to the sector in 2020/21 and the medium term;
    iii) Status of flagship projects and other capital projects in the sector;
    iv) The half year budget performance of the Ministry for 2019/20
    v) The critical funding gaps in the ministry among other issues.

17. That, Health financing remains a critical element of the social and economic development of a country as it ensures resource adequacy for the delivery of health services in a manner that is equitable and efficient. The Health financing plays a crucial part in attainment of UHC by ensuring access to quality and affordable health care for all.

18. That, the country has been faced with the challenge of mobilizing adequate resources to finance its health system as evidenced by the available data. Allocations to health still remain below the Abuja Declaration target of 15% allocation of total Government budget to Health. The proportion of Government allocation to health (National and County) as a share of total Government Budget reduced from 7% in 2017/18 to 6.6% in 2018/19.

19. That, the proposed 2019/20 proposed ceilings for the Ministry is Kshs 114.5 Billion which comprises of Kshs 63.7 Billion for Recurrent expenditure and Kshs 50.8 Billion

for development expenditure. During the MTEF period FY 2020/21-2022/23, the Ministry will continue to implement five programmes. Some of the key government strategic interventions include the following: Free maternity programme- Kshs 4.1 Billion; Managed Equipment Service- Kshs 6.25 Billion and Rollout of UHC- Kshs 12.8 Billion.

20. That, the Ministry of Health has been allocated Kshs 114.5 billion against a budgetary requirement of Kshs 209 Billion leading to huge financing gap which will impact negatively in the delivery of health service.

21. That, the Ministry appreciates that there is fiscal pressure in the economy and all planned programmes may not be fully funded. However, there are other priority areas that are critical for the Ministry to undertake its core mandate that are underfunded and this problem is further compounded by declining donor support on strategic commodities. Some of the most affected areas in terms of underfunding include the following;

    i) Funds for the procurement of strategic commodities (HIV, TB, Malaria programs, Family planning commodities and Vaccines) are inadequate and there is a gap of Kshs.16 Billion.
    ii) The blood transfusion services are underfunded and a gap of Kshs 4 Billion exist and this has been made worse by donor withdrawal
    iii) The allocation of funds for operations and maintenance at Ministry Headquarters is overstretched due to the many activities being undertaken in the implementation of UHC. There is a financing gap of about Kshs 150 million
    iv) The newly established Othaya Hospital which currently is an annex of KNH requires additional funding for personnel emoluments and other operations and Maintenance amounting to Kshs.2.4 Billion and Kshs. 200,000,000 for construction of Mortuary, Laundry and Kitchen.
    v) Kenyatta National Hospital has a personnel emoluments shortfall of Kshs 1.1 Billion

vi) Following Moi Teaching and Referral Hospital results for Job Evaluation a gap of Kshs 899,243,276 for Personnel Emolument exist.

vii) As the Ministry prepares for the imminent scale up of UHC, monitoring and evaluation will be very critical and requires a provision of Kshs.120 Million.

22. That, UHC is part of the Governments Big 4 Agenda to accelerate economic growth and improve livelihood of Kenyans. By 2022, it is envisaged that all persons in Kenya will have access to essential health services through a benefit package, provided by means of a social insurance under NHIF.

23. That, the Ministry working closely with the County Governments' shall initially focus on establishing the foundational blocks for UHC by strengthening the public health systems through providing inputs namely **human resource for health, medicines, commodities and basic equipment** for level 2 and level 3 facilities. This is expected to reduce the patient's flows to the higher level facilities which are presently overstretched.

24. That, the initial input financing is intended to be provided during this initial stages of one to two years alongside a gradual increase of social insurance. Thereafter UHC funds will transition fully towards Social Health Insurance for all Kenyans under the National Health Insurance Fund (NHIF).It is therefore a priority that NHIF undergoes reforms to transform into a strategic purchaser of a defined Health Benefit package which will be reviewed regularly to ensure it's responsive to the needs of Kenyans.

25. That, some of the challenges faced by NHIF include , lack of accrual basis in defining benefits, multiple schemes some of which are not viable, weak ICT systems and business processes all of which adversely affect sustainability of the fund. The Ministry and the NHIF Board have embarked on the far reaching reform to ensure the NHIF plays its critical role in delivering UHC sustainably.

26. That, another strategic purchaser is the Kenya Medical Supplies Authority (KEMSA) which is purchasing the medical supplies and commodities for public facilities under UHC. Counties have been allocated drawing rights for medicines and supplies. To ensure that KEMSA can fulfil its obligations to the Counties, it has leased extra warehousing, enhanced the human resource capacity, increased fleet of vehicles, operationalized two regional distribution centers in Kisumu and Mombasa, increased the range of Health Product and Technologies.

27. That, UHC is being implemented through Inter-Governmental Participatory Agreements (IPA's) entered into by Ministry of Health and each of the 47 County Governments, recognizing that Health is a devolved function. The commitment by Counties is reflected by the 42 Intergovernmental Participatory Agreements which have been signed. It is the Ministry's vision to ensure that the governance structures and capacity building is realized at County level as spelt out in the constitution. This will ensure that the County health systems are strengthened and quality services are rendered.

28. That, the ministry in delivering on its core mandate, has also prioritized development of policies and strategies documents which will strengthen the provision of healthcare services in the Country, these include: UHC policy; Primary Healthcare Framework; Community Health Strategy; Resource Strategy; internship policy; Health Financing Strategy; Blood transfusion and organ transplant policy; Policy on operationalization and transfer of health facilities to counties; Kenya quality model for health; Cancer Control policy; Anti-microbial resistance policy; Emergency medical care policy; National Public Health Institute Policy and Public Private Partnership strategy

PART III

5.0 COMMITTEE OBSERVATIONS

29. Following the engagements with the Ministry of Health officials, the Committee made the following observations:

i) That, Health care system is already a burden in Kenya in terms of financing and infrastructure as the population continues to expand. In view of this the Committee observes that government needs to check the implication of the rapidly expanding population and put in place measures to control it in order to ensure that the goal and smooth implementation of UHC in the long run.

ii) That, most facilities in the National Referral Hospitals are in dire state, more so the oldest referral hospital namely Kenyatta National Hospital. In addition there are health human resource challenges in the referral hospitals which need to be addressed to ensure that the referral facilities remain centres of excellence in health service delivery.

iii) The Committee noted that the national government has already signed intergovernmental framework with 42 county governments on the implementation of UHC. This signed intergovernmental framework has not be presented to the National Assembly for scrutiny.

iv) The Ministry of Health has failed to inform the House on policy the country is using in the implementation of the Universal Health Coverage (UHC) which includes the financing aspects among other strategic matters.

v) The Committee noted that, in its discharge of service, Kenyatta National Hospital (KNH) had surpassed its targets and which meant additional cost since most of the patients treated in this facility are indigents hence are not able to promptly pay for the services rendered by the facility.

vi) That, with the exit of donor support, the county is facing serious challenge in maintaining an operational and effective Blood bank in the Country. The National Blood Transfusion Service is seriously underfunded and as a result the Country is currently facing an acute shortage of blood and blood products.

vii) That, there is urgent need for reforms on a number of health social programmes such as the Linda mama, the health insurance subsidy for the vulnerable (elderly, poor and indigents) to make it part of the UHC to avoid duplication of efforts.

viii) That, the Ministry is establishing a number of health facilities such as Rongai Trauma hospital and the East Africa Kidney Institute. However, the Committee is concerned that, the Ministry lacks a clear policy on how these health facilities will be operationalized and their subsequent classification.

ix) That, despite the National Assembly in 2017 enacting the Health Laws Act, 2017, the Ministry is yet to operationalize these Laws hence impeding the process of aligning the Health Sector to the provisions of the Constitution of Kenya 2010. Similarly, the legal framework for the implementation of UHC more specifically on clarity on various roles between the county governments and the national government is also curtailed by non-operalization of these laws.

x) There is lack of a clear policy to guide the establishment and or upgrading of hospitals from one level to another in the country.

xi) There is no clarity on the role of the NHIF in the roll-out of the UHC, the Committee is concern that the Ministry of Health seems to be sidestepping NHIF and laying emphasis on KEMSA in this roll-out.

xii) That, Kshs 4.3 billion has been proposed for the Level 5 hospitals meant enhance service delivery in these designated level 5 hospitals. However there is no evidence on whether this past funding has actually served its purpose, since the services offered in these level 5 hospitals are not satisfactory and not commensurate to the corresponding funding.

xiii) That, a number of Public Private Partnerships (PPP's) projects were planned to be undertaken in the sector and which have not been realized since 2018. The Committee is also concerned regarding the criteria for the selection of the PPP projects and whether proper stakeholder involvement is undertaken.

xiv) It was observed that, despite the ongoing efforts to make Othaya Hospital a fully-fledged Referral facility, the Ministry lacks an official guiding framework on the establishment or upgrading of level six (6) hospital to become referral hospitals and to ensure equity in distribution of referral hospitals in the country.

6.0 COMMITTEE RECOMMENDATIONS

30. The Committee therefore makes the following recommendations for consideration and adoption by the Budget and Appropriations Committee:

(a) Policy Recommendations

i) That, the national government and county governments should come up with a policy framework where the former provincial general hospitals are converted to national referral hospitals as part of the supportive initiative towards UHC. This will reduce of the resources required to establish new referral systems as envisaged in the Ministry's priorities.

ii) That, the National Government as matter urgency, to issue a clear policy strategy and roadmap including financing mechanism for UHC.

iii) In order to achieve smooth implementation of the UHC, the Ministry should within sixty (60) days put in place clear policy, strategy and criteria of upgrading health facilities to ensure equity in the distribution of facilities in the country.

iv) That, the existing social health programmes such as the Linda mama, health insurance subsidy for the poor and the elderly to be merged to form part of the UHC to ensure there is no duplication since it is the same individuals who are targeted in the UHC programme.

v) That, within sixty (60) days of adoption of this report by the House, the Ministry of Health to submit to the National Assembly are a detailed report on the role to be played by the NHIF in the implementation of UHC alongside a matrix of reforms undertaken on NHIF which include ensuring of all acting positions within this critical institution are substantively filled. This will ensure that NHIF is able to adequately play its role in the implementation of UHC.

vi) That, the Auditor General undertakes a special audit on the operation and management of the conditional grants to level 5 hospitals. This audit to focus among other areas, disbursements to the counties since the inception as well as the actual expenditures, the impact the grant has had in health service delivery at the county level, as well as the challenges if any in the monitoring of the usage of this funds. The report to be submitted to the National Assembly within 90 days of adoption of this report in House.

vii) That, the Ministry develops the constitutive instruments for Mathare Teaching and Referral hospital and the Spinal Injury referral hospital within the next 90 days in order for these institutions to have financial autonomy like the other referral facilities.

viii) That, the Ministry of Health within sixty days (60) to prepare an amendment to the Insurance Regulatory Act, 2019 to exempt NHIF from the regulations of the Insurance Regulatory Authority (IRA) since NHIF is modeled to be social insurance for delivery of UHC.

ix) The Ministry of Health to provide a report to the National Assembly on the criteria of arriving at the partners in Public Private Partnerships in the Health sector, the financing arrangement of the PPPs and its impact on UHC in the long run.

b) Financial recommendations

i) That, the Committee noted the following critical areas that have financial gaps and request the Budget and Appropriation Committee to consider reviewing the sector ceiling to cater for these critical areas:

1) The blood transfusion services with a financial gap of Kshs 4 Billion and this has been made worse by donor withdrawal
2) The newly established Othaya Hospital which currently an annex of KNH requires additional Kshs. 200,000,000 for construction of Mortuary, Laundry and Kitchen.
3) Kenyatta National Hospital has a personnel emoluments shortfall of Kshs 1.1 Billion
4) Moi Teaching and Referral Hospital has a financial gap of Kshs 910,243,276 for Personnel Emolument that arose from Job Evaluation report approved by SRC.

Annex 1: MINISTRY OF HEALTH SUBMISSIONS ON BPS 2020/2021

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELTH PARLIAMENT –FOURTH SESSION, 2020

THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON THE BUDGET POLICY STATEMENT FOR THE FY 2020/21 FOR THE AGENCIES UNDER GOVERNANCE, JUSTICE, LAW AND ORDER

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY,

2020

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FORWARD BY THE CHAIRMAN

The Budget Policy Statement for the F/Y 2020/21 was tabled in the House on Thursday, 13th February, 2020 and subsequently referred to the relevant Departmental Committees for consideration, the Departmental Committee on Justice and legal Affairs being one of them.

The Second Schedule of the National Assembly Standing Order assigns the Departmental Committee on Justice and Legal Affairs the mandate to consider matters related to Constitutional affairs; the administration of law and Justice, including the Judiciary, public prosecutions, elections, ethics, integrity and anti-corruption; and human rights.

Following the referral of the Budget Policy Statement to the Departmental Committees, the Departmental Committee on Justice and Legal Affairs was briefed by the Parliamentary Budget Office on the contents of the Budget policy Statement with regard to the Governance, Justice, Law and Order sector. Thereafter, the Committee engaged the relevant stakeholders and met with the Accounting Officers of the various agencies under the purview of the committee and reviewed their ceilings as proposed under the Budget Policy Statement for the FY 2020/20.

Emanating from those discussions and reviews, the Committee made several observations as contained in section 3 of the Report. Subsequently, the Committee made several recommendations also as contained in section 3 of the Report.

The Committee wishes to record its appreciation to the Offices of the Speaker and Clerk for the services rendered in facilitating the Committee in executing its mandate.

On behalf of the Committee, it is my singular duty and honour to forward the Committee report to the Budget and Appropriations Committee for consideration.

1. PREFACE

1.1. ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Justice and Legal Affairs derives its mandate from Standing Order No. 216(5) which provides for the functions of Departmental Committees as follows-

   (a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;

   (b) Study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;

   (c) Study and review all legislation referred to it;

   (d) Study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;

   (e) Investigate and enquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;

   (f) Vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments)

   (g) Examine treaties, agreements and conventions;

   (h) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;

   (i) Consider reports of Commissions and Independent Offices submitted to the House pursuant to provisions of Article 254 of the Constitution; and

   (j) Examine any questions raised by Members on a matter within its mandate.

2. The Second Schedule of the Standing Orders on Departmental Committees further outlines the Subjects of the Committee, as follows-

   a. Constitutional affairs;
   b. The administration of law and Justice
   c. The Judiciary;
   d. Public prosecutions;
   e. Elections;
   f. Ethics, integrity and anti-corruption; and

g. Human rights.

1.2. COMMITTEE MEMBERSHIP

3. The Committee was constituted on Thursday, 14th December, 2017 and comprises the following Honourable Members-

Hon. William Cheptumo, M.P. (Chairperson)
MP Baringo North Constituency
Jubilee Party

Hon. Alice MuthoniWahome, M.P. (Vice Chairperson)
MP Kandara Constituency
Jubilee Party

Hon. John OlagoAluoch, M.P.
Kisumu West Constituency
FORD-Kenya

Hon. George Peter Kaluma, M.P.
Homa Bay Town Constituency
ODM-Party

Hon. RoselindaSoipanTuya, M.P.
Narok County
Jubilee Party

Hon. Charles Gimose, M.P
Hamisi Constituency
FORD-Kenya

Hon. Johana Ng'eno, M.P.
EmuruaDikirr Constituency
KANU-Party

Hon. W. KamotiMwamkale, M.P.
Rabai Constituency
ODM-Party

Hon. Ben OroriMomanyi, M.P.
Borabu Constituency
WIPER-Party

Hon. Zuleikha Hassan, M.P.
Kwale County
ODM-Party

Hon. Jennifer Shamalla, M.P.
Nominated MP
Jubilee Party

Hon. Beatrice Adagala, M.P
Vihiga County
ANC-Party

Hon. Gladys Boss Shollei, CBS, M.P.
UasinGishu County
Jubilee-Party

Hon. John MuneneWambugu, M.P.
Kirinyaga Central
Jubilee –Party

Hon. George GitongaMurugara, M.P.
Tharaka Constituency
Jubilee-Party

Hon. Anthony GithiakaKiai, M.P.
Mukurueni Constituency
Jubilee-Party

Hon. John KiarieWaweru, M.P.
Dagoretti South Constituency
Jubilee-Party

Hon. Japheth Mutai, M.P.
Bureti Constituency
Jubilee-Party

Hon. Adan Haji Yussuf, M.P.
Mandera West Constituency
Economic Freedom Party

1.3. COMMITTEE SECRETARIAT

The Committee secretariat comprises the following staff-

Mr. Abenayo Wasike	-	Senior Clerk Assistant
Mr Denis Abisai	-	Principal Legal Counsel I
Ms Halima Hussein	-	Clerk Assistant II
Mr. Hassan Odhawa	-	Principal Research Officer
Mr Omar Abdirahim	-	Fiscal Analyst III
Ms. Roselyne Ndegi	-	Serjeant-at-Arms I
Mr. Richard Sang	-	Assistant Serjeant-at-Arms
Mr Joseph Okongo	-	Media Liaison Officer
Mr. Job Owaga	-	Audio Officer

1.4. COMMITTAL OF THE BUDGET ESTIMATES TO DEPARTMENTAL COMMITTEES

The Budget policy statement FY 2020/2020 was tabled in the House by the Majority Leader on Thursday 13th February, 2020 and thereafter referred to the various Departmental Committees for consideration and subsequently the Departmental Committees are required to submit reports to the Budget and Appropriations Committee.

1.5. COMMITTEE'S EXAMINATION OF THE BUDGET ESTIMATES FY 2020/2021

The Committee held two sittings examining the estimates. The first sitting took place on 20thFebruary, 2020at 10:00am where the Committee discussed the estimates with the Parliamentary Budget Office before interacting with the State agencies. The second sitting was held on 20th February, 2020 at 2:30pm where the Committee met with the officials from the state agencies that include; the Judiciary and Judicial Service Commission, the Ethics and Anti-Corruption Commission (EACC), Kenya National Commission on Human Rights (KNCHR) , the Independent Electoral and Boundaries Commission (IEBC), the Office of the Attorney General and Department of Justice (OAG&DOJ), Kenya Law Reform Commission (KLRC), the Commission on Administration of Justice (CAJ), Office of the Registrar of Political Parties (ORPP), Witness Protection Agency and the Office of the Directorate of Public Prosecution (ODPP).

The Committee's examination of the Budget Policy Statement for FY 2020/2020 was based on a report of the Parliamentary Budget Office on the same and submissions from the spending agencies under the committee purview which is captured in the report. In addition the committee received submissions from agencies that are under the purview of the committee which are annexed to the report.

1.6. OBSERVATIONS AND RECOMMENDATIONS OF THE COMMITTEE

1.6.1. Judiciary and Judicial Service Commission

Observation

a) The Judiciary requested for a budgetary allocation Kshs 37.4billion in the FY 2020/2021 comprised of Kshs 30.6 billion for recurrent expenditure and Kshs 6.7 for development expenditure. However, the department was allocated

Kshs. 17.5 billion comprised of Kshs 14.7 billion for recurrent expenditure and Kshs 2.7 billion for development expenditure leading to a shortfall of Kshs 19.6billion which translates to 46.5% of the total resource requirement for the FY 2020/21.

b) The shortfall will affect the following critical areas; fast-tracking of Anti-corruption cases – Kshs 100 million, court annexed mediation – Kshs 200 million, service weeks – Kshs 100 million, automation of Court processes – Kshs 1.2 billion, Establishment of Court of Appeal – Kshs 300 million, opening of new magistrate court stations – Kshs 400 million, provision of Furniture and Fittings in 43 High Court Stations and 90 Magistrates - 500 million

c) The World Bank project which has supported funding of 37.5% of the capital projects in the Judiciary is coming to end in October, 2020 and without enhanced GOK funding, new capital projects will not be initiated and where ongoing ones are likely to stall.

d) The challenges faced by the Judiciary include insufficient financial resources, limitations of the IFMIS operations that disrupt implementation of planned activities, delays in release of exchequer and delays in processing title documents for lands belonging to the Judiciary.

e) The Committee has also observed that in the 1st half of the year, over 204,733 cases were filled and 184,736 cases were resolved meaning the cases filled out number the cases resolved. This likely to worsen the backlog of cases in the country.

f) Judicial Service Commission was allocated Kshs 0.565 billion against a resource requirement of Kshs 1.3 billion in the Financial Year 2020/21. The funding shortfall will affect the commission's ability to recruit additional judges (magistrate, khadi's), capacity building for the judges and judiciary staff and provide resources for office premises.

Policy Recommendations

a) The Committee recommends the extension of the World Bank agreement beyond October 2020 to facilitate the completion of the World Bank funded projects. The Department is not likely to absorb its proposed allocation of Kshs

0.9 billion for the world projects in FY 2020/21 if the agreement is not extended beyond October, 2020.

b) The Committee urges the National Treasury to stick with the cash plans submitted by the various departments and upload budgets on time and more importantly find lasting solutions to the challenges associated with IFMIS to enable the department to implement their budgets fully.

Financial Recommendations

c) The committee recommends an additional allocation of Kshs 2.8 billion in FY 2020/21 to address the following critical areas; fast-tracking of Anti-corruption cases – Kshs 100 million, court annexed mediation – Kshs 200 million, service weeks – Kshs 100 million, automation of Court processes – Kshs 1.2 billion, Establishment of Court of Appeal – Kshs 300 million, opening of new magistrate court stations – Kshs 400 million, provision of Furniture and Fittings in 43 High Court Stations and 90 Magistrates - 500 million.

d) The Committee further recommends an additional allocation Kshs 320 million for the Judicial Service Commission for recruitment of additional judges, capacity building for the judges and judiciary staff and provide resources for office premises.

1.6.2. Office of the Attorney General and Department of Justice

Observation

a) In the FY 2020/21, the office resource requirement is 10.8 billion composed of Kshs 8.2 billion for recurrent expenditure and Kshs 2.6 billion for development. However, the office proposed ceiling is Kshs 4.9 billion composed of Kshs 4.73 billion for recurrent expenditure and Kshs 0.12 billion for development expenditure.

b) The shortfall will affect the following areas; development of government legal documentation center – Kshs 110 million, acquisition of office space – Kshs 2.5 billion, conducting investigations into complaints against Advocates – Kshs 7 million, operationalization of the Business Registration Services – Kshs 178 million among other projects.

c) The Committee observed that the Asset Recovery Agency is in the processing of setting up a Criminal Assets Recovery Fund whose source of revenue will be

proceeds recovered from crime. The Regulations guiding the use of the Fund is currently being developed.

d) The Committee further observed that there are suits against the government with financial risks to the tune of Kshs 1.2 trillion. In addition, the awards against the government pending payment stand at approximately Kshs 300 billion and they are ranging from awards to victims of torture as well as business litigants against the State.

e) However, there have been positive steps taken in addressing the pending court awards through an inter-ministerial Committee chaired by the Solicitor General to address this perennial challenge.

Financial Recommendations

a) The Committee recommends an additional allocation of **Kshs 178 million** for the operationalization of the Business Registration Services and **Kshs 2.5 billion** for the acquisition of office building for the department.

1.6.3. Independent Electoral and Boundaries Commission

Observation

a) The Commission was allocated Kshs. 4.6billion against its requirement of Kshs. 6.5 billion for the FY 2020/21. The deficit will affect the Proposed Uchaguzi Centre (Kshs. 1 billion), enhanced continuous voter registration (Kshs 1 billion) and boundary delamination exercises

b) The committee noted with concern the commission has pending bills amounting to Kshs 4.3 billion of which non legal suppliers account for Kshs 1.54 billion and Ksh 2.7 billion account for legal fees.

c) The committee also observed the need for the commission to undertake electoral reforms way in advance rather than when the general election is approaching election to avoid the unnecessary push and pull that has been witnessed in the last general election.

d) The committee noted there is need for the commission to undertake continuous voter registration to allow the citizens there right to participate in electoral processes.

Financial Recommendations

a) The committee recommends the approval of the Commission's proposed budget ceiling of Kshs 4.6 billion for FY 2020/21 as submitted by the National Treasury.

b) The further Committee recommends the Commission in close collaboration with the National Treasury to undertake thorough scrutiny and audit of the all the pending bills particularly the bills owed to the suppliers and settle them expeditiously. The committee is cognizant of the fact that the commission is likely to engage the same suppliers when procuring for the next election.

1.6.4. Commission for Administrative Justice

Observation

a) The committee noted that the Commission's proposed ceiling for FY 2020/21 is Kshs 529.3 million out of which Kshs 305.9 million is for personal emolument and Kshs 223.3 million is for operations and maintenance against a resource requirement of Kshs 1.1 billion.

b) The Committee further observed that the Commission's budgetary shortfall will affect critical areas like recruitment of additional staff (Kshs 35 million), public awareness (30 million), establishment of two county offices (Kshs 20 million), access to information activities (Kshs 40 million), procurement of motor vehicles (Kshs 50 million) among others.

c) The committee stressed the need for the commission to create awareness on its mandate particularly in ensuring the citizen right to quality service both at the national and county level of government is not compromised.

Financial Recommendations

a) The Committee recommends an additional of Kshs 75 million comprised of Kshs 20 million for establishment of county offices, Kshs 35 million for recruitment of additional staff and Kshs 20 million for purchase of motor vehicles.

1.6.5. Witness Protection Agency

Observations

a) In the FY 2020/21, the agency's proposed budget ceiling is Kshs 476 million against a resource requirement of Kshs 741.93 million. The committee further observed that the witness protection programme which is the main mandate of the agency has not been adequately funded in FY 2020/21 despite the agency's critical role in the protection of witnesses in crucial cases. Thishas hampered the office ability to protect the witnesses under the programme.

b) The committee acknowledges the critical role the office plays in the criminal justice system particularly in guaranteeing the safety and security of witnesses and further noted that the office has played crucial in the prosecution of complex corruption and terrorism related cases in the recent past.

Financial Recommendations

a) The committee recommends an additional allocation of Kshs 100 million to the witness protection program and enable the office protect the witnesses under its care adequately.

1.6.6. Kenya National Human Right Commission

Observations

a) The Commission was allocated a budget of Kshs. 404.9 million in the FY 2020/21 against a resource requirement of Kshs. 443.73 million by the National Treasury. This leaves a resource gap of about Kshs. 38.83 million.

b) The committee further observed that the commission has critical areas that are underfunded. In particular the commission fleet has aged attracting high maintenance cost and therefore the commission needs to acquire new field vehicles, inadequate office space and lack of screening rooms for commission's witnesses

Financial Recommendations

c) The Committee recommends an additional allocation of Kshs 38.8 million to the Commission's proposed budget ceiling for FY 2020/21 to enable it acquire vehicles and refurbish its screening rooms for its witnesses.

1.6.7. Ethics and Anti-Corruption Commission

Observation

a) During the FY 2020/21 the Commission presented a budget of Kshs. 5.7billion but was allocated Kshs. 3.11 billion comprised of Kshs 3.07 billion for recurrent expenditure and Kshs. 40.8 million for development expenditure. The shortfall is likely to impact the commission's ability to effectively discharge its prescribed mandate. In particular, the commission has a shortfall

b) The Commission is experiencing an upsurge in the demand for its services across the country and to address these demands, the Commission require additional financial resources to undertake a number of targeted activities.

c) The committee observed that the commission plays a critical role in the Big Four Agenda since it will be useful in abetting corruption as the government undertakes the big four projects.

d) The committee also observed there is need for the commission to devolve to all counties to aid against the rampant that has been witnessed at the county level so as to aid against the misuse of devolved funds.

Financial Recommendations

a) The Committee recommends an additional of Kshs 200 million for replacement of staff who have exited the Commission to address the acute staff shortage currently experienced by the Commission as well as promotion of existing staff.

1.6.8. Office of the Director of Public Prosecution

Observations

a) The Office of Director of Public Prosecutions presented budgetary requirement of Kshs. 5.2billion but allocated Kshs 3.3 in FY 2020/21 leading to a resource gap of Kshs 1.9 billion.

b) The Office needs additional allocation of Kshs. 1.5billion to adequately fund the following key areas;

i) Continuing anti-corruption and counter terrorism initiatives
ii) ICT networking and implementation of a case management system
iii) Operationalization of the Prosecutors Training Institute

iv) Setting up, refurbishing and equipping of ODPP regional, County and Sub-county offices
v) Recruitment of prosecutors, researchers, analyst and experts

c) The committee further observed that the Office is a key player towards improving the national security, strengthening good governance and fight against corruption and requires increase in resource allocation to enable the Office execute its mandate

Financial Recommendations

a) The Committee recommends an additional allocation of **Kshs 500 million** comprised of Kshs 100 million for Recruitment of prosecutors, researchers, analyst and experts, Kshs 100 million for setting up, refurbishing of ODPP regional, county and sub-county offices, Kshs 100 million for prosecutors and interagency capacity building and mentor programme and Kshs 200 million for Continuing anti-corruption and counter terrorism initiatives.

1.6.9. Registrar of Political Parties

Observations

a) The Office had requested Kshs. 4.6 billion but the office has been allocated Kshs. 1.2 billion. The Office had requested Kshs. 4.6 billion but the office has been allocated Kshs. 1.2 billion. The allocation is comprised of Kshs 396.9 million for office operation and personnel emolument and Kshs 795.2 million for Political Parties Fund.

b) Further the committee has observed that the allocation to the Political Parties Fund is not in compliance with the provision of the section 24 of the Registrar of political parties act as well as the ruling of Justice Aburili on the implementation of the section 24 of the Act.

c) The Committee has also observed that the Office of the Registrar of Political Parties is frequently enjoined in matters filed in courts and in the Political Parties Dispute Tribunal (PPDT) arising from intra and inters political parties' wrangles. This affects the office in terms of legal fees and time used in defending cases.

Financial Recommendations

a) The Committee an additional allocation of **Kshs 2.9 billion** for the political parties fund in line with the provisions of the Political parties Act.

1.7. ACKNOWLEDGEMENTS

1. The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee wishes to thank all the State Departments under its purview for their participation in scrutinizing the 2020/2021 Budget Policy Statement.

2. Finally, I wish to express my appreciation to the Honourable Members of the Committee who made useful contributions towards the preparation and production of this report.

3. It is my pleasant duty and privilege, on behalf of the Departmental Committee on Justice and Legal Affairs to submit its Report on the scrutiny of the FY 2020/21 Budget Policy Statement.

Signed.....**Date**.25/02/2020

HON. WILLIAM CHEPTUMO, M.P.

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

PART 2

2. BACKGROUND

The 2020 Budget Policy Statement was prepared against a background of a weak global economy due to weak global trade and subdued investment and demand for capital goods. Kenya's economic growth is expected is expected to remain strong and resilient and further expand by above 6.1% in 202 and 7.0 percent over the medium term.

The Governance, Justice Law and Order Sector plays an important role in creating a favorable environment for economic social and political development in line with the Third Medium Term Plan (2018 – 2022), and is a huge contributor towards the achievement of Kenya's Vision 2030 political pillar.

2.1. OVERVIEW AND PURPOSE OF BUDGET POLICY STATEMENT (BPS)

The Budget Policy Statement is published in accordance with Section 25 of the Public Finance Management Act, 2012. In preparing the Budget Policy Statement, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following financial year and over the medium term.

The National Treasury is required to include the following in the Budget Policy Statement:-An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts; The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term; The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments; The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

The National Treasury, while processing the Budget Policy Statement (BPS), is also required to seek and take into account the views of the Commission on Revenue on Allocation, the County Governments, the Controller of Budget, the Parliamentary

Service Commission, the Judicial Service Commission, the Public and any other interested parties or groups.

The submission and processing of the Budget Policy Statement (BPS) by the National Assembly is anchored in Standing Order No 232. The Standing order requires among other things the budget policy statement (BPS) to indicate total resources to be allocated to individual programmes within a sector and indicate the outputs expected from each such Programme. Therefore, this is an in depth analysis of the Budget Policy Statement for 2019/20 and the medium term for the agencies under the purview of the committee.

Upon tabled in the National Assembly the BPS is committed to Departmental Committees in the National Assembly for scrutiny of the Votes under their purview and makes policy recommendations to the Budget & Appropriations Committee which compiles a final report for approval by the National Assembly.

2.2. MANDATE AND SPENDING AGENCIES UNDER THE PURVIEW OF THE COMMITTEE

In accordance with the Second Schedule of the National Assembly Standing Orders, the Committee is mandated to oversee all matters pertaining to Constitutional affairs, the administration of law and justice, including the Judiciary, public prosecutions, elections, ethics, integrity and anti-corruption and human rights. In executing its mandate, the Committee oversees the following agencies;

i. State Law Office & Department of Justice
ii. The Judiciary
iii. Ethics & Anti-Corruption Commission
iv. Office of the Director of Public Prosecutions
v. Office of the Registrar of Political Parties
vi. Witness Protection Agency
vii. Kenya National Commission on Human Rights
viii. Independent Electoral & Boundaries Commission
ix. Judicial Service Commission
x. Commission on Administrative Justice

The legislative scrutiny of the BPS promotes good governance, fiscal transparency and accountability, and is expected to facilitate effective allocation and mobilization of resources and ensure that fiscal policies are unbiased and effectively implemented. It also ascertains the legitimacy of transactions completed and their compliance with established norms, regulations and statutes; the scrutiny ensures that all allocations are as per the provisions, appropriate acts and financial regulations.

2.3. HIGHLIGHTS OF THE 2020 BUDGET POLICY STATEMENT

Overview

1) The 2020 BPS is geared towards accelerating the implementation of the government "Big Four Plan" which has been under implementation in the past two financial years. The government big four agenda is centered around the following key thematic areas:

I. Supporting Value addition and raising the manufacturing sectors share of GDP to 15 percent by 2022. This seeks to accelerate economic growth, create jobs and reduce poverty.

II. Focusing on initiatives that guarantee food security and proper nutrition to all Kenyans by 2022 through expansion of food production and supply, reduction of food prices to ensure affordability and support value addition in the food processing value chain

III. Providing Universal Health Coverage thereby guaranteeing quality and affordable healthcare to all Kenyans and

IV. Providing at least five hundred thousand affordable new houses to Kenyans by 2022, hence improve living conditions for Kenyans.

a) Overall Resource Ceilings

2) The total resource allocation to the various spending agencies and the County Government for the period 2020/2021 financial year is estimated at 2,723.56 billion comprising of Kshs 1,778.13 billion for Executive; Kshs 36.22 billion for Parliament; Kshs 18.05 billion for Judiciary; and Kshs 316.5 billion for County Government.

3) The BPS 2020 projects that the total government allocations will slightly decrease to a total of **Ksh. 2,723.56 billion** in 2020/2021 but increase in the outer years to **Kshs 2,955.13 billion** and **Kshs. 3,191.7 billion** in the FY 2021/22 and FY 2022/23 respectively as shown in table above.

4) The Equitable share to the county governments in FY 2020/21 will not change from the allocation given in FY 2019/20 of **Kshs 316.5 billion**. In the Medium Term, the allocations will increase slightly from **Kshs. 316.5 billion in** FY 2020/21to **Kshs 334.8 billion**. It is however noted that the allocations to county governments will be declining as percentage of the overall budget over the medium term.

Table 1: National Budget over the MTEF (Ksh. Billions)

	2019/20	BPS Ceiling as % of the overall Ceiling	2020/21	BPS Ceiling as % of the overall Ceiling	2021/22	2022/23
National Government	2,006.96	67.8%	1,832.41	67.3%	1,954.15	2,126.98
Executive	1,947.87	67.8%	1,778.13	65.3%	1,897.11	2,067.14
Judiciary	19.2	1.0%	18.05	1.0%	18.57	19.308
Parliament	39.89	1.4%	36.22	1.3%	38.47	40.53
Consolidated Fund Services	550.10	19.1%	574.65	21.1%	675.29	729.89
County Allocation	316.5	11.0%	316.50	11.6%	325.69	334.84
Overall Budget	2,873.53	100.0%	2,723.56	100.0%	2,955.13	3,191.70

Source: FY 2020/21 BPS, National Treasury

5) However, the allocation for Consolidated Fund Services is projected to increase as a percentage of the total expenditure from 19.1 percent in 2019/20 to 21.1 percent in 2020/21. Over the Medium Term, the Expenditure is expected to rise further to Kshs. 22.9 percent and 22.9 percent. The allocation to Parliament and Judiciary will remain stable in 2019/20 and the medium Term at 1.3 percent and 0.6 percent respectively.

b) Revenue Projection

6) In the FY 2020/21 revenue collection including A-I-A is projected to increase to Ksh. 2,134.1 billion translating to 18.3% of GDP which is an increase from the 2019/20 estimates of Ksh. 2,084.2 billion which was 20.1% of GDP. This revenue performance will be realized through the implementation of far reaching tax

policy measures as well as strengthening tax administration that is expected to seal loopholes while safeguarding revenue base under the Kenya Revenue Administration Enhancement Initiative (REI) programme implemented by KRA.

c) Budget Deficit

7) The fiscal deficit (excluding grants) is projected at Ksh. 571.2 billion (equivalent to 4.9% of GDP) in the FY 2020/21. The fiscal deficit will be financed by net external financing of Ksh. 345.1 billion (3.0% of GDP), Net Domestic Borrowing of Ksh. 222.9 billion (1.9% of GDP) and net other domestic receipts of Ksh. 3.2 billion.

2.4. APPROVED ALLOCATIONS FY 2019/20 AND BUDGET CEILING FOR FY 2020/21

8) The proposed budgetary ceiling for the spending agencies in FY 2020/21 is Kshs 36.5 billion composed of Ksh 33.3 billion (91.2%) as recurrent expenditure and Ksh 3.1 billion (8.8%) as development expenditure. In comparison, the agencies were allocated Kshs 37.6 billion in FY 2019/20 out of which Ksh 33.1 billion (88.0%) was spent on recurrent expenditure and Ksh 4.5 billion (12%) as development expenditure. The significant expenditures on recurrent activities by the agencies are because the agencies are service oriented in nature.

9) It is also notable that the budgetary requirements for the department for FY 2020/21 is Kshs 81.2 billion comprised of Kshs 71.3 billion for recurrent expenditure and Kshs 9.9 billion for development expenditure. The shortfall resulting from the allocation is Kshs 44.7 billion.

Table 2: Resource Requirements versus Proposed Ceiling FY 2020/21 (Kshs Billions)

Sector/ Vote/Programme Details	Resource Requirement 2020/21			Approved allocation 2019/20			2020/21 Ceiling				
	Current	Capital	Total	Current	Capital	Total	Current	Capital	Total	variation	% variation
1252 State Law Office & Dept. of Justice	8.2	2.6	10.8	4.8	0.13	4.9	4.7	0.12	4.9	5.9	55.1%
1261 The Judiciary	30.7	6.7	37.4	15.0	4.2	19.2	15.4	2.7	18.1	19.4	51.8%
1271 Ethics & Anti-Corruption Commission	5.4	0.4	5.8	2.94	0.04	2.98	3.1	0.04	3.1	2.64	45.9%
1291 Office of the Director of	4.99	0.21	5.2	3.1	0.11	3.2	3.12	0.13	3.3	1.95	37.5%

Public Prosecutions											
1311 Office of Registrar of Political Parties	4.6	-	4.6	1.3	-	1.3	1.2	-	1.2	3.39	74.0%
1321 Witness Protection Agency	0.74	-	0.74	0.48	-	0.48	0.48	-	0.48	0.3	35.9%
201 Kenya National Commission on Human Rights	0.73	-	0.73	0.4	-	0.4	0.41	-	0.41	0.3	44%
203 Independent Electoral & Boundaries Commission	14.9	-	15.1	4.5	-	4.5	4.5	0.2	4.61	10.5	69.6%
2131 Commission on Administrative Justice	1.1	-	1.1	0.565	0.005	0.57	0.529	-	0.529	0.554	51.2%
TOTALS	71.3	9.9	81.2	33.1	4.5	37.6	33.3	3.14	36.5	44.7	55.1%

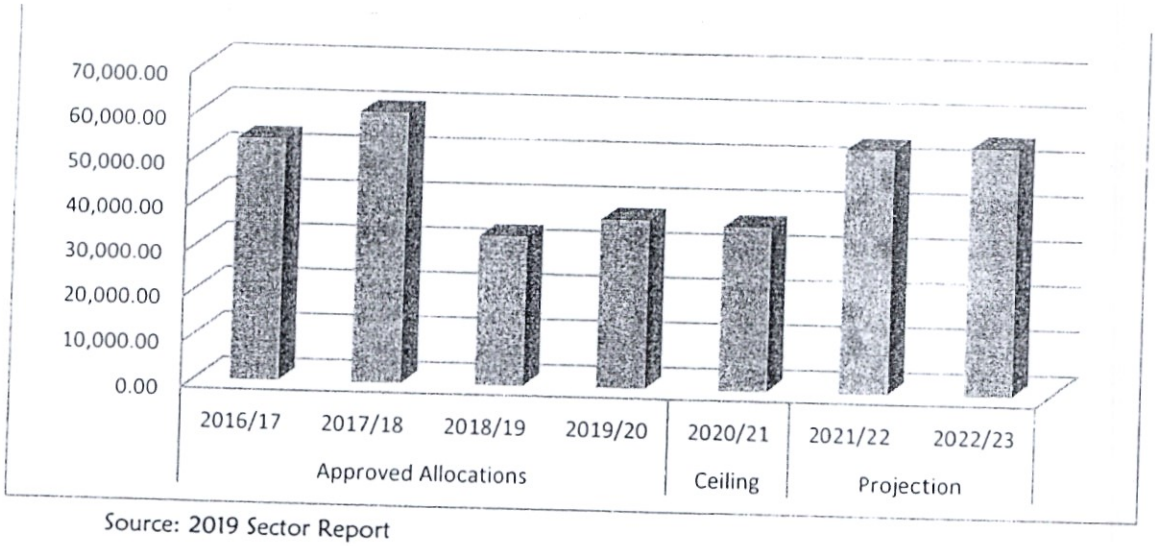
Source: BPS 2020 and 2019 Sector Report

10) Agencies that have registered an increase in their budgets include the following; the Independent Electoral and Boundaries Commission (Kshs 20.7 million), Office of the Director of Public Prosecution (Kshs 56.1 million), Kenya National Human Right Commission (Kshs 67.8 million). However, there is a decrease in the budgets of the following departments; Judiciary (Kshs 1.2 billion), State Law Office and Department of Justice (Kshs 9.8 million), and the Office of the registrar of political parties (Kshs 74.1 million). Table 2 shows the change in budgetary allocations for the departments under the committee's purview.

11) The decrease in budgetary allocation will largely affect the Judiciary whose development budget had been reduced by Kshs 1.1 billion. The reduction will specifically affect the exchequer funded projects and the projects are likely to stall since their funding is not factored in the proposed ceiling for the department.

12) Figure 1 shows that the highest budgetary allocations (both current and capital) were made during the 2017/18 financial year as a result of election preparations. The budget reduced in FY 2018/19 and thereafter maintains a steady increase as we approach the 2022 election period. The Judiciary usually takes up the largest portion of the overall budget but during the election years this has been shared out between both the Judiciary and IEBC.

Figure 1: Approved budgetary allocations FY 2016/17 – 2019/20 and MTP3 Projections



Source: 2019 Sector Report

13) An analysis of the trends in absorption of the budget allocated for the different agencies shows there has been a gradual increase in the average absorption rate steadily rising from 87.9 in FY 2015/16 to 92.2% in FY 2018/19. In the FY 2018/19, The Office of the Director of Public Prosecution and the Ethics and Anti – Corruption Commission have recorded the lowest and highest absorption rates at 73% and 100% respectively.

Table 3: Expenditure Performance FY 2015/16 – 2018/19 – Kshs billions

ANALYSIS OF APPROVED BUDGET VS ACTUAL EXPENDITURE AMOUNT IN KSH MILLION												
Vote & Vote Details	Approved Allocation				Actual Expenditure				Absorption			
	2015/16	2016/17	2017/18	2018/19	2015/16	2016/17	2017/18	2018/19	2015/16	2016/17	2017/18	2018/19
1252 State Law Office & Dep't of Justice	4.4	4.9	4.9	4.8	4.4	4.0	3.9	4.3	99.11 %	81.95 %	79.92 %	89.5 %
1261 The Judiciary	14.8	17.1	14.3	16.3	13.0	15.3	12.7	15.4	87.48 %	89.44 %	89.1 %	94.4 %
1271 Ethics & Anti-Corruption Commission	3.0	3.5	4.3	3.2	2.2	3.4	4.3	3.2	74.36 %	98.55 %	99.49 %	100%
1291 Office of the Director of Public	2.5	2.2	3.0	3.0	2.2	1.8			%	81.74 %	95.66 %	

ANALYSIS OF APPROVED BUDGET VS ACTUAL EXPENDITURE AMOUNT IN KSH MILLION												
Vote & Vote Details	Approved Allocation				Actual Expenditure				Absorption			
	2015/16	2016/17	2017/18	2018/19	2015/16	2016/17	2017/18	2018/19	2015/16	2016/17	2017/18	2018/19
Prosecutions												
1311 Office of the Registrar of Political Parties	0.6	0.83	0.81	1.1	0.52	0.64	0.75	1.0	97.23 %	77.24 %	93%	90.9 %
1321 Witness Protection Agency	0.36	0.39	0.44	0.43	0.36	0.36	0.41	0.41	97.26 %	93.42 %	93.18 %	95.3 %
201 Kenya National Commission on Human Rights	0.46	0.42	0.40	0.36	0.43	0.41	0.39	0.35	94.25 %	98.22 %	97.66 %	97.2 %
203 Independent Electoral & Boundaries Commission	4.91	2.4	33.4	4.9	4.2	20.2	28.8	4.6	85.44 %	85.38 %	86.17 %	93.8 %
205 Judicial Service Commission	0.47	0.45	0.28	0.41	0.40	0.43	0.2	0.38	85.38 %	95.78 %	73%	92.6 %
2131 Commission on Administrative Justice	0.48	0.45	0.41	0.49	0.43	0.42	0.39	0.47	89.0 %	89.4 %	93.96 %	95.9 %
Total	31.8	53.8	61.2	35.0	28.0	47.0	53.8	32.3	87.9 %	87.2 %	87.8 %	92.2 %

Source: 2019 Sector Report

2.5. REVIEW OF NON-FINANCIAL INDICATORS IN FY 2018/19 – FY 2019/20

I. Ongoing Projects - Constructions and Rehabilitations

14) There are 45 projects that are ongoing out of which seventeen (17) projects are funded under the World Bank loan while the remaining twenty eight (28) projects are funded under the exchequer. In the FY 2019/20, the Judiciary has been allocated Kshs 2.995 billion for the JPIP projects and Kshs 1.8 billion for the G.O.K funded projects. In FY 2020/21, the judiciary had been allocated Kshs 0.906

billion for the JPIP projects while the G.O.K funded projects were allocated Kshs 1.8 billion.

15) The JPIP projects total estimated cost is Kshs 5.9 billion. The actual cumulative expenditure for the projects as at 31st December, 2018 stood at Kshs 1.7 billion bringing the total outstanding project cost to Kshs 4.1 billion as at 31st December, 2018. However, the project was allocated Kshs 2.6 billion in FY 2019/20 therefore reducing outstanding cost of the project substantially. In FY 2020/21, the judiciary was allocated an additional Kshs 0.906 billion to fast-track the completion of the projects funded under the world program.

Table 4: Judicial Performance Improvements Projects – Kshs millions

No.	Key Projects	Total Cost	Actual Expenditure as at 31st December, 2018	Outstanding Balance as at 31st December, 2018	Allocation 2019/20
1.	Mombasa Law Courts	445.2	99.6	345.6	190.6
2.	Makueni Law Courts	410.1	60.0	350.1	176.4
3.	Kapenguria Law Courts	400.8	43.3	357.5	238.4
4.	Ol-Kalau Law Courts	399.3	27.6	371.7	196.9
5.	Kajiado Law Courts	398.4	250	148.4	191.0
6.	Others	3,815.1	1,256.7	2,808.5	1,601.7
	Total	5,868.9	1,737.2	4,131.7	2,595

Source: Budget estimates 2019/20, National Treasury

16) The cost of the G.O.K funded projects is estimated to be Kshs 6.6 billion. The actual cumulative expenditure for the projects as at 31st December, 2018 stood at Kshs 1.2 billion bringing the total outstanding project cost to Kshs 3.8 billion as at 31st December, 2018. However, the project was allocated Kshs 1.5 billion in FY 2019/20. In addition, the projects were allocated an additional Kshs 1.8 billion in FY 2020/21. The average completion rate for the projects stands at 66%. Once completed, these courts are expected to provide adequate infrastructure that will improve physical access to courts and reduce the distance travelled in search of justice.

Table 5: Judicial Performance Improvements Projects – Kshs millions

No.	Key Projects	Total Cost	Actual Expenditure	Outstanding Balance	Allocation 2019/20
1.	Marsabit Law Courts	370.2	30.2	340.0	85.0
2.	Homabay Law Courts	367.3	26.3	341.0	97.8
3.	Kabarnet Law Courts	366.8	21.2	345.6	52.2

4.	Mbita Law Courts	148.3	45.2	103.1	66.3
5.	Habasweini Law Courts	143.2	10.0	133.2	44.2
6.	ICT Hardware and Infrastructure Development	2,500.0	-	-	400.0
7.	Others	2,728.1	1,105.8	1,627.4	700.6
	Total	6,623.9	1,238.6	3,807.3	1,446.1

Source: 2019 Sector Reports, National Treasury

17) The fourth pillar of the Judiciary Transformation Framework (JTF) (2012-2016) identified ICT as a key result area that would facilitate speedier trials and enhance administrative efficiency.

18) The Judiciary Digital Strategy covers five broad areas. These are Judicial Operations Support Systems, Court Management Systems, Enterprise Resource Planning, Document and Archive Management, and ICT Infrastructure. The programmes aim to automate all functions of the institution by 2021.

19) The total estimated cost of the project is Kshs 2.5 billion. In FY 2018/19, the project was allocated Kshs 1.2 billion while an additional Kshs 400 million was allocated in FY 2019/20. The Judiciary plans to install 5 High Courts stations with automated e-filing and proceedings system and 30 courts with automated e-filling system.

3. OBSERVATIONS AND RECOMMENDATIONS BY THE COMMITTEE ON THE BUDGET POLICY STATEMENT

3.1. JUDICIARY AND JUDICIAL SERVICE COMMISSION

Observation

a) The Judiciary requested for a budgetary allocation Kshs.37.4billion in the FY 2020/2021 comprised of Kshs 30.6 billion for recurrent expenditure and Kshs 6.7 billion for development expenditure. However, the department was allocated Kshs. 17.5 billion comprised of Kshs 14.7 billion for recurrent expenditure and Kshs 2.7 billion for development expenditure leading to a shortfall of Kshs 19.6billion which translates to 46.5% of the total resource requirement for the FY 2020/21.

b) The shortfall will affect the following critical areas; fast-tracking of Anti-corruption cases – Kshs 100 million, court annexed mediation – Kshs 200 million, service weeks – Kshs 100 million, automation of Court processes – Kshs 1.2 billion, Establishment of Court of Appeal – Kshs 300 million, opening of new magistrate court stations – Kshs 400 million, provision of Furniture and Fittings in 43 High Court Stations and 90 Magistrates - 500 million

c) The World Bank project which has supported funding of 37.5% of the capital projects in the Judiciary is coming to end in October, 2020 and without enhanced GOK funding, new capital projects will not be initiated and where ongoing ones are likely to stall.

d) The challenges faced by the Judiciary include- insufficient financial resources; limitations of the IFMIS operations that disrupt implementation of planned activities; delays in release of exchequer and delays in processing title documents for lands belonging to the Judiciary.

e) The Committee has also observed that in the 1st half of the year, over 204,733 cases were filed and 184,736 cases were resolved meaning the cases filed outnumber the cases resolved. This likely to worsen the backlog of cases in the country.

f) Judicial Service Commission was allocated Kshs 0.431 billion against a resource requirement of Kshs 1.3 billion in the Financial Year 2020/21. The funding shortfall will affect the Commission's ability to recruit additional judges, magistrate, khadi's and provide resources for office premises.

Policy Recommendations

a) The Committee recommends the extension of the World Bank agreement beyond October 2020 to facilitate the completion of the World Bank funded projects. The Department is not likely to absorb its proposed allocation of Kshs 0.9 billion for the World Bank projects in FY 2020/21 if the agreement is not extended beyond October, 2020.

b) The Committee urges the National Treasury to stick with the cash plans submitted by the various departments and upload budgets on time and more importantly find lasting solutions to the challenges associated with IFMIS to enable the department to implement their budgets fully.

Financial Recommendations

a) The committee recommends an additional allocation of Kshs 2.8 billion in FY 2020/21 to address the following critical areas; fast-tracking of Anti-corruption cases – Kshs 100 million, court annexed mediation – Kshs 200 million, service weeks – Kshs 100 million, automation of Court processes – Kshs 1.2 billion, Establishment of Court of Appeal – Kshs 300 million, opening of new magistrate court stations – Kshs 400 million, provision of Furniture and Fittings in 43 High Court Stations and 90 Magistrates - 500 million.

b) The Committee further recommends an additional allocation Kshs 600 million for the Judicial Service Commission for recruitment of additional Judges.

3.2. OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

Observation

(a) In the FY 2020/21, the office resource requirement is 10.8 billion composed of Kshs 8.2 billion for recurrent expenditure and Kshs 2.6 billion for development. However, the office proposed ceiling is Kshs 4.9 billion composed of Kshs 4.73 billion for recurrent expenditure and Kshs 0.12 billion for development expenditure.

(b) The shortfall will affect the following areas; development of government legal documentation center – Kshs 110 million, acquisition of office space – Kshs 2.5 billion, conducting investigations into complaints against Advocates – Kshs 7

million, operationalization of the Business Registration Services – Kshs 178 million among other projects.

(c) The Committee observed that the Asset Recovery Agency is in the processing of setting up a Criminal Assets Recovery Fund whose source of revenue will be proceeds recovered from crime. The Regulations guiding the use of the Fund is currently being developed.

(d) The Committee further observed that there are suits against the government with financial risks to the tune of Kshs 1.2 trillion. In addition, the awards against the government pending payment stand at approximately Kshs 300 billion and they are ranging from awards to victims of torture as well as business litigants against the State.

(e) However, there have been positive steps taken in addressing the pending court awards through an inter-ministerial Committee chaired by the Solicitor General to address this perennial challenge.

Financial Recommendations

(a) The Committee recommends an additional allocation of **Kshs 178 million** for the operationalization of the Business Registration Services and **Kshs 2.5 billion** for the acquisition of office building for the department.

3.3. INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

Observation

a) The Commission was allocated Kshs. 4.6 billion against its requirement of Kshs. 6.5 billion for the FY 2020/21. The deficit will affect the Proposed Uchaguzi Centre (Kshs. 1 billion), enhanced continuous voter registration (Kshs 1 billion) and boundary delimitation exercises;

b) The Committee noted with concern that the Commission has pending bills amounting to Kshs 4.3 billion of which non legal suppliers account for Kshs 1.54 billion and Ksh 2.7 billion account for legal fees;

c) The Committee also observed that there is need for the Commission to undertake electoral reforms way in advance rather than when the General Election is approaching to avoid the unnecessary push and pull that was witnessed in the last General Election

a) The Committee noted that there is need for the commission to undertake continuous voter registration to allow the citizens there right to participate in electoral processes.

Recommendations

a) The Committee recommends the approval of the Commission's proposed budget ceiling of Kshs 4.6 billion for FY 2020/21 as submitted by the National Treasury.
b) Further the Committee recommends that the Commission in close collaboration with the National Treasury undertakes a thorough scrutiny and audit of the all the pending bills particularly the bills owed to the suppliers and settle them expeditiously. The Committee is cognizant of the fact that the Commission is likely to engage the same suppliers when procuring for the next election.

3.4. COMMISSION FOR ADMINISTRATIVE JUSTICE

Observation

a) The Committee noted that the Commission's proposed ceiling for FY 2020/21 is Kshs 529.3 million out of which Kshs 305.9 million is for personal emolument and Kshs 223.3 million is for operations and maintenance against a resource requirement of Kshs 1.1 billion.

b) The Committee further observed that the Commission's budgetary shortfall will affect critical areas like recruitment of additional staff (Kshs 35 million), public awareness (Kshs 30 million), establishment of two county offices (Kshs 20 million), access to information activities (Kshs 40 million), procurement of motor vehicles (Kshs 50 million) among others.

c) The Committee stressed the need for the Commission to create awareness on its mandate particularly in ensuring that the citizen's right to quality service both at the national and county levels of government is not compromised.

Recommendations

a) The Committee recommends an additional of Kshs 75 million comprised of Kshs 20 million for establishment of county offices, Kshs 35 for the recruitment of additional staff and Kshs 20 million for purchase of motor vehicles.

3.5. WITNESS PROTECTION AGENCY

Observations

a) In the FY 2020/21, the agency's proposed budget ceiling is Kshs 476 million against a resource requirement of Kshs 741.93 million. The Committee further observed that the Witness Protection Programme which is the main mandate of the agency has not been adequately funded in FY 2020/21 despite the Agency's critical role in the protection of witnesses in crucial cases. This has hampered the Agency's ability to protect the witnesses under the programme.

b) The Committee acknowledges the critical role the Agency plays in the criminal justice system particularly in guaranteeing the safety and security of witnesses and further noted that the Agency has played a crucial part in the prosecution of complex corruption and terrorism related cases in the recent past.

Recommendations

a) The Committee recommends an additional allocation of Kshs 100 million to the Witness Protection Program and enable the Agency protect the witnesses under its care adequately.

3.6. KENYA NATIONAL HUMAN RIGHTS COMMISSION

Observations

a) The Commission was allocated a budget of Kshs. 404.9 million in the FY 2020/21 against a resource requirement of Kshs. 443.73 million by the National Treasury. This leaves a resource gap of about Kshs. 38.83 million.

b) The Committee further observed that the Commission has critical areas that are underfunded. In particular the aged Commission fleet which is attracting high maintenance cost and therefore the Commission needs to acquire new field

vehicles; inadequate office space; and a lack of screening rooms for commission's witnesses

Financial Recommendations

a) The Committee recommends an additional allocation of Kshs 38.8 million to the Commission's proposed budget ceiling for FY 2020/21 to enable it acquire vehicles and refurbish its screening rooms for its witnesses.

3.7. ETHICS AND ANTI-CORRUPTION COMMISSION

Observation

a) During the FY 2020/21 the Commission presented a budget of Kshs. 5.7billion but was allocated Kshs. 3.1 billion comprised of Kshs ..... for recurrent expenditure and Kshs. 40.8 million for development expenditure. The shortfall is likely to impact the Commission's ability to effectively discharge its prescribed mandate.

b) The Commission is experiencing an upsurge in the demand for its services across the country and to address these demands, the Commission requires additional financial resources to undertake a number of targeted activities.

c) The Committee observed that the Commission plays a critical role in the Big Four Agenda since it will be useful in abetting corruption as the government undertakes the Big Four projects.

d) The Committee also observed there is need for the Commission to devolve to all counties to aid against the rampant cases that have been witnessed at the county level so as to aid against the misuse of devolved funds.

Financial Recommendations

a) The Committee recommends an additional of Kshs 200 million for replacement of staff who have exited the Commission to address the acute staff shortage currently experienced by the Commission as well as promotion of existing staff.

3.8. OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTION

Observations

a) The Office of Director of Public Prosecutions presented a budgetary requirement of Kshs. 5.2billion but allocated Kshs 3.3 in FY 2020/21 leading to a resource gap of Kshs 1.9 billion.

b) The Office needs an additional allocation of Kshs. 1.5billion to adequately fund the following key areas;

   i) Continuing anti-corruption and counter terrorism initiatives
   ii) ICT networking and implementation of a case management system
   iii) Operationalization of the Prosecutors Training Institute
   iv) Setting up, refurbishing and equipping of ODPP regional, County and Sub-county offices
   v) Recruitment of prosecutors, researchers, analyst and experts

c) The Committee further observed that the Office is a key player towards improving the national security, strengthening good governance and fight against corruption and requires an increase in resource allocation to enable the Office execute its mandate

Financial Recommendations

a) The Committee recommends an additional allocation of Kshs 500 million comprised of Kshs 100 million forRecruitment of prosecutors, researchers, analyst and experts, Kshs 100 million for setting up, refurbishing of ODPP regional, county and sub-county offices, Kshs 100 million for prosecutors and interagency capacity building and mentor programme and Kshs 200 million for Continuing anti-corruption and counter terrorism initiatives

3.9. REGISTRAR OF POLITICAL PARTIES

Observations

d) The Office had requested Kshs. 4.6 billion but the office has been allocated Kshs. 1.2 billion. The allocation is comprised of Kshs 370.4 million for office operation and personnel emolument and Kshs 871.2 million for political parties fund.

e) Further the Committee has observed that the allocation to the Political Parties Fund is not in compliance with the provision of the section 24 of the Registrar of Political Parties Act as well as the ruling of Justice Aburili on the implementation of the section 24 of the Act.

f) The Committee has also observed that the Office of the Registrar of Political Parties is frequently enjoined in matters filed in courts and in the Political Parties Dispute Tribunal (PPDT) arising from intra and inter political parties' wrangles. This affects the office in terms of legal fees and time used in defending cases.

Recommendations

a) The Committee an additional allocation of Kshs 2.9 billion for the political parties fund in line with the provisions of the Political parties Act.

ANNEXTURE 1: MINUTES OF COMMITTEE SITTINGS

MINUTES OF THE THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY 20TH FEBRUARY, 2020 AT 2.30 P.M. IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS

PRESENT-

1. Hon. George G. Murugara, M.P. - **Chairing**
2. Hon. John Olago Aluoch, M.P.
3. Hon. Peter Opondo Kaluma, M.P.
4. Hon. William K. Mwamkale, M.P.
5. Hon. Charles Gimose, M.P.
6. Hon. Zuleikha Hassan, M.P.
7. Hon. Johana Ng'eno, M.P.
8. Hon. Gladys Boss Shollei, CBS, M.P.
9. Hon. Japheth Mutai, M.P.
10. Hon. Anthony G. Kiai, M.P.
11. Hon. Jennifer Shamalla, M.P.
12. Hon. Beatrice Adagala, M.P.
13. Hon. John M. Wambugu, M.P.

ABSENT WITH APOLOGIES-

1. Hon. William Cheptumo, M.P. - **Chairperson**
2. Hon. Alice Muthoni Wahome, M.P. - **Vice Chairperson**
3. Hon. Roselinda Soipan Tuya, M.P.
4. Hon. Ben Momanyi, M.P.
5. Hon. John Kiarie Waweru, M.P.
6. Hon. Adan Haji Yussuf, M.P

IN ATTENDANCE-

COMMITTEE SECRETARIAT-

1. Mr. Denis Abisai - Principal Legal Counsel I
2. Ms. Halima Hussein - Second Clerk Assistant
3. Ms. Fiona Musili - Research Officer II
4. Ms. Roselyn Njuki - Serjeant-at-Arms
5. Mr. Simon Maina - Support staff

IN ATTENDANCE-

COMMISSION ON ADMINISTRATIVE JUSTICE (CAJ)

1. Mr. Washington Sati - Vice-Chairperson, CAJ
2. Mr. Leonard Ngaluma - CEO, Commission on Administrative Justice

3.	Mr. Vincent Chahale	-	Director, Commission on Administrative Justice
4.	Mr. D. M. Karewo	-	Director, Commission on Administrative Justice
5.	Mr. Micah Guli	-	Director, Commission on Administrative Justice
6.	Mr. Benard Nyariki	-	Finance Manager
7.	Ms. Damaris Mbuzu	-	Supply Chain Manager
8.	Mr. Wilson Kori	-	Administrative Assistant

WITNESS PROTECTION AGENCY (WPA)

1.	Ms. Alice Ondeiki	-	Director, Witness Protection Agency
2.	Mr. K. A. Tabui	-	Deputy Director, Corporate Affairs
3.	Mr. Mugere Njega	-	Deputy Director Operations
4.	Mr. Paul O. Ouko	-	Principal Planning, Research & Policy Officer
5.	Mr. C. A. Mwale	-	Principal Human Resource Officer

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS (KNCHR)

1.	Ms. Kagwiria Mbogori	-	Vice Chairperson, KNCHR
2.	Dr. Mogesa Bernard	-	CEO
3.	Ms. Ann Mary Okutoti	-	Director
4.	Mr. John O. Wamwanje	-	Finance Manager
5.	Ms. Catherine Mwikali	-	HR Manager
6.	Mr. Josphat Kabuki	-	Head of SCM

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP)

1.	Mr. Noordin Haji	-	Director of Public Prosecutions
2.	Mr. Nicholas Mutuku	-	Deputy Director Public Prosecutions
3.	Mr. Jacob Ondari	-	Deputy Director Public Prosecutions
4.	Mr. James Mungai	-	Senior Assistant Director Public Prosecutions
5.	Mr. Gitonga Murang's	-	Principal Prosecution Counsel
6.	Mr. Mohamed D.	-	Principal Finance Officer
7.	Ms. Natasha E.	-	Senior Chief of Staff
8.	Ms. Laila Daye	-	Secretary

ETHICS AND ANTI-CORRUPTION COMMISSION (EACC)

1.	Rtd Maj Twalib Mbarak	-	CEO
2.	Mr. Stephen Karuga	-	Legal Officer
3.	Mr. Willis O. Wayala	-	Deputy Director, Budget & P
4.	Mr. John Lolkoloi	-	Deputy Director, Investigations
5.	Ms. Judith Shamalla	-	Senior Attorney
6.	Ms. Emily K. Ibeere		Assistant Director, Monitoring & Compliance

KENYA LAW REFORM COMMISSION (KLRC)

1. Hon. Josephine Sinyo - Ag. CEO
2. Ms. Racheal Omendo - Senior Legal Officer
3. Mr. C. Musangi - Finance Officer
4. Mr. Peter Musyimi - Ag Director Finance and Accounting
5. Mr. John Karuiki - Senior Account

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES

1. Ms. Ann Nderitu - Registrar of Political Parties
2. Ms. Juliet W. Murimi - Assistant Director Compliance
3. Mr. Joshua k. - Chief Finance Officer
4. Mr. John Macharia - Assistant Accountant General
5. Mr. Mutethia Mberia - Senior Communication Officer
6. Mr.Joseph Kinga

MIN No. 10/2020:- **PRELIMINARIES**

The meeting commenced at 2.30 p.m with a word of prayer from Chairperson.

MIN No. 11/2020 **CONSIDERATION OF THE BUDGET POLICY STATEMENT 2020**

Office of the Director of Public Prosecutions (ODPP)

Mr. Noordin Haji, Director of Public Prosecutions submitted as follows, THAT;

a) The Office of Director of Public Prosecutions presented budgetary requirement of Kshs. 5.2billion but was allocated Kshs 3.3b in FY 2020/21 leading to a resource gap of Kshs 1.9 billion.

b) The Office requires additional allocation of Kshs. 1.5billion to adequately fund the following key areas;

   i) Continuing anti-corruption and counter terrorism initiatives
   ii) ICT networking and implementation of a case management system
   iii) Operationalization of the Prosecutors Training Institute
   iv) Setting up, refurbishing and equipping of ODPP regional, County and Sub-county offices
   v) Recruitment of prosecutors, researchers, analyst and experts

c) The Office is a key player towards improving the national security, strengthening good governance and fight against corruption and requires increase in resource allocation to enable the Office execute its mandate

Ethics and Anti-Corruption Commission (EACC)

Mr. Twalib Mbarak, Chief Executive Officer of the Commission presented as follows;

a) During the FY 2020/21 the Commission presented a budget requirement of Kshs. 5.7 billion but was allocated Kshs. 3.11 billion comprised of Kshs 3.07 billion for recurrent expenditure and Kshs. 40.8 million for development expenditure. The shortfall is likely to impact the commission's ability to effectively discharge its prescribed mandate. In particular, the commission has a shortfall

b) The Commission is experiencing an upsurge in the demand for its services across the country and to address these demands, the Commission require additional financial resources to undertake a number of targeted activities.

c) The Commission plays a critical role in the Big Four Agenda since it will be useful in abetting corruption as the government undertakes the big four projects.

Office of the Registrar of Political Parties

Ms. Ann Nderitu, the Registrar of Political Parties appeared before the Committee and submitted THAT;

a) The Office had requested Kshs. 4.6 billion but has been allocated Kshs. 1.2 billion comprised of Kshs 370.4 million for office operation and personnel emolument and Kshs 871.2 million for political parties fund.

b) The allocation to the Political Parties Fund was not in compliance with the provision of the section 24 of the Registrar of political parties act as well as the ruling of Justice Aburili on the implementation of the section 24 of the Act.

The Committee unanimously adopted its draft report on the Budget Policy Statement FY 2020/21 with the following recommendations; THAT;

Judiciary and Judicial Service Commission

a) an additional allocation of Kshs 2.8 billion be approved in FY 2020/21 to address the following critical areas; fast-tracking of Anti-corruption cases – Kshs 100 million, court

annexed mediation – Kshs 200 million, service weeks – Kshs 100 million, automation of Court processes – Kshs 1.2 billion, Establishment of Court of Appeal – Kshs 300 million, opening of new magistrate court stations – Kshs 400 million, provision of Furniture and Fittings in 43 High Court Stations and 90 Magistrates - 500 million.

b) Further an additional allocation Kshs 320 million for the Judicial Service Commission for recruitment of additional judges, capacity building for the judges and judiciary staff and provide resources for office premises be approved.

Office of the Attorney General and Department of Justice

a) an additional allocation of **Kshs 178 million** for the operationalization of the Business Registration Services and **Kshs 2.5 billion** for the acquisition of office building for the department be approved

Independent Electoral and Boundaries Commission

b) The Commission's proposed budget ceiling of Kshs 4.6 billion for FY 2020/21 as submitted by the National Treasury be approved.

c) The Commission in close collaboration with the National Treasury to undertake thorough scrutiny and audit of the all the pending bills particularly the bills owed to the suppliers and settle them expeditiously.

Commission for Administrative Justice

c) An additional of Kshs 75 million comprising of Kshs 20 million for establishment of county offices, Kshs 35 million for recruitment of additional staff and Kshs 20 million for purchase of motor vehicles be allocated.

Witness Protection Agency

a) An additional allocation of Kshs 100 million be approved to finance the witness protection program and enable the office protect the witnesses under its care adequately.

Kenya Human Right Commission

a) An additional allocation of Kshs 38.8 million be allocated to the Commission's proposed budget ceiling for FY 2020/21 to enable it acquires vehicles and refurbishes its screening rooms for its witnesses.

Ethics and Anti-Corruption Commission

a) An additional of Kshs 200 million for replacement of staff who have exited the Commission to address the acute staff shortage currently experienced by the Commission as well as promotion of existing staff.

Office of the Director of Public Prosecution

a) An additional allocation of an additional allocation of **Kshs 500 million** comprised of Kshs 100 million for Recruitment of prosecutors, researchers, analyst and experts, Kshs 100 million for setting up, refurbishing of ODPP regional, county and sub-county offices, Kshs 100 million for prosecutors and interagency capacity building and mentor programme and Kshs 200 million for Continuing anti-corruption and counter terrorism initiatives be allocated

Registrar of Political Parties

a) An additional allocation of **Kshs 2.9 billion** for the political parties fund in line with the provisions of the Political parties Act

MIN No. 12/2020:- **ANY OTHER BUSINESS**

No matter arose

MIN No. 13/2020:- **ADJOURNMENT**

There being no other business to transact, the meeting was adjourned at 6:00 pm.

Signed.....
Chairperson

Date.....25/8/2020

MINUTES OF THE SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY 20TH FEBRUARY, 2020 AT 10.30 A.M. IN MEDIA CENTRE, MAIN PARLIAMENT BUILDINGS

PRESENT-

1. Hon. George G. Murugara, M.P. - **Chairing**
2. Hon. John Olago Aluoch, M.P.
3. Hon. Peter Opondo Kaluma, M.P.
4. Hon. William K. Mwamkale, M.P.
5. Hon. Charles Gimose, M.P.
6. Hon. Zuleikha Hassan, M.P.
7. Hon. Johana Ng'eno, M.P.
8. Hon. Gladys Boss Shollei, CBS, M.P.
9. Hon. Japheth Mutai, M.P.
10. Hon. Anthony G. Kiai, M.P.
11. Hon. Jennifer Shamalla, M.P.
12. Hon. Beatrice Adagala, M.P.
13. Hon. John M. Wambugu, M.P.

ABSENT WITH APOLOGIES-

1. Hon. William Cheptumo, M.P. - **Chairperson**
2. Hon. Alice Muthoni Wahome, M.P. - **Vice Chairperson**
3. Hon. Roselinda Soipan Tuya, M.P.
4. Hon. Ben Momanyi, M.P.
5. Hon. John Kiarie Waweru, M.P.
6. Hon. Adan Haji Yussuf, M.P

IN ATTENDANCE-

COMMITTEE SECRETARIAT-

1. Mr. Denis Abisai - Principal Legal Counsel I
2. Ms. Halima Hussein - Second Clerk Assistant
3. Ms. Fiona Musili - Research Officer II
4. Ms. Roselyn Njuki - Serjeant-at-Arms
5. Mr. Simon Maina - Support staff

IN ATTENDANCE-

JUDICIARY AND JUDICIAL SERVICE COMMISSION

1. Ms. Ann Amadi - Chief Registrar Judiciary

2.	CPA Susan K. Oyatsi	-	Ag. Director Finance, Judiciary
3.	Ms. Hellen Musyoki	-	Senior Economist, Judiciary
4.	Mr. Peter Wanyama	-	Deputy Chief Economist, Judiciary
5.	Mr. Joseph Were	-	Senior Procurement Manager, Judiciary
6.	Mr. John Okello	-	Chief Administrator
7.	Ms. Emmah A.	-	Deputy Director, JSC

OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

1.	Mr. Kennedy Ogeto	-	Solicitor General
2.	Ms. Njeri Wachira	-	Deputy Solicitor General
3.	Mr. Benjamin Oyile	-	Senior Deputy Secretary
4.	Mr. Elijah Kabiru	-	Deputy Accountant General
5.	Mr. Emmanuel Bijja	-	Deputy Chief State Counsel
6.	Mr. Joshua Wabwke	-	Legal Advisor
7.	Mr. Wako K. Jaldesa	-	Finance Officer
8.	Mr. Felix Oulo	-	Budget Officer, Treasury

INDEPENDENT ELECTORAL & BOUNDARIES COMMISSION (IEBC)

1.	Mr. Obadiah Keitany	-	Acting Deputy CEO
2.	Ms. Harley Mutisya	-	Director, Supply Chain Management
3.	Mr. Rasi Masudi	-	Director, Voter Registration & Election Operations
4.	Mr. James Muhati	-	Director, ICT
5.	Dr Catherine M.	-	Ag. Dorector Research, Development & Boundaries
6.	Immaculate Kassait	-	Director Voter Education, Partnership & Communication
7.	Mr. Edgar Aswani	-	Budget Officer

MIN No. 06/2020:- **PRELIMINARIES**

The meeting commenced at 10.30 a.m with a word of prayer from Chairperson.

MIN No. 07/2020 **CONSIDERATION OF THE BUDGET POLICY STATEMENT 2020**

The Committee met with the following State Agencies/Department to consider the Budget Policy Statement FY 2020/21.

Judicial Service Commission and Judiciary

Ms. Ann Amadi, the Chief Registrar of Judiciary informed the Committee THAT;

a) The Judiciary requested for a budgetary allocation of Kshs.37.4billion for the FY 2020/2021 comprising of Kshs 30.6 billion for recurrent expenditure and Kshs 6.7 for development expenditure. However, the Department was allocated Kshs. 17.5 billion comprised of Kshs 14.7 billion for recurrent expenditure and Kshs 2.7 billion for development expenditure leading to a shortfall of Kshs 19.6billion which translates to 46.5% of the total resource requirement for the FY 2020/21.

b) The World Bank project which has supported funding of 37.5% of the capital projects in the Judiciary is coming to end in October, 2020 and without enhanced GOK funding, new capital projects will not be initiated and ongoing ones are likely to stall.

c) The challenges faced by the Judiciary include insufficient financial resources, limitations of the IFMIS operations that disrupt implementation of planned activities, delays in release of exchequer and delays in processing title documents for lands belonging to the Judiciary.

d) Judicial Service Commission was allocated Kshs 0.431 billion against a resource requirement of Kshs 1.3 billion in the Financial Year 2020/21. The funding shortfall will affect the Commission's ability to recruit additional judges, magistrate, and khadi's and provide resources for office premises.

Office of the Attorney General and Department of Justice

Mr. Kennedy Ogeto, Solicitor General informed the Committee THAT

a) In the FY 2020/21, the office resource requirement was 10.8 billion composed of Kshs 8.2 billion for recurrent expenditure and Kshs 2.6 billion for development. However, the office was allocated ceiling of Kshs 4.9 billion composed of Kshs 4.73 billion for recurrent expenditure and Kshs 0.12 billion for development expenditure.

b) The shortfall will affect areas like; development of government legal documentation center – Kshs 110 million, acquisition of office space – Kshs 2.5 billion, conducting investigations into complaints against Advocates – Kshs 7 million, operationalization of the Business Registration Services – Kshs 178 million among other projects.

c) The Asset Recovery Agency was in the processing of setting up a Criminal Assets Recovery Fund whose source of revenue will be proceeds recovered from crime.

Independent Electoral & Boundaries Commission (IEBC)

Mr. Obadiah Keitany, Acting Deputy CEO of the Commission informed the meeting THAT;

a) The Commission was allocated Kshs. 4.6billion against its requirement of Kshs. 6.5 billion for the FY 2020/21. The deficit will affect the proposed Uchaguzi Centre (Kshs. 1 billion), enhanced continuous voter registration (Kshs 1 billion) and boundary delamination exercises

b) The Commission has pending bills amounting to Kshs 4.3 billion of which non legal suppliers account for Kshs 1.54 billion and Ksh 2.7 billion account for legal fees.

c) The Commission needs to be adequately funded to undertake continuous voter registration to allow the citizens there right to participate in electoral processes.

Commission on Administrative Justice (CAJ)

Mr. Leonard Ngaluma, Chief Executive Office presented as follows THAT;

a) The Commission's proposed ceiling for FY 2020/21 was Kshs 529.3 million out of which Kshs 305.9 million for personal emolument and Kshs 223.3 million for operations and maintenance against a resource requirement of Kshs 1.1 billion.

b) The Commission's budgetary shortfall will affect critical areas like recruitment of additional staff (Kshs 35 million), public awareness (30 million), establishment of two county offices (Kshs 20 million), access to information activities (Kshs 40 million), procurement of motor vehicles (Kshs 50 million) among others.

Witness Protection Agency (WPA)

Ms. Alice Ondieki, the Director Witness Protection Agency and submitted as follows, THAT;

a) In the FY 2020/21, the agency's proposed a budget ceiling of Kshs 476 million against a resource requirement of Kshs 741.93 million.

b) The witness protection programme which is the main mandate of the agency has not been adequately funded in FY 2020/21 and it will hampered the office ability to protect the witnesses under the programme.

Kenya National Commission on Human Rights (KNCHR)

Ms. Kagwiria Mbogori, Vice Chairperson of the Commission informed the Committee THAT;

a) The Commission was allocated a budget of Kshs 404.9 million in the FY 2020/21 against a resource requirement of Kshs. 443.73 million by the National Treasury. This leaves a resource gap of about Kshs. 38.83 million.

b) The Commission has critical areas that are underfunded. In particular the commission fleet has aged attracting high maintenance cost and therefore the commission needs to acquire new field vehicles, inadequate office space and lack of screening rooms for commission's witnesses

MIN No. 08/2020:- **ANY OTHER BUSINESS**

No matter arose

MIN No. 09/2020:- **ADJOURNMENT**

There being no other business to transact, the meeting was adjourned at 12:50 pm.

Signed.....
Chairperson

Date.....25/02/2020.....

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

ATTENDANCE REGISTER FOR MEMBERS

DATE..20/2/2020..... **START TIME**..2:30pm.....**END TIME**..6pm..

VENUE.....Media Centre Room 7.....

AGENDA....Consideration of BPS 2020 & adoption of BPS 2020/21 Report

O.	NAME	SIGNATURE
	Hon. William Cheptumo, M.P. – **Chairperson**	
	Hon. Alice Wahome, MP. - **Vice Chairpserson**	
	Hon. John Olago Aluoch, MP.	
	Hon. Roselinda Soipan Tuya, MP.	
	Hon. George Peter Kaluma, MP.	
	Hon. Mwamkale William Kamoti, MP.	
	Hon. Ben Momanyi,MP.	
	Hon. Charles Gimose, MP.	
	Hon. Johana Ngeno Kipyegon, MP.	

0.	Hon. Zuleikha Hassan, MP.	
1.	Hon. John Kiarie Waweru, MP.	
2.	Hon. George Gitonga Murugara, MP. -chairing	
3.	Hon. Adan Haji Yussuf, MP.	
4.	Hon. Japheth Kiplangat Mutai, MP.	
5.	Hon. Anthony Githiaka Kiai, MP.	
6.	Hon. Jennifer Shamalla, MP.	
7.	Hon. Beatrice Adagala, MP.	
8.	Hon. John Munene Wambugu, MP.	
9.	Hon. Boss Shollei, CBS, MP.	

COMMITTEE CLERK ..... Halima Hussein 20/2/2020

DIRECTOR COMMITTEE SERVICES 24/2/2020

DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELVETH PARLIAMENT- FOURTH SESSION

DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE.

CONSIDERATION OF THE 2020 BUDGET POLICY STATEMENT IN RESPECT OF STATE DEPARTMENTS FOR LABOUR, SOCIAL PROTECTION, YOUTH, GENDER, DEVELOPMENT OF ARID AND SEMI ARID LANDS AND THE NATIONAL GENDER AND EQUALITY COMMISSION

Directorate of Committees Services
Clerks Chamber
National Assembly
NAIROBI

February, 2020

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CHAIRPERSON'S FOREWARD

The 2020 Budget Policy Statement (BPS) was laid on the Floor of the House on Thursday, 13th February 2020, by the Majority Leader pursuant to the provisions of the Standing Order No. 232 of the National Assembly and Section 25 of the Public Finance Management Act (2012). Further, pursuant to the provisions of Standing Order No 232 (4), the BPS was subsequently committed to each Departmental Committees for review, scrutiny and approval.

According to the Public Finance Management Act (2012), the Cabinet Secretary for the National Treasury is to table the BPS in the House on or before 15th February of every year. Pursuant to the provisions of the Standing Order No 232 (4), the BPS subsequently **'shall stand committed to each Departmental Committee without question put'.** The Departmental Committee is to deliberate on the Budget Policy Statement according to its mandate and make recommendations to the Budget and Appropriations Committee.

The Committee is thankful to the office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded during its Sittings. Therefore on behalf of the Committee, and pursuant to Standing Order 199(6) it is my pleasant duty and privilege, to submit this Report on the 2020 Budget Policy Statement and Medium Term Plan for the State Departments of Labour, Social Protection, Youth Affairs, Development of Arid and Semi -Arid Lands, and Gender Affairs as well as that of the National Gender and Equality Commission.

Signed.....

Date.....25TH FEBRUARY 2020.....

THE HON. ALI WARIO, M.P,
CHAIRPERSON

EXECUTIVE SUMMARY

This is a report on consideration of the 2020 Budget Policy Statement and Medium-term plan for the Government Ministries and State Agencies under the Purview of the Departmental Committee on Labour and Social Welfare thereafter forward the recommendations to the Budget and Appropriation Committee.

In considering the 2020 Budget Policy Statement and the Medium-Term Plan for the government Ministries and State Agencies and Departments under its purview, the Committee held a total of three sittings. The committee received a comprehensive brief from the Parliamentary Budget office regarding the most critical issues on the 2020 BPS. The Department and Agencies under the purview of the Committee under theLaboursectors that remains among the least funded of sectors in the wider economic context which affects implementation of programmes and projects. The Committee is of the view that the sector be adequately funded in order to realize it core mandates.

The Committee notes that the State Departments continue to be characterized by budget cuts which might hinder effective delivery of services and realization of the Big Four Agenda. The Committee notes that despite the critical role played by the Sector in National development, it faces various challenges which include: weak legal and policy framework to regulate the sector; Retrogressive cultural practices; increased demand for social protection among the vulnerable groups; erratic climatic conditions like floods and prolonged drought periods.

Standing Order 232 (4) provides that the Departmental Committee is to deliberate and consider Budget Policy Statement per its mandate and make recommendations and for submission to the Budget and Appropriations Committee.

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Committee on Labour and Social Welfare is one of the Departmental Committees of the National Assembly established under Standing Order 216 and mandated:

i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
ii. To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
iii. To study and review all legislation referred to it;
iv. To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;

v. To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;

vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and

vii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

COMMITTEE MEMBERSHIP

The Committee comprises the following Members:-

The Hon. Ali Wario, MP **(Chairperson)**
M.P for Bura Constituency
Jubilee Party

The Hon. Joyce Korir, MP **(Vice Chairperson)**
M.P for Bomet County
Jubilee Party

The Hon. Gladys Wanga, MP
M.P for Homa Bay County
Orange Democratic Movement (ODM)

The Hon. Janet MaraniaTeyiaa, MP
M.P for Kajaido County
Jubilee Party

The Hon. Janet NangaboWanyama, MP
M.P for Trans Nzoia County
Jubilee Party

The Hon. Ronald KiprotichTonui, MP
M.P for Bomet Central
Jubilee Party

The Hon. James OnyangoKoyoo, MP
M.P for Muhoroni Constituency
Orange Democratic Movement (ODM)

The Hon. Alfred KiptooKeter, M.P
M.P for Nandi Hills
Jubilee Party

The Hon. Rose Museo, MP
M.P for Makueni County
Wiper Democratic Movement (WDM)

The Hon. Catherine Wambilyanga, MP
M.P for Bungoma County
Ford Kenya Party

The Hon. OmbokoMilemba, MP
M.P for Emuhaya Constituency
Amani National Congress Party (ANC)

The Hon. Charles KanyiNjagua, MP
M.P for Starehe Constituency
Jubilee Party

The Hon. Fabian KyuleMuli, MP
M.P for Kngundo Constituency
Muungano Party

The Hon. Abdi Mude Ibrahim, MP
M.P for Lafey Constituency
Economic Freedom Party (EFP)

The Hon. Michael MwangiMuchira, MP
M.P for Ol-Jorok Constituency

The Hon. Safia Sheikh Adan, MP
M.P for Marsabit County

Jubilee Party

The Hon. Tom Odege, MP
M.P for Nyatike Constituency
Orange Democratic Movement (ODM)

The Hon. Ole Sankok David, MP
Nominated M.P
Jubilee Party

Jubilee Party

The Hon. Wilson Sossion, MP
Nominated M.P
Orange Democratic Movement (ODM)

Committee Secretariat

Mr. Adan Gindicha
Senior Clerk Assistant/ Head of Secretariat

Mr. John Mugoma
Clerk Assistant II

Ms. Doreen Karani
Legal Counsel

Mr. Said Osman
Research Officer

Lucy Makara
Fiscal Analyst

COMMITTEE RECOMMENDATIONS

The Committee having received submissions from the various State Departments and further deliberated, scrutinized and examined the submissions and content of the 2020 Budget Policy Statement, the Committee recommends the following:

Policy Recommendations

1. The State Department for Labour should fast track the development of the National Migration policy and its enabling legislation. This should be in place by December 2020. The policy should provide a clear framework on labour migration and ensure that Kenya leverages on opportunities available in other countries to tackle the challenge of unemployment, while at the same time ensuring better terms and conditions of work for them.

2. The State Department for Labour should finalize the ongoing development of the Labour Market Information System (LMIS) by the end of the 2019/2020 Financial Year. This will enable Kenyans access labour market opportunities both locally and internationally easily. The system will also readily avail data on areas of skills shortage and excesses to enable training institutions train for the labour market.

3. The State Department for Social Protection should, within two months, submit to Parliament the amendment to operationalize the Social Assistance Act generally and in particular the establishment of the Social Assistance Fund. This will give the legal backing to the National Safety Net Programme, which has been allocated close to Kshs30 billion shillings in the current Financial Year.

4. The State Department for Social Protection should within one month, resolve the current stalemate at the Child Welfare Society of Kenya, where accounts have been frozen because of leadership wrangles between the Society Trustees and the Board. The situation is not tenable as it puts the welfare of children at great risk.

5. The National Treasury should before preparing the budget estimates for 2020/21 assign the relevant name to the project under the National Youth Service, currently named Youth Empowerment Project in 69 informal Settlements. The Project has been allocated Ksh. 2.8 billion and the Committee has confirmed that the funds were used to pay fees for youth undergoing training at various TIVET institutions. Such a disparity in naming of projects makes it difficult to track expenditure.

6. The National Gender and Equality Commission, in conjunction with other relevant arms of the Government should establish a Tribunal within the next one year where Kenyans

aggrieved on equality issues can channel their grievances. The Tribunal should move around the country to give all Kenyans an opportunity to be heard.

Financial Recommendation

The Committee having received submissions from the various State Departments and further deliberated, scrutinized and examined the submissions and content of the 2020 Budget Policy Statement, the Committee recommends the proposals as per the BPS:

I. That, under the State Department for Labour, the proposed ceilings of **Kshs. 2.79 billion** forRecurrent and **Kshs. 2.95 billion** for Development outlays be approved, and in-line with the various proposed allocation per each Programme under the State Department.

II. That, under the State Department for Social Protection, the proposed ceilings of **Kshs.30.23 billion** forRecurrent and **Kshs 2.51billion** for Development outlays be approved, and in-line with the various proposed allocation per each Programme under the State Department.

III. That, under the State Department for Development of the ASAL, the proposed ceilings of **Kshs.987million** for Recurrent and **Kshs. 7.88 billion** for Development outlays be approved, and in-line with the various proposed allocation per each Programme under the State Department.

IV. That, under the State Department for Youth, the proposed ceilings of **Kshs.11.01** billion for Recurrent and **Kshs.3.44billion** for Development outlays be approved.

V. That, under the State Department of Gender, the proposed ceilings of Kshs.**1.49 billion** for Recurrent and **Kshs.2.36 billion** for Development outlays be approved, and in-line with the various proposed allocation per each Programme under the State Department.

VI. That, under the National Gender and Equality Commission, the proposed ceilings of **Kshs. 495 million** under recurrent budget be approved in-line and as per the proposed Programme.

Further the Committee recommends funding for the following interventions that were not provided for.

MDA	Policy	Programme	2020 BPS Ceiling (Kshs)(millions)	Proposed Increase Kshs(Millions)	Impact on Targets	Justification /Details
State Department for Labour	Labour Migration Policy	Manpower Development, Employment and productivity management	4,590	10(**Recurrent**)	An increase in the number of job seekers placed in gainful employment from 36,258 to 50,000	The allocation is expected to enhance the visibility of the National Employment Authority, in particular the following activities will be undertaken: creating awareness on national and county employment centres and employment agencies, increasing awareness on foreign employment opportunities and services locally and abroad.
State Department for Labour	Cross cutting	Promotion of best Labour practice	709.20	25(**Recurrent**)	Kenya was selected to host the 2020 ARLAC Conference which is a gathering of English-speaking countries across the continent. ARLAC plays a pivotal role in strengthening	The objective of ARLAC is capacity building in Labour administration, providing consultancy and advisory services to member states

					labour administration across the continent. Kenya last hosted ARCLAC 12 years ago	and to assist member states in developing their labour administration systems.
State Department for Social Protection	Social protection Policy	National Social Safety Net	28,567.20	4000.78(**Recurrent**)	160,000 beneficiaries who had exited the payroll for the cash transfer due to the migration from card based to account-based system of payment will be reinstated into the programme	During the migration of data of beneficiaries from card-based system to account - based system, 160,000 beneficiaries were left out because the information they provided was not tallying. After verification, they are to be reinstated into the programme.
State Department for the Development of ASAL	National Drought Management Policy	Accelerated ASAL Development	8,876.00	45(**Recurrent**)	To be used for drought response and coordination effort. Specifically, 23 ASAL counties supported to produce monthly Early warning bulletins, adoption of web-based drought early warning system, and food security assessment.	The country should enhance its preparedness capacity rather than always playing catch-up.
State	Youth	Youth	14,621.10	1,053.57	Operationalization	The 132 Youth

Department for Youth	Development Policy	Empowerment Program		528- **(Development) and 525.57(recurrent)**	and equipping of 132 Youth Empowerment Centres each at a cost of 4 million and operationalization of Youth field offices	Empowerment centres have been constructed at huge costs to the tax payer. Without the necessary infrastructure, they remain a shell with no value to the youth. The Country Youth offices have operated without any AIEs other than salaries, hence need for the additional resources
State Department for Gender	Gender Development Policy	Gender affairs	1, 412.60	440	Establishment and operationalization of 23 additional Gender-based Violence recovery centres. This will bring to 25 the total number of such centres. It will also include establishment of safe spaces for girls in 6 counties of Narok, Meru, Kilifi, Kwale, Kisumu and Busia. In these safe spaces women and girls will have access to information, education,	The country has witnessed an alarming increase in GBV across the country. Activities under this will also include capacity building on GBV issues, establishment of safe spaces and monitoring of implementation of GBV interventions

					recreational activities, support and services.	
National Gender and Equality Commission (NGEC)	Mandate provided under Article 59(4) of the Constitution of Kenya 2010 and National Gender and Equality Commission Act,2011	Promotion of Gender Equality and Freedom from discrimination	495	30	Operationalize NGEC complains handling program through establishment of a Tribunal. The Tribunal should be able to hold Sittings in all counties on rotational basis.	This will enable the Commission create awareness among vulnerable citizens and accord the people an avenue through which they can air their grievances on equality issues.

1.0 INTRODUCTION

The 2020 Budget Policy Statement (BPS) was laid on the Floor of the House on Thursday, 13th February 2020, by the Majority Leader pursuant to the provisions of the Standing Order No. 232 of the National Assembly and Section 25 of the Public Finance Management Act (2012).

Pursuant to the Public Finance Management Act (2012), the Cabinet Secretary for the National Treasury is to table the BPS in the House on or before 15th February of every year.

Subsequently, the provisions of the Standing Order No 232 (4), the BPS **'shall stand committed to each Departmental Committee without question put'.**

The Standing Orders further stipulate that in considering the Budget Policy Statement, the Budget and Appropriations Committee shall consult each Departmental Committee and table a report containing its recommendations on the statement to the House for consideration.

Following the tabling of the BPS 2020, the Departmental Committee on Labour and Social Welfare was briefed on the BPS 2020 by the Parliamentary Budget Office and thereafter proceeded to hold consultative meetings with the State Departments for: Labor, Social

Protection, Youth, Gender and the Development of Arid and Semi- Arid Lands and the National Gender & Equality Commissionon policy issues contained in the Budget Policy Statement to the Committee. The Committee deliberated on the issues on 20th and 21st February, 2019 and thereafter adopted the report.

Standing Order No 232 (4) further provides that the Departmental Committees shall deliberate on the Budget Policy Statement according to their respective mandates and make recommendations to the Budget and Appropriations Committee. In considering the Budget Policy Statement, the Budget and Appropriations Committee shall consult each Departmental Committee and table a report containing its recommendations on the statement to the House for consideration.

The MDAs under the purview of the Committee are:

(i) The State Department of Labour
(ii) The State Department for Social Protection
(iii)The State Department for Gender
(iv)The State Department for Youth Affairs
(v) State Department for the Development of Arid and Semi- Arid Lands
(vi)National Gender and Equality Commission

2.0 BRIEF FROM THE PARLIAMENTARY BUDGET OFFICE

2.1 Highlights of the BPS

The 2020 Budget Policy Statement (BPS) is prepared against a background of a weak global economy due to weak global trade and subdued investment and demand for capital goods. Kenya's economic growth is expected to remain strong and resilient and further expand by above 6.1 percent in 2020 and 7.0 percent over the medium term.

According to the Kenya Integrated Household Budget Survey 2015/16, poverty levels in Kenya fell by 10% from 46% in 2005 to 36% in 2015. Majority of the poor are however found in the ASAL areas and informal settlements in the urban areas.

Further, other segments of population who need social protection include; the Elderly, Orphans and Vulnerable Children (OVC) and Persons with Disabilities (PWDs). The population which is 70 Years and above is estimated to be 1.3 million, which is 2.6% of the total population; the estimated number of OVC in Kenya is about 706,014 which is 1.4% of population; and the PWDs. All these categories of vulnerable persons require special interventions by the Government for sustainable livelihood.

2.2 Overview of the 2020 BPS

The 2020 BPS continues to accelerate the investments in the 'Big Four' Agenda and that anchored on the Third Medium Term Plan of the Vision 2030. In this regard, the BPS highlights the progress made in the implementation of these strategic interventions under the Agenda which has contributed to stimulating the economy and improving the lives of Kenyans. Following these gains, the Government will strengthen implementation of programmes that make growth more inclusive and pursue measures that avail liquidity to private sector, including initiating innovative products to boost credit to Micro, Small and Medium Enterprises (MSME).

Therefore, the actual actualization of policies and programmes under each pillar is expected to accelerate and sustain inclusive growth, create opportunities for decent jobs, reduce poverty and income inequality and ensure that we create a healthy and food secure society in which every Kenyan is guaranteed of affordable and decent housing. The allocations to other critical sectors such as education, infrastructure, energy and social protection will be protected.

Review of Sectoral Policy Priorities Underpinning the FY 2020/21 and the Medium Term Sectoral Expenditure

The major policy priorities underpinning the sectoralexpenditure priorities for the FY 2020/21 and the medium term are; continued support to households with Cash Transfers, promote Youth and Gender Empowerment Programmes, Strengthening linkages between the industry and training institutions, National Internship Programme, Research and Training in Occupational Safety and Health, Sustainable Development of Northern Kenya and Other Arid Lands under the votes under the purview of the Departmental Committee.

Key Policies Underpinning 2020/21 and Medium-Term Budget Estimates

Under the State Department of Gender, the Gender Affairs programme aims to overachieve by impacting **751,800 youth** in country-wide projects with a reduced proposed allocation of **Ksh. 1.4 billion in FY 2020/21** against an allocation of **Ksh. 1.6 billion in FY 2019/20.**

The proposed ceiling for the Youth Empowerment programme under the State Department of Youth has reduced to **Ksh. 14.6 billion** from **Ksh. 16.3 billion** which may affect the increased number of youths sensitized on AGPO promotion, Entrepreneurship skills, and social vices.

Programme and Project Performance for the FY 2016/17-2018/19

a) State Department for Labour

The State Department for Labour is mandated with promotion of harmonious industrial relations; safety and health at workplace; employment promotion; industrial training; productivity management; national human resource planning and utilization; provision of social security; and registration and regulation of trade unions.

The budgetary allocation for the State Department over 2016/17 -2018/19 MTEF period was **Ksh. 1.95 billion**, **Ksh. 2.29 billion** and **Ksh. 3.52 billion** for the FY 2016/17, 2017/18 and 2018/19 respectively. Over the same period of time, actual expenditure was **Ksh. 1.73 billion,Ksh. 2.00 billion** and **Ksh.3.24 billion** representing absorption rate of 89%, 87% and 92% respectively.

The State Department for Labour undertakes its mandate through 3 Programmes namely: **Promotion of best labour practices;**this Programme is mandated to promote harmonious industrial relations, and a safety and healthy culture at work. The main achievements under this programme includedbilateral labour agreements negotiated, signed and operationalized with offices established in Qatar, United Arab Emirates and Saudi Arabia; medical examination of workers in hazardous occupations; review of labour laws and regulations and settlement of payment for work injury claims.

ManpowerDevelopment, Employment and Productivity Management: The objective of this Programme is to enhance competitiveness of the country's workforce. During the MTEF period between 2016/17 and 2018/19, the major achievements under this Programme included placing 66,619 trainees on industrial attachment; 117,375 persons trained in relevant industrial skills with support from KYEOP; 655 Productivity Experts (PE) trained as a result of support from JICA;11 MDAs practising productivity with 10 counties taken through productivity improvement programme; and development of the National Productivity and Competitiveness Centre (NPCC) legislation.

General Administration Planning and Support Services: The objective of this Programme isto improve service delivery and coordination of Ministry's functions, Programmes and activities.

b) State Department for Social Protection

The budgetary allocation for the State Department over 2016/17-2018/19 MTEF period was **Ksh. 22.47 billion**, **Ksh.28.08 billion** and **Ksh.31.68 billion** for the FY 2016/17, 2017/18 and 2018/19 respectively. Over the same period of time, actual expenditure was **Ksh.22.05 billion,Ksh. 22.19 billion** and **Ksh.31.30 billion** representing absorption rates of 98%, 79% and 99% respectively.

The State Department for Social Protection performs its functions through 3 Programmes namely:**Social Development and Children Services** whose objective is to empower communities and provide protection and care to children.

The major achievements between 2016/17 and 2018/19 under this Programme include: 205,189 SHGs, CBOs and beneficiaries trained through the support of Social Development Committees who assisted in training of the groups formed and collaboration with stakeholders like Jamii Sacco; 742 skilled PWDs provided with tools of trade; 5,411 PWDs provided with scholarships; 167,730 children in emergencies provided with psychological support; certified 400 Charitable Children Institutions to ensure compliance with the CCIs regulations; 349 children with no families were placed in foster care and provided 18,682 children with remand facilities.

National Social Safety Net: The Programmes mandate is to cushion vulnerable groups to meet basic human. Achievements during the period under review include the completion of the National Street Families Census Report; 1,730 street persons reintegrated to the community.

The households supported with cash transfers which include the older persons, PWDs and OVCs had a lower number of beneficiaries on Payroll due to incomplete finalization of the migration of the beneficiaries to the account-based payments, natural attrition and payroll exceptions.

c) State Department for Gender

The State Department's total expenditure for the period under review was **Ksh.4.13billion**, **Ksh. 4.39 billion** and **Ksh.3.91 billion**, against an allocation of **Ksh.4.21billion**, **Ksh.4.52 billion** and **Ksh.4.25 billion** in 2016/17, 2017/18 and 2018/19 financial years respectively. This translates to absorption level of 98%, 97% and 92% over the same period.

Major achievements for 2016/17-2018/19 medium term period are; provided bursaries and scholarships to 113,166 students; development of an intergovernmental framework on gender; 11,100 persons reached on Anti-FGM awareness campaigns; 45,709 people sensitized on prevention and response to GBV and review of 2 gender policies which are the national Gender and Development Policy and the National Policy on Eradication of FGM.

Further, the department engaged 65 youth under the internship/attachment program; trained 6,670 women on SACCO formation; the department disbursed Ksh. 7.4 billion to 38,737 groups through WEF; trained 432,051 women on entrepreneurship skills through WEF; linked 3,409 women entrepreneurs to large enterprises and trained 445,200 women entrepreneurs on AGPO and 551 widows on entrepreneurship skills.

d) State Department for Youth

The State Department's total expenditure for the financial years 2016/17, 2017/18 and 2018/19 was **Ksh.17.39 billion**, **Ksh. 16.69 billion**and**Ksh. 16.33billion**, against an allocation of **Ksh. 21.11 billions. 17.60 billion** and**Ksh. 17.55 billion** respectively. This translates to absorption level of 82%, 94% and 93% over the same period.

The major achievements for the FY 2016/17-2018/19 include 215,830 youth supported with business development services;64,019 service men and women engaged in national service and 188,371 youths mentored and outreached which includes training on entrepreneurship and AGPO.

e) State Department for the Development of ASAL

The State Department's total expenditure for the period under review was **Ksh.7.81 billion, Ksh. 8.75 billion** and**Ksh.6.30 billion**, against an allocation of **Ksh.8.31 billion, Ksh.8.95 billion** and **Ksh.6.42 billion** in the financial years 2016/17, 2017/18 and 2018/19 respectively. This translates to absorption level of 93%, 98% and 98% over the same period.

Major achievements during the period under review include: formulation, review and implementation of 16 community action plans on drought management; establishment of the National Drought Emergency Fund (NDEF) and 1,225 community-based small micro-projects implemented in 23 ASAL counties.

2.3 Sector specific policies and priorities espoused in the BPS

Sector specific policy priorities addressed in the BPS

Within the context of 3rdMedium Term Plan of Kenya's Vision 2030, the sector will continue to play its strategic role in the country's transformation and economic development through promotion of sustainable employment, productive workforce and gender equity; empowerment of communities and vulnerable groups.

In the 2020/21 – 2022/23 MTEF period, the Sector will implement various initiatives including:

i. Maintain the cash transfers to the vulnerable members of society under the National Safety Net (InuaJamii) programme. These are older persons, Orphans and Vulnerable Children (OVCs) and Persons with Severe Disabilities (PWDs). The National Treasury will further develop a financing plan for the Hunger Safety Net Programme through adoption of the financing plan that would bring additional financial resources to the Programme.

ii. Dedicating resources to youth empowerment programmes and supporting businesses owned by youth, women and persons living with disabilities (PWDs) to solve unemployment among Kenyan youth. These programmes include the Youth Enterprise Development Fund (YEDF), the Women Enterprise Fund (WEF) and Uwezo Fund which have been consolidated to enhance their efficiency.

iii. Provide employment and internship services to the Kenyan youththrough the National Employment Authority launched in 2019. This will play a key role in facilitating foreign employment recruitment through private agencies.

iv. Research and Training in Occupational Safety and Health.

v. Sustainable Development of Northern Kenya and Other Arid Lands in order to address challenges of climate change and drought.

vi. The Government also plans to continue to create a conducive environment for micro, small and medium size enterprises (MSMEs) to thrive, as they are the pillar to create jobs for our youth and women.

2.4 Key Issues

1) The Sector needs to fast track amendment and enactment of legal frameworks (Policies, bills and legislations) that are aligned to the Constitution to facilitate efficient and effective implementation of sector activities. These policies that are at various stages of completion include; National Wages and Remuneration Policy, Labour Market Information Policy, Labour Migration Management Policy, National Social Development Policy, National Community Development Policy, National GBV policy, Merging of Affirmative Action Funds Policy.

2) Support the approval of the Labour Market Information Management Policy to manage the collection, sharing and dissemination of the Labour Market Information System (LMIS) which will provide information for all facets of the labour market.

3) Fast track the process of cleaning up the data to eliminate dead beneficiaries and graduating beneficiaries in the Orphans and Vulnerable children program. This will enable efficient use of the funds allocated to the Programme.

4) Through the Government's efforts of solving the unemployment challenge by dedicating resources to youth empowerment programmes, the increased cases of loan defaulters are affecting the performance of these funds.

5) Fast track the process of linking all cash transfer beneficiaries to NHIF in order to enable them access free medical cover.

3.0 MEETING WITH THE STATE DEPARTMENTS ON THE 2020 BPS

The Committee held consultative meetings with the State Departments, Agencies and Commission under the purview of the Committee regarding the proposals in the 2020 BPS on 20th and 21st February, 2020

3.1 State Department of Labour

The State Department of Labour submitted as follows:-

The State Department main focus during the Third Medium Term Plan (2018-2022) period will be: to accelerate the creation of jobs, especially for the youth; improvement of working conditions for the country's labour force; streamlining the management of foreign employment; deepening the entrepreneurship culture, increasing awareness on occupational safety and health; improving the management of labour market information; improving the country's productivity and competitiveness; streamlining the regulation of trade unions and expanding social security coverage.

Despite the critical role the State Department plays in national development, it has not been accorded due consideration to enhance its responsiveness, efficiency, and effectiveness in addressing emerging issues and challenges facing the labour sector which has also an impact on all the other sectors of the economy.

In this regard, the State Department requires major transformation in order to play its critical role as an enabler towards the realization of the Government's **Big FourAgenda** and effectively contribute towards achieving the key policy focus of the Government of creation of productive and sustainable employment opportunities.

a) Funding Status in the period 2017/18 – 2018/19, Printed Estimates and Supplementary Estimates I 2019/20 FY

Economic Classification	**Approved Budgetary Allocation 2017/18 (KShs. Million)**	**Approved Budgetary Allocation in 2018/19 (KShs. Million)**	**Printed Budget Estimates 2019/20 Kshs Million**	**Supplementary Budget 2019/20 Kshs Million**	**Amount of Decrease (Kshs. Million)**
PROGRAMME 1: Promotion of the Best Labour Practice					
TOTAL PROGRAMME 1	598.32	824.71	779.08	672.33	(106.75)
PROGRAMME 2: Manpower Development, Employment and Productivity Management					
TOTAL PROGRAMME 2	1,344.00	2,552.92	4,904.89	4,715.63	(189.26)
PROGRAMME 3: General Planning and Support Services					
TOTAL PROGRAMME 3	476.55	580.82	549.49	472.91	(76.58)
TOTAL VOTE	**2,415.86**	**3,968.46**	**6,233.47**	**5,875.88**	**(357.59)**

Out of the 2019/20 Printed Budget Estimates of **KShs. 6,233.47 Million,** a total of **Kshs. 2,670 Million** is under the World Bank Funded Project; Kenya Youth Employment Opportunity Project (KYEOP) while **Kshs. 200 Million** is A-in-A Grant from KOICA, **Kshs. 751.41 Million** is AIA under NITA and **Kshs. 420.1 Million** is GOK Development. The balance of **Kshs. 2191.96Million** is GOK Recurrent.

During Supplement Estimate I Budget, the State Department's budget was scaled down by **Kshs. 357.59 Million** out of which **Kshs 257.59 Million** is under Recurrent and **Kshs. 100 Million** is under Development.

b) List of Projects Linked to the Big Four Agenda and their Implementation Status

The State Department is an Enabler under the Government's "Big Four" Agenda. Specific interventions have been identified towards contribution to achievement of the Big Four Agenda. These include:

i. Skills development in the key sectors to actualize the realization of the Big Four agenda;
ii. Creation of conducive environment in labour relations - providing policy, legal and institutional framework for improved labour relations
iii. Productivity improvement in key sectors;
iv. Improvement of work environment by enhancing Occupational Safety and Health at workplace
v. Implementation of Internship Programme

c) List of Planned Policies and Programmes including Proposed Outputs, Performance Indicators and Justifications

In respect of 2020/2021 Financial Year, the State Department was allocated **KShs. 5,744.9 Million** which include **Kshs. 2,790.2 Million** under Recurrent and **Kshs. 2,954.7** under Development. This includes A-in-A of **Kshs. 893.42 Million** out of which**Kshs. 855.32 Million** is expected to be generated by National Industrial Training Authority (NITA), **Kshs. 30 Million** will be generated by National Employment Authority (NEA) while the State Department will generate **Kshs. 8.1 Million**.This is against a resource requirement of **Kshs.8,209.79 Million** thus a resultant Resource Gap is **Kshs. 2,464.89 Million.**

d) Breakdown of 2019/20FY Estimates, compared to Ceilings for 2020/21FY (BPS) per Programme

PROGRAMME	BASELINE 2019/20FY (Kshs. Million)	2020/21FY CEILING (Kshs. Million)

	CURRENT	CAPITAL	TOTAL	CURRENT	CAPITAL	TOTAL
Promotion of the Best Labour Practice	625.1	93.3	718.5	664.2	45.0	709.2
Manpower Development, Employment and Productivity Management	1,587.7	3,096.8	4,684.5	1,680.3	2,909.7	4,590.0
General Administration, Planning and Support Services	472.9	-	472.9	445	-	445
Total	**2,685.8**	**3,190.1**	**5,875.9**	**2,790.2**	**2,954.7**	**5,744.9**

e) Key Areas with Funding Gaps

i. Hosting of the African Regional Labour Administration Centre (ARLAC) meeting, 12 - 16 October 2020

During the 15th Annual Meeting of the Committee of Senior Officials of ARLAC held in October, 2019 in Harare, Zimbabwe Kenya was elected to host the 16th Annual meeting of the Committee of Senior Officials scheduled for 12 - 16 October 2020. This decision was based on a review of previous hosting by member countries and findings which revealed that for the last fifteen (15) years; this had been dominated by Southern African countries. Kenya last hosted an ARLAC twelve years ago. The Ministry will require **KShs. 25 Million** in the 2020/21 FY to host this meeting.

ii. Labour Migration Management

Coordination of Labour Migration management and Labour Migration Data; To address these two initiatives, the National Employment Authority will require an additional **Kshs. 50 Million**

iii. Complete the construction of Occupational Safety and Health Institute

The Project was allocated Kshs. 145 Million in the 2018/19 FY and procurement process of the remaining works completed in March, 2019. In 2019/20 the State Department re-allocated Kshs. 45 Million to clear pending bill incurred in 2018/19 FY. Due to constrained Budget Ceiling for

2020/21, the State Department was only allocated Kshs. 45 Million towards this Project. Works are still on-going since the contracts had already been awarded. The State Department requires an allocation of Kshs. 100 Million in 2020/21 to ensure completion of remaining works. This will ensure smooth completion of the project to enable its usage for the intended purpose.

iv. Construction of National Employment Promotion Centres (Kabete)

This is expected to serve as a One-Stop-Shop for employment promotion activities which include: jobseekers registration; provision of job search and vacancy matching assistance; jobseekers referral to employees; access to vacancy and training information tool; career, vocational and employment guidance and counseling; internship registration and placement; career seminars; career fairs and provision of labour market information. Arising from a reduction of Kshs. 100 Million from the initial allocation of Kshs 243.38 Million in 2019/20 FY, this project will not be completed. Given that this was a full contractor and the contractor is currently on site the delay in completion of this project will lead to escalation of cost, dilapidation of the current structure and delay in realizing the benefits associated with the project. In this regard, the State Department will require an allocation of Kshs. 123 Million in 2020/21 FY.

v. Implementation of the 'Big Four' Initiatives

The State Department plays a key role as an Enabler to the four pillars of: Big Four Agenda. The reduction in the ceiling by Kshs. 90 Million in 2019/20 and 2020/21 under the Big Four initiative will adversely affect the implementation of the planned activities which include: These include: Full operationalization of the Alternative Dispute Resolution (ADR), Finalization of key labour policies and Bills, fully operationalization of institutions of social dialogues (National Labour Board and Wages Councils), skills development in key sectors, productivity improvement in key sectors and improvement of work environment by enhancing Occupational Safety and Health at workplace.

vi. Enhance visibility of National Employment Authority (NEA)

To address this, NEA will require additional **Kshs. 10 Million** to undertake these activities.

3.2 State Department for Social Protection

a) Actual Financial and Non- Financial Performance for the First Half of the FY 2019/20 Implementation Status of the 2019/2020 Budget

The State Department's Approved Estimates for the financial year 2019/20 amount to **Ksh. 34,801,003,288** which consists of **Ksh. 19, 363,684,088** and **Ksh. 15,437,319,200** for Recurrent and Development Expenditure respectively.

The utilization rate as at 31st December, 2019 is **48%** for capital expenditure and **41%** for recurrent expenditure. This translates to an overall absorption rate of **44%**. Among the explanations for the absorption rates are:

i. Delays in release of exchequer for the Development budget;
ii. Late capturing of the GoK counterpart funding for the Kenya Social and Economic Inclusion Project (KSEIP);
iii. Late capturing of the Development budget for GoK financed projects.
iv. Consolidation of payments to the cash transfer beneficiaries and Payment Service Providers (PSPs).

b) Project Information

It is important to note that the State Department's programmes and projects are enablers of the Big Four Agenda through their impact on both the demand and supply sides of the economy as follows:

i. The Cash Transfer (InuaJamii) Programme has increased the aggregate demand and the associated supply of products in the economy. Cash transfers have led to improvement in food consumption at household level, access to medical care and services, increased savings and investment, improved housing through renovation and construction of houses and improved local economies.
ii. Rehabilitation of street families, which provides them with food, shelter and healthcare among other issues.
iii. The presidential secondary school bursary for Orphans and Vulnerable children contributes to acquisition of knowledge and skills through enhanced transition, retention, improved performance and increased completion rates. The knowledge acquired can be applied to improve food production and security, health care, and self-reliance.
iv. Social development activities enhance the capacity of communities to engage in gainful initiatives such as food production, value addition, savings and credit and small-scale enterprises. Empowering persons with disabilities to be productive and self-reliant.
v. Children's services promote the welfare and development of children to be responsible and productive adults.
vi. The policy formulation role of the State Department facilitates structured and effective provision of products under the Big Four Agenda among vulnerable members of the society.

c) Desired Adjustments to the Budgetary Allocation for the FY 2020/2021.

To facilitate efficient and effective programme implementation, the following adjustments to the allocations for the financial year 2020/21 aredesired: -

(i) Additional Allocation for the Kenya Social and Economic and Economic Inclusion Project

Due to late release of funds for KSEIP and lack of exchequer for the project, it is evident that the project's allocation of **Ksh3,104,569,200** for the financial year 2019/20will not be entirely absorbed. The allocation, which consists of **Ksh. 2,154,569,200**and **Ksh. 950,000,000** donor component and GoK counterpart component respectively, should be reduced to **Ksh 1,772,264,273** under the Supplementary Estimates No. II and the balance of **Ksh 1,332,304,927**(Ksh 882,304,927 donor funds and Ksh450,000,000 GoK funds) be added to the allocation for the financial year 2020/21.

(ii) Funds for the Autism Society of Kenya (ASK)

The society petitioned Parliament and the National Treasury to establish a budget line with an allocation of **Ksh.100 million** to be budgeted under the National Council for Persons with Disabilities. The State Department is therefore seeking **Kshs, 100 million** to support children with autism spectrum disorder and developmental disorders.

(iii)Additional Budgetary Allocation for the InuaJamiiProgramme

The budgetary allocation for the InuaJamiiProgramme and the associated deficit in financial year 2020/21is tabulated below.

For all the remaining 160,000 beneficiaries to be reinstated into the programme, an additional amount of **Ksh. 4.7billion** is required, comprising **Ksh. 3.9 billion** for direct payment to the beneficiaries and **Ksh. 800 million** to cater for transfer costs to the Payment Service Providers (PSPs) as commissions.

This amount should also be factored in the budget for the financial 2020/2021 and subsequent years. The requirement is expected to increase in 2020/21 by about **Ksh.1billion** after the targeting of **37,500 new beneficiaries** of CT-OVC under the North and North Eastern Development Initiative (NEDI).

There is need to bring on board about 254,000 senior citizens have attained 70 years of age but are not in the programme. This will require an additional allocation of Ksh 6.1 billion.

Further, **Ksh 600 million** which was initially allocated for medical insurance but later reallocated to expenditure on the InuaJamiiProgramme should be added to the allocation for the financial year 2020/21. This will ensure continuation of the activities undertaken through the reallocation.

(iv)Increase of the Allocation to the National Council for Children Services (NCCS)

Following the elevation of the Council's status to a State Corporation vide the Miscellaneous Amendment of April, 2017, a Board of Management was appointed and the Council is in the process of establishing management structures. There is therefore, need to increase its budgetary allocation of **Ksh46 Million**for the FY 2020/21 to **Ksh100 million** to enable it discharge its mandate.

(v) Presidential Secondary School Bursary

The Bursary has an allocation of **Ksh.400Million** and currently has benefitted 22,200 children. The Department of Children's Services under the State Department of Social Protection implements the bursary program. The Ministry proposes a total of Ksh.**897Million** to cater for children in each constituency, administrative & operational costs geared towards vetting & identification of the beneficiaries and monitoring the implementation of the same.

(vi)Counter Trafficking in Persons

To implement the developed mechanism to combat human-trafficking the secretariat will require an extra amount of**Kshs.100Million**.

The CTiP secretariat will require a development allocation of **Kshs.150 Million** to establish the safe houses and recurrent allocation of **Kshs.65 Million** for the operationalization of the safe houses, hence a total of **Kshs. 215 Million**is required.

3.3 State Department for Youth

The 2020 Budget Policy Statement (BPS) over the Medium Term has allocated the State Department **Ksh 14,621.1 Million**, **Ksh 15,077.2 million** and **Ksh 14,365.42 million** for the **Financial Years 2020/2021, 2021/2022** and **2022/2023** respectively. Recurrent expenditure allocation is **Ksh 11,176.4 million, Ksh 11,019.4 million and Ksh 11,654.5 million for FY 2020/21, FY 2021/22 and FY 2022/23 respectively**, whereas development expenditure for the same period is **Ksh 3,444.7 million**, **Ksh 4,057.8 million**, and **Ksh 2,710.9 million.**

The budget is expected to finance the Youth Empowerment Programmes and the following sub-programmes within the State Department;

a) National Youth Service
b) Youth Development Services
c) Youth Employment Scheme
d) Youth Coordination and Representation
e) General Administration, Planning and Support Services

i. Resource Requirements Vs Allocation in the FY 2020/21

Below is an analysis of the resource's requirements against resource ceilings and the resultant gaps and its implication on the implementation of the Programmes intended activities in the FY 2020/21;

Sub Programme	Printed Estimates 2019/20	Approved Estimates 2019/20	Resource Requirement 2020/21	Resource Ceilings 2020/21	Resource Gap
National Youth Service (NYS)	12,783.29	12,783.29	34,936.90	10,646.74	24,284.09
Youth Development Services	3,512.03	3,306.56	7,642.05	3,306.56	4,335.49
Youth Employment Scheme (YEDF)	634.63	634,63.00	1,580.49	359.29	1,227.27
Youth Coordination and Representation (NYC)	98.00	98.00	214.00	98	116
General Administration, Planning and Support Services	367.42	210.51	476.02	210.51	265.51
Total	**17.395.36**	**17,033.00**	**44,849.46**	**14,621.1**	**30,228.36**

ii. Status of projects (actual expenditure to date, remaining project cost to completion, proposed medium term allocation)

The State Department is in need of and requested for Kshs.1.6 Billion to complete and operationalize 290 Youth Empowerment Centres. The National Treasury has only been able to allocate **Kshs.155, 850,000** towards this activity in the current FY2019/20. This is a critical funding which requires fundingso that the YECs could be completed to harness youth skills and talents. Once they are operationalized, each YEC will require additional resources for operations and maintenance.

Below is a status of phase I of the Youth Empowerment Centers completed and operationalized, ongoing and stalled;

S/N	Status	Number
1.	Completed and Operationalized in the FY2018/19	21
2.	Targeted for Completion and operationalization in the FY 2019/20	40
3.	Stalled at various stages of Completion	91
4.	Projected number of Youth Empowerment Centres to be constructed in the	138

	2020/21 to 2022/23 Medium Term Budget in various Constituencies	
Total		290

iii. Critical Areas requiring urgent additional funding

Recurrent Vote

S/N	Title	Additional Amount Required-Kshs.
I. State Department for Youth; the Four Divisions,Field Services and Administration Support for Youth Development Services		
I.	Personnel Emoluments Shortfall	132,380,467
II.	Operationalization of the State Department (support to the Administration Headquarters)	265,510,706
III.	Funding of Youth Field Offices	525,572,294
IV.	The international youth Day held on every 12th of August each year (*International Commitment on Organization of annual internal youth events by all UN member states)*	70,000,000
V.	The Kenya National Youth Development Index (YDI)Annually (*International Commitment on the Youth Development by all Commonwealth Countries)*	200,000,000
VI	Harnessing and Developing Youth Talents Nationally-47 Counties (*additional new mandate for the state department that is currently NOT funded*)	470,000,000
V	Evidence Based Policy Transfer And Implementation (EBPTI)an International Benchmarking on Youth Development Best Practices by Departmental Committee on Labour And Social Welfare ,Policy , Technical officers and strategic leaders from State Department for Youth	200,000,000
Sub-Total	**1,393,463,467**	
2. National Youth Service		
I	Personnel Emoluments	1,600,000,000
II	Training	4,600,000,000
Sub-Total	**6,200,000,000**	
Grand Total		**7,593,463,467**

Development Vote

S/N	Title	Additional Amount Required-Kshs.
1. State Department for Youth; the Four Divisions , Field Services and Administration Support for Youth Development Services		

I.	Completion of Youth Empowerment Centres @Kshs. 8m for 138 YECs remaining	1,104,000,000
II.	Operationalization and Equipping of Youth Empowerment Centres(YECs) already completed @Kshs. 4m for 132 YECS	528,000,000
III.	Youth Development Research	100,000,000
Sub-Total	**1,732,000,000**	
2. National Youth Service		
I.	Commercialization	1,900,000,000
II.	Youth empowerment programme (cohort programme) *	9,704,710,321
Sub-Total	**11,604,710,321**	
3. Youth Enterprise Development Fund		
I.	Youth Enterprise Development Fund-Loans Disbursement	1,000,000,000
Sub-Total	**1,000,000,000**	
Total		**13,436,710,321**

3.4 State Department for Gender Affairs

1. The Programmes are implemented by the following delivery units respectively
   i. Community Development - National Government Affirmative Action Fund (NGAAF)
   ii. Gender empowerment - Women Enterprise Fund, UWEZO, Anti FGM Board, and the Gender Technical Directorates
   iii. General Administration and Planning- Administration

2. Summary of Expenditure by Programmes, 2020/21-2022/23 Kshs.(Million)

	Baseline 2019/20(Supplementary 1)			**2020/21ceiling**			**2021/22 (projection)**		
Programmes	**Rec**	**Dev**	**Total**	**Rec**	**Dev**	**Total**	**Rec**	**Dev**	**Total**
Community Development	-	2,130	2,130	-	2,130	2,130	-	2,130	2,130
Gender Empowerment	1,190.8	701.6	1,892.4	1,180.6	232.0	1,412.6	1190.8	250.0	1440.8
General Admin& Planning	332.4	-	332.4	317.4	-	317.4	336.9	-	336.9
Total	**1,523.2**	**2,831.6**	**4,354.8**	**1498.0**	**2,362.0**	**3,860**	**1527.8**	**2,380.0**	**3,907.7**

3. **The proposed budget for current transfers 2020/21comprises the following;**

i. WEF - Kshs. 310 M (including AIA of 135m)
ii. Anti FGM - Kshs 102.0 M
iii. Uwezo Fund - Kshs145.0 M

4. **Non-Financial Performance**

a) **National Government Affirmative Action Fund**

(i) **726** groups benefitting **29,757** beneficiaries (22,954 female, 5,903 male and 900 PWD) funded under Economic empowerment to a tune of **Kshs. 99,176,793**
(ii) **7,909** vulnerable students (4,193 female, 3,250 male and 466 PWD) sponsored through bursaries and scholarships to a tune of **Kshs. 72,013,433**
(iii)Disbursed Kshs.98,932,500 to empower affirmative action groups through countywide projects
(iv)Disbursed **Kshs. 41,994,504** for civic education by the county committees benefitting directly at least 50,152 people.
(v) Disbursed **Kshs. 70,318,637** to 213 groups for value addition initiatives benefitting 25,487 beneficiaries (16,211 female, 6,767 male and 2,509 PWD).

b) **Women Enterprise Fund**

(i) A total of **Kshs. 1.7 Billion** disbursed under the Constituency Women Enterprise Scheme (C-WES), reaching no. 77,345 beneficiaries (6,928 groups), while loan repayments under CWES stood at **Ksh.1.4 Billion** within the period representing a repayment rate of 97%.
(ii) A total of **Kshs. 4 Million** was disbursed under LPO financing
(iii)A total of **Kshs. 36.5 Million** disbursed to SACCOs while **Kshs. 8.3 Million** was received as SACCO loan repayments.
(iv)Training undertaken on business skills (entrepreneurship) to 82,068, beneficiaries across the 290 Constituencies.
(v) Training undertaken on value addition to 3,091 beneficiaries across the Country.
(vi)Participated in the 12th Commonwealth Ministers Meeting held in Nairobi where the Fund was show-cased the Country's Women Empowerment Success story with women groups exhibiting from 3 Counties: Siaya, Trans Nzoia and TaitaTaveta.
(vii) Facilitated participation of 28 youth groups in 10 Counties to celebrate the International Youth Day.
(viii) Participated in 7 targeted trade fairs: Nakuru, Kisumu, Mombasa, Kabarnet, Nyeri, and Bungoma ASK shows 29 exhibitors show cased their products during their events.

(ix) Awarded **Ksh.16.2 Million** worth's of tenders to AGPO group.

(x) Implementation of presidential directives- the Fund successfully uploaded awarded tenders on to the public procurement information portal.

c) UWEZO Fund

(i) Disbursed loans of **Kshs. 204,592,000** to **1,915** groups.

(ii) Trained **34,470** beneficiaries on entrepreneurial skills, other business development services and Access to Government Procurement Opportunities.

(iii) Disbursed **Kshs. 67,420,000** administration funds to **123** constituencies which have complied with financial returns.

(iv) Enhanced loan repayment campaigns through which **Kshs. 200,000,000** has been collected from beneficiary groups.

(v) Inducted and deployed 213 interns to constituencies to support Fund's operations

(vi) Trained 10 Regional Coordinators and conducted joint entry meetings with other affirmative funds at county level.

(vii) Sensitized the public and cheque issuance done in 30 constituencies.

(viii) Inducted newly formed Constituency Uwezo Fund Management Committees in 6 constituencies.

(ix) Audited operations in 15 constituencies.

(x) Undertaken key stakeholders' engagement bringing on-board CUFMCs and Secretariat reps, National Government Administrative Officers reps, Patrons reps, affirmative funds and private sector towards finalizing Strategic Plan.

d) Anti-Female Genital Mutilation

(i) Sensitized **1,200** duty bearers and Anti-FGM champions on the consequences of FGM and the prohibition of FGM act 2011 in Embu, Tana River, Isiolo, Marsabit and TaitaTaveta Counties

(ii) Sensitized and disseminated the Presidential directive on Ending FGM by 2022 to 3,**500 duty** bearers and other stakeholders in Kajiado, Samburu, TharakaNithi, Meru, Migori, Isiolo, Laikipia and Marsabit counties

(iii) Celebrated international day of the girl in Tana River County and reached more than **1,000** people in the county and more than **4,000,000** in the country through vernacular and national radio stations

(iv) Convened a high level elders and religious leaders meeting with all the 22 high FGM prevalence counties represented. The leaders made a commitment to support the President's commitment to end FGM by 2022

(v) Launched the eradication of FGM policy 2019

(vi) **630** girls trained and graduated through alternative rites of passage in Narok, Kajiado and Baringo counties

(vii) Launched the 16 days of activism against Gender Based Violence with other partners in Migori county reaching out to more than 1,000 people in Kehancha and **300,000** through local vernacular radio station

(viii) Partnered with Egesa FM in the Nyamira women conference reaching out to more than 900,000 people in both Nyamira and Kisii counties

e) Gender Technical Department

(i) Developed the **National Gender and Development Policy 2019**

(ii) Developed **Guidelines for Mainstreaming Gender** in the Public Sector and trained 270 officers on Gender Mainstreaming within Ministries, Departments and Agencies.

(iii) **Coordination of the gender sector**- Operationalization of the Inter-Governmental Framework in Gender in 12 counties Isiolo, Migori, Kisumu, Turkana, Isiolo, Marsabit, Mombasa, Kwale, Kilifi, Tana River, Kakamega and Samburu

(iv) Convened 12Commonwealth Women Affairs Ministers Meeting

(v) Developed a **Women's Economic Empowerment Policy**

(vi) Implementing **50 million Women Speak Project**, an online platform for women entrepreneurs in East Africa Region that will enable women entrepreneurs in Kenya connect with the region.

(vii) Improvement of response mechanism to Gender Based Violence through the popularization of Helpline 1195 in 4 counties (Kilifi, Homa Bay, Narok and Nairobi County)

(viii) Capacity building on **Standard Operating** Procedures in Narok, Homabay, Kilifi and Nairobi County to **improve medical legal response** of Gender Based Violence by duty bearers

(ix) **Gender Based Violence Recovery Centers** guidelines developed.

(x) Prepared regulations for safe spaces for survivors of Gender Based Violence. **Public awareness campaign** on prevention and response to gender based violencetrough16 Day of Activism against GBV in Counties

(xi) Developed draft regulations for **Prevention Against Domestic Violence Act 2015** prepared

(xii) Implementation of **meaningful engagement of women in peace and security** sector through the Kenya National Action Plan on UN SCR 1325 for

5. Report on Major Variation to Existing Programmes and Sub Programmes

Major variation focusses on underfunded programmes as follows;

i) Gender Based Violence Programs

The Directorate for Gender Based Violence (GBV) coordinates implementation of programmes for elimination of Gender Based Violence. These include capacity building on GBV issues, facilitating establishment of Gender Based Violence Recovery Centres and safe spaces, monitoring implementation of GBV Interventions and coordinating the implementation of peace and security programs including Kenya National Action Plan of the United Nations Security Council Resolution (UNSCR) 1325 and related resolutions.

The proposed budget for GBV activities for 2020/2021 FY as per the Sector Report and Budget Policy Statement of Kshs. 7million is not enough. Gender Based Violence cases are on the rise in Kenya and requires concerted efforts to mitigate the vice. The proposed budget is not enough to cater for the mammoth activities for Gender Based Violence activities.

ii) Counterpart Funding

The Embassy of Finland has committed to support a 4-year (2020-2023) project on ***strengthening Prevention and Response to Gender Based Violence (GBV) in Kenya***. Target counties for the project are Samburu, Kilifi and Bungoma. The estimated cost of the project is EUR 6,000,000. The Embassy of Finland will give EUR 5,000,000 and GOK is required to give EUR 1,000,000 as 20% counterpart funding for the project.
This is therefore to request for additional funding to the tune of**Kshs. 115,214,436.25** as stipulated here below:

Financial Year	2020/2021	2021/2022	2022/2023
Amount (Kshs)	50,000,000.00	50,000,000.00	15,214,436.25

iii) Gender Based Violence Recovery Centres (GBVRCs)

During the 2020-2021 Financial Year, the State Department for Gender Affairs (SDGA) plans to establish and operationalize Gender Based Violence Recovery Centres (GBVRCs) in 23 counties. So far, we have established 2 GBVRCs in Kilifi and Makueni counties. **There is no budgetary provision for this activity and SDGA requests for funding of Kshs. 390million.**
Safe Spaces

A Safe Space is a platform, opportunity or place where women and girls can go to at any time to feel safe and empowered and to have access to information, education, recreational activities, support and services. It supports women and girls or those who get to it to avoid violence or to recover from violence, form networks and access support, safety and opportunities. It should be an integrated space offering a range of services including resources, information, social

networks, to essential and discreet clinical care and sexual reproductive health services. SDGA plans to establish safe spaces in six counties (Narok, Meru, Kilifi, Kwale, Kisumu and Busia). There is no budgetary provision for this activity and SDGA requests for additional funding of **Kshs. 50million.**

Outreach activities

SDGA has also planned for several activities for the prevention of Gender Based Violence that include capacity building on GBV issues for rights holders and duty bearers, training of magistrates and prosecutors on GBV legal instruments, development of GBV training manual, launch of GBV hotline 1195 in 47 counties and Support survivors of GBV through medication, counselling, referral and prosecution. Currently, SDGA allocates Kshs. 7million to cater for some of the activities mentioned above. In order to fully roll out the programs for prevention of Gender Based Violence activities, SDGA requires **Kshs. 50 million**

V) Operation and Maintenance (Recurrent Expenditure)

The earmarked allocation for the SDGA's O&M amounts to Kshs 188 million, a meagre figure to cater for both Headquarters and County Gender Offices.

Efforts made to source funds through sector resource bidding did not bear any fruit hence a resource gap. The initial cost for operations at the county field offices is **kshs 234 million** which has not been provided.

There is need for increased O&M budgetary allocation to enable the SDGA serve the field offices for smooth operation.

6. Challenges

The Department faces various challenges in implementation of its programs. These include;

a. Insufficient financial resources for programmes and Exchequer delays resulting in encumbrance of efficient service delivery, pending bills and accumulation of unfunded commitments.
b. Lack of adequate office space, furniture, and working tools both at the Headquarter and in the field services that hinder efficient service delivery.
c. Inadequate vehicles both at Headquarter and Counties
d. Inadequate GBVRCs and safe spaces for GBV and FGM services
e. Duplication of activities and efforts by stakeholders
f. Retrogressive cultural beliefs and practices
g. Culture of 'free things' from Government affecting repayment of loans especially Uwezo Fund

3.5 National Gender aand Equality Commission (NGEC)

In the financial year 2019/2020 the Commission had an approved budget of **Kshs 488.9 million.** This budget was not sufficient to cover Personnel Emoluments, program activities and operational expenses.

During the first supplementary the recurrent budget was reduced byKshs. 98.2 million to Kshs. 390.7 million, a **20% budget reduction.** This reduction affected most of the operations including planned programmatic activities.

The actual half year expenditure (Kes 182.1 million) compared with half year budget (Kes 206.0 million) **represents 88% budget absorption**.

(i) A summary of actual financial performance for the first half of 2019/20

In the financial year 2019-2020 the Commission was allocated **Kshs 638.9 million** in the estimates issued for the year 2019/2020. Later NGEC was deducted a sum of Kshs **150 million** from its budget after an amendment was done to the Annual estimates reducing the Commissions budget from **Kshs 638.9 million** to an approved budget of **Kshs 488.9 million.** This budget was not sufficient to cover Personnel Emoluments, program activities and operational expenses.

During the first supplementary the recurrent budget was reduced by a further Kshs. 98.2 million to Kshs. 390.7 million, a **20%budget reduction.** This reduction majorly affected planned programmatic activities

Description	Approved Budget	Half Year Budget	Actual Expenditure	Balance
Compensation of Employees	180,020,000	90,010,000	98,947,999	-8,937,999
Use of goods and services	167,037,360	83,018,680	76,069,111	6,949,569
Social Security Benefits	28,873,238	14,436,619	7,000,000	7,436,619
Acquisition of Assets and Other Funds	14,778,372	18,529,488	78,000	18,451,488
Grand Total	**390,708,970**	**205,994,787**	**182,095,110**	**23,899,677**

During the period under review, the Commission facilitated development and subsequent validation of various documents. These included;

a) ***TheMaputo Protocol scorecard*** which serves as a tool to measure the implementation of the protocol by the State and primary user shall be State Department of Gender.

b) ***Age of Consent report.*** In collaboration with other national stakeholders, the Commission held a validation workshop for the report on the age of consent for sex with 101 participants in attendance.

c) ***County leadership guide on equality and inclusion*****:** In December 2019, the Commission held a validation workshop for a leadership guide on integration of gender equality and inclusion in county development.

(ii) The Stragetic Interventions 2020/21

In 2020/2021, the Commission plans to institute a new two-prong strategy to implementation of its functions.

The **first strategy**shall involve **closer collaboration and partnerships** with

a) The community most **vulnerable populations**. This shall require the commission to go where hard to reach needy and marginalized populations live.
b) **Parliament and county governments**: This shall involve detailed collaboration with relevant parliamentary committees and county government departments that directly deals with equality and inclusion issues

The **second strategy** is better and effective communication with our target groups and decision makers about our programs, findings and recommendations: The Commission must be known as a**rerefence body** on matters of equality and inclusion

By examining the sector working group resource allocation to the commission of **495million**, the budget available for program work is only **90 million,** yet the commission has many unfinished businesses that include urgent interventions that we have in the past agreed with you to be undertaken but to-date have not been accomplished. We request this committee to consider the following intervention and needs of the commission as you make your final recommendations.

S/No	Area of Intervention	Budget Millions (KShs)
a)	Auditing National and County Government Social Economic Empowerment and Enterprise Funds for women, youth, older persons and PWDs. At national level to examine the levels of exclusion as well as net effect on livelihoods of the most vulnerable groups including existence of sustainability measures such as linkages to financial institutions and markets	51
b)	Monitor and audit the coverage, processes, delivery and uptake of National Safety Net Program, social assistance component with a focus to Persons with Severe Disability Cash Transfer (PWSD-CT); Hunger Safety Net Cash (HSNP targeting *Turkana, Mandera, Wajir and*	50

	Marsabit); Older Persons Cash Transfer (OPTC, *inuajamii);* and Cash Transfer for Orphans and Vulnerable Children (CT-OVC)	
c)	Monitoring the equality and inclusion levels in the social security programs for vulnerable populations (including NSSF) and national health insurance, access to pilot universal health coverage program *(Isiolo, Nyeri, Machakos and Kisumu counties)* for special interest groups.	45
d)	Monitor the status of the 100% ECDE to Primary to Secondary school transition: are there eligible children not in school? Who are they and why are they left behind? Are current policies on school enrollment, retention and transition still excludes certain categories of children and how can that be addressed (national)	32
e)	Dissemination of the results of the NGEC 2019/2020 audit results on uptake of green energy among vulnerable populations (media and community-based disseminations)	5
f)	Scale up program on inclusive transportation for vulnerable populations in three more cities *(Mombasa, Kisumu and Nakuru)*	25
g)	Operationalize the NGEC complaints handling program through tribunal. The Commission will establish the tribunal in the next three months and shall create awareness about the tribunal to vulnerable populations and make inaugural 4 sittings in 2020/2021 *(Meru, Siaya, Tana River, and Baringo*). The program involves going to the people in their locality	20
h)	Audit private and public housing schemes to establish extent to which youth, older members of the society, persons with disability and women and urban population benefit from housing scheme. The program will also lead to development of the standards for the implementation of the housing policy	15
i)	Operationalize three regional offices by providing them with basic and essential services (furniture, partitioning, office equipment)	10
j)	Open two regional offices to increase presence of the Commission and devolve our services further to the most needy and vulnerable populations	3
k)	Purchase of 5 vehicles for field operations	50
Total		**306**

3.6 State Department for the Development of Arid And Semi -Arid Lands

1. **Financial Performance Year 2019/20 First Half**

(i) The State Department total budget for Financial year 2019/20 is Kshs. 7,651.00 million out of which Kshs 973.59 million is under recurrent while Kshs 6,677.409 million is under Development.

(ii) In the first half of the year the State Department expenditure absorption levels were 95% for Recurrent and 20% for Development adding to an overall absorption of 26%.

(iii)The minimal absorption in Development Budget was resulted by delayed uploading of the Development budget and also due to the additional funding of Kshs. 2.7 Billion (Supplementary I FY 2019/20) on Hunger Safety Net Programme under NDMA, that was uploaded towards the end of 1st half, but disbursement made in 3rd quarter.

2. **Summary of BPS Allocations**

The State Department has been allocated **Kshs. 8, 876. 92 million in the 2020/21** Financial Year. Out of this **Kshs. 987.30 million** is for Recurrent while **Kshs. 7,889.62 million** is for Development expenditure.

3. **Non-Financial Performance**

(i) Each of the 23 ASAL counties supported to produce monthly EW bulletins as planned. These were disseminated through various media and posted to NDMA website

(ii) All the 23 ASAL counties have adopted web-based drought early warning system

(iii)Supported 98,002 vulnerable and drought affected households through cash transfers Supported households through cash transfers

(iv)Built resilience of communities to drought by investing in community drought resilience micro-projects, benefiting 1.3 million people;

(v) Submitted the final draft of the National Policy for Development of the Arid and Semi-Arid Lands;

(vi)Established and operationalized the ASAL Knowledge Management Centre with GIS

Developed rangelands and water resources through fodder crop and pasture reseeding sites and solarized 6 boreholes in Loima, Turkana West and South sub-counties.

4. **Project Details**

The State Department has a total of 9 projects being as summarized below;

Project Code & Project Title	Host	Cost (Kshs M)	Allocation 2020/2021 (Kshs M)	Remarks	Linkage to Big Four
Enhancing Community Resilience Against Drought (ECORAD II)	SDDA	613.75	128.00	Ongoing	None
Medium Term ASALs Programme(MTAP111).	SDDA	230.00	30.00	Ongoing	None

Ending Drought Emergencies (Support to Drought Risk Management and Cord) – EU/GOK	NDMA	4,254.00	546.00	Ongoing	Enabler -2nd
Kenya Drought Early Warning Project –GOK	NDMA	180.00	30.00	Ongoing	Enabler -2nd
Ending Drought Emergencies (Support to Resilient Livelihoods and Drought Risk Magt) –(EU/GOK)	NDMA	4,312.50	369.01	Ongoing	Enabler -2nd
Kenya Social and Economic Inclusion Project (KSEIP) – HSNP III –(GOK/WB)	NDMA	26,822.00	5,611.60	Ongoing	Enabler -2nd
Resilience and Sustainable Food Systems Programme (WFP/GOK)	NDMA	553.50	117.30	New Project - Approved	Enabler -2nd and 3rd
Kenya Development Response to Displacement Impact Project	NDMA		1,000.00	Additional Mandate	None

5. **Unfunded Projects/Programmes**

a. Integrated Programme for Sustainable Peace and Socio-Economic Transformation of the Karamoja Cluster, Memorandum of Understanding (MoU) between Kenya and Uganda. - Kshs. 50 Million required for coordination purposes.

b. A drought response and coordination effort in ASAL areas is adversely affected. Kshs. 45 Million.

4.0 KEY OBSERVATIONS BY THE COMMITTEE

1. State Department for Labour

I. Despite the State Department for Labour playing a critical role in the country's development, it has not been accorded due budgetary consideration to enhance its responsiveness, efficiency and effectiveness in addressing emerging issues and challenges facing the labour sector which also has an impact on all the other sectors of the economy. The sector is expected to play a pivotal role in employment creation and ensuring industrial harmony, but with the current resource levels, it cannot attain optimal output. The ceiling for the Department for the Financial Year 2020/2021 has been pegged at Kshs 5.74 billion against a resource requirement of Kshs 8.2 billion, translating to a deficit of – 30 per cent.

II. The country has a great potential for earning substantial levels of revenue in form of remittances from migrant labour. The Ministry estimates that the country earns close to 8 billion shillings in remittances annually from Saudi Arabia alone. Despite this potential there have been very negative publicity towards foreign employment because the Ministry does not have the capacity to adequately sensitize Kenyans on the existing procedures for seeking opportunities abroad. In addition, even though Kenya has signed Bilateral Labour agreements with Saudi Arabia, Qatar and The United Arab Emirates, the labour attaches' offices in these countries remain poorly facilitated to carry out the mandate of monitoring the welfare of Kenyans in those countries.

III. The construction of the Occupational Safety and Health Institute and the National Employment promotion centre(Kabete), have dragged on for years thus accruing additional costs arising both out of litigation by aggrieved contactors or dilapidation of structures. The Occupational Health and Safety Institute is expected to offer safety and health expertise and act as referral institute in East and Central Africa upon completion.

IV. The country lacks reliable and timely labour market information on labour migration. This information is critical in influencing the occupational choices of job seekers and directs them to beneficial employment opportunities. A well-developed labour market information will be useful in projecting labour demands in identified countries, estimating and projecting remittances. This is indeed a prerequisite for the country to explore other potential markets for migrant labour such as Canada, United Kingdom and Ausralia.

V. The State Department continues to face human resources challenges with inadequate staffing levels, an aging workforce with most senior officers serving in acting capacities.

VI. Kenya is scheduled to host the African Regional Labour Administration Centre (ARLAC) from 12th to 16th October, 2020. Kenya was given the honour to host the meeting during 15th Annual meeting of Senior Officials of ARLAC which was held in October, 2019 in Harare Zimbabwe. The meeting brings together all English-Speaking African states and is responsible for strengthening labour administration.

2. State Department for social Protection

I. The Committee expressed concerns that the Social Assistance Act was still not operational. It was however noted that Amendment to the Act including the establishment of the Social Assistance Fund are with the Cabinet for consideration and adoption

II. The contracts between the Payment Service Providers (Banks used to remit the stipend to the elderly) are still not clear. The State Department was not able to provide details of amounts paid to various banks as commissions.

III. 160,000 potential beneficiaries of the National Safety Net Program are not currently on the pay roll. This is attributed to the changes occasioned by the migration of beneficiary data from card based to account based. Given that they had already enjoyed the stipend, this amounts to discrimination.

IV. The operations of the Child Welfare Society of Kenya are almost grinding to a halt due to the ongoing leadership wrangles at the Society involving the Trustees and the Board. The accounts of the society have been closed for over two months now putting vulnerable children at further risk.

V. The Autism Society of Kenya has made a special request for funding to their members through the National Council for Persons with Disabilities. This is in line with an emerging trend where various categories of the disabled are pushing for separate allocations, a scenario which may set a bad precedence and may not be sustainable in the long run.

3. State Department for Development of ASAL

I. The program on Integrated Sustainable Peace and Social Economic Transformation of the Karamoja Cluster. The Karamoja Cluster covers Kenyan boarder with South

Sudan, Ethiopia and Uganda. The focus of the current programme is the Kenya Uganda boarder, specifically Turkana, West Pokot and Karamoja. The program has not been allocated any funds in the printed Estimates for 2019/2020 despite having been incorporated in the proposals.

II. There is no allocation to the State Department for drought response and coordination effort thus severely hampering its operations.

4. State Department for Youth

I. The NYS Youth Empowerment Program in 69 informal settlements which appears both in the Printed Estimates and the BPS and allocated Ksh.2.8 billion in actual sense represents a totally different item that of paying tuition fees for cohorts undergoing training at TIVET institutions. This disparity of project titles involving billions of shillings might pose a difficulty in tracking the expenditure.

II. There are currently over 23000 youth undergoing training at various TIVET institutions country wide. The total fees payable for them in the next Financial Year is Kshs 3.3 billion against a reduced ceiling of 898 million.

5. State Department for Gender

I. There is a reduction on the allocation of all the affirmative action Funds under the State Department that is Uwezo Fund and Women Enterprise Fund. The allocation to National affirmative action Fund (NGAAF) has however remained the same.

II. The Department has a function of mainstreaming gender issues at all levels nationally; however, the field offices located in every county have neither allocation nor supporting infrastructure to ensure effective delivery of service.

III. The performance of Uwezo Fund has been wanting since its inception compared to the other affirmative action funds. The Fund has no field officers and relies wholly on the officers from Youth Fund.

6. National Gender and Equality Commission (NGEC)

I. The mandate of NGEC requires it to cover all the 47 Counties, however due to resource constraints it has a presence in only 5 counties of Kisumu, Nakuru, Garissa, Kitui and Malindi.

There is need for a Tribunal under NGEC to provide an avenue for persons aggrieved on equality matters to have an avenue to channel their c

5.0 COMMITTEE RECOMMENDATIONS

The Committee having received submissions from the various State Departments and further deliberated, scrutinized and examined the submissions and content of the 2020 Budget Policy Statement, the Committee recommends the following:

Policy Recommendations

1. The State Department for Labour should fast track the development of the National Migration policy and its enabling legislation. This should be in place by December 2020. The policy should provide a clear framework on labour migration and ensure that Kenya leverages on opportunities available in other countries to tackle the challenge of unemployment, while at the same time ensuring better terms and conditions of work for them.

2. The State Department for Labour should finalize the ongoing development of the Labour Market Information System (LMIS) by the end of the 2019/2020 Financial Year. This will enable Kenyans access labour market opportunities both locally and internationally easily. The system will also readily avail data on areas of skills shortage and excesses to enable training institutions train for the labour market.

3. The State Department for Social Protection should, within two months, submit to Parliament the amendment to operationalize the Social Assistance Act generally and in particular the establishment of the Social Assistance Fund. This will give the legal backing to the National Safety Net Programme, which has been allocated close to Kshs30 billion shillings in the current Financial Year.

4. The State Department for Social Protection should within one month, resolve the current stalemate at the Child Welfare Society of Kenya, where accounts have been frozen because of leadership wrangles between the Society Trustees and the Board. The situation is not tenable as it puts the welfare of children at great risk.

5. The National Treasury should before preparing the budget estimates for 2020/21 assign the relevant name to the project under the National Youth Service, currently named Youth Empowerment Project in 69 informal Settlements. The Project has been allocated Ksh. 2.8 billion and the Committee has confirmed that the funds were used to pay fees for youth

undergoing training at various TIVET institutions. Such a disparity in naming of projects makes it difficult to track expenditure.

6. The National Gender and Equality Commission, in conjunction with other relevant arms of the Government should establish a Tribunal within the next one year where Kenyans aggrieved on equality issues can channel their grievances. The Tribunal should move around the country to give all Kenyans an opportunity to be heard.

Financial Recommendation

I. That, under the State Department for Labour, the proposed ceilings of **Kshs. 2.79 billion** forRecurrent and **Kshs. 2.95 billion** for Development outlays be approved, and in-line with the various proposed allocation per each Programme under the State Department.

II. That, under the State Department for Social Protection, the proposed ceilings of **Kshs.30.23 billion** forRecurrent and **Kshs 2.51billion** for Development outlays be approved, and in-line with the various proposed allocation per each Programme under the State Department.

III. That, under the State Department for Development of the ASAL, the proposed ceilings of **Kshs.987million** for Recurrent and **Kshs. 7.88 billion** for Development outlays be approved, and in-line with the various proposed allocation per each Programme under the State Department.

IV. That, under the State Department for Youth, the proposed ceilings of **Kshs.11.01** billion for Recurrent and **Kshs.3.44billion** for Development outlays be approved.

V. That, under the State Department of Gender, the proposed ceilings of Kshs.**1.49 billion** for Recurrent and **Kshs.2.36 billion** for Development outlays be approved, and in-line with the various proposed allocation per each Programme under the State Department.

VI. That, under the National Gender and Equality Commission, the proposed ceilings of **Kshs. 495 million** under recurrent budget be approved in-line and as per the proposed Programme.

Further the Committee recommends funding for the following interventions that were not provided for.

MDA	Policy	Programme	2020 BPS Ceiling (Kshs)(millions)	Proposed Increase Kshs(Millions)	Impact on Targets	Justification /Details
State Department for Labour	Labour Migration Policy	Manpower Development, Employment and productivity management	4,590	10(**Recurrent**)	An increase in the number of job seekers placed in gainful employment from 36,258 to 50,000	The allocation is expected to enhance the visibility of the National Employment Authority, in particular the following activities will be undertaken: creating awareness on national and county employment centres and employment agencies, increasing awareness on foreign employment opportunities and services locally and abroad.
State Department for Labour	Cross cutting	Promotion of best Labour practice	709.20	25(**Recurrent**)	Kenya was selected to host the 2020 ARLAC Conference which is a gathering of English-speaking countries across the continent.	The objective of ARLAC is capacity building in Labour administration, providing consultancy

					ARLAC plays a pivotal role in strengthening labour administration across the continent. Kenya last hosted ARCLAC 12 years ago	and advisory services to member states and to assist member states in developing their labour administration systems.
State Department for Social Protection	Social protection Policy	National Social Safety Net	28,567.20	4000.78(**Recurrent**)	160,000 beneficiaries who had exited the payroll for the cash transfer due to the migration from card based to account-based system of payment will be reinstated into the programme	During the migration of data of beneficiaries from card-based system to account - based system, 160,000 beneficiaries were left out because the information they provided was not tallying. After verification, they are to be reinstated into the programme.
State Department for the Development of ASAL	National Drought Management Policy	Accelerated ASAL Development	8,876.00	45(**Recurrent**)	To be used for drought response and coordination effort. Specifically, 23 ASAL counties supported to produce monthly Early warning bulletins, adoption of web-based drought early warning system,	The country should enhance its preparedness capacity rather than always playing catch-up.

					and food security assessment.	
State Department for Youth	Youth Development Policy	Youth Empowerment Program	14,621.10	1,053.57 528-**(Development) and 525.57(recurrent)**	Operationalization and equipping of 132 Youth Empowerment Centres each at a cost of 4 million and operationalization of Youth field offices	The 132 Youth Empowerment centres have been constructed at huge costs to the tax payer. Without the necessary infrastructure, they remain a shell with no value to the youth. The Country Youth offices have operated without any AIEs other than salaries, hence need for the additional resources
State Department for Gender	Gender Development Policy	Gender affairs	1, 412.60	440	Establishment and operationalization of 23 additional Gender-based Violence recovery centres. This will bring to 25 the total number of such centres. It will also include establishment of safe spaces for girls in 6 counties of Narok, Meru, Kilifi, Kwale, Kisumu and Busia. In these safe spaces women and girls	The country has witnessed an alarming increase in GBV across the country. Activities under this will also include capacity building on GBV issues, establishment of safe spaces and monitoring of implementation of GBV interventions

					will have access to information, education, recreational activities, support and services.	
National Gender and Equality Commission (NGEC)	Mandate provided under Article 59(4) of the Constitution of Kenya 2010 and National Gender and Equality Commission Act,2011	Promotion of Gender Equality and Freedom from discrimination	495	30	Operationalize NGEC complains handling program through establishment of a Tribunal. The Tribunal should be able to hold Sittings in all counties on rotational basis.	This will enable the Commission create awareness among vulnerable citizens and accord the people an avenue through which they can air their grievances on equality issues.

25/02/2020

DEPARTMENTAL COMMITTEE ON LANDS

PARLIAMENT OF KENYA

NATIONAL ASSEMBLY

TWELFTH PARLIAMENT –FOURTH SESSION

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF THE BUDGET POLICY STATEMENT FOR 2020/2021 FINANCIAL YEAR

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2020

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1.0 PREFACE

The Departmental Committee on Lands was constituted on 14th December, 2017 pursuant to the provisions of Standing Order 216 (1) and (5) of the National Assembly.

The functions and mandate as outlined in the Standing Orders are;

a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, and estimates of the assigned ministries and departments;
b) Study the Programs and policy objectives of Ministries and Departments and effectiveness of the implementation;
c) Study and review all legislation referred to it;
d) Study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
e) Investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as they may be referred to them by the House;
f) Vet and report on all appointments where the Constitution or any Law requires the National Assembly to approve, except those under Standing Order 204(Committee on Appointments); and
g) Make reports and recommendations to the House as often as possible, including recommendations on proposed legislation.

The Committee oversees the operations of the Ministry of Lands and Physical Planning and the National Land Commission on the following matters: Land Policy and Physical Planning, Land Transactions, Survey and Mapping, Land Adjudication, Settlement, Land registration, Land Valuation, Administration of community and Public Land, and Land Information and Management System.

1.1Committee Membership

The Committee comprises the following Members:

Hon. Dr. Rachael Nyamai,CBS M.P - **Chairperson**
Hon. Khatib Mwashetani, M.P. -**Vice Chairperson**
Hon. Jayne Kihara, MP
Hon. Joshua Kutuny, MP
Hon. Kimani Ngunjiri, MP
Hon. MishiMboko, MP
Hon. Omar Mwinyi, MP
Hon. Ali Mbogo, MP
Hon. Babu Owino, MP
Hon. Caleb Kositany, MP
Hon. Catherine Waruguru, M.P

Hon. George Aladwa, MP
Hon. George Sunkuyia, MP
Hon. Jane Njiru, MP
Hon. GichungeKabeabea, MP
Hon. Owen Baya, M.P
Hon. Kinuthia Gachobe, M.P
Hon. Simon Kingara, M.P
Hon. Teddy Mwambire, MP

1.2 Consideration of the Budget Policy Statement

1. The second schedule of the Standing Orders for National Assembly mandates the Departmental Committee on Lands, to consider matters relating to Lands and Settlement. It is according to this provision that the Committee is mandated to scrutinize the Budget Policy Statement for the Ministry of Lands & Physical Planning and the National Land Commission for the Financial Year 2020/2021.

2. The Committee held two meetings to deliberate on the Budget Policy Statement and was briefed by the Parliamentary Budget office. Further, the Committee met with the Principal Secretary, Ministry of Ministry of Lands & Physical Planning and the Chairperson, National Land Commission. The two Agencies tabled their submissions in respect of the Budget Policy for the financial year 2020/2021.

1.3 Committee observations

The Committee made the following observations:

1. The Committee observed that the government policy of consolidating all budgetary allocations for Information Communication Technology development projects in the Ministry of Information, Communication and Technology contributed to delay in the implementation of the the National Land Information Management System implemented by both the National Land Commission and the Ministry of Lands & Physical Planning in the 2019/2020 half year due to delay in accessing the allocation. The NLIMs is critical in the digitization process in ensuring effective and efficient access to land data

2. The Ministry of Lands and Physical Planning had registered a revenue collection shortfall of Ksh. 1.3 billion in the first half of the 2019/2020 Financial Year and had recorded reduction in collections in the past three Financial Years. This was partly due to the manual revenue collection system used by the Ministry that is highly susceptible to leakages.
3. The Ministry's policies and procedures in the resettlement of the landless have not provided a solution to multiple allocation of land to individual beneficiaries although the ministry

seem to have over achieved on its target. Multiple allocation of land to individual beneficiaries can be largely attributed to weaknesses in capturing the data of beneficiaries.

4. The Committee observed that the digitization process at the ministry which is key to the unlocking of critical sector services is not been implemented on time. Because of this the Ministry cannot create a data base of the leases as files are manually stored.

5. The National Land Commission had not vested public land compulsorily acquired for government infrastructural projects due to inadequate funds making the acquired land susceptible to grabbing.

6. The Commission also had difficulty in executing its role in resolving disputes through Alternative Disputes Resolution Mechanisms. The Commission had also not attended to litigation cases pending in court due to inadequate technical staff.

7. The Commission had difficulties in achieving its targets in processing pending applications of extension and renewal of leases for public land due to the recall of files by the Ministry of Lands and Physical Planning to facilitate digitization of land registries

1.4 Committee recommendations

The Committee made the following recommendations

a) Policy Recommendations

1. The National Land Commission should develop a policy by July 1st 2020 to ensure that all government Agencies acquiring land for infrastructural projects simultaneously avail funds for compensation and vesting the acquired land.

2. The National Treasury should review the policy on allocation of all ICT related funds to the Ministry of Information, Communication and Technology by July 1st 2020 to ensure timely implementation of the Land Information Management System Project.

3. The Cabinet Secretary, Ministry of Lands and Physical Planning should fast track the development of an integrated digital revenue collection system by July 1st 2020 to eliminate revenue collection leakages and ensure that the Ministry meets its revenue collection targets.

4. The Ministry of Lands and Physical Planning should develop a data bank of all Settlement Scheme beneficiaries by July 1st 2020 and ensure that each beneficiary is only allocated one parcel of land on a "one parcel one person" basis to address multiple allocation of land to squatters.

b) Financial Recommendations

3. The Committee recommends further that the House approves: -

1) The proposed expenditure ceiling of **Kshs 6.175 billion** for the Ministry of Lands and Physical Planning vote 1112.
2) The proposed expenditure ceiling of **Kshs 1.274 billion** for the National Lands Commission vote 2021.

c) Other Recommendations

The National Land Commission should rationalize its staff establishment and ensure that staffs are deployed in core mandate areas and to the County offices to aid service delivery.

1.5 Acknowledgments

1. The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to Members of the Committee and the Secretariat for their dedication and useful expertise and insights during the consideration of the Budget Policy Statement FY 2020/2021.
2. On behalf of the Departmental Committee on Lands and pursuant to provisions Standing Order 243 it is my pleasant privilege and honor to present to the Budget and Appropriations Committee the Report of the Committee on its consideration of the Budget Policy Statement FY 2020/2021for the Ministry of lands and Physical Planning and the National Land Commission.

Signed.....

HON. DR. RACHAEL NYAMAI, CBS, M.P

CHAIRPERSON DEPARTMENTAL COMMITTEE ON LANDS

Date.....25/2/2020.....

2.0 CONSIDERATION OF THEBUDGET POLICY STATEMENT

2.1 Introduction

4. The Committee commenced deliberations on the Budget Policy Statement (BPS) on 18th February 2020 after it was tabled on the floor of the House on Thursday 13th February 2020. The Standing Order requires, among other things, the BPS to indicate total resources to be allocated to individual programs and projects within a sector and indicate the outputs expected from each such program or project during the period. Further, Standing Orders 232 (5), provides that upon being laid in the House, the BPS stands committed to the relevant Departmental Committee for deliberation and recommendations to the Budget and Appropriations Committee.

2.2 Briefing by the Parliamentary Budget Office

5. The Committee held a briefing session with the Parliamentary Budget Office on Tuesday 18th and Wednesday 19thand Thursday 20thFebruary, 2020.

The Parliamentary Budget Office informed the Committee that:

6. The Budget Policy Statement (BPS) is one of the pre-budget documents that allows for consultation to take place in particular between the legislative and the executive arms of government. It sets out the Government's priority programs to be implemented in the Medium Term Expenditure Framework (MTEF) under a devolved system of Government. The BPS seeks to address the challenges that continue to hold the economy back from achieving its full potential by setting out priority programs to accelerate and sustain a broad-based economic growth. The document is expected to guide public debate on economic and development matters.

7. The Budget Policy statement is published in accordance with Section 25 (2) of the Public Finance Management Act, 2012 which requires that the National treasury submit the Budget Policy Statement to parliament by the 15th February each year and Section 232 (1) of Standing Orders which requires that each year not later than the 15th February the Cabinet Secretary responsible for finance submits to the assembly a Budget Policy Statement.

8. Section 25 of the PFM Act requires the National Treasury shall prepare and submit to Cabinet the Budget Policy Statement for approval. The National Treasury is then required to submit the approved Budget Policy Statement to Parliament, by the 15thFebruary in each year. Further Parliament has fourteen (14) days after its submission to scrutinize and review it, moreover the Standing Orders give all the Departmental Committees 7 days to prepare a report and submit to the Budget and Appropriations Committee after which Parliament shall adopt the report with or without amendments.

On the overall resource ceilings, the Parliamentary Budget Office informed the meeting that: -

9. In the FY2020/21 revenue collection including Appropriation-in-Aid (A.i.A) is projected to increase to Ksh 2,134.1 billion (18.3 percent of GDP) up from Ksh 2,084.2 billion (20.1 percent of GDP) in the FY 2019/20 against a proposed nominal expenditure and net lending of KSh 2,748.2 billion. Thus the 2020/21 budget will be a deficit. Table 2summarizes the proposed expenditure limits for the three arms of government including the consolidated fund services and proposed equitable share to counties.

Table 1: Summary of proposed Budgetary Allocations in KSh. Millions

	FY 2019/20 including Sup I	**FY 2020/21**	**FY 2021/22**	**FY 2022/23**
National Government	2,006,964	1,832,406	1,954,145	2,126,976
Executive	1,947,873	1,778,133	1,897,105	2,067,139
Judiciary	19,202	18,051	18,572	19,308
Parliament	39,889	36,222	38,468	40,529
Consolidated Fund Services*	550,063	574,650	675,293	729,889
County Governments**	316,500	316,500	325,694	334,836
Total	**2,873,527**	**2,723,556**	**2,955,132**	**3,191,701**

Source: National Treasury

NB* *Consolidated Fund Services is composed of domestic interest, foreign interest and pension*
*NB** The allocation to counties is based on sharable revenue*

10. The BPS 2020 projects that the total government allocations will dip to Kshs. 2.7 trillion in 2020/2021 and rise again to Kshs 2.955 trillion in 2021/2022 as shown in table 2. The allocation to County Government is projected to stagnate at KSh. 316.5 billion in 2020/21 before rising to KSh. 325.7 billion in 2021/22 and a further rise of KSh. 334.8 billion in 2022/23.The allocation to Parliament is projected to also dip to 36.2 billion from KSh. 39.9 billion before rising again to KSh. 38.5 billion and KSh. 40.5 billion in the medium term; and similarly, allocation to the Judiciary is projected to dip from Kshs. 19.2 billion to Kshs 18.1 billion before rising to KSh. 18.6 billion and KSh. 19.3 billion with the MTEF budget period.

On the sectorial ceilings and policy priorities, the Parliamentary Budget Office informed the meeting that: -

11. The main objective of the government in the BPS 2020 towards the land sub-sector is the realization that land is a key enabler for the attainment of the Big four agenda. Under the

Ministry of Lands and Physical Planning, and the National Land Commission the government policies enshrined in the 2020 BPS sets out to achieve the following:

i. Formulate policies and programs to guide land use, access to land title, security of tenure and development of a transparent and secure land registration systems. The government will continue to support the online Kenya Land Registry that is already launched to ensure that every Kenyan and investor can seamlessly search for land online.
ii. Develop policy guidelines on leasing of idle arable land owned by public institutions in support of food and nutrition security.
iii. Facilitate transfer and registration of property by securitizing and reforming land registration process for quick and transparent registration of properties. This includes; reviewing Sectional properties Act, 2019 and developing of relevant regulations to facilitate registration of properties owned on apartments.
iv. Continue extending support to county governments to strengthen their capacity to plan for urbanization and effective public land use planning for economic development.
v. Continue strengthening the National Spatial Plan (NSP) and National Land Use Policy (NLP) already in place for critical policy frameworks for guiding county governments in formulation of responsive county spatial plans and integrated urban development plans.

To achieve the aforementioned policy priorities, the following resources have been planned for spending across the various Agencies as shown in table 2.

Table 2: Current FY 2019/20 Approved estimates and the proposed ceilings in the 2020/21 BPS (Ksh. Millions).

Ministries/Department/ Agencies	Approved 2019/20	Ceiling for 2020/21.	Deviation		Projected 21/22.	Projected 22/23.
			Amount	% change		
Ministry of Land and Physical Panning	6,523.6	6,175.0	(348.6)	(5%)	6105.0	6,890.0
National Land Commission	1,187.2	1,274.0	86.8	7%	1,332.0	1,395.9

Source: BPS 2020

2.3 Meeting with the Ministry of Lands & Physical Planning

12. The Committee held a meeting with the Cabinet Secretary, Ministry for Lands and Physical Planning, who was accompanied by the Chief Administrative Secretary, the Principal Secretary and a team of technical officers on Thursday 20th February 2020. During the meeting, the Cabinet Secretary informed the Committee that the Ministry of Lands and Physical Planning had an actual expenditure for the first half of the financial year 2019/20 of 35% for recurrent and 39% for development expenditure

2019/2020 FY - First half performance

13. **Revenue collection.** The Cabinet Secretary informed the Committee that the Ministry had made a revenue collection of Ksh. 5,794,997,779 against a target of Ksh. 7,136,866,760 in the first half of the 2019/2020 FY. She admitted that the manual revenue collection had hampered collection due to leakages. However she stated that the Ministry had embarked on digitizing the revenue collection system. She promised to report progress on the same in April 2020.

14. **Digitization of land transactions:** The Cabinet Secretary stated that government had adopted an e – Government strategy since 2004 to enhance transparency and in this regard the Ministry will revamp the National Land Information system by providing linkage for inputs from key stakeholders such as the Registrar of persons and the Registrar of companies. Similar the system would be linked to users such as the Kenya Revenue Authority, Lawyers Banks, the Judiciary the National Land Commission, County Governments and the Ethics and Anti – Corruption Commission. She added that such linkages would enhance service delivery and reduce.

Committee observations

During the meeting the Committee made the following observations:

15. The Committee observed that the government policy of consolidating all budgetary allocations for Information Communication Technology development projects in the Ministry of Information, Communication and Technology contributed to delay in the implementation of the the National Land Information Management System implemented by both the National Land Commission and the Ministry of Lands & Physical Planning in the 2019/2020 half year due to delay in accessing the allocation.

16. The Ministry of Lands and Physical Planning had registered a revenue collection shortfall of Ksh. 1.3 billion in the first half of the 2019/2020 Financial Year and had recorded reduction in collections in the past three Financial Years. This was partly due to the manual revenue collection system used by the Ministry that is highly susceptible to leakages.

17. The Ministry's policies and procedures in the resettlement of the landless have not provided a solution to multiple allocation of land to individual beneficiaries although the ministry seem

to have over achieved on its target. Multiple allocation of land to individual beneficiaries can be largely attributed to weaknesses in capturing the data of beneficiaries

18. The Committee observed that the digitization process at the ministry which is key to the unlocking of critical sector services is not been implemented on time. Because of this the ministry cannot create a data base of the leases as files are manually stored.

2.4 Meeting with the National Land Commission

19. The Committee held a meeting with the Chairperson, National Land Commission, who was accompanied by the Chief Executive Officer and technical staff on Wednesday 19th February 2021. During the meeting the Committee was informed that the National Land Commission had made a bid for Budget resource requirements amounting to Kshs. 4,585 million in the 2020 /2021 Financial Year but it had been allocated a ceiling of Kshs 1.274 million. The Commission was not given any development budget but the allocation on ICT would be administered under the Ministry of Information, Communication and Technology. The Commission was implementing one programme, namely Land Administration and Management with following sub programmes;Land administration and Management Services, Public Land Information Management, Land Disputes and Conflict Resolution.

20. The Chairperson informed the Committee that the Commission was not able to access the development allocation domiciled in the Ministry of Information, Communication and Technology in the 2019/2020 half Year as the fund had not been committed by the Ministry.

21. **Absorption rate**: The Committee was informed that the commission registered an absorption rate of 41% of the revised annual Estimate in the first half of the 2019/2020 FY. The commission faced a challenge arising from delay in exchequer release and the absence of Commissioners in the first quarter due to delay in the constitution of the new commission.

22. Information on actual non – financial performance for the 2019 /2020 FY

The Chairperson also outlined the performance of the commission during the first half 2019/2020 fiscal year. Some of the achievements highlighted included renewal 33 lease applications against a target of 900 leases. However, the committee noted that the target was not realistic as it was not on any baseline research.

23. **Pending Bills**

The Committee was informed that the Commission had pending bills amounting to Kshs. 556 million at the close of the 2018/2019 Financial Year. Kshs. 519 million of the bills comprised of pending payment of staff gratuity which had transitioned from contract staff to permanent pensionable.

24. **Projects linked to the big four agenda:** The Committee was informed that the Commission contributed to the agenda as an enabler through the Public Land Information Management System Project. The project will provide database on land bank to facilitate investment. Investors wishing to invest Kenya will be able to locate available public land through the land bank.

Committee observations

25. During the meeting the Committee made the following observations:

a) The Commission had not vested public land compulsorily acquired for government infrastructural projects due to inadequate funds making the acquired land susceptible to grabbing.

a) The Commission experienced challenges in enhancing and upgrading the National Land Information Management Information System (NLIMs) due to difficulty in accessing allocated funds from the Ministry of ICT. The NLIMs is critical in the digitization process in ensuring effective and efficient access to land data.

b) The Commission also had difficulty in executing its role in resolving disputes through Alternative Disputes Resolution Mechanisms. The Commission had also not attended to litigation cases pending in court due to inadequate technical staff.

c) The Commission had difficulties in achieving its targets in processing pending applications of extension and renewal of leases for public land due to the recall of files by the Ministry of Lands and Physical Planning to facilitate digitization of land registries.

3.0 COMMITTEE OBSERVATIONS

The Committee made the following observations:

1. The Committee observed that the government policy of consolidating all budgetary allocations for Information Communication Technology development projects in the Ministry of Information, Communication and Technology contributed to delay in the implementation of the the National Land Information Management System implemented by both the National Land Commission and the Ministry of Lands & Physical Planning in the 2019/2020 half year due to delay in accessing the allocation. The NLIMs is critical in the digitization process in ensuring effective and efficient access to land data.

2. The Ministry of Lands and Physical Planning had registered a revenue collection shortfall of Ksh. 1.3 billion in the first half of the 2019/2020 Financial Year and had recorded reduction in collections in the past three Financial Years. This was partly due to the manual revenue collection system used by the Ministry that is highly susceptible to leakages.

3. The Ministry's policies and procedures in the resettlement of the landless have not provided a solution to multiple allocation of land to individual beneficiaries although the ministry seem to have over achieved on its target. Multiple allocation of land to individual beneficiaries can be largely attributed to weaknesses in capturing the data of beneficiaries.

4. The Committee observed that the digitization process at the ministry which is key to the unlocking of critical sector services is not been implemented on time. Because of this the Ministry cannot create a data base of the leases as files are manually stored.

5. The National Land Commission had not vested public land compulsorily acquired for government infrastructural projects due to inadequate funds making the acquired land susceptible to grabbing.

6. The Commission also had difficulty in executing its role in resolving disputes through Alternative Disputes Resolution Mechanisms. The Commission had also not attended to litigation cases pending in court due to inadequate technical staff.

7. The Commission had difficulties in achieving its targets in processing pending applications of extension and renewal of leases for public land due to the recall of files by the Ministry of Lands and Physical Planning to facilitate digitization of land registries

4.0COMMITTEE RECOMMENDATIONS

a) Policy Recommendations

1. The National Land Commission should develop a policy by July 1st 2020 to ensure that all government Agencies acquiring land for infrastructural projects simultaneously avail funds for compensation and vesting the acquired land.

2. The National Treasury should review the policy on allocation of all ICT related funds to the Ministry of Information, Communication and Technology by July 1st 2020 to ensure timely implementation of the Land Information Management System Project.

3. The Cabinet Secretary, Ministry of Lands and Physical Planning should fast track the development of an integrated digital revenue collection system by July 1st 2020 to eliminate revenue collection leakages and ensure that the Ministry meets its revenue collection targets.

4. The Ministry of Lands and Physical Planning should develop a data bank of all Settlement Scheme beneficiaries by July 1st 2020 and ensure that each beneficiary is only allocated one parcel of land on a "one parcel one person" basis to address multiple allocation of land to squatters.

b) Financial Recommendations

The Committee recommends further that the House approves: -

1. The proposed expenditure ceiling of **Kshs 6.175 billion** for the Ministry of Lands and Physical Planning vote 1112.
2. The proposed expenditure ceiling of **Kshs 1.274 billion** for the National Lands Commission vote 2021.

c) Other Recommendations

The National Land Commission should rationalize its staff establishment and ensure that staffs are deployed in core mandate areas and to the County offices to aid service delivery.

Signed.....

HON. DR. RACHEL NYAMAI, CBS M.P
(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON LANDS

Date.....25/02/2020

MINUTES OF THE 4TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON TUESDAY 18TH FEBRUARY 2020 IN THE BOARDROOM, 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Jayne Kihara, M.P
4. Hon. Kimani Ngunjiri, M.P
5. Hon. Mishi Mboko, M.P
6. Hon. Omar Mwinyi Shimbwa, M.P
7. Hon. Ali Mbogo, M.P
8. Hon. Catherine Waruguru, M.P
9. Hon. George Aladwa, M.P
10. Hon. George Risa Sunkuyia, M.P
11. Hon. Jane Wanjuki Njiru, M.P
12. Hon. Josphat Gichunge Kabeabea, M.P
13. Hon. Owen Yaa Baya, M.P
14. Hon. Simon Nganga Kingara, M.P
15. Hon. Samuel Kinuthia Gachobe, M.P
16. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Joshua Kutuny, M.P
2. Hon. Caleb Kositany, M.P
3. Hon. Babu Owino, M.P

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Clerk Assistant III
3. Ms. Jemimah Waigwa - Legal Counsel
4. MS. Winnie Kizia - Media Relations Officer
5. Mr. Dennis Mawira - Audio Officer
6. Ms. Peris Kaburi - Serjeant-At-Arms

MIN. NO. NA/DCS/LANDS/2020/011: PRELIMINARIES

The meeting was called to order at nineteen minutes past ten o'clock and prayers were said.

The agenda of the meeting was adopted as outlined in the notice of meeting after it was proposed and seconded by Hon. Samuel Gachobe, MP and Hon. Owen Baya, MP respectively.

MIN. NO. NA/DCS/LANDS/2020/012: BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE ON THE 2020/2021 BUDGET POLICY STATEMENT

The Fiscal Analyst briefed the Committee on the 2020/2021 Budget Policy Statement. The brief highlighted the following issues;

i) The Ministry of Lands and Physical Planning's policies prioritized the issuance of title deeds, digitization and construction of registries while the National Land Commission policies would spearhead development of guidelines for the implementation of a new policy of leasing idle arable for purposes of food and nutrition security.

ii) Although the Ministry targets to digitize more registries compared to its targets of FY 2018/2019, the attendant resources are less meaning that the target may not be fully achieved.

iii) The Ministry's budget of 2020/2021 has been reduced by 5% compared to the current FY 2019/2020 while the National Land Commission has an increase of 7% budgetary allocation compared to the current Financial Year of 2019/2020.

iv) The Ministry missed its target of digitizing 18 land registries by only digitizing 7 registries in MTEF 2016/2017 – 2018/2019. The variance was due to litigation challenges on E-conveyance.

v) The 2020 Budget Policy Statement and the medium term indicates the construction of 18 land registries starting with the financial year 2020/21 and the medium term.

vi) The implementation of National Land Information Management has been hindered by bureaucracies between the ICT Ministry and the implementing agency. There is a need for a clear policy direction on the way forward as service delivery is affected by the delay in the implementation of the project.

Committee resolutions

The Committee resolved to

a) Undertake an assessment of the Digitization of Land Registries project to determine if the project had value for money. The assessment would include benchmarking visits to Rwanda and Turkey to learn best practices on the same and also a request to the Auditor General to undertake a special system audit of the project;

b) Seek an explanation from the Cabinet Secretary, Ministry of Lands and Physical Planning on

   i. The continued use of cash revenue collection by the Ministry noting that the manual revenue collection system was prone to leakages; and

   ii. Whether the Ministry had a policy on the resettlement of squatters noting that the exercise was not well coordinated and settlements schemes were concentrated in a few areas.

MIN. NO. NA/DCS/LANDS/2020/013: PRE-VETTING OF THE NOMINEE FOR APPOINTMENT TO THE POSITION OF PRINCIPAL SECRETARY, STATE DEPARTMENT OF PHYSICAL PLANNING

i. The Committee was taken through sample guiding questions in the vetting of the nominee for appointment to the position of Principal Secretary, State Department of Physical Planning;

ii. The Committee noted that the questions were adequate to gauge the suitability of the nominee for appointment to the position of Principal Secretary, State Department of Physical Planning; and

iii. The members were reminded that they were free to ask supplementary questions should the need arise.

MIN. NO. NA/DCS/LANDS/2020/014: ANY OTHER BUSINESS (A.O.B)

The Committee was informed the planned retreat from 20th to 23rd February 2020, was on-course and accommodation had been secured at Hotel English Point, Mombasa.

MIN. NO. NA/DCS/LANDS/2020/015: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at twelve noon. The next meeting will be held on Wednesday, 19th February, 2020 at 9.30 a.m.

Signature .....

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date.....

individual beneficiaries can be largely attributed to weaknesses in capturing the data of beneficiaries; and

iv) The Committee observed that the digitization process at the ministry which is key to the unlocking of critical sector services is not been implemented on time and the closure of land registries to facilitate the same had inconvenienced customers. Therefore the Ministry needed to fast track the implementation of the project

MIN. NO. NA/DCS/LANDS/2020/024: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at two 'clock in the afternoon.

Signature .....

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date.....

MINUTES OF THE 5TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON WEDNESDAY 19th FEBRUARY 2020 IN THE BOARDROOM, 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Jayne Kihara, M.P
4. Hon. Joshua Kutuny, M.P
5. Hon. Kimani Ngunjiri, M.P
6. Hon. Mishi Mboko, M.P
7. Hon. Omar Mwinyi Shimbwa, M.P
8. Hon. Ali Mbogo, M.P
9. Hon. Caleb Kositany, M.P
10. Hon. George Aladwa, M.P
11. Hon. George Risa Sunkuyia, M.P
12. Hon. Josphat Gichunge Kabeabea, M.P
13. Hon. Owen Yaa Baya, M.P
14. Hon. Simon Nganga Kingara, M.P
15. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Catherine Waruguru, M.P
2. Hon. Babu Owino, M.P
3. Hon. Samuel Kinuthia Gachobe, M.P
4. Hon. Jane Wanjuki Njiru, M.P

THE NATIONAL LAND COMMISSION

1. Mr. Gershom Otachi - Chairperson
2. Mr. Reginald Okumu - Commissioner
3. Ms. Kabale Tache - Ag. Chief Executive Officer
4. Mr. F.C Bor - Ag. Deputy Chief Executive Officer
5. Mr. Bernard Cherutich - Ag. Director, Finance & Administration
6. Mr. Daniel Mewakio - Chief Finance Officer

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Clerk Assistant III
3. Ms. Jemimah Waigwa - Legal Counsel

4. MS. Winnie Kizia - Media Relations Officer
5. Mr. Dennis Mawira - Audio Officer
6. Ms. Peris Kaburi - Serjeant-At-Arms

MIN. NO. NA/DCS/LANDS/2020/016: PRELIMINARIES

The meeting was called to order at sixteen minutes past ten o'clock and prayers were said.

MIN. NO. NA/DCS/LANDS/2020/017: ADOPTION OF THE AGENDA

The agreed to consider the Business Laws (Amendment) Bill, 2019 and thereafter to meet with the National Land Commission to consider the 2020 Budget Policy Statement after it was proposed and seconded by Hon. Owen Baya, M.P and Hon. Teddy Mwambire, M.P respectively. The Committee was informed that the Cabinet Secretary, Ministry of Lands and Physical Planning had requested to appear before the Committee for the 2020 Budget Policy Statement on Thursday, 20th February 2020 at 11.30 a.m. instead of Wednesday 19th February 2020 as scheduled. The Committee agreed to the request.

MIN. NO. NA/DCS/LANDS/2020/018: CONSIDERATION OF THE BUSINESS LAWS (AMENDMENT) BILL, 2019

The Committee was briefed on the Business Laws (Amendment) Bill, 2019 and was informed that the main objective of the Bill is to ease the cost of doing business in \Kenya. The Committee noted the following;

i. Clause 4 of the Bill provided for the amendment of section 2 of the Registration of Documents Act to include definitions of electronic documents and various forms of electronic signatures in the section.
ii. Clause 5 of the Bill provided for the amendment of section 3 of the Registration of Documents Act to authorize the Registrar to establish and maintain the Principal and Coast registries in physical and electronic form.
iii. Clause 6 of the Bill provided for the amendment of section 4 of the Registration of Documents Act to provide for the filing of documents in physical and electronic form in the Registry.
iv. Clause 7 of the Bill provided for the amendment of section 2 of the Survey Act to include the definitions of various forms of electronic signatures.
v. Clause 8 of the Bill provided for the amendment of section 5 of the Survey Act to provide for the sealing and security features of electronic documents that have been processed under the Act.
vi. Clause 9 of the Bill provided for the amendment of section 30 of the Survey Act to allow the lodging of documents under the Act in either physical or electronic form
vii. Clause 10 of the Bill provided for the amendment of section 32 of the Survey Act to incorporate the electronic affixation of the Seal of the Survey of Kenya.

viii. Clause 12 of the Bill provided for the amendment of section 2 of the Stamp Duty Act in the definition of the term "stamp" to include a stamp electronic feature.

ix. Clause 18 of the Bill provided for the amendment of section 2 of the Land Registration Act, 2012, to include the definitions of various forms of electronic signatures.

x. Clause 19 of the Bill provided for the amendment of the Land Registration Act, 2012, by deleting section 38 to do away with requirements for land rates certificates to be obtained before an instrument transferring interest in land is registered.

xi. Clause 20 of the Bill provided for the amendment of the Land Registration Act, 2012, by deleting section 39 to do away with the requirement for land rent certificates and the requirement of consent before an instrument transferring an interest in land is registered.

xii. Clause 21 of the Bill provided for the amendment of section 44 of the Land Registration Act, 2012, to provide for the use of electronic signatures in the execution of documents processed under the Act.

xiii. Clause 22 of the Bill provided for the amendment of section 45 of the Land Registration Act, 2012, to recognize the execution of documents using electronic signatures.

xiv. Clause 23 of the Bill provided for the amendment of section 83 of the Land Registration Act, 2012, to provide for the procedure to be followed when a person claims indemnity under section 81 of the Act.

Committee Observations

i) The Committee raised concern regarding clauses 19 & 20 that proposed the deletion of section 38 of Land Registration Act, 2012, which requires land rates certificates to be obtained before an instrument transferring interest in land is registered.

ii) The Committee noted that the said amendments would hamper revenue collection by both the National & County governments through payment of land rent and rates. The Committee resolved to seek the rationale of the amendments from the Ministry of Lands & Physical Planning.

MIN. NO. NA/DCS/LANDS/2020/019: MEETING WITH THE NATIONAL LAND COMMISSION ON THE 2020/2021 BUDGET POLICY STATEMENT

The Chairperson, National Land Commission informed the Committee of the following in respect of the 2020/2021 Budget Policy Statement;

i. The National Land Commission had made a bid for Budget resource requirements amounting to Kshs. 4,585 million in the 2020 /2021 Financial Year but it had been allocated a ceiling of Kshs 1.274 million

ii. The Commission was not given any development budget but the allocation on ICT would be administered under the Ministry of Information, Communication and Technology.

iii. The Commission was implementing one program, namely Land Administration and Management with Land administration and Management Services, Public Land Information Management, Land Disputes and Conflict Resolution as sub-programs.

iv. The Committee was informed that the commission registered an absorption rate of 41% of the revised annual Estimate in the first half of the FY 2019/2020 mainly due to late exchequer releases.

v. The Commission had only renewed 33 lease applications against a target of 900 leases. However, the committee noted that the target was not realistic as it was not on any baseline research.

vi. The Commission had pending bills amounting to Kshs. 556 million at the close of the 2018/2019 Financial Year. Kshs. 519 million of the bills comprised of pending payment of staff gratuity which had transitioned from contract staff to permanent pensionable.

vii. The Commission needed to recruit adequate technical staff. Such as lawyers to counter challenges in implementing the Alternative Dispute Resolution Mechanism program and address pending litigation

Committee Observations

The Committee observed the following;

i. Challenges in accessing development allocation for the Land Information Management System Project from the Ministry of Information, Communication & Technology hindered the implementation of the Project of in the first half of the 2019/2020 Financial Year.

ii. The Commission had not vested public land compulsorily acquired for government infrastructural projects due to inadequate funds making the land susceptible to grabbing.

iii. Although the Commission faced challenges in administering "Alternative Dispute Resolution Mechanism" due to in adequate technical staff. There was need for the Commission to undertake staff rationalization to determine whether current staff deployment was aligned to its mandate.

MIN. NO. NA/DCS/LANDS/2020/020: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at thirty minutes past one o'clock. The next meeting will be held on Thursday, 20th February, 2020 at 10.00 a.m.

Signature .....

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date.....

MINUTES OF THE 6TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON THURSDAY 20TH FEBRUARY 2020 IN THE BOARDROOM, 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Jayne Kihara, M.P
4. Hon. Joshua Kutuny, M.P
5. Hon. Kimani Ngunjiri, M.P
6. Hon. Mishi Mboko, M.P
7. Hon. Omar Mwinyi Shimbwa, M.P
8. Hon. Ali Mbogo, M.P
9. Hon. Caleb Kositany, M.P
10. Hon. Babu Owino, M.P
11. Hon. George Aladwa, M.P
12. Hon. George Risa Sunkuyia, M.P
13. Hon. Jane Wanjuki Njiru, M.P
14. Hon. Owen Yaa Baya, M.P
15. Hon. Simon Nganga Kingara, M.P
16. Hon. Samuel Kinuthia Gachobe, M.P
17. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Catherine Waruguru, M.P
2. Hon. Josphat Gichunge Kabeabea, M.P

NOMINEE, PRINCIPAL SECRETARY, STATE DEPARTMENT OF PHYSICAL PLANNING

Mr. Enosh Momanyi Onyango

MINISTRY OF LANDS & PHYSICAL PLANNING

1. Ms. Farida Karoney, OGW - Cabinet Secretary
2. Hon. Gideon Mung'aro - Chief Administrative Secretary
3. Dr. Nicholas Muraguri - Principal Secretary
4. Mr. Augustine Masinde - Director General, Physical Planning
5. Mr. P.K Mwangi - Director, Land Administration Services
6. Mr. Stephen Njue - Ag. Chief Finance Officer
7. Ms. Jacinta Mutua - D/Director, Land Valuation

8.	Mr. Joel Iluve	-	Principal Economist
9.	Mr. Wyclif Mugambi	-	Finance Officer

THE NATIONAL ASSEMBLY SECRETARIAT

1.	Mr. Leonard Machira	-	Senior Clerk Assistant
2.	Mr. Ahmad Guliye	-	Clerk Assistant III
3.	Ms. Jemimah Waigwa	-	Legal Counsel
4.	MS. Winnie Kizia	-	Media Relations Officer
5.	Mr. Dennis Mawira	-	Audio Officer
6.	Ms. Peris Kaburi	-	Serjeant-At-Arms

MIN. NO. NA/DCS/LANDS/2020/021: PRELIMINARIES

i. The meeting was called to order at five minutes to ten o'clock, prayers were said and thereafter introductions were made.

ii. The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Ali Mbogo, M.P and Hon. Teddy Mwambire, M.P respectively.

MIN. NO. NA/DCS/LANDS/2020/022: APPROVAL HEARING OF THE NOMINEE FOR APPOINTMENT TO THE POSITION OF PRINCIPAL SECRETARY, STATE DEPARTMENT FOR PHYSICAL PLANNING

The Committee held the approval hearing of the nominee for appointment to the position of Principal Secretary, State Department of Physical Planning and noted the following;

i. He is Kenyan, male citizen, Identity Card Number 0412567 born on 27th March 1961 in Kisii County, married with four (4) children.

ii. He holds a Bachelor of Arts (Land Economics) 2nd Class Upper Division from the University of Nairobi obtained 1986. He also holds a Masters of Arts in Housing Administration from the University of Nairobi obtained in 1990. The nominee also holds a Diploma in Building Surveying from the Institution of Surveyors of Kenya obtained in 1990.

iii. He is a registered Estate Agent by the Estate Agents Registration Board-1995. He is also a Member of the Institution of Surveyors of Kenya in 1990.

iv. He is currently serving as the Secretary: Urban and Metropolitan Development in the Ministry of Transport Infrastructure, Housing and Urban Development.

v. He indicated that he was tax compliant and declared his sources of income from salary and dividends from Sheria Sacco and that he was worth 17.8 million shilling with Ksh. 2.4 million cash at the bank.

vi. He indicated that his correct name was Enosh Onyango Momanyi and produced his original Birth Certificate, Identification Card and Passport which corroborated the same.

vii. Regarding the Ksh. 2000 that was mentioned in the affidavit challenging his suitability, he indicated that the money was collected and received by the Korogocho resident committee and he did not directly or indirectly as a government officer.

viii. He indicated that Geodev Limited was procured competitively to provide beaconing services for the Korogocho upgrading slum project.

ix. He exhibited knowledge of matters Physical Planning and the relevant laws that guide the sector.

x. He informed the Committee that he applied for the position and was interviewed by the Public Service Commission.

xi. He indicated that given an opportunity, he would seek to implement the Physical and Land Use Planning Act, 2019.

Committee Observation

The Committee observed that the nominee possessed the requisite academic credentials, had the professional training and experience, was passionate about matters physical planning and met all the pre-requisite qualifications for appointment to a public office, hence was suitable for appointment as Principal Secretary, State Department of Physical Planning.

MIN. NO. NA/DCS/LANDS/2020/023: MEETING WITH THE MINISTRY OF LANDS & PHYSICAL PLANNING ON THE 2020/2021 BUDGET POLICY STATEMENT

The Cabinet Secretary, Ministry of Lands and Physical Planning, submitted the following before the Committee in respect of the 2020/2021 Budget Policy Statement;

i. The approved estimates for the Ministry in the FY 2019/2020 was Ksh. 6,523,639,009 out of which recurrent estimates was Ksh. 2,926,039,009 while development estimates was Ksh. 3,597,600,000.

ii. The absorption rate of the first half of the FY 2019/2020 was 71% of recurrent and 78% of development of the first half allocations.

iii. The Ministry intends to implement the Land Value (Amendment), Act 2019 and the Physical & Land Use Planning Act, 2019 and awaits passage of Sectional Properties Bill, 2019 and the Business Laws (Amendment), Bill 2019 by the House as the legislative agenda.

iv. The Ministry had made a revenue collection Ksh. 5,794,997,779 against a target of Ksh. 7,136,866,760 in the first half of the 2019/2020 Financial Year. The shortfall was largely occasioned by manual collection of revenue.

v. The Ministry intends to revamp the National Land Information system by providing linkage for inputs from key stakeholders such as the Registrar of persons and the Registrar

of companies, Kenya Revenue Authority, the Judiciary, Banks, Lawyers, the National Land Commission, the County Governments and other Stakeholders.

vi. The Ministry is undertaking the following projects are linked to the "Big-Four" Agenda;
   a. Registration & issuance of Title Deeds
   b. Digitization of land transactions
   c. Implementation and Dissimilation of the National Spatial Plan (NSP)
   d. Implementation of the National Land Use Policy (NLUP)
   e. Development of a National Land Value Index
   f. Development of Hydrographic Database to support Blue Economy

vii. **Revenue collection.** The Cabinet Secretary informed the Committee that the Ministry had made a revenue collection of Ksh. 5,794,997,779 against a target of Ksh. 7,136,866,760 in the first half of the 2019/2020 FY. She admitted that the manual revenue collection had hampered collection due to leakages. However she stated that the Ministry had embarked on digitizing the revenue collection system. She promised to report progress on the same in April 2020.

viii. **Digitization of land transactions:** The Cabinet Secretary stated that the government had adopted an e – Government strategy since 2004 to enhance transparency and in this regard the Ministry would revamp the National Land Information system by providing linkage for inputs from key stakeholders such as the Registrar of persons and the Registrar of companies. Similar the system would be linked to users such as the Kenya Revenue Authority, Lawyers Banks, the Judiciary the National Land Commission, County Governments and the Ethics and Anti – Corruption Commission. She added that such linkages would enhance service delivery and reduce.

Committee observations

During the meeting the Committee made the following observations:

i) The Committee observed that the government policy of consolidating all budgetary allocations for Information Communication Technology development projects in the Ministry of Information, Communication and Technology contributed to delay in the implementation of the the National Land Information Management System implemented by both the National Land Commission and the Ministry of Lands & Physical Planning in the 2019/2020 half year due to delay in accessing the allocation.

ii) The Ministry of Lands and Physical Planning had registered a revenue collection shortfall of Ksh. 1.3 billion in the first half of the 2019/2020 Financial Year and had recorded reduction in collections in the past three Financial Years. This was partly due to the manual revenue collection system used by the Ministry that is highly susceptible to leakages.

iii) The Ministry's policies and procedures in the resettlement of the landless have not provided a solution to multiple allocation of land to individual beneficiaries although the ministry seem to have over achieved on its target. Multiple allocation of land to

individual beneficiaries can be largely attributed to weaknesses in capturing the data of beneficiaries; and

iv) The Committee observed that the digitization process at the ministry which is key to the unlocking of critical sector services is not been implemented on time and the closure of land registries to facilitate the same had inconvenienced customers. Therefore the Ministry needed to fast track the implementation of the project

MIN. NO. NA/DCS/LANDS/2020/024: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at two 'clock in the afternoon.

Signature .....

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date.....

MINUTES OF THE 9TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON SATURDAY 22ND FEBRUARY 2020 IN THE INNER- PIER BOARDROOM, HOTEL ENGLISHPOINT, MOMBASA AT 10.00 A.M.

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Jayne Kihara, M.P
4. Hon. Joshua Kutuny, M.P
5. Hon. Kimani Ngunjiri, M.P
6. Hon. Mishi Mboko, M.P
7. Hon. Omar Mwinyi Shimbwa, M.P
8. Hon. Ali Mbogo, M.P
9. Hon. George Aladwa, M.P
10. Hon. Jane Wanjuki Njiru, M.P
11. Hon. Owen Yaa Baya, M.P
12. Hon. Simon Nganga Kingara, M.P
13. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Babu Owino, M.P
2. Hon. Caleb Kositany, M.P
3. Hon. Catherine Waruguru, M.P
4. Hon. George Risa Sunkuyia, M.P
5. Hon. Josphat Gichunge Kabeabea, M.P
6. Hon. Samuel Kinuthia Gachobe, M.P

THE NATIONAL ASSEMBLY SECRETARIAT

1.	Mr. Leonard Machira	-	Senior Clerk Assistant
2.	Mr. Ahmad Guliye	-	Clerk Assistant III
3.	Ms. Jemimah Waigwa	-	Legal Counsel
4.	Mr. Adan Abdi	-	Fiscal Analyst III
5.	MS. Winnie Kizia	-	Media Relations Officer
6.	Mr. Dennis Mawira	-	Audio Officer
7.	Ms. Peris Kaburi	-	Serjeant-At-Arms

MIN. NO. NA/DCS/LANDS/2020/031: PRELIMINARIES

The meeting was called to order at fifteen minutes past ten o'clock, prayers were said and thereafter introductions were made.

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Ali Mbogo, M.P and Hon. Owen Baya, M.P respectively.

MIN. NO. NA/DCS/LANDS/2020/032: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE 2020/2021 BUDGET POLICY STATEMENT OF THE MINISTRY OF LANDS & PHYSICAL PLANNING AND THE NATIONAL LAND COMMISSION

The Committee considered the report on the 2020/2021 Budget Policy Statement of the Ministry of Lands & Physical Planning and the National Land Commission and made the following observations and recommendation;

Committee Observations

The Committee made the following observations;

1. **The National Land Commission:**
   a) The delay in the implementation of the Land Information Management System project was mainly due to challenges in accessing development allocation for the project which is domiciled in the Ministry of Information, Communication and Technology in the 2019/2020 half year.
   b) The Commission had not vested public land compulsorily acquired for government infrastructural projects due to inadequate funds making the land susceptible to grabbing.
   c) The Commission also had difficulty in executing its role in resolving disputes through Alternative Disputes Resolution Mechanisms and had difficulty attending to litigation cases pending in court due to inadequate technical staff.
   d) The Commission had difficulties in achieving its targets in processing pending applications of extension and renewal of leases for public land due to the recall of files by the Ministry of Lands and Physical Planning to facilitate digitization of land registries.

2. **The Ministry of Lands & Physical Planning**
   a) The Committee observed that the government policy of consolidating all budgetary allocations for Information, Communication and Technology development projects in the Ministry of ICT contributed to delay in the implementation of the Land Information Management Systems project implemented by both the National Land Commission and the

Ministry of Lands & Physical Planning in the 2019/2020 half year due to delay in accessing the allocated funds.

b) The Ministry of Lands and Physical Planning had registered a revenue collection shortfall of Kshs. 1.3 billion in the first half of the 2019/2020 Financial Year and had recorded reduction in collections in the past three Financial Years. This was partly due to the manual revenue collection system used by the Ministry that is highly susceptible to leakages.

c) The Ministries policies and procedures in the resettlement of the landless was not providing solution although the Ministry seemed to have over achieved on its target. There was a concern of multiple beneficiaries on different parcels leading to the rise of "professional squatters" largely attributed to weaknesses in capturing the data of beneficiaries.

d) The digitization process at the Ministry which was key to the unlocking of critical sector services was not implemented on time. Due to this, the Ministry could not create a data base of the expiring leases as files were stored manually.

Committee Recommendations

The Committee made the following recommendations;

a) Policy Recommendations

i. The National Land Commission should develop a policy by July 1st 2020 to ensure that all government Agencies acquiring land for infrastructural projects simultaneously avail funds for compensation and vesting the acquired land.

ii. The National Treasury should review the policy on allocation of all ICT related funds to the Ministry of Information, Communication and Technology by July 1st 2020 to ensure timely implementation of the Land Information Management System Project.

iii. The Cabinet Secretary, Ministry of Lands and Physical Planning should fast track the development of an integrated digital revenue collection system by July 1st 2020 to eliminate revenue collection leakages and ensure that the Ministry meets its revenue collection targets.

iv. The Ministry of Lands and Physical Planning should develop a data bank of all Settlement Scheme beneficiaries by July 1st 2020 and ensure that each beneficiary is only allocated one parcel of land on a "one parcel one person" basis to address multiple allocation of land to squatters.

b) Financial Recommendations

The Committee further recommended that the House approves; -

i. The proposed expenditure ceiling of **Kshs 6.175 billion** for the Ministry of Lands and Physical Planning for vote 1112.

ii. The proposed expenditure ceiling of **Kshs 1.274 billion** for the National Lands Commission vote 2021.

c) Other Recommendations

The National Land Commission does rationalize its staff establishment and ensure that staffs are deployed in core mandate areas and to the County offices to aid service delivery.

MIN. NO. NA/DCS/LANDS/2020/033: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at thirty minutes past twelve noon.

Signature .....

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date.....

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL COMMITTEE
ON
SPORTS, CULTURE AND TOURISM

REPORT ON THE CONSIDERATION OF THE 2020 BUDGET POLICY STATEMENT FOR THE FOLLOWING SPENDING AGENCIES:

Vote 1202 – State Department of Tourism
Vote 1132 - State Department for Sports Development
Vote 1133 - State Department for Heritage

DIRECTORATE OF COMMITTEE SERVICES

CLERKS CHAMBERS

PARLIAMENT BUILDINGS

NAIROBI **FEBRUARY 2020**

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1. Preface

Mr. Chairman,

On behalf of the Departmental Committee on Sports, Culture and Tourism and pursuant to provisions of Standing Order 232 (5), it is my pleasant privilege and honor to present to the Budget and Appropriations Committee the report of the Committee on its Considerations of the 2019/20 Budget Policy Statement.

1.1 Mandate of the Committee and Membership

The Departmental Committee on Sports, Culture and Tourism is one of the fifteen departmental committees of the House established pursuant to Article 124 of the Constitution of Kenya 2010 and Standing Order 216 of the National Assembly and mandated to:

(a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
(b) Study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
(c) study and review all legislation referred to it;
(d) study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
(e) investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;
(f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*); and
(g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Departmental Committee on Sports, Culture and Tourism oversights the following Ministries/Departments/Agencies:

1. State Department for Sports Development
2. State Department for Heritage
3. State Department for Tourism

1.2 Committee Membership

The Committee on Sports, Culture and Tourism comprises of the following Members:

Hon. (Dr.) Victor Kioko Munyaka, M.P – Chairperson
Machakos Town Constituency
Jubilee Party

Hon. (Dr.) Korei Ole Lemein, M.P - Vice Chairperson
Narok South Constituency
Jubilee Party

Hon. Christopher Omulele, M.P
Luanda Constituency
Orange Democratic Movement Party

Hon. (Dr.) Christine Ombaka, M.P
Siaya County
Orange Democratic Movement Party

Hon. Cyprian Kubai Iringo, M.P
Igembe Central Constituency
Jubilee Party

Hon. Jones Mlolwa, M.P
Voi Constituency
Orange Democratic Movement Party

Hon. Daniel Wanyama Sitati, M.P
Webuye West Constituency
Jubilee Party

Hon. Benard Masaka Shinali, M.P
Ikolomani Constituency
Jubilee Party

Hon. (Prof.) Jacqueline Oduol, M.P
Nominated
Orange Democratic Movement Party

Hon. (Dr.) Tecla Chebet Tum, M.P
Nandi County
Jubilee Party

Hon. Jane Jepkorir Kiptoo Chebaibai, M.P
Elgeyo Marakwet County
Jubilee Party

Hon. Lydia Haika Mnene Mizighi, M.P
Taita Taveta County
Jubilee Party

Hon. George Risa Sunkuyia, M.P
Kajiado West Constituency
Jubilee Party

Hon. Annie Wanjiku Kibeh, M.P
Gatundu North Constituency
Jubilee Party

Hon. Sylvanus Maritim, M.P
Ainamoi Constituency
Jubilee Party

Hon. Jeremiah Lomurukai, M.P
Loima Constituency
Orange Democratic Movement Party

Hon. Charles Ngusya Nguna, M.P
Mwingi West Constituency
Wiper Democratic Party

Hon. Titus Mukhwana Khamala, M.P
Lurambi Constituency
Amani National Congress

Hon. Charles Kamuren, M.P
Baringo South Constituency
Jubilee Party

1.3 Committee Secretariat

Senior Clerk Assistant	-	Samuel kalama
Second Clerk Assistant	-	Fredrick Otieno
Legal Counsel II	-	Salem Lorot
Research Officer III	-	Vitus P. Owino
Fiscal Analyst III	-	Abdirahim Omar
Media Relations Officer	-	Joe Okongo
Audio Officer	-	Jane Serem
Sergeant At-Arms	-	Sheila Chebotibin

1.4 Overview of the examination of the Budget Policy Statement

The Budget Policy Statement was submitted to the National Assembly pursuant to Standing Order 232 and subsequently tabled on the floor of the House on 14th February, 2019 and committed to the Budget and Appropriations Committee for consideration in consultation with the relevant Departmental Committees. The Committee held a total of 5 consultative meetings; these were preceded by a briefing by the Parliamentary Budget Office. The Committee held meetings with the spending agencies under its purview. The agencies include State Department of Tourism and - Vote- 1202, State Department for Heritage- Vote 1133 and State Department for Sports- Vote 1132.

1.5 Committee Observations and Recommendations

Following consultations and deliberations, the Committee made the following observations,

THAT:

State Department for Tourism

The Committee observed that:

I. In the financial year 2020/21, the department has been allocated **Kshs 6,401.3 million** which is composed of **Kshs 5964.5 million** for recurrent expenditure while **Kshs 436** is for development expenditure. The amount allocated is significantly lower than the department's resource requirement of Kshs 10,458.8 million comprised of Kshs 6464.8 million for recurrent expenditure and Kshs 3994 million for development expenditure leading to a shortfall of Kshs 4,057 million. The shortfall will affect significantly the department's development budget which has a variation of Kshs 3,557.2 million (89%) when compared to its resource requirements.

II. The budgetary shortfall will affect the following critical areas; Beach management programme - **Kshs. 100 M,** Charter Incentive Programme - **Kshs. 100 M,** Construction of beach operators' markets - **Kshs. 100M,** Strengthening of tourism police - **Kshs. 100M,** Tourism sector digitalization portal - **Kshs. 100M** and Hosting of Africa Investment Hotel Forum (AHIF) September 2020- **Kshs 100M.**

III. **Tourism receipts** – the receipts rose by 20.26% from Kshs. 99.7 billion in 2016 to Kshs. 119.9 billion in 2017 and by 31.27% to 157.4 billion in 2018. The domestic market has also been on the rise with bed-nights occupied by Kenyans expanding by 4.3% from 3.5 million in 2016 to 3.6 million in 2017 and subsequently by 25.1% to stand at 4.6 million in 2018.

IV. **International arrivals** – the international arrivals grew from 1.34 million in 2016 to 2.03 million in 2018. The growth in international arrivals is largely due to growth in aviation, investor confidence, withdrawal of travel advisories, visits by foreign dignitaries, high profile international conferences/meetings held and revitalized marketing effort.

V. There have been recent cases of insecurity in the northern part of the country as well as the coastal areas orchestrated by the insurgent group's i.e Alshabaab. Therefore there is for the government to put in place mitigating measures against the devastating effect of such occurrences in the sector.

VI. Construction of Ronald Ngala Utalii College (TF) – the project was commenced in FY 2013/14 and the estimated project was Kshs 4,923 million. The actual expenditure of the project as at 31st of December 2018 was Kshs 2,803 million and the outstanding project cost was Kshs 2120 million. The project was allocated an additional Kshs 385 million in FY 2019/20 and Kshs 100 million in FY 2020/21. Given the substantial resources committed to the project thus far, it is important that the department fast-tracks the completion of the project in order for the government to realize value for money.

VII. Mama Ngina Modern Waterfront facility is complete with certified works at ninety five percent of the project cost and that Ksh. 16m is required to complete the project.

VIII. The Tourism promotion Fund was operationalized with disbursement of Fund done in 2019 and this will be very instrumental in the financing of tourism related projects such as the Naivasha Waterfront and KICC prefab.

State Department for Heritage and culture

The Committee observed that:

I. The proposed ceiling for the state department for Heritage is **Kshs 2,726.4 million**. Out of this amount, **Kshs 2,683.3 million** is for recurrent expenditure while **Kshs 43.1 million** is for development expenditure. In comparison, the department was allocated **Kshs 3,464.0 million** in FY 2019/20 comprised of **Kshs 2,895 million** for recurrent expenditure and **Kshs 569 million** for development expenditure. This represents a reduction of **Kshs 736.9 million** in budgetary provision.

II. The department's reduction in budgetary provision in FY 2020/21 is due to the completion of the Ultra-Modern National Library in Nairobi as well as the government resolve to undertake fiscal consolidation with the aim of reducing its deficit over the medium term.

III. The Committee has also observed that even though the department is entitled to 20 percent of the Sports, Arts and Social Development Fund, the department has only been getting approximately five percent of the funds allocation.

IV. The Committee further observed that there is encroachment and vandalism of monuments and ancient historical sites, cultural and heritage facilities for instance the Malindi museum and Shimoni sites. In addition, vandalism by football fanatics has also compounded the situation in the recent past i.e Tom Mboya monument.

V. In addition, Global Warming and subsequent rise in sea water levels and flooding are also becoming a threat to heritage sites and monuments such as Vasco Da Gama Pillar, Kaya, Kakamega forest and Fort Jesus along the coast line. The effects of global warming are likely to impact negatively on such important cultural and heritage assets.

VI. Inadequate Human capital due to slow pace in succession management coupled with ageing workforce. For instance, a significant number of the National Archives employees are retiring with the regional offices such as Kisumu offices operating on skeleton staff. Though the Public Service Commission has given the go ahead to the department to recruit forty seven (47) staff to address the situation, the department still requires a more enhanced work force for the department.

VII. The refurbishment of the Fort Jesus Wall is complete.

State Department for Sports Development

The Committee observed that:

I. The proposed budget ceiling for the department in FY 2020/21 is **Kshs 15,426 million** comprised of Kshs 1,270.7 million for recurrent expenditure and **Kshs 14,155.6 million** for development expenditure. The department allocation has increased slightly increased by **Kshs 219.7 million** in FY 2020/21 comprised of **Kshs 64.1 million** for recurrent expenditure and **Kshs 155.6 million** for development expenditure representing a percentage growth 5.3% and 1.4% respectively.

II. The significant budgetary allocation under the development vote is due to the projected Appropriation in Aid (AIA) of **Kshs 14,000 million** for Sport, Arts, and Social Development Fund. It is important to note that the funds will be shared as per the provisions of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018.

III. The allocation under the Sports, Arts and Social Development Fund will be shared out in the following manner; 60% will go towards social development including universal health care, thirty five (35%) for promotion and development of sports, twenty (20%) percent for promotion and development of arts and five (5%) percent for government strategic interventions. This will put the entitlement of the state department of sports from the fund at **Kshs 4,900 million.** However, the department is not specific on what projects the proceeds from the sports fund will cater for in FY 2020/21.

IV. The Committee is also concerned that the regulatory framework governing the utilization of the Fund. For instance, a significant allocation of the Fund is meant for universal health care however the Sports Committee is not mandated to oversight health issues.

V. The Committee further observed that the department is continuing with the construction of the seven (7) regional stadia whose contract value is Kshs 2.3 billion and the amount paid to date is Kshs 704.4 million and the outstanding balance is Kshs 1.6 billion. The Committee further observed that the department has been allocated Kshs 155.5 million to cater for the on-going works under the regional stadia. However the allocation will be supplemented through additional allocations from the Sports, Arts and Social Development Fund.

VI. The Committee also observed that the department intends to acquire the NOCK Plaza at a cost of Kshs 1.3 billion which will provide a central space that can ease coordination of services and efficiency in service delivery. The building requires bail out from an auction given an outstanding loan to Sidian Bank. Currently due diligence is being carried out by a multi-agency team comprised of the Attorney General Office, Public Works and the Presidential Delivery Unit.

VII. Construction works at Nyayo National Stadium is ongoing and it is expected to be completed in the next one month.

1.6 Recommendations

The committee recommends that:

(a) State Department for Tourism

I. The Committee recommends an additional allocation of Kshs 100 million for the charter incentive programme which has been instrumental in the recovery of tourism sector.

II. The department should utilize the available resources from the Tourism Promotion Fund to finance tourism related project such as the Naivasha Waterfront, the proposed KICC prefab and rehabilitation of the Nanyuki Airstrip.

III. The Department should undertake a forensic audit of the Ronald Ngala Utalii College and prioritize the completion of the project.

IV. The Department of Tourism has been allocated ksh. 436,819,525 for various projects in the FY 2020/2021.These pprojects include the sustainable new markets and sitting Booths, construction of Ronald Ngala Utalii College, Meru National Park Access Road, Office Partitioning and rehabilitation of Mama Ngina Beach Waterfront.

(b) State Department for Heritage and culture

Policy Recommendation

I. The Committee recommends the department to be allocated its 20 percent share fully from the Sport, Arts, and Social Development Fund since the department gets minimal allocation from the exchequer.

Financial Recommendation

II. The Committee recommends an additional allocation of Kshs 100 million under the recurrent vote to enable the state department recruit additional staff for the Kenya National Archives office which is faced with acute shortage of staff.

(c) State Department for Sports

Policy Recommendations

I. The Committee recommends that the National Treasury should itemize the allocation under the proposed allocation under the Sport, Arts, and Social Development Fund to allow for pre-budget scrutiny.

II. The allocations from the Sport, Arts, and Social Development Fund for the various departments should be factored in the relevant votes in order for the relevant Committee to oversight the utilization of the funds.

III. The allocation from the Sports, Arts and Social Development Fund towards universal healthcare should be over sighted by the Departmental Committee on Sports, Culture and Tourism to ensure effective utilization of resources.

IV. The State Department of Sports Development should fast-track the completion of all the regional Stadia within six months.

Financial Recommendations

V. The Committee recommends the approval of the departments proposed budget ceiling of Kshs 15.4 billion for FY 2020/21 as submitted by the National Treasury.

1.7 Acknowledgements

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee wishes to thank all the State Departments under its purview for their participation in scrutinizing the 2020/2021 Budget Policy Statement.

Finally, I wish to express my appreciation to the Honourable Members of the Committee who made useful contributions towards the preparation and production of this report.

It is my pleasant duty and privilege, on behalf of the Departmental Committee on Sport, Culture and Tourism, to submit its Report on the scrutiny of the 2020/2021 Budget Policy Statement.

Signature: ..... **Date:** 26/02/2020

(THE HON. (DR.) VICTOR MUNYAKA, M.P.)
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

PART II

2. BROAD OVERVIEW OF THE 2020/2021 BUDGET POLICY STATEMENT

2.1 Background

1. The Budget Policy Statement is published in accordance with Section 25 of the Public Finance Management Act, 2012. In preparing the Budget Policy Statement, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following financial year and over the medium term. The National Treasury is required to include the following in the Budget Policy Statement:-
    i.) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
    ii.) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
    iii.) The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
    iv.) The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

2. The submission and processing of the BPS by the National Assembly is anchored in Standing Order 232. The Standing order requires among other things the budget policy statement (BPS) to indicate total resources to be allocated to individual programmes and projects within a sector and indicate the outputs expected from each such programme or projects during the period.
3. The 2020 BPS is geared towards accelerating the implementation of the government "Big Four Plan" which has been under implementation in the past two financial years. The government big four agenda is centered around the following key thematic areas:
    i. Supporting Value addition and raising the manufacturing sectors share of GDP to 15 percent by 2022. This seeks to accelerate economic growth, create jobs and reduce poverty.
    ii. Focusing on initiatives that guarantee food security and proper nutrition to all Kenyans by 2022 through expansion of food production and supply, reduction of food prices to ensure affordability and support value addition in the food processing value chain
    iii. Providing Universal Health Coverage thereby guaranteeing quality and affordable healthcare to all Kenyans and
    iv. Providing at least five hundred thousand affordable new houses to Kenyans by 2022, hence improve living conditions for Kenyans.

4. The total resource allocation to the various spending agencies and the County Government for the period 2020/2021 financial year is estimated at 2,723.56 billion comprising of Kshs 1,778.13 billion for Executive; Kshs 36.22 billion for Parliament; Kshs 18.05 billion for Judiciary; and Kshs 316.5 billion for County Government.
5. The BPS 2020 projects that the total government allocations will slightly decrease to a total of **Ksh. 2,723.56 billion** in 2020/2021 but increase in the outer years to **Kshs 2,955.13**

billion and **Kshs. 3,191.7 billion** in the FY 2021/22 and FY 2022/23 respectively as shown in table above.

Table 1: National Budget over the MTEF (Ksh. Billions)

	2019/20	BPS Ceiling as % of the overall Ceiling	2020/21	BPS Ceiling as % of the overall Ceiling	2021/22	2022/23
National Government	**2,006.96**	**67.8%**	**1,832.41**	67.3%	**1,954.15**	**2,126.98**
Executive	1,947.87	67.8%	1,778.13	65.3%	1,897.11	2,067.14
Judiciary	19.2	1.0%	18.05	1.0%	18.57	19.308
Parliament	39.89	1.4%	36.22	1.3%	38.47	40.53
Consolidated Fund Services	**550.10**	**19.1%**	**574.65**	**21.1%**	**675.29**	**729.89**
County Allocation	**316.5**	**11.0%**	**316.50**	**11.6%**	**325.69**	**334.84**
Overall Budget	**2,873.53**	**100.0%**	**2,723.56**	**100.0%**	**2,955.13**	**3,191.70**

Source: FY 2020/21 BPS, National Treasury

6. In the FY 2020/21 revenue collection including A-I-A is projected to increase to Ksh. 2,134.1 billion translating to 18.3% of GDP which is an increase from the 2019/20 estimates of Ksh. 2,084.2 billion which was 20.1% of GDP. This revenue performance will be realized through the implementation of far reaching tax policy measures as well as strengthening tax administration that is expected to seal loopholes while safeguarding revenue base under the Kenya Revenue Administration Enhancement Initiative (REI) programme implemented by KRA.

7. The fiscal deficit (excluding grants) is projected at Ksh. 571.2 billion (equivalent to 4.9% of GDP) in the FY 2020/21. The fiscal deficit will be financed by net external financing of Ksh. 345.1 billion (3.0% of GDP), Net Domestic Borrowing of Ksh. 222.9 billion (1.9% of GDP) and net other domestic receipts of Ksh. 3.2 billion.

State Department for Sports – 1132

8. The proposed budget ceiling for the State Department of Sports in FY 2020/21 is **Kshs 15,426 million** comprised of **Kshs 1,270.7 million** for recurrent expenditure and **Kshs 14,155.6 million** for development expenditure. The department allocation has slightly increased by Kshs 219.7 million in FY 2020/21 comprised of Kshs 64.1 million for recurrent expenditure and Kshs 155.6 million for development expenditure representing a percentage growth 5.3% and 1.4% respectively.
9. The significant budgetary allocation under the development vote is due to the projected Appropriation in Aid (AIA) of **Kshs 14,000 million** for Sport, Arts, and Social Development Fund. It is important to note that the funds will be shared as per the provisions of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018.
10. The allocation under the fund will be shared out in the following manner; 60% will go towards social development including universal health care, thirty five (35%) for promotion and development of sports, twenty (20%) percent for promotion and development of arts and five (5%) percent for government strategic interventions. This will put the entitlement of the state department of sports from the fund at Kshs 4,900 million. However, the department is

not specific on what projects the proceeds from the sports fund will cater for in FY 2020/21. This is contrary to the provisions of the fund's regulations which require the department to submit the items to be funded from the fund for pre-budget scrutiny.

State Department for Culture and Heritage – 1134

11. During the medium-term period 2015/16 – 2017/18, the state department approved budget was Kshs 3,200 million, Kshs 3.199 million and Kshs 3,420.7 against an actual expenditure of Kshs 2,997.1 million, Kshs 3,100.7 million and Kshs 2,585.6 million for financial years 2015/16, 2016/17 and 2017/18 respectively. This translates to an absorption rate of 93.6%, 96.9% and 86.2% for the period under review.
12. The proposed ceiling for the state department for Heritage is **Kshs 2,726.4 million**. Out of this amount, **Kshs 2,683.3 million** is for recurrent expenditure while **Kshs 43.1 million** is for development expenditure. In comparison, the department was allocated **Kshs 3,464.0 million** in FY 2019/20 comprised of **Kshs 2,895 million** for recurrent expenditure and **Kshs 569 million** for development expenditure. This represents a reduction of **Kshs 736.9 million** in budgetary provision.
13. The department's reduction in budgetary provision in FY 2020/21 is due to the completion of the Ultra-Modern National Library in Nairobi as well as the government resolve to undertake fiscal consolidation with the aim of reducing its deficit over the medium term.

State Department for Tourism -1204

14. During the period under review, the state department had a budgetary allocation of Kshs 6,045.3 million, Kshs 3,689 million and Kshs 5214.2 million for the FY 2016/17, FY 2017/18 and Kshs FY 2018/19 respectively. The actual expenditures during the same period amounted to Kshs 5,392 million, Kshs 3,014 million and Kshs 4,343.0 million respectively. This represents an absorption rate of 89.2%, 81.7% and 80.6 for FY 2016/17, FY 2017/18 and FY 2018/19 respectively indicating a downward trend in absorption of funds.
15. In the financial year 2021, the department has been allocated **Kshs 6,401.3 million** which is composed of **Kshs 5964.5 million** for recurrent expenditure while **Kshs 436** is for development expenditure. The amount allocated is significantly lower than the department's resource requirement of Kshs 10,458.8 million comprised of Kshs 6464.8 million for recurrent expenditure and Kshs 3994 million for development expenditure leading to a shortfall of Kshs 4.057 million. The shortfall will affect significantly the department's development budget which has a variation of Kshs 3557.2 million (89%) when compared to its resource requirements.
16. The sector's priorities during the medium term period are to increase tourist arrivals and earnings to 2.91 million, increase tourists earning 226.6 billion, enhance domestic tourism by increasing bed occupancy to 5.7 million, complete the construction of Ronald Ngala Utalii College, increase the capital lent to hoteliers to Kshs 600 million, and develop the iconic Malindi beach and the Kisumu water front.

3. SUBMISSIONS BY MINISTRIES AND STATE DEPARTMENTS

The Departmental Committee on Sports, Culture and Tourism held meetings with the State Departments under its purview on Wednesday 19th February, 2020, where the Cabinet Secretaries made their presentations as follows:

3.1 STATE DEPARTMENT FOR SPORTS DEVELOPMENT - VOTE 1132

The Chairperson invited the Cabinet Secretary for **Sports, Culture & Heritage**, Ms. Amina Mohamed who in turn gave an overview of the Ministry and subsequently asked the Principal Secretary for Sports Development, Mr. Joe Okudo to brief the Committee on the Budget Policy Statement. He briefed the Committee as follows:-

17. On Financial Performance, the budgetary provision for the State Department during the 2019/20 FY totaled to Kshs. 1,260,190,000 under Recurrent and Kshs. 700,000,000 under Development votes respectively. During supplementary I, a review of the budget was done as below:

s/no.	Vote	Item description	Printed	Reviewed	Total
1	Recurrent	• Various • Non-Governmental Organization	1,260,189,002	(61,561,342) 8,000,000	1,206,627,660
2	Development	Regional Stadia	500,000,000	100,000,000	600,000,000
		Kenya Academy of Sports	200,000,000	-	200,000,000

18. As at 31st December 2019, the State Department had received funds for three (3) quarters under recurrent vote and 1st half of Development funds. It is notable that with a reduction of Kshs. 61,561,342 under supplementary 1, the operations of the State Department have been adversely affected with the most hit expenditure items being general office operations.
19. On Non-Financial Performance The overall performance was above average in all the quarters despite financial challenges among other impeding factors.
20. The State Department has been undertaking mega infrastructural projects on stadia upgrading to international status with effect from 2016/17 FY. Most projects being undertaken by the State Department have lagged behind compared to the set project timelines. This is attributed to inadequate funding from the National Treasury. These projects are mainly under Regional and CHAN Stadia upgrading programme.
21. On Programmes and projects linked to the Big Four Agenda, the Principal Secretary informed the Committee that the programmes and projects currently being handled by the State Department are enablers to the Big Four Agenda. This is explained as below; -
    i. **Housing;** Development of stadia and related infrastructure projects has spurred growth of housing facilities including residential and commercial buildings around developments. It has also attracted prospective investors who are keen to enter PPP to establish housing projects around the stadia. In collaboration with Housing, we are proposing a law that requires all new multiunit developments to include sports amenities as part of approval requirements.

ii. **Manufacturing**; the Ministry is working with the youth to develop skills in production of sports goods & equipment which include uniforms, rackets, balls. All infrastructure projects rely on local manufacturers to supply building materials.

iii. **Health**; through sports, the department is developing a healthier nation by providing access to sporting facilities hence reduction in life style diseases. The establishment of Cash awards and social welfare policies will cater for masters sportspersons health and social security. In addition the department is investing in leading intensive anti-doping interventions to address use of prohibited substances in Sports

iv. **Food Security**; in collaboration with the State Department of Culture, we are developing and creating awareness of the Natural Products Initiative (NPI) for both production and consumption of indigenous foods to address various emerging health concerns.

22. On New Policies and Programs, the State Department has earmarked other critical projects for inception in the 2019/20 financial year which include construction of the National Tennis Center and Acquisition of NOCK plaza. Details of estimated cost and justification of these projects are shown below:

i) Projects

S/No	Project	Estimated Cost	Justification
1.	National Tennis Center	887 million	Need for regional training resource center for International Tennis Federation in Africa, athletes and coaches Position the country as a venue for hosting international events 10 acres at Moi International Sports center Kasarani available. Ksh 30 million allocated for project in 2017/18 FY but not utilized due to Excess vote Ksh 70 million to be sourced from the Sports, Arts and Social Development Fund as initial set up capital The International Tennis Federation has made a commitment of Ksh 5 million annually.
2.	Acquisition of NOCK plaza	1.8 billion	To provide centralized office space that can ease coordination of services and efficiency and effectiveness in delivery Bailout from auction given the outstanding loan to Sidian Bank. Due diligence is being carried out by multi agency team- Ministry of Sports, Attorney General, Public Works and Presidential Delivery Unit.
3.	Other stadia- Kajiado, Kirigiti , Maua Gusii and Bungoma	Approx. 200Million each	Upgrading of stadia to international standards given their vicinity to already developed stadia. Some stadia earlier provided for in 2017/18 financial year. Awaiting Final report from interministerial team comprising of - Housing, Public Works, Sports Kenya and the Presidential Delivery Unit. Partial funding to be sourced from SASDF

ii) **New policies and Programmes**

	POLICY/PROGRAMME	PROPOSED OUTPUT	KEY PERFORMANCE INDICATORS	JUSTIFICATION
1	Cash Awards Policy	Empowered Sportspersons	Approved Policy Document	Need to enhance, streamline and ensure timely payment of cash awards
2	Social Welfare and Pension Policy	Contented workforce	Approved Policy Document	
3	Anti-Doping Laboratory	Self-testing of Athletes	Operational Laboratory	Cost cutting measure Faster test results
4	National Sport, Arts and Social Funding Manual Policy	Clear funding guidelines	Operational Manual in place	Clarity in funding procedure
5	Establish a Satellite Academy with Education	Talented sportspersons identified and nurtured	No. of sportspersons successfully trained and nurtured	Need to identify and nurture talent early for optimum performances

23. As regards to major variations to existing Programmes and Sub-Programmes; the Ps informed the Committee that with the inception of the SASDF – this has affected the implementation of sub-programme;
    i. Sports Training and Competition by hosting events and supporting teams from international competition
    ii. Support of development of infrastructural sports facilities e.g Nyayo Stadium

As regards to Recurrent Vote; the details on resource requirements Vs allocations are shown below:

Sub-Sector			Requirement (Kshs. Millions)			Allocation (Kshs. Millions)		
		2019/20 Estimates	2020/21	2021/22	2022/2023	2020/21	2021/22	2022/2023
Vote 1132 State Department for Sports	**Economic Classification**							
	Gross	1,260.18	2,198.25	2,199.74	2,419.56	1,271.60	1,326.82	1,373.99
	AIA	94.56	131.6	256.4	295.4	141.4	141.4	141.4
	NET	1,165.62	2,066.65	1,943.34	2,124.16	1,130.20	1,185.42	1,232.59
	Compensation of Employees	203.92	220.21	211.5	212.5	229.62	235.35	246.4
	Use of Goods and Services	233.59	253.28	241.28	245.28	178	192.1	195.98
	Transfers	812.58	1717.76	1739.96	1954.78	859.84	894.74	925.98
	Other Recurrent	10.085	7	7	7	4.14	4.63	5.63

24. Compared to the 2019/2020 FY Budget provision, there is a considerable drop under use of goods and services and other recurrent expenditure in 2020/2021 FY allocations. This will adversely affect the implementation of planned activities during the medium term. As such, we will engage the National Treasury and SASDF for additional resources.

25. Under Development vote, a provision of **Ksh 155.5 million** has been set aside to cater for on-going works under Regional stadia and Kenya Academy of Sports. This implies that for completion of these projects, there will be need for supplementing funding from the budget ceiling of the Department under the Sports, Arts and Social Development Fund. The details on resource requirements and allocation in the medium term are shown below;

Sub-Sector			Requirement (Kshs. Million)			Allocation (Kshs. Million)		
		2019/20 Estimates	2020/21	2021/22	2022/2023	2020/21	2021/22	2022/2023
Vote 1132 State Department for Sports	Description							
	Gross	14,000	15,471.00	16,160.00	18,925.00	14,155.50	15,311.10	16,466.70
	GOK	800.00	1,471.00	1,160.00	2,925.00	155.50	311.10	466.70
	Loans							
	Grants	800.00	1,471.00	1,160.00	2,925.00	155.50	311.10	466.70
	Local AIA	13,200.00	14,000.00	15,000.00	16,000.00	14,000	15,000	16,000

26. The key projects that are earmarked by the State Department are:
    i. The Seven Regional stadia
    ii. CHAN Stadia (i.e. 4 in no.)
    iii. Construction of National Tennis Centre and
    iv. Acquisition of NOCK Plaza

27. The Principal Secretary further informed the Committee that the regional stadia require **Kshs 1,556,372,776** to completion. On the other hand, CHAN Stadia require **Kshs. 3,873,327,095** for completion. With a provision of **Kshs. 600 M** in 2019/2020 FY, the net requirement for regional stadia will be **Kshs 956,372,776.00**.

28 The National Treasury has provided **Kshs. 155.5** M in **2020/2021 FY** for regional and Kenya Academy of Sports development projects. The Ministry will engage the National Treasury for financial support and besides seeking funds from the Sports, Arts and Social Development Fund (SASDF) in order to complete the projects.

(Submissions by the State Department is Attached as Annexure II)

3.2 STATE DEPARTMENT OF CULTURE AND HERITAGE - VOTE 1133

Ms. Josephta O. Mukobe, Principal Secretary State Department of Heritage appeared before the Committee on Wednesday 19th February, 2020 and made her submissions as follows:

29. That; the State Department had a total allocation of **Ksh3.57Billion** of which recurrent was **Ksh3.018Billion** while development was **Ksh 552Million.** However during Supplementary I Estimates there was a reduction of Ksh. **122.15 Million** and an increase of **Ksh.17Million** in

Recurrent and Development respectively. The increase in Development was due to an allocation of **Ksh. 40Million** for Kapenguria Museum and a reduction of **Ksh.23Million** in the other projects. With the reductions in supplementary I estimates, State Department was adversely affected in implementing its core mandate since the targeted austerity measures are where its operations falls.

30. In the first half of FY 2019/20 there was an expenditure of **Ksh. 1.469 Billion** in recurrent and **Ksh 257.2 Million** in Development this translates to an overall absorption rate of 50.74% and 45% for Recurrent and Development respectively. This is summarized in the table below;

Item	Printed estimates	Approved estimates	Half year expenditure	Absorption rate
Recurrent	3,018,200,000	2,896,048,172	1,469,631,008	50.74%
Development	552,000,000	569,000,000	257,204,001	45%
Total	**3,570,200,000**	**3,465,048,172**	**1,726,835,009**	**49.84%**

31. On Non-financial performance; the programme performance review of the state department was average due to the reduction of the budget in supplementary I.
32. The State Department has undertaken two projects which are directly linked to big four agenda, namely;
    i. Food security & Manufacturing: - Through the natural products industry the state department aims at commercializing of the African Indigenous Vegetables for value addition and develop a natural products value chain thereby enabling Kenya harness the natural products sector as a new growth area of the economy. So far 2,500 farmers have been facilitated to produce and sell 5 varieties of African indigenous vegetables as part of the natural products
    Further to the above natural products industry aims at developing the natural products value chain with specialization in commercial plantation of Aloe. This project is at 5% complete: to this end 1,000 acres of land has been identified in Kimose, Baringo County for the establishment of commercial plantations of aloe
    ii. Universal Health Care: - Under the universal health care the institute of IPR undertakes research that is aimed at developing drugs, vaccines and medical devices that designed towards achieving universal health care. It does this through research in and production of Traditional medicine Anti-venom quality control and medical devices such as motor cycle ambulances for treating snake bites and transporting emergency cases. In addition, they have developed lubricants used in most maternal hospital which has aided in reduction of fistula in women as well as they have also engaged in research of malaria and tuberculosis research as well as HIV vaccines research.
33. There are several new policies and programmes that the State Department is undertaking. The policies that the State Department is developing are at various stages of approval and the Department would require funding of **Kshs. 1,903,488,890** to implement these policies once they are approved. The state department shall be seeking funds of up to **Kshs. 1,903,488,890** from the Sports Arts and social

development Fund to undertake the new projects and activities that were not funded during the MTEF sector process.

34. The Ministry has smooth implementation of projects save for Fort Jesus which has minimal variation of back filling of the sea wall to reinforce & strengthen it.
35. On the **Expected source of capital financing;** for FY 2020/2021, the State Department had a total requirement of **Ksh. 5.958.50 Billion** of which the recurrent expenditure is **Ksh 4,261.4 Billion** and development for **Ksh 1,697.1 Billion.** However, we were allocated **Ksh 2,683.23 Billion** as Recurrent expenditure and **Ksh 43.1 million** as Development, having a variance of a total of **Kshs 3,232.17 million.**
36. During the MTEF period, the State Department will continue to implement the following programmes; Culture Development; Arts; Library Services and General Administration. In FY FY2020/21 the above programmes have been funded as summarized below;

Programme	**Recurrent**	**Capital**	**Total**
	Ksh. Million		
Culture Development	1,627.69	43.10	1670.79
Arts	154.73	-	154.73
Library Services	752.36	-	752.36
General Administration and support services	148.45	-	148.45
Total	**2,683.23**	**43.10**	**2,726.33**

37. Despite the planned targets the State Department may not be able to achieve its full potential due to limited budgetary allocation. The state department will require your urgent intervention for a total request of **Ksh. 871,429,685** and Ksh. **373,600,000** in development and recurrent respectively.
38. Lastly the Principal Secretary informed the Committee that the State Department is faced with a number of challenges-
    a) **Poor appreciation** of the significant role and contribution that culture and heritage can make in National Development Agenda.
    b) **Lack of data to support the creative and cultural industries and the impact on the economy.**
    c) **Inadequate funding**: disconnect between the printed budget estimates and actual disbursements; inadequate exchequer allocation; declining funding of priority programmes has affected operations in the subsector
    d) **Encroachment and vandalism** of monuments and ancient historical sites, cultural and heritage facilities for instance Malindi Museum and Shimoni Site.
    e) **Climate change:** Global warming and subsequent rise in sea water levels and flooding are a key threat to heritage sites and monuments such as Vasco Da Gama Pillar along the coast line and Rift Valley. The effects of global

warming are likely to impact negatively on such important cultural and heritage assets as the Kaya and Kakamega forests.

f) A threat of erosion of positive cultural values in the face of influence by foreign cultures.

(Submissions by the State Department is Attached as Annexure III)

3.3 STATE DEPARTMENT OF TOURISM- VOTE 1202

Hon. Najib Balala, EGH, Cabinet Secretary State Department of Tourism and Wildlife appeared before the Committee on Wednesday 19th February, 2020 and made the following submission:

39. The overall medium targets for the Department is to increase tourist arrivals from 1.35m in 2016 to 2.5 million visitors by 2022, increase tourism earnings from Kshs. 99.7 billion in 2016 to Kshs.175 billion in 2022, increase domestic bed-nights from 3.5 million in 2016 to 6.5 million by 2022.
40. On the Financial Performance for the Recurrent Budget for the 1st Half of FY 2019/2020, the Cabinet Secretary submitted the printed estimates was **Kshs. 1,729,928,800** which was revised to **Kshs. 1,635,924,227** in Supplementary I estimates leading to a deficit of Kshs. **94,004,573.** The Actual expenditure for the State Department as at 31st December, 2019 was Kshs. 611,069,701 representing 37.35% of absorption.
41. As regards to the Performance of AIA Collection by SAGAs; he submitted that the actual receipts were **Kshs. 1,912,174,869** representing 82.8% of half year target of Kshs. 2,308,000,000.
42. On the Non-Financial Performance and the development projects details, the Cabinet Secretary informed the Committee as per the *Annexure IV attached herein.*
43. In the financial year 2021, the department has been allocated **Kshs 6,401.3 million** which is composed of **Kshs 5964.5 million** for recurrent expenditure while **Kshs 436** is for development expenditure. The amount allocated is significantly lower than the department's resource requirement of Kshs 10,458.8 million comprised of **Kshs 6464.8 million** for recurrent expenditure and Kshs 3994 million for development expenditure leading to a shortfall of Kshs 4,057 million. The shortfall will affect significantly the department's development budget which has a variation of **Kshs 3557.2 million** (89%) when compared to its resource requirements.

Allocation to the State Department for Tourism FY 2020/21 – Kshs millions

Programme	Item	Approved allocation 2019/20	Resource Requirement 2020/21	BPS 2020 Ceilings	Deviation from the resource requirement	%
Tourism Dev't and Promotion	Current	6,251.9	6,464.8	5,964.5	500.3	7.7%
	Dev't	611.0	3,994.0	436.8	3,557.2	89.1%
Total		**6,862.9**	**10,458.8**	**6,401.3**	4,057.5	**38.8%**

Source: BPS 2020, National Treasury

44. The State Department has been Allocated funds to undertake the following Projects in the FY 2020/2021;

i.	Sustainable new markets and siting Booths	Kshs. 125,819,525
ii.	Construction of Ronald Ngala Utalii College	Kshs. 100,000,000
iii.	Meru National Park Access Road	Kshs. 95,000,000
iv.	Office Partitioning	Kshs. 100,000,000
v.	Rehabilitation of Mama Ngina Beach Waterfront	Kshs. 16,000,000

45. The following critical areas are not funded in the proposed budget ceiling for FY 2020/21:
    i. Beach management programme **Kshs. 100 M**
    ii. Charter Incentive Programme **Kshs. 100 M**
    iii. Construction of beach operators' markets **Kshs. 100M**
    iv. Strengthening of tourism police **Kshs. 100M**
    v. Tourism sector digitalization portal **Kshs. 100M**
    vi. Hosting of Africa Investment Hotel Forum (AHIF) September 2020- **Kshs 100M**

(Submissions by the State Department is Attached as Annexure IV)

4. COMMITTEE OBSERVATIONS

4.1 State Department of Tourism

The Committee observed that:

I. In the financial year 2021, the department has been allocated **Kshs 6,401.3 million** which is composed of **Kshs 5964.5 million** for recurrent expenditure while **Kshs 436** is for development expenditure. The amount allocated is significantly lower than the department's resource requirement of Kshs 10,458.8 million comprised of Kshs 6464.8 million for recurrent expenditure and Kshs 3994 million for development expenditure leading to a shortfall of Kshs 4,057 million. The shortfall will affect significantly the department's development budget which has a variation of Kshs 3,557.2 million (89%) when compared to its resource requirements.

II. The budgetary shortfall will affect the following critical areas; Beach management programme - **Kshs. 100 M,** Charter Incentive Programme - **Kshs. 100 M,** Construction of beach operators' markets - **Kshs. 100M,** Strengthening of tourism police - **Kshs. 100M,** Tourism sector digitalization portal - **Kshs. 100M** and Hosting of Africa Investment Hotel Forum (AHIF) September 2020- **Kshs 100M.**

III. **Tourism receipts** – the receipts rose by 20.26% from Kshs. 99.7 billion in 2016 to Kshs. 119.9 billion in 2017 and by 31.27% to 157.4 billion in 2018. The domestic market has also been on the rise with bed-nights occupied by Kenyans expanding by 4.3% from 3.5 million in 2016 to 3.6 million in 2017 and subsequently by 25.1% to stand at 4.6 million in 2018.

IV. **International arrivals** – the international arrivals grew from 1.34 million in 2016 to 2.03 million in 2018. The growth in international arrivals is largely due to growth in aviation, investor confidence, withdrawal of travel advisories, visits by foreign dignitaries, high profile international conferences/meetings held and revitalized marketing effort.

V. There have been recent cases of insecurity in the northern part of the country as well as the coastal areas orchestrated by the insurgent group's i.e Alshabaab. Therefore there is for the government to put in place mitigating measures against the devastating effect of such occurrences in the sector.

VI. Construction of Ronald Ngala Utalii College (TF) – the project was commenced in FY 2013/14 and the estimated project was Kshs 4,923 million. The actual expenditure of the project as at 31st of December 2018 was Kshs 2,803 million and the outstanding project cost was Kshs 2120 million. The project was allocated an additional Kshs 385 million in FY 2019/20 and Kshs 100 million in FY 2020/21. Given the substantial resources committed to the project thus far, it is important that the department fast-tracks the completion of the project in order for the government to realize value for money.

VII. Mama Ngina Modern Waterfront facility is complete with certified works at ninety five percent of the project cost and that Ksh. 16m is required to complete the project.

VIII. The Department of Tourism has been allocated ksh. 436,819,525 for various projects in the FY 2020/2021.These projects include the sustainable new markets and sitting Booths,

construction of Ronald Ngala Utalii College, Meru National Park Access Road, Office Partitioning and rehabilitation of Mama Ngina Beach Waterfront.

IX. The Tourism promotion Fund was operationalized with disbursement of Fund done in 2019 and this will be very instrumental in the financing of tourism related projects such as the Naivasha Waterfront and KICC prefab.

4.2 State Department of Heritage

The Committee observed that

I. The proposed ceiling for the state department for Heritage is **Kshs 2,726.4 million**. Out of this amount, **Kshs 2,683.3 million** is for recurrent expenditure while **Kshs 43.1 million** is for development expenditure. In comparison, the department was allocated **Kshs 3,464.0 million** in FY 2019/20 comprised of **Kshs 2,895 million** for recurrent expenditure and **Kshs 569 million** for development expenditure. This represents a reduction of **Kshs 736.9 million** in budgetary provision.

II. The department's reduction in budgetary provision in FY 2020/21 is due to the completion of the Ultra-Modern National Library in Nairobi as well as the government resolve to undertake fiscal consolidation with the aim of reducing its deficit over the medium term.

III. The Committee has also observed that even though the department is entitled to 20 percent of the Sports, Arts and Social Development Fund, the department has only been getting approximately five percent of the funds allocation.

IV. The Committee further observed that there is encroachment and vandalism of monuments and ancient historical sites, cultural and heritage facilities for instance the Malindi museum and Shimoni sites. In addition, vandalism by football fanatics has also compounded the situation in the recent past i.e Tom Mboya monument.

V. In addition, Global Warming and subsequent rise in sea water levels and flooding are also becoming a threat to heritage sites and monuments such as Vasco Da Gama Pillar, Kaya, Kakamega forest and Fort Jesus along the coast line. The effects of global warming are likely to impact negatively on such important cultural and heritage assets.

VI. Inadequate Human capital due to slow pace in succession management coupled with ageing workforce. For instance, a significant number of the National Archives employees are retiring with the regional offices such as Kisumu offices operating on skeleton staff. Though the Public Service Commission has recently recruited forty seven (47) staff to address the situation, the department still requires a more enhanced work force for the department.

VII. The refurbishment of the Fort Jesus Wall is complete.

4.3 State Department of Sports Development

The Committee observed that;

I. The proposed budget ceiling for the department in FY 2020/21 is **Kshs 15,426 million** comprised of Kshs 1,270.7 million for recurrent expenditure and **Kshs 14,155.6 million** for development expenditure. The department allocation has increased slightly increased by **Kshs 219.7 million** in FY 2020/21 comprised of **Kshs 64.1 million** for recurrent expenditure and **Kshs 155.6 million** for development expenditure representing a percentage growth 5.3% and 1.4% respectively.

II. The significant budgetary allocation under the development vote is due to the projected Appropriation in Aid (AIA) of **Kshs 14,000 million** for Sport, Arts, and Social Development Fund. It is important to note that the funds will be shared as per the provisions of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018.

III. The allocation under the Sports, Arts and Social Development Fund will be shared out in the following manner; 60% will go towards social development including universal health care, thirty five (35%) for promotion and development of sports, twenty (20%) percent for promotion and development of arts and five (5%) percent for government strategic interventions. This will put the entitlement of the state department of sports from the fund at **Kshs 4,900 million.** However, the department is not specific on what projects the proceeds from the sports fund will cater for in FY 2020/21. This is contrary to the provisions of the fund's regulations which require the department to submit the items to be funded from the fund for pre-budget scrutiny.

IV. The Committee is also concerned that the regulatory framework governing the utilization of the fund. For instance, a significant allocation of the fund is meant for universal health care however the Sports Committee is not mandated to oversight health issues.

V. The Committee further observed that the department is continuing with the construction of the seven (7) regional stadia whose contract value is Kshs 2.3 billion and the amount paid to date is Kshs 704.4 million and the outstanding balance is Kshs 1.6 billion. The committee further observed that the department has been allocated Kshs 155.5 million to cater for the on-going works under the regional stadia. However the allocation will be supplemented through additional allocations from the sports, Arts and Social Development Fund.

VI. The Committee also observed that the department intends to acquire the NOCK Plaza at a cost of Kshs 1.3 billion which will provide a central space that can ease coordination of services and efficiency in service delivery. The building requires bail out from an auction given an outstanding loan to Sidian Bank. Currently due diligence is being carried out by a multi-agency team comprised of the Attorney General Office, Public Works and the Presidential Delivery Unit.

VII. Construction works at Nyayo National Stadium is ongoing and it is expected to be completed in the next one month.

5. COMMITTEE RECOMMENDATIONS

I.1 State Department of Tourism

Financial Recommendations

I. The Committee recommends an additional allocation of Kshs 100 million for the charter incentive programme which has been instrumental in the recovery of tourism sector.

I.2 State Department of Heritage

Policy Recommendations

I. The Committee recommends that the department be allocated its 20 percent share fully from the Sport, Arts, and Social Development Fund since the department gets minimal allocation from the exchequer.

Financial Recommendation

II. The Committee recommends an additional allocation of Kshs 100 million under the recurrent vote to enable the state department recruit additional staff for the Kenya National Archives office which is faced with acute shortage of staff.

I.3 State Department of Sports Development

Policy Recommendations

I. The Committee recommends the national treasury to itemize the allocation under the proposed allocation under the Sport, Arts, and Social Development Fund to allow for pre-budget scrutiny.

II. The allocations from the Sport, Arts, and Social Development Fund for the various departments should be factored in the relevant votes in order for the relevant Committee to oversight the utilization of the funds.

III. The allocation from the Sports, Arts and Social Development Fund towards universal healthcare should be over sighted by the Departmental Committee on Sports, Culture and Tourism to ensure effective utilization of resources.

IV. The State Department of Sports Development should fast-track the completion of all the regional Stadia within six months.

Financial Recommendations

V. The Committee recommends the approval of the departments proposed budget ceiling of Kshs 15.4 billion for FY 2020/21 as submitted by the National Treasury.

DEPARTMENTAL COMMITTEE ON

TRADE, INDUSTRY AND COOPERATIVES

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL COMMITTEE

ON

TRADE, INDUSTRY AND COOPERATIVES

REPORT ON THE SCRUTINY OF THE 2020 BUDGET POLICY STATEMENT FOR THE FOLLOWING SPENDING AGENCIES:

State Department for Cooperatives
State Department for Trade
State Department for Industry

DIRECTORATE OF COMMITTEE SERVICES
CLERKS CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2019

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CHAIRPERSONS FORWARD

On Thursday, 13th February 2020, the Budget Policy Statement (BPS) was submitted and tabled in the National Assembly pursuant to the provisions of the Standing Order No. 232 and section 25 of the Public Finance Management Act (2012). Pursuant to the provisions of Standing Order No 232 (4), the BPS was subsequently committed to each Departmental Committee.

The Public Finance Management Act (2012) requires the Cabinet Secretary for the National Treasury to table the BPS in the National Assembly on or before 15th February of every year. Pursuant to the provisions of the Standing Order No 232 (4), the BPS subsequently **'shall stand committed to each Departmental Committee without question put'. T**he Departmental Committee is to deliberate on the Budget Policy Statement according to its mandate and make recommendations to the Budget and Appropriations Committee.

The Committee is thankful to the office of the Speaker and the Clerk of the National Assembly for the logical and technical support accorded to it during its Sittings. Therefore on behalf of the Committee, it is therefore my pleasant duty and privilege, to lay this Report on the 2020 Budget Policy Statement and Medium Term Plan for the State Departments under the purview of the Departmental Committee on Trade, Industry and Cooperatives Pursuant to provisions of the PFM Act and the Standing Orders of the National Assembly.

Signed.....

Date 25/02/2020

THE HON. KANINI KEGA, CBS, M.P,
CHAIRPERSON

EXECUTIVE SUMMARY

The purpose of this report is to consider the 2020 Budget Policy Statement and Medium term plan for the Government Ministries and State Agencies under the Purview of the Departmental Committee on Trade, Industry and Cooperatives and thereafter forward the recommendations to the Budget and appropriation Committee for its consideration.

In considering the 2020 Budget Policy Statement and the Medium Term Plan for the government Ministries and State Agencies and departments under its purview, the committee held a total four sittings. The committee received a brief from the Parliamentary Budget office regarding the budget policies and proposed expenditures on the BPS 2020.

The Standing Order No 232 (4) provides that the Departmental Committee is to deliberate on the Budget Policy Statement according to its mandate and make recommendations to the Budget and Appropriations Committee.

In considering the Budget Policy Statement, the Budget and Appropriations Committee shall consult each Departmental Committee and table a report containing its recommendations on the statement to the House for consideration.

The report concludes that the Budget and Appropriation Committee Approves the ceilings of the various government ministries and state agencies as contained in the BPS 2020 and thereafter makes amendments as contained in the list of the recommendation.

Establishment of the Committee

The Departmental Committee on Trade, Industry and Cooperatives is one of the fifteen Departmental Committees of the National Assembly established under ***Standing Order 216*** whose mandates pursuant to the ***Standing Order 216 (5)*** are as follows:

1. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
2. **To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;**
3. To study and review all the legislation referred to it;
4. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;

5. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
6. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
7. To examine treaties, agreements and conventions;
8. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
9. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
10. To examine any questions raised by Members on a matter within its mandate.

Mandate of the Committee

In accordance with Second Schedule of the Standing Orders, the Committee is mandated to oversee issues related to trade, securities exchange, consumer protection, pricing policies, commerce, and industrialization including special economic zones, enterprise promotion and development including small and medium-size enterprises, intellectual property, industrial standards, anti-counterfeit policies and co-operatives development.

In executing its mandate, the Committee oversees the Ministry of Industry, Trade and Cooperatives.

Committee Membership

The Committee on Trade, Industry and Cooperatives was constituted by the House on Thursday 14th December, 2017 and comprises of the following Members:-

1. Hon. Kanini Kega, MP, **Chairperson** – Kieni Constituency – Jubilee Party
2. Hon. Cornelly Serem, MP, **Vice Chairperson** – Aldai Constituency – Jubilee Party
3. Hon. Alexander Kimutai Kigen Kosgey, MP – Emgwen Constituency- Jubilee Party
4. Hon. Alois Musa Lentoimaga, MP – Samburu North Constituency – Jubilee Party
5. Hon. Anab Mohamed Gure, MP – Garissa Constituency – Jubilee Party
6. Hon. Andrew Mwadime, MP – Mwatate Costituency – ODM Party
7. Hon. Sakwa Bunyasi John, MP – Nambale Constituency – ANC Party

8. Hon. Daniel Maanzo, MP – Makueni Constituency – ODM Party
9. Hon. Gideon Sitelu Konchela, MP – Kilgoris Constituency – Jubilee Party
10. Hon. James Mukwe, MP – Kabuchai Constituency – ODM Party
11. Hon. Jones Mlolwa, MP – Voi Constituency – ODM Party
12. Hon. Raymond Kipruto Moi, MP – Rongai Constituency - KANU
13. Hon. Jeremiah Ekamais Lomorukai, MP – Loima Constituency – ODM Party
14. Hon. Gichimu Robert, MP – Gichugu Constituency – Jubilee Party
15. Hon. Kimani Patrick Wainaina Jungle, MP – Thika town Constituency - Independent
16. Hon. Korir Generali Nixon Kiprotich, MP – Langata Constituency – Jubilee Party
17. Hon. Nduati Joseph Ngugi, MP – Gatanga Constituency – Jubilee Party
18. Hon. Wachira Rahab Mukami, MP – Nyeri County – Jubilee Party
19. Hon. (Dr.) Wilberforce Oundo, Phd, MP – Funyula Constituency – ODM Party

Committee Secretariat

The committee is facilitated by the following staff:-

1. Mr. Erick Nyambati - **Clerk Assistant II/Lead Clerk**
2. Ms. Nuri Kitel Nataan - **Clerk Assistant III**
3. Ms. Emma Essendi - **Legal Counsel I**
4. Mr. Robert Ngetich - **Fiscal Analyst III**
5. Mr. Chelang'a Maiyo - **Research & Policy Analyst II**
6. Mr. Yaqub Ahmed - **Media Relations Officer**
7. Mr. Richard Sang - **Serjeant-At-Arms**

COMMITTEE RECOMMENDATIONS

The Committee having scrutinized and reviewed the Budget Policy Statement 2020 recommends the following:

1. That Committee approves the Budget Ceilings as provided in the Budget Policy Statement for various votes under the purview of the Committee, that is, State Department for Cooperatives, State Department for Trade, State Department for Industrialization;
2. Additional allocations of **Ksh. 64 million** to **State Department for Trade** for **Operationalization of Kenya Trade Remedies Agency (KETRA)**

3. An additional allocation of **Ksh 950 million** to the **State Department for Industrialization,**. To cater for:

   Programme: Industrial Development and Investment programme

   (a) **Ksh. 200 million**, additional allocation for **modernization of Rivatex**.

   (b) Ksh. **50 million for Rivatex- Cotton Extension Services** for upscaling of cotton extension services in cotton growing areas. Rivatex is still underutilized because of lack of cotton. Rivatex which has an overwhelming demand for its products still imports up to 90% of the cotton. There is a need to enhance the funding towards cotton production.

   Programme: Standards and Incubation programme

   (c) Ksh. 200 million for Construction of Constituency Industrial Development Centers (CIDCs).

   (d) **Ksh. 450 million** towards the **Construction of Industrial Research Laboratories – KIRDI South B**.

   (e) **Ksh. 100 million** for **Upgrading of Infrastructure at Kenya Industrial Training Institute**.

1.2 Non- Financial Recommendations

(a) Timely uploading of development budgets for ease of implementation of annual work plans, procurement plans and clearance of pending bills.

(b) There is a need to prioritize projects to be funded to ensure completion of ongoing projects as opposed to initiating new projects with limited funds.

1.0 INTRODUCTION

1) On Thursday, 13th February 2020, the Budget Policy Statement (BPS) was laid on the floor of the House by the Majority Leader pursuant to the provisions of the Standing Order No. 232 of the Kenya National Assembly and section 25 of the Public Finance Management Act (2012).
2) According to the Public Finance Management Act (2012), the Cabinet Secretary for the National Treasury is to table the BPS in the House on or before 15th February of every year. Pursuant to the provisions of the Standing Order No 232 (4), the BPS subsequently **'shall stand committed to each Departmental Committee without question put'.**
3) In considering the Budget Policy Statement, the Budget and Appropriations Committee shall consult each Departmental Committee and table a report containing its recommendations on the statement to the House for consideration.

4) Following the tabling of the BPS 2020, the Departmental Committee on Trade, Industry and Cooperatives was briefed on the BPS 2020 by the Parliamentary Budget Office and thereafter proceeded to hold consultative meetings with the State Departments on the 20th February, 2020. The Committee deliberated on the issues on 21st February, 2020 and thereafter adopted the report.

5) Standing Order No 232 (4) further provides that *the Departmental Committees shall deliberate on the Budget Policy Statement according to their respective mandates and make recommendations to the Budget and Appropriations Committee. In considering the Budget Policy Statement, the Budget and Appropriations Committee shall consult each Departmental Committee and table a report containing its recommendations on the statement to the House for consideration.*

The State Departments and Commission under the purview of the Committee are-

(i) The State Departments for Cooperatives
(ii) The State Department for Trade
(iii) State Department for Industrialization

2.0 SUBMISSIONS BY PARLIAMENTARY BUDGET OFFICE

2.1.1 Highlights of the 2020 BPS

6) The BPS 2020 whose theme is '*Harnessing the Big Four for job creation and economic prosperity*' outlines the broad strategic government priorities and policy goals of the government over the medium term. This is intended to provide the basis for preparing the budget estimates for the next financial year and over the medium term by both the National and county governments.

7) In 2020/21 and over the medium term as presented in the BPS 2020, the government intends to pursue the fiscal consolidation path while at the same time support the big four agenda and the various enablers. Thus, the government will be cutting expenditures in the non-core areas of spending and direct resources to more productive areas and the big four sectors.

8) In 2019, the economy grew by an average of 5.4 percent in the first three quarters and is estimated to have grown by 5.6 percent by end of the year. It is expected to grow by 6.1 percent in 2020 and further to 7.0 percent over the medium term supported by a strong rebound in the agricultural output, steady recovery in industrial activities, robust performance in the services sector, and strategic investments under the "Big Four" Agenda.

9) Thus, the Budget Policy Statement 2020 emphasizes on socio-economic transformation agenda envisaged by the government meant to deliver economic transformation through the four key strategic areas of focus identified by the Government (see table 1).

Table 1: Areas of Focus-The Big Four Agenda

Key Strategic area	Medium Term Targets
Health care	Providing universal health care hence guaranteeing quality and affordable healthcare to Kenyans by 2022.
Housing	Providing at least 500,000 affordable new houses to Kenyans by 2022
Manufacturing	Supporting value addition and raising manufacturing sector's share of GDP to 15% by 2022
Food Security	Expansion of food production and supply, reduction of food prices to ensure affordability in order to guarantee food security and improve nutrition

Source: National Treasury

2.1.2 Overall Fiscal Framework

10) BPS 2020 targets revenue collections including Appropriation-in-Aid (AIA) of Kshs 2,134 billion (18.3% of GDP) whereas the overall nominal expenditure are projected at Kshs 2,874 billion. In view of this, the government projects the fiscal deficit (including grants) at Kshs. 571.2 billion in 2020/21. The government intends to address the financing shortfall through both domestic and external borrowing.

11) Under the 2020/21 expenditure framework, the National Executive (that is the various spending agencies) and the consolidated fund services (pensions, interest on loans) have the largest share of the proposed resource ceilings. Table 2 gives a summary of proposed budgetary allocations including shareable revenues to county governments.

2020/21 Proposed Expenditure Framework					
Details	**Baseline 2019/20**	**2020/21 BPS Ceiling**	**% share**	**Projections**	
				2021/22	**2022/23**
National Executive	1,947.9	1,778.1	65.3	1,897.1	2,067.1
CFS	550.1	574.7	21.1	675.3	729.9
Parliament	39.9	36.2	1.3	38.5	40.5
Judiciary	19.2	19.2	0.7	18.6	19.3
County Governments	316.5	316.5	11.6	325.7	334.8
Total	**2,873.6**	**2,724.7**	**100.0**	**2,955.2**	**3,191.6**

Source: BPS 2020

2.1.3 Sector Policy Proposals

12) The 2020 BPS focuses on the following policy proposals:

a) **The development of Special Economic Zones (SEZ) and Industrial Parks across the country**; the Government targets to accelerate reforms to encourage investment and protect local industries against dumping. The focus is on the development of Special Economic Zones (SEZ) and Industrial Parks across the country. Already, the Government is developing the Dongo Kundu SEZ which is expected to transform the coastal region, unlock more than 60,000 direct jobs and promote the culture of "Buy Kenya, Build Kenya". Additionally, the Government has launched the construction of the Naivasha Industrial Park which will boost job creation in the town and surrounding areas. Furthermore, 1,000 acres of land has

been identified for the Kisumu Special Economic Zone and prefeasibility studies are on-going through technical support of the World Bank Group (2020 BPS).

b) **Revitalizing and restoring the contribution of major cash crops to the national income** including tea, coffee, and cotton among others; the policy focus is to support tea farmers to diversify tea varieties while at the same time promote the coffee value chain to stimulate productivity and value addition. To encourage cotton production and provide a ready market to farmers, the Government continues to modernize Rivatex East African Limited thereby expanding its production capacity. The Government has approved the commercialization of BT cotton to ensure adequate raw materials for revamping textiles and apparels, animal feeds and oil industries.

c) **Processing of hides and skins locally**- according to the proposed 2020 BPS, Kenya remains a leading producer of hides and skins in Africa and in an effort to ensure processing of hides and skins locally, the Government continues to improve infrastructure at Kinanie Leather Park, Kenya Industrial Research and Development Institute (KIRDI), Leather Development Centre in Kisumu and the development of other leather industrial parks.

d) Finalizing on the **National Automotive Policy** which targets to gradually and systematically reduce and eliminate the imports of used vehicles and used parts from domestic market by promoting assembly and production of automotive products locally. The aim is to secure the steel industry which is vital in manufacturing through restructuring the Numerical Machining Complex into a state corporation with the mandate under Vision 2030 to develop an Integrated Steel Mill which will cater for the needs of the steel industry at the downstream level and reduce importation especially of grinding medial balls for the cement manufacturing industry.

e) **Transformation of Kenya Industrial Training Institute into a center of excellence**; the focus is to transform Kenya Industrial Training Institute into a center of excellence to provide high quality programmes to respond to the evolving industry skill needs by expansion of the teaching and learning facilities to enhance access to quality training. This is done through investing in research technology and innovation laboratories at KIRDI. The research laboratories will be able to

develop and transfer to industry, globally competitive value addition technologies as well as provide incubation services to Micro, Small and Medium Enterprises (MSMEs). To facilitate value addition in SME products for local and regional markets, the Government is supplying light industry machinery, equipment and tools to Constituency Industrial Development Centres for SMEs.

f) **Continued improvement of the business environment** and fight against illicit trade and contrabands; focus will be placed on reducing the time and processes involved in establishing businesses, issuing construction permits, acquiring electricity, ease in accessing credit, paying taxes and trading across borders.

2.1.4 Third Medium Term Plan (MTP III) 2018-2022: Sector Objectives

13) The key objective of the MTP III is to effect structural transformation of Kenya's economy towards increasing the share of manufacturing and industry in GDP and increasing the share of manufactured products in Kenya's exports. Special Economic Zones (SEZs) and Industrial Parks will be established. The Government will facilitate local and foreign private investors to invest in the SEZs.

14) Most of the flagship projects under the MTP III are currently being implemented and has budget allocations in the proposed BPS 2020. Among the key projects include:

(a) **Special Economic Zones (SEZ) Programme**: Dongo Kundu SEZ in Mombasa; Naivasha Industrial Park.

(b) **Industrial and Small and Medium Enterprises (SMEs) Parks Programme-**

(c) **Industrial Clusters Programme**: aims at increasing investments in the textile and apparel industries for textiles and apparel production and manufacture of leather and leather products.

(d) **Ease of Doing Business Programme**: The Sector will implement targeted business reforms to lower the cost of doing business to attract foreign and domestic direct investments and increase job creation. It will also target to improve World Bank Ease of Doing Business ranking from position 80 in 2017 to 45 by 2022.

(e) **Agro-food Processing Programme**: This programme will involve value addition in agricultural, fisheries and livestock (one of the policies under the 2020 BPS). Targeted products include: tea, coffee, nuts, legumes, cereals, fruits, vegetables, roots and tubers, animal feeds, dairy and meat. The programme will also entail

training agro-processing entrepreneurs and expanding to seven (7) international markets.

(f) **Micro, Small and Medium Enterprises (MSMEs) Development Programme:** include inculcation of entrepreneurial culture and skills development; development of Micro and Small Enterprises Centres of Excellence

(g) Skills development and transformation of KITI to a Centre of Excellence- A policy under BPS 2020

(h) Iron and Steel Programme: The project will support import substitution worth Ksh.26 billion. The implementation of this project will be undertaken through the Numerical Machining Complex (NMC) which has been identified as a focal point for promoting development of the iron and steel industry.

15) A look at the policies as proposed under 2020 BPS, the Big Four Agenda and MTP III shows a strong connection with the flagship projects under MTP III being implemented under the 2020 BPS. The strategic direction of the BPS is informed by the policies outlined in the Vision 2030, Medium Term plans, and the Big Four agenda. The table below links the policies under the MTP III and policies under 2020 BPS, and tries to link them with specific projects.

	Table: Showing Policy Link between 2020 BPS and MTP III			
MTP III Policies	2020 BPS Policy	Projects	2020 BPS Ceiling (Ksh. Millions)	Resource Requirement (Ksh. Millions)
Special Economic Zones (SEZ) Programme	The development of Special Economic Zones (SEZ)	Dongo Kundu	300	1,200
		Naivasha	200	1,200
Industrial Parks Programme	Processing of hides and skins locally	Kenanie Industrial Park Athi River Textile Hub	400 500	1,500 1,185
Micro, Small and Medium Enterprises		SMEs Credit CIDCs	1,204 475	1,750 800

(MSMEs) Development				
Skills development and transformation of KITI to a Centre of Excellence	Transformation of Kenya Industrial Training Institute into a center of excellence	KITI	150	415
Iron and Steel Programme	National Automotive Policy	NMC	200	700
Ease of Doing Business Programme	Continued improvement of the business environment and fight against illicit trade and contrabands	The project is being undertaken by EAC State department.		
Agro-food Processing Programme	Revitalizing and restoring the contribution of major cash crops to the national income	Handled under Agriculture Sector		

Source: MTP III, BPS 2020, 2019 Sector Report.

16) The table below discusses shows the programme and the objectives of each programme and the targeted key outputs.

Programmes and Programme Objectives

Programme	Objectives	Key Targeted Outputs
Co-operative Development and Management	To Promote co-operative sector development and management through capacity building, improvement of governance and facilitate resource mobilization for the realization of Vision 2030, MTP III objectives and 'Big Four' agenda.	Registration of SACCOs; rehabilitation of Coffee cooperatives; Restructuring of the Kenya Farmers Association; Co-operative Share trading platform; increased coffee production; value addition technologies adopted by co-operatives; modernization of new KCC processing plant; and completion of Co-operative Management Information System (CMIS)

Trade Development and Promotion	To promote trade, broaden export base and markets as well as undertake country branding.	To refurbish 5 warehouses (KNTC); training Micro Small and Medium Enterprises operators; holding trade forums; increased export earnings: reduced counterfeit goods; operationalization of KETRA; and improved competitiveness of Kenyan goods
Promotion of Industrial Development and Investment	To create enabling environment to promote and facilitate	This programme has activities directly touching on job creation; completion of various manufacturing facilities such as Kenaine Leather Industrial Park, Dongo Kundu and Naivasha Special Economic Zones; and increase of Foreign Direct Investment among others
Standards and Business Incubation	To provide standards for industrial products and incubation services to support MSMEs.	completion of Industrial Research laboratories in Nairobi, South B; equipping of CIDCs; credit disbursement through KIE; and implementation of Kenya Youth Employment and Opportunities Project (KYEOP)

2.1.5 Proposed Expenditure Ceilings and Resource Requirements for the Sector

17) A quick view of the proposed ceilings to the sector indicates that the 2020/21 budget is being contracted. The total budget to all the state departments under the Committee in 2019/20 is Ksh. 20.3 billion, this is set to reduce by Ksh. 6.8 billion (33%) to Ksh. 13.5 billion in 2020/21. The ceilings of Ksh. 13.5 billion is against a resource requirement of Ksh. 32 billion in 2020/21.

Proposed Expenditure Ceilings and Resource Requirements for the Sector (Ksh millions)					
	2019/20	2020 BPS	BPS vs 2019/20 Variation	% Variation	Resource Requirement in 2020/21
State Dept. for Cooperatives	**4,149.4**	**1677**	-2,472.4	-60%	**6,736**
Cooperative Development & Management	4,149.40	1,677	-2,472.4	-60%	6,736
State Dept. for Trade	**2,107**	**1,746**	-360.9	-17%	**6,310**
Trade Development & Promotion	2,106.9	1,746	-360.9	-17%	6,310

State Dept. for Investment & Industry	**14,028**	**10,073**	**-3,955.6**	**-28%**	**19,716**
General Admin. Planning & Support Services	657.4	346.7	-310.7	-47%	478.64
Industrial Development & Investments	7,373.8	4,811.50	-2,562.3	-35%	10,309.43
Standards & Business Incubation	5,997.2	4,914.6	-1,082.6	-18%	8,927.62
Total	**20,285**	**13,496**	-6,788.9	-33%	**32,762**

Source: BPS 2020/Sector Report 2019.

18) The proposed ceiling of Ksh. 13.5 million comprises of Ksh. 5.7 billion recurrent and Ksh. 7.8 billion development allocation. The total recurrent allocations to the departments is proposed to increase by Ksh. 33 million, from an allocation of Ksh. 5,684 in 2019/20 to Ksh. 5,717 million. The total development allocations to the departments is propose to reduce by Ksh. 6,822 million from an allocation of Ksh. 14,600 in 2019/20 to Ksh. 7,778 million, representing a 47% reduction.

19) The reduction in the allocations to the sector, and especially on development allocations is against the move to accelerate the implementation of the 'Big Four Agenda."

Table: proposed ceilings as per recurrent and Development (Ksh millions)						
		2019/20	Ceilings	Variation	% Variation	Resource Requirement
Cooperatives	Current	652	832	180	28%	2,320
	Capital	3,498	845	-2,652	-76%	4,417
	Total	4,149	1,677	-2,472	-60%	6,737
Trade	Current	1,647	1,647	0	0%	5,560
	Capital	460	100	-361	-78%	750
	Total	2,107	1,746	-361	-17%	6,310
Industrialization	Current	3,386	3,239	-147	-4%	4,785
	Capital	10,643	6,834	-3,809	-36%	14,930
	Total	14,029	10,073	-3,956	-28%	19,715

3.0 REVIEW AND SUBMISSIONS BY THE MINISTRY

3.1.1 The State Department for Cooperatives

20) The State Department for Co-operatives FY 2020/21 budget allocation is Kshs. 1,677.0 Million comprised of Kshs .831.8M and Kshs. 845.2M for Recurrent and Development Expenditure respectively.

	2019/20 Supplementary Estimates I	2020/21 CEILING	2021/22 PROJECTION	2022/23 PROJECTION
Recurrent	651.9	831.8	784.2	800.4
Development	3497.5	845.2	575.9	711.9
Total	**4149.4**	**1677.0**	**1360.0**	**1512.3**

21) The table below shows the breakdown of FY 2020/21-2022/23 Recurrent and Development expenditure by economic classifications: -

Economic Classification	2019/20 Supplementary Estimates I	RESOURCE ALLOCATION		
		2020/21	2021/22	2022/23
Current Expenditure	**651.90**	**831.80**	**784.2**	**800.4**
Compensation of Employees	198.20	206.4	211.6	216.6
Use of Goods and services	82.60	171.52	98.46	89.33
Grants and other transfers (SASRA)	362.70	451.2	471.35	491.55
Other Recurrent	8.40	2.68	2.79	2.92
Capital Expenditure	**3,497.50**	**845.2**	**575.90**	**711.90**
Acquisition of Non-Financial Assets	160.00	345.20	285.90	270.00
Capital Grants to Government Agencies (NKCC)	3,337.50	500.00	290.00	441.9
Other Development	0.00	0.00	0.00	0
Total Expenditure of Vote / Programme	**4,149.4**	**1,677.0**	**1,360.1**	**1,512.3**

State Department for Co-operatives' Performance Targets for FY 2020/2021

Sub-programme	Key Outputs	Key Performance Indicators	Targets 2020/21
S.P.4. Co-operative management and investment	NKCC modernized	% Completion	69
	Milk Powder processing capacity at NKCC expanded	No. of metric Tons	1,000
	Production capacity at NKCC Expanded	No. of litres of milk processed per day	800,000
S.P.3. Marketing, Value Addition & Research	Cooperative Coffee Sector Revitalization Program implemented	No. of performance audit carried out in coffee growing counties.	50
		No. of coffee co-operative factories rehabilitated	10
		No. of members and managers of coffee Co-operatives capacity built	500
		% Development & implementation of Coffee Management Information System (CMIS)	50
	Cotton Co-operatives revitalized	No. of Modernized cotton co-operatives ginneries	6
		No. of Co-operatives adopting cotton hand-loom weaving	6
	Savings/deposits mobilized through SACCOs	Amount of savings mobilized (Kshs. Billions)	850
	Outstanding remittances to SACCOs recovered	Amount of outstanding remittances recovered (Kshs. Millions)	500
	Housing and Investments Co-operatives facilitated to participate in provision of 500,000 low cost housing units	No. of housing units constructed	5,000
S.P.2.Governance and accountability	Financial stability in DTS Improved	Core capital to total assets ratio maintained above 10%	15.15

Sub-programme	Key Outputs	Key Performance Indicators	Targets 2020/21
	DTS Assets growth realized	Increased assets in DTS (Kshs. B)	530
	Financial inclusion through DTS Improved	Increased membership in DTS (No. Millions)	3.63

Priority areas not funded/underfunded

S/No:	Project/Program	Budgetary Requirement FY 2020/21 (Kshs)	Remarks
2.	Modernization of NKCC	420,000,000.00	NKCC requires Kshs 420M in the FY 2020/21 to modernize Nyahururu, Kiganjo, Kitale and Miritini plant and establish Nyambene plant.
3.	Implementation of the National Co-operative Policy	50,000,000.00	This will involve the review of the Co-operative Societies Act Cap 490, Sacco Societies Act Cap 490B, Co-operative Society's Rules and Regulations and SACCO Society's Rules and Regulations.
4.	Implementation of the Cooperative Management Information System (CMIS)	65,780,000.00	The implementation of the project is behind schedule due to frequent budget cuts thus hampering service delivery to the public.
5.	Restructuring Kenya Planters Cooperative Union (KPCU)	829,300,000.00	The SDC requires resources to restructure and revamp KPCU to enable its mandate to coffee cooperatives and farmers.
6.	Restructuring Kenya Farmers Association (KFA)	590,500,000.00	The SDC requires resources to streamline KFA to supply farm inputs and affordable credit to farmers
7.	Coffee Debts waiver	915,000,000	SDC needs funds to settle validated debts recommended for the waiver in Kisii and Nyamira Counties amountinting to Kshs.644 M, Komothai FCS Ltd Kshs.150M and kwa Matingi FCS Ltd Kshs.120M.
Total		**2,870,580,000**	

3.1.2 State Department for Trade

22) The proposed ceiling to the state department for Trade is Ksh. 1,746 million composed of Ksh. 1,647 million for recurrent expenditure and Ksh. 100 million for development expenditure. The allocation to the department is a reduction of ksh. 361 million which is entirely on development allocations. The allocation for development expenditure is reducing by Ksh. 361 million, from an allocation of Ksh. 460 million in 2019/20 to Ksh. 99.5 million in 2020/21.

23) The table below summarizes the proposed allocations for the State Department for Trade by Sub Programme and further to the delivery units.

Table 3: Proposed allocation for FY 2020/21

Sub-Programme	Delivery Unit/Department	FY 2020/21	
		RECURENT	DEVELOPMENT
Domestic Trade Development	Internal Trade	93.1	
	Kenya National Trading Corporation (KNTC)		
Fair Trade and Consumer Protection	Weight & Measures	63.8	
	KECOPAC	36	
	Anti-Counterfeit Authority (ACA)	360.5	
Exports Market Development, Promotion and Nation Branding	Kenya Export Promotion and Branding Agency (KEPROBA)	418.7	
Regional Economic Integration Initiative	Regional Trade and Export	3.6	99.5
Entrepreneurial and Management Training	Kenya Institute of Business Training (KIBT)	62.9	
International Trade	External Trade HQs and Foreign Trade Services	261.6	
	Kenya Trade Remedies Agency (KETRA)	36.0	
General Administration, Planning and Support Services	All Supporting Units	312.4	
Total		1,648.6	99.5

Table 4: Development Budget for FY 2019/20 and proposed budget for FY 2020/21

Project code & Name		Outstanding Project	ALLOCATION FY 2019/20	ALLOCATION FY 2020/21

	Est Cost of project	Cost as at 30th June 2019	GOK	Donor	Total	GOK	Donor	Total
11741006001 Establishment of Commodities Exchange Platform	5,060.00	4803.5	150	-	-	99.5	-	

24) In the next FY 2020/21, SDT has been allocated **Ksh.99.5 Million** for development expenditure and the entire amount has been directed towards the Establishment of Commodities Exchange Platform (KOMEX). The SAGAs have not been allocated development funds in the FY 2020/21.

25) The KOMEX will enable trading of standardised commodities, additional storage and access to markets allowing farmers to use stored produce as collateral for credit so as to improve farm inputs and other needs. It will also attract credit and other forms of trade finance into the sector and minimise the current challenge of middlemen and post-harvest loses. This form of structured trading will greatly support the agricultural value chain, manufacturing and agro-processing, which is also a key pillar of the Big Four Agenda (B4A).

3.1.3 State Department for Industrialization

26) Under the Kenya Government Economic Transformation Agenda 2018 - 2022, the State Department is mandated with raising the of Manufacturing Sector share to GDP to 15 percent by supporting value addition to accelerate economic growth, create jobs and reduce poverty. The State Department's proposed allocation for the financial year 2020/21 is kshs **10.07 billion** broken down as follows:

i. Recurrent budget – **Kshs 3.2 billion**

ii. Development budget – **Kshs 6.8 billion**

27) While the State department appreciates the support from the National Assembly and the National Treasury,we note that there has been a drastic reduction in our proposed allocation for the FY 2020/2021 from the current year Kshs **14 billion** to kshs **10.07billion** as noted in the BPS.

PROPOSED ALLOCATION TO EACH SAGA FOR BOTH RECURRENT AND DEVELOPMENT IN MILLIONS

a) **Recurrent allocation in Millions**

No.	SAGAs	Printed estimates 2019-2020	Requirements 2020-2021	Allocation 2020-2021	Increase/ Decrease
1	Numerical Machining Complex	142.68	199.53	134.06	-8.62
2	Kenya Leather Development Council	159.20	231.09	142.53	-16.67
3	Kenya Investment Authority	204.31	293.90	228.51	24.20
4	Special Economic Zones Authority	22.77	236.00	22.37	-0.40
5	Scrap Metal	13.14	20.00	11.75	-1.39
6	Kenya Accreditation Services	179.90	234.70	168.31	-11.59
7	Kenya Industrial Estates	421.74	543.50	392.34	-29.40
8	Micro and Small Enterprise Authority	260.20	537.87	233.84	-26.36
9	Kenya Industrial Research and Development Institute	565.04	870.10	508.23	-56.81
1	Export Processing Zones Authority	574.15	657.37	563.61	-10.54
1	Kenya Industrial Training Institute	133.51	198.43	105.20	-28.31
1	Use of goods (Headquarters)	279.31	516.03	230.10	-49.21
13	Personnel Emoluments - Headquarters	433.79	446.80	422.05	-11.74
	TOTAL	**3,440.63**	**4,985.32**	**3,162.90**	**-226.84**

b) **Development in Millions**

Name of Project	Printed estimates 2019-2020	Budget Requirements 2020-2021	Proposed Allocation 2020-2021

	Modernization of NMC Foundry Plant, Machining & Fabrication Workshop	297.40	700.00	200.00
	Development of Leather Industrial Park at Kinanie	587.20	1,500.00	400.00
	Development of Athi River Textile Hub	470.00	1,185.00	500.00
	Kenya Investment Authority	-	50.00	50.00
	Special Economic Zones Authority-Dongo Kundu, Mombasa	1,468.80	1,200.00	300.00
	Special Economic Zones Authority-Naivasha	1,132.80	1,200.00	200.00
	Kenya Accreditation Services	-	69.00	-
	Provision of Credit to SMEs	1,200.00	1,750.00	1,204.00
	Complete Construction and Equipping of Constituency Industrial Development Centers	630.77	800.00	475.23
	Construction of Industrial Research Laboratories – KIRDI South B	1,018.00	1,500.00	1,050.00
	Construction of Industrial Research Laboratories – KIRDI Kisumu	550.00	550.00	510.00
	Upgrading of Infrastructure at Kenya Industrial Training Institute	250.00	415.00	150.00
	Construction of cold storage & processing facilities (Nyandarua, Meru, Kisii)	300.00	-	-
	Modernization of Rivatex Machinery, Eldoret	950.00	800.00	650.00
	Modernization of Rivatex Machinery, Eldoret - DONOR	604.00	604.00	604.00
	Cotton Extension Services	100.00	100.00	100.00
	Kenya Industry and Entrepreneurship Project (KIEP)-**GOK**	50.00	50.00	50.00
	Kenya Industry and Entrepreneurship Project (KIEP)-**LOAN**	180.00	180.00	180.00
	Kenya Youth Empowerment and Opportunities Project **(LOAN)**	604.00	604.00	604.00

PENDING BILLS

HISTORICAL AND CONTESTED PENDING BILLS

The State Department through its Pending Bills Verification Committee verified and recommended for payment the historical pending bills amounting to **Kshs 31,207,983.80** in the current financial year

Going forward, and in line with the Public Financial Management Act, 2012 and 2015 Regulations, the State Department plans to address the pending bills if any, as a first charge on all exchequer releases.

28) The mantra of the State Department for Industrialization on matter pending bills is "Zero pending bills"

4.0 COMMITTEE OBSERVATIONS

State Department for Industrialization

29) The state department is very key to the realization of the agenda on raising the manufacturing share contribution to GDP, and so to the implementation of the projects under the department. The reduction in ceilings imply that a number of projects may not be funded. This is a direct puncture to the intended accelerated move on implementation of the Big Four.

30) The promotion of Industrial development and investment programme: The programme has a proposed ceiling of Ksh. 4.8 billion. This programme has activities directly touching on job creation; completion of various manufacturing facilities such as Kenaine Leather Industrial Park, Dongo Kundu and Naivasha Special Economic Zones; modernization of Rivatex; and increase of Foreign Direct Investment among others.

31) The implementation of the Dongo Kundu Special Economic Zones have taken too long to implement. Key issues of concern surrounds compensation for land, and the possibility of not absorbing Ksh. 1,468 million allocated during the Supplementary 1 2019/20.

32) The implementation of the development of leather Industrial Park in Kenanie that was supposed to be completed in 2019/20 is still far from completion. There is no value for money for works done because of wastage and lack of prioritization in implementation of the project. However, effluent treatment plant requires prioritization in resources allocation.

33) The production capacity in Rivatex is still underutilized because of lack of cotton. Rivatex which has overwhelming demand for its products still imports up to 90% of the cotton. There is a need to enhance the funding towards cotton production.

34) While the BPS 2020 proposes the National Automotive Policy which targets to gradually and systematically reduce and eliminate the imports of used vehicles and used parts from domestic market by promoting assembly and production of automotive products locally, the committee has not been involved in development of the policy.

Concerns have been raised that the Kenyan manufacturers are assembling old automotive parts in the pretext of assembling of new vehicles.

35) The Standards and business incubation programme: The proposed ceiling to the programme is Ksh. 4.9 billion. Key among the projects under this programme includes completion of Industrial Research laboratories in Nairobi, South B; equipping of CIDCs; credit disbursement through KIE; and implementation of Kenya Youth Employment and Opportunities Project (KYEOP).

36) The State Department of Industry is mandated with raising the manufacturing share contribution to the GDP to 15% by supporting value addition to accelerate economic growth, create jobs and reduce poverty. The sector plays a key role through value addition of the agricultural production, production of low cost housing materials, manufacturing of medical equipment and medicines among other things. The proposed reductions in the allocations does not reflect or support the expectations of the state department. Therefore, there is need for commensurate budget provision to the sector to ensure effective achievement of its mandate.

37) The state department has pending bills of Ksh. 31.2 million which have been verified and recommended to be paid within the financial year 2019/20.

38) Completions of the effluent treatment plants should be given priority in funding to enable accelerated implementation in order to allow the sound utilization of Special Economic Zones and Industrial Parks.

39) Exchequer releases have not been made on projects which received allocations in 2019/20 Supplementary 1. This puts in doubt whether the projects will be meaningfully implemented. Among the projects which received additional funding in 2019/20 Supplementary 1 include: Dongo Kundu (Ksh. 1,468), Construction of Constituency Industrial Development Centres (ksh. 278 million), Development of Leather Industrial Park-Kenanie (Ksh. 487 million), and Development of Textile Park Naivasha (Ksh. 1,132 million).

State Department for Trade

40) There is reduction of the allocations to the department which is mandated to promote trade. This will mean that staff who are supposed to be promoting trade will be paid for no job done.

41) The State Department had pending bills of Ksh. 36.5 million relating to 2018/19 financial year. The pending bills have been settled using the allocation for the financial year 2019/20.

42) The allocation to development expenditure has been reduced by Ksh. 361 million to Ksh. 100 million in 2020/21. This imply that implementation of the projects under the department will be affected significantly if resources will not be enhanced in the next budget.

43) The ease of Doing Business has been transferred to the Ministry of East African Community yet it is a trade affair. The programme should be returned to the state department of Trade.

State Department for Cooperatives

The Committee made the following observations, that:-

44) The Cherry Coffee Revolving Fund should not be operationalized until regulations are completed.

45) There is need for engaging of the committee in developing the Coffee Cherry Fund Regulations.

46) Involvement of the new KPCU in administering the Cherry Coffee Revolving Fund raises concerns that call for further engagement on the same due to its past history.

47) The proposed budget reductions of 60% in the BPS to the state departments raises a concern on whether the sets targets can be achieved.

48) The State Department does not have any pending bills.

49) In the long run NKCC should be run as a commercial entity and a purchaser of the last resort/ strategic food reserve.

5.0 GENERAL OBSERVATIONS

50) The State Department of Industry is mandated with raising the manufacturing share contribution to the GDP to 15% by supporting value addition to accelerate economic growth, create jobs and reduce poverty. The sector plays a key role through value addition of the agricultural production, production of low cost housing materials, manufacturing of medical equipment and medicines among other things. The proposed reductions in the allocations does not reflect or support the expectations of

the state department. Therefore, there is need for commensurate budget provision to the sector to ensure effective achievement of its mandate.

51) The reduction in ceilings imply that a number of projects may not be funded and therefore, a number of projects may stall. It will also mean that completed works due for payments may not be paid and penalties may arise. This is a direct puncture to the intended accelerated move on implementation of the Big Four.

52) The efficiency in the utilization of the development budget allocations is wanting. There is a need to improve on the efficiency on implementation of capital projects to ensure that projects are completed within the planned duration and that expected returns and services are achieved the soonest.

53) There is a need to prioritize projects to be funded to ensure completion of ongoing projects as opposed to initiating new projects with limited funds.

54) While the BPS 2020 proposes the National Automotive Policy which targets to gradually and systematically reduce and eliminate the imports of used vehicles and used parts from domestic market by promoting assembly and production of automotive products locally, the committee has not been engaged in the development of the policy. Concerns have been raised that the Kenyan manufacturers are importing and assembling old automotive parts in the pretext of assembling of new vehicles.

55) The National Assembly Standing Order No 232 (e) and (f) requires among other things the budget policy statement (BPS) to indicate total resources to be allocated to individual programmes and projects within a sector and indicate the outputs expected from each such programme or programme during the period. The total resources allocated to individual programmes expected outputs has been provided. However, the list proposed projects and their respective expenditure ceilings has not been provided.

56) The budget proposals to the sector is set to contract by 33% which begs the question on whether the government is really serious with accelerating the implementation of the Big Four Agenda and the pursuit to raise the manufacturing sector share contribution to the GDP. The resources ought to have been enhanced or at least maintained at the current level to allow accelerated implementations of the projects some of which have stalled for long.

57) The Ministry has plans and strategies in place and well espoused in the budget policy statement with the objective of raising the manufacturing share contribution to GDP. However the resources provided under the BPS may not be adequate to realize this goal. The sector's resource requirement stands at Kshs 32.8 billion against an allocation of Kshs 13.5 billion in the FY 2020/21.

6.0 RECOMMENDATIONS

6.1 Financial Recommendations

The Committee having scrutinized and reviewed the Budget Policy Statement 2020 recommends the following:

4. That Committee approves the Budget Ceilings as provided in the Budget Policy Statement for various votes under the purview of the Committee, that is, State Department for Cooperatives, State Department for Trade, State Department for Industrialization; but
5. Additional allocations of **Ksh. 64 million** to **State Department for Trade** for **Operationalization of Kenya Trade Remedies Agency (KETRA)**
6. An additional allocation of **Ksh 950 million** to the **State Department for Industrialization,**. To cater for:

Programme: Industrial Development and Investment programme

(f) **Ksh. 200 million**, additional allocation for **modernization of Rivatex**.

(g) Ksh. **50 million for Rivatex- Cotton Extension Services** for upscaling of cotton extension services in cotton growing areas. Rivatex is still underutilized because of lack of cotton. Rivatex which has an overwhelming demand for its products still imports up to 90% of the cotton. There is a need to enhance the funding towards cotton production.

Programme: Standards and Incubation programme

(h) Ksh. 200 million for Construction of Constituency Industrial Development Centers (CIDCs).

(i) **Ksh. 450 million** towards the **Construction of Industrial Research Laboratories – KIRDI South B**.

(j) **Ksh. 100 million** for **Upgrading of Infrastructure at Kenya Industrial Training Institute**.

7.2 Non- Financial Recommendations

(c) Timely uploading of development budgets for ease of implementation of annual work plans, procurement plans and clearance of pending bills.

(d) There is a need to prioritize projects to be funded to ensure completion of ongoing projects as opposed to initiating new projects with limited funds.

Schedule of Proposed Increases: Development Allocations						
MDA	Policy	Programme/project	2020 BPS Ceiling (Ksh millions)	Proposed Increase (Ksh millions)	Impact on Targets	Justification
State Department for Industrialization						
Industrial Development and Investment programme	Increasing investments in the textile and apparel industries for textiles and apparel production	Modernization of Rivatex	650	150	Will enable 100% completion of installation of Machinery. 100% completion of effluent treatment plan and perimeter	Completion of modernization of machinery and completion of effluent treatment plan.

					wall.	
		Rivatex- Cotton Extension Services	100	50	Additional 131.2 tonnes of cotton seeds distributed to farmers, distribution of pesticides to farmers will increase by 50%,.	For upscaling of cotton extension services in cotton growing areas. Rivatex is still underutilized because of lack of cotton. Rivatex which has an overwhelming demand for its products still imports up to 90% of the cotton.
Standards and	Micro, Small	Construction of	475	200	20	Enhanced

Incubation Programme	and Medium Enterprises (MSMEs) Development	Constituency Industrial Development Centers (CIDCs)			additional number of CIDCs equipped with Lathe machines	value addition technologies as well as provision of incubation services to Micro, Small and Medium Enterprises (MSMEs)
	Transformation of Kenya Industrial Training Institute into a center of excellence	Kenya Industrial Training Institute	150	100	Enable 75% completion of construction of workshops, classrooms and ablution block.	Accelerated implementation of the project to allow the Institute train 2,800 students on industrial skills.
	Micro, Small	Construction of	1,050	450	Enable	Will allow

	and Medium Enterprises (MSMEs) Development	Industrial Research Laboratories – KIRDI South B			100% completion of Industrial Research, laboratories in Nairobi, South B	increased use of industrial technologies and MSMEs growth facilitated

DEPARTMENTAL COMMITTEE ON

TRANSPORT, PUBLIC WORKS AND HOUSING

REPUBLIC OF KENYA

NATIONAL ASSEMBLY

TWELFTH PARLIAMENT –FOURTH SESSION, 2020

REPORT OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING ON THE CONSIDERATION OF THE BUDGET POLICY STATEMENT FOR THE YEAR 2020 FOR THE FOLLOWING VOTES:

VOTE 1091 – STATE DEPARTMENT OF INFRASTRUCTUR

VOTE 1092 – STATE DEPARTMENT OF TRANSPORT

VOTE 1093 – STATE DEPARTMENT OF SHIPPING AND MARITIME AFFAIRS

VOTE 1094 – STATE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT

VOTE 1095 – STATE DEPARTMENT OF PUBLIC WORKS

CLERK'S CHAMBERS
NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

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1.0 PREFACE

CHAIRPERSON'S FORWARD

This is the report of the Departmental Committee on Transport, Public Works and Housing to Budget and Appropriations Committee on its consideration of the Budget Policy Statement 2020 for the Votes under its purview. The report is as a result of deliberations between the Committee and the officials from the State Departments and their Semi-Autonomous Government Agencies (SAGAs).

The report contains the discussions, observations and recommendations of the Committee as regards the proposed 2020/21 Budget Policy Statement for all the votes alongside their Semi-Autonomous Government Agencies (SAGAs).

1.1 Establishment and Mandate of the Committee

The Departmental Committee on Transport, Public Works and Housing derives its mandate from provisions of Standing Order No. 216(5) which defines functions of the Committee as being:

(a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
(b) Study the Programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
(c) Study and review all legislation referred to it;
(d) Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
(e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
(f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
(fa) examine treaties, agreements and conventions;
(g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
(h) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
(i) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
(j) Examine any questions raised by Members on a matter within its mandate.

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters relating to the following subjects: -

a) Transport

b) Roads
c) Public works
d) Construction and maintenance of roads, rails and buildings
e) Air and seaports
f) Housing

1.2 Oversight

In executing this mandate, the Committee oversees various State Departments, namely:

a) Transport
b) Infrastructure;
c) Housing and Urban Development;
d) Public Works; and
e) Shipping and Maritime Affairs.

1.3 Committee Composition

The Departmental Committee on Transport, Public Works & Housing comprise of the following Members:-

Chairperson
Hon. David Pkosing, M.P.
Member for Pokot South Constituency
Jubilee Party

Vice-Chairperson
Hon. Moses Kuria, M.P.
Member for Gatundu North Constituency
Jubilee Party

Members

Hon. Dominic Kipkoech Koskei, M.P
Member for Soitik Constituency
Jubilee Party

Hon. Peris Tobiko, M.P.
Member for Kajiado East Constituency
Jubilee Party

Hon. Kulow Maalim Hassan, M.P.
Member for Banisa Constituency
Economic Freedom Party (EFP)

Hon. Mugambi M Rindikiri, M.P.
Member for Buuri Constituency
Jubilee Party

Hon. Samuel Arama, M.P.
Member for Nakuru Town West
Jubilee Party

Hon. Shadrack John Mose M.P.
Member for Kitutu Masaba Constituency
Jubilee Party

Hon. Rigathi Gachagua M.P.
Member for Mathira Constituency
Jubilee Party

Hon. Rehema Dida Jaldesa M.P.
Member for Isiolo County
Jubilee Party

Hon. Ahmed Bashane Gaal M.P.
Member for Tarbaj Constituency
Peoples Democratic Party

Hon. David Njuguna Kiaraho M.P.
Member for Ol Kalou Constituency
Jubilee Party

Hon. Johnson Manya Naicca M.P.
West Constituency Member for Mumias
Orange Democratic Movement Party

Hon. Tom Mboya Odege M.P.
Member for Nyatike Constituency
Orange Democratic Movement Party

Hon. Suleiman D. Ramadhani M.P.
Member for Msambweni Constituency
Orange Democratic Movement Party

Hon. Ahmed Abdisalan Ibrahim M.P.
Member for Wajir North Constituency
Orange Democratic Movement Party

Hon. Gideon Mutemi Mulyungi M.P.
Member for Mwingi Central Constituency
Wiper Democratic Party

Hon. Vincent Kemosi Mogaka M.P.
Member for West Mugirango Constituency
Ford Kenya Party

Hon. Savula Ayub Angatia M.P.
Member for Lugari Constituency
Amani National Congress Part

1.4 Committee Secretariat

Ms. Chelagat Tungo Aaron
First Clerk Assistant
Head of Secretariat

Mr. Ahmed Salim Abdalla
Second Clerk Assistant

Mr. Abdinasir Moge Yusuf
Fiscal Analyst

Ms. Zainabu Wario
Sergeant at Arms

Mr. Eugene Luteshi
Audio Recording Officer

Ms. Mercy Wanyonyi
Legal Counsel

Mr. James Muguna
Research Officer III

Ms. Noelle Chelangat
Media Relations Officer

1.5 Acknowledgements

The Committee is grateful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. On behalf of the Committee, it is therefore my pleasant duty and privilege, to present this report on scrutiny of the 2020/2021 Budget Policy Statement and Medium Term for the respective votes to the Budget and Appropriation Committee pursuant to provisions Section 25(2) of the Public Finance Management Act, 2012 and Standing Order 232 (5)

SIGNED..... DATE 25/02/2020

Hon. David PKosing, CBS, M.P.

Chairperson, Departmental Committee on Transport, Public Works and Housing

2.0 INTRODUCTION

2.1 Tabling of the Budget Policy Statement

The Budget Policy Statement 2020 was tabled in the House on Thursday, 13th February, 2020 and thereafter referred to the various Departmental Committees for consideration and subsequently make recommendations to the Budget and Appropriations Committee.

On Tuesday, 18th February, 2020, the Committee received a brief from the Parliamentary Budget Office (PBO). This was aimed at informing Members of the Committee on the proposed budgetary ceilings and policy direction for the next financial year and over the medium term for the various State Departments falling within its purview. Thereafter the Committee called for meetings on 19th February, 2020 to consider the Budget Policy Statement 2020 in respect to the Ministry of Transport, Public Works, Housing, and Urban Development

2.2 Overview and purpose of the Budget Policy Statement (BPS)

The Budget Policy Statement (BPS) is published in accordance with Section 25 of the Public Finance Management Act, 2012. In preparing the Budget Policy Statement, the National Treasury is required to ***set out the broad strategic priorities and policy goals that will guide the National Government and County Governments in preparing their budgets both for the following financial year, and over the medium term.***

The National Treasury is required to include the following in the Budget Policy Statement: -

(a) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
(b) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
(c) The proposed expenditure limits for the National government, including those of Parliament and the Judiciary and indicative transfers to county governments;
(d) The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

The National Treasury, while processing the Budget Policy Statement (BPS), is also required to seek and take into account the views of the **Commission of Revenue on Allocation, the County Governments, the Controller of Budget, the Parliamentary Service Commission, the Judicial Service Commission, the Public and any other interested parties or groups.**

The Standing order (232) requires among other things the budget policy statement (BPS) to indicate total resources to be allocated to individual programmes within a sector and indicate the outputs

expected from each such Programme. Upon being tabled in parliament the BPS is committed to Departmental Committees in the National Assembly for scrutiny of the Votes under their purview and makes policy recommendations, within seven days of committal, to the Budget & Appropriations Committee which compiles a final report for approval by the National Assembly.

3.0 SUBMISSIONS

3.1 Presentation by the Parliamentary Budget Office (PBO)

The Parliamentary Budget Office Briefed the Committee on the contents of the BPS 2020 and highlighted key issues that was of concern to the Departmental Committee. Key among the issues highlighted were as follows;

i. The office observed that all the votes under the Committee have been allocated a ceiling below what they were allocated in the financial year 2019/20 and therefore it was prudent for all spending agencies to prioritize their programmes and activities, implement efficiency and productivity measures in order to use the limited resources to achieve the performance targets including supporting four agenda since resources are usually limited relative to spending needs.

ii. Whereas it is commendable to achieve the set targets with the voted resources, it may not be legit to execute extra KPIs and targets without the necessary budgetary provisions and hence leading to unnecessary pending bills. The State Departments for Infrastructure has to provide a convincing explanation that is within the law that the huge pending bills reported every financial year are not as result of the overachieved KPIs.

iii. Two ferries MV Jambo and MV Safari were to be delivered in April, 2018 at a cost of Kshs. 1,8630 million, however, the delivery for one of ferries was fast-tracked and the cost varied by Kshs. 300 million effectively taking the total cost to Kshs. 2,1630 million. While MV jambo was delivered under fast-tracking arrangement, the MV safari was not delivered. The delay was attributed to court injunction by a consultant whose contract was terminated. The State Department should provide information on the fate of the second ferry (MV safari) and ***realism of procuring and delivering two more ferries in the financial year 2020.***

iv. The Bps 2020 targets construction/rehabilitation of **8 Airstrips**, however, the list of the Airstrips and locations are not provided. the State Department for Transport need to provide the list with a view to ascertain the extent to which it complies with the Committee's

recommendation in 2018/19 that the Airstrips be distributed fairly across the country giving priority to regions/areas with poor road networks.

v. The State Department for Shipping and Maritime intends to increase the revenues from the restructured KNLS from the current **Kshs. 17 million** to Kshs. **152 million** in the Financial Year 2020. It is however, noted that these internal revenues from KNLS were never reported in the previous financial years hence the need for full disclosure on what was collected and how it was utilized.

vi. The State Department for Housing and Urban development is mandated with the delivery of 500,000 housing units by 2022 under the affordable Housing programme theme in the Big four agenda. However, it is observed that **only 228 units** have been achieved since inception of the programme. The programme seems to be off track hence the need for a comprehensive status report on the implementation and viability of pursuing the programme from State Department.

vii. It is also noted that construction of Police and Prisons housing units has been slow in the last 2 financial years. It is also worth noting that the State Department still pursues the programme as outlined in the BPS

The office further gave the Committee the options available and their implications as summarized in the table below

OPTION	IMPLICATIONS
Approve the BPS as presented	• The ceilings, policies and targets will remain the same and the state departments will have to prioritize their activities within the ceilings provided to achieve the performance targets.
Propose Adjustments to policy, Programme or ceilings	• The committee may propose policy changes which may include policies leading to dropping police Housing Programme • The Committee may also propose changes to the budgetary ceilings for any Programme. This should however be limited to reallocations since any net increases in ceilings or further requests may not be accommodated by the overall resource framework outlined in the 2020 BPS.

3.2 Presentation by the State Department for Infrastructure

The State Department for Infrastructure appeared before the Committee on Wednesday, 19th February 2020. The state Department, through the Principal Secretary, submitted information touching on its financial and non-financial performance for the FY 2019/20, its projected ceilings and targets to be achieve, status the roads bond, status of pending bills among others as follows;

(a) Financial Performance

The total 1st Revised Budget 2019/2020 is **Kshs.194 billion** made up of **Kshs.61 billion** Recurrent and Development **Kshs.133 billion**. The expenditure for both Recurrent and Development as at 31st December 2019 is as shown below:

No	Description	1st Revised Budget	Actual Expenditure as at 31st December 2018	Percentage of Expenditure
(i)	Recurrent	61,335,410,423	30,264,128,967	50%
(ii)	Development	132,480,000,000	54,259,650,539	41%
	Total	**193,815,400,000**	**84,523,779,506**	**44%**

Out of the **Kshs.61.3 billion** Recurrent Budget, **Kshs.58.2 billion** is Roads Maintenance Levy Fund (RMLF), **Kshs.1.4 billion** for Headquarters salaries and **Kshs.1.0 billion** under Mechanical Fund; each of which had registered an expenditure of approximately 50% of the allocation.

The Development Budget of **Kshs.133 billion** is financed by Development Partners and GoK. The expenditure against each component of the Development Budget is as follows:

No	Description	Amount Budgeted (Ksh)	Expenditure (ksh)	Percentage of Expenditure
1.	Net GoK exchequer	69,409,034,905	23,024,732,180	33%
2.	Fuel Levy Support - For Development	8,350,000,000	4,175,000,000	50%
3.	Road Annuity Fund (Fuel Levy AIA)	11,180,000,000	5,590,000,000	50%
4.	Development Partner Support	43,540,965,095	21,469,918,359	49%
	Total	**132,480,000,000**	54,259,650,539	41%

The net GoK exchequer expenditure represents the total exchequer received as at 31st December 2019. An additional net GOK exchequer of **Kshs.26 billion** was received in January 2020 as opposed to the intended release in December 2019. The **Kshs.26 billion** has pushed the total net GOK exchequer received to **Kshs.49 billion** representing a total exchequer receipt of 71% from the 33% indicated above. The entire exchequer received has been disbursed to the Agencies

The Road Annuity Fund expected collections for the year amount to **Ksh 11.2 billion** and will be released to the Annuity Fund Account in the last quarter of the Financial Year.

On the **pending Bills** the State Department reported that it had an outstanding bills portfolio of **Kshs.90 billion** as at 31st December 2019. Out of the **Kshs.90 billion**, land compensation comprises of **Kshs.30 billion** based on ongoing valuations. The remaining balance of **Kshs.60 billion** is for outstanding certified works on ongoing contracts. The huge portfolio of pending bills is as a result of inadequate net GOK Budget allocations. The net GOK allocations for the 2020/2021 have fallen from the earlier on expected **Kshs.65 billion** to **Kshs.51 billion** this scenario is likely to further increase the portfolio of pending bills and stagnation of Projects by June 2020. The reduction of the net GOK ceiling is also likely to negatively impact on repayment of the Roads Bond since it will take longer and therefore will likely make the Roads Bond more expensive than originally conceived.

(b) Non-Financial Performance

The non-financial performance of the State Department as at 31st December for the State Department is summarized in the table bellow

1st Half 2019/20 Output Summary Achievements in Kms

	Target 1st Half (km)	Achievement 1st Half (km)	Percentage of Achievement
High Traffic Roads			
New Roads Upgraded	278	216	78%
Roads Rehabilitated	20	29	144%
Totals High Traffic	298	245	82%
Low Volume Sealed Roads			
Upgraded Roads under R10,000 (LVSR)	322	466	145%
Upgraded roads under R2000 (LVSR)	26	32	122%
Total Low Volume	349	498	143%
Maintenance			
Periodic Maintenance	293	276	94%
Routine Maintenance (PBC)	11,987	10,200	85%
Routine Maintenance (Conventional)	9,638.08	9,502.25	99%
Maintenance (Equalization Fund)	77.00	90.00	117%
R2000 Programme (gravel)	33.23	92.50	278%

On the **roads bond**, the State Department informed the Committee that the first batch of the Roads Bond amounting to **Kshs.150 billion** is expected to be realized by June 2020. This **Kshs.150 billion** will be applied to settle pending bills without provision covering the period up to 30th June 2020. The

balance of the bond proceeds is expected to finance works from 1st July to 30th September when the second bond is expected to be issued. Nevertheless, the timings for floatation and structure for the second set of borrowing will be guided by the National Treasury.

The state Department also informed the Committee on the Status of the **annuity financed projects** as summarized in the table below;

No.	Project	Cost	Status as at 31st January 2020
(i)	Lot 33 (Ngong-Kiserian-Isinya Road, and Kajiado-Mashuru-Isara Road) – 90.55 Km	24 billion	Project to conclude end March 2020
(ii)	Lot 3 (Modogashe-Habasein-Wajir and El Wak-Rhamu-Mandera Road) – 143 Km	33 billion	Awarded for construction - Financial Conveyance in Process
(iii)	Lot 15 (Select urban roads in Nyeri, Kirinyaga, Murang'a, Embu, Tharak Nithi and Laikipia Counties) – 45.12 Km	18 billion	Awarded for construction - Financial Conveyance in Process
(iv)	Lot 18 (select urban roads in Kakamega, Vihiga, Bungoma and Busia Counties) – 31.1 Km	14 billion	Awarded for construction - Financial Conveyance in Process
(v)	Lot 32 (Illasit-Njukini-Taveta) – 66.5 Km	18 billion	Awarded for construction - Financial Conveyance in Process

Collections into the annuity fund have a bank balance of **Kshs.37 billion** excluding the budgeted and expected collections of **Kshs.11.2 billion** by 30th June 2020.

The state Department also submitted the ceiling provided for the FY 2020/2. The ceiling is summarized in the table below.

Description	**BPS Provision**
Recurrent	64,956,000,000
Capital	125,361,000,000
Total	**190,317,000,000**

The state Department concluded that it faces acute budget shortfall of **Kshs.13 billion** under the Development Budget for the 2020/2021 financial year.

3.3Presentation by the State Department for Transport

The State Department for Transport appeared before the Committee on Wednesday, 19th February 2020. In their presentation, the State Department made its submissions starting with major programmes and projects of focus in BPS 2020 and the medium term.

a. Rail Program

i. Phase 2B (Naivasha to Kisumu)

Designs for this project have been reviewed, the engagement with financier are yet to be completed. The government has planned to rehabilitate the MGR from Naivasha to enhance connectivity.

ii. Nairobi Commuter Rail

All funds were allocated in 2019/20 FY awaiting exchequer release. The funds will be released in this Financial Year. The funds will cater for:

Procurement of 11 DMUs – Kshs. 1,000 million

Rehabilitation of Track and associated infrastructure/facilities – **Kshs. 3,640 million**

iii. Refurbished Coaches

10 coaches have already been refurbished; the target for 2020/21 FY is 2 coaches.

iv. Completion of Naivasha ICD

This project is due for implementation in 2019/20 FY with an initial allocation of Kshs. 5,000 Million and has a proposed allocation of Kshs. 3,000 Million 2020/21 FY.

v. Metre Gauge Railway

The total number of 200 kilometers is to be covered.

The existing Nairobi Commuter Rail covers 170 kilometers and includes related infrastructure. Nairobi – Konza Metre Gauge Rail covers 50 kilometers. It has an allocation of Kshs. 478 Million in 2019/20 FY.

b. Marine Programme

i. **Completion of 1st three berths of Lamu Port:** This project is expected to be completed this year. Currently, it is at 75% completion status. In the 2020/21 FY, it has been allocated Kshs. 7.2 billion. The funds will cater for Construction works;

ii. **Mombasa Port Development Project – Phase 2;** The project is funded by JICA to the tune of Kshs. 8,500 Million.

iii. **Dongo Kundu:** Dongo Kundu is earmarked to be a Special Economic Zone implemented by various Government agencies. KPA will develop the port area by constructing 1 berth and water and sewerage facilities while KeNHA will develop the roads within the SEZ and KPLC Power Station of connectivity.

iv. **Tongue Ramps:** Targeted to rehabilitate 2 ramps.

v. **Acquisition of 2 Ferries:** This was a project initiated in 2016. One ferry was delivered in 2017 and the second ferry is to be delivered in April 2020.

c. **Air Transport Program**

The Ministry of Transport is taking certain critical actions aimed at the stabilization and growth of the aviation industry. The National Treasury in conjunction with the Ministry of Transport conducted a financial restructuring of the national carrier in the year 2017 which recommended the consolidation of aviation assets.

The proposal is the creation of 100% owned GOK Aviation Holding Company (AHC) that will consist of the following subsidiaries:

- Kenya Airports Authority
- A Nationalized Kenya Airways

The industry regulator KCAA will remain independent. These changes will require changes in law and a draft bill is in the final stages of preparation. The Government will also develop a standalone National Aviation Policy for the Sector linked to the integrated National Transport Policy.

Kenya Airports Authority (KAA) has initiated a Master Plan for JKIA which will includes a Second Runway at JKIA which is in the medium term plan, however more pressing is the Facelift Project of Terminal 1B, C and D which is awaiting approval from National Treasury.

The state department also reported on the proposed ceiling in the Bps 2020 as summarized in the table below;

Allocations and requirements by Vote and by Programme Kshs. Millions					
	Allocations		Requirement	BPS Ceiling	% of allocation vs requirement
Programme	2018/19	2019/20	2020/21	2020/21	
Transport	**100,729**	**123,188**	**103,700**	**61,568**	**59%**
General Admin., Planning & Support Services	1,415	951	865	444	51%
Rail Transport	74,756	90,127	47,784	19,223	40%
Marine Transport	13,041	22,102	44,020	33,263	76%
Air Transport	9,280	9,991	10,997	8,607	78%
Road Safety & transport services	2,237	17	34	31	91%

3.4 Presentation by the State Department for Shipping and Maritime

The State Department for Shipping and Maritime made its presentation to the committee on Wednesday, 19th, and 2020. The state Department informed the committee that its propose ceiling is Kshs. 2,295 against a requirement of Kshs. 5,628 million. The proposed ceiling is less than the Kshs. 2,334 million it was allocated in the revised estimates of FY 2019/20.

On the budget utilization, the State Department submitted that it has utilized 32.4% of the total amount allocated. Under recurrent allocation of **Kshs. 1,595 million** it managed to absorp Kshs. **649 million** (40.7%) and **Kshs. 108 million** under development which was allocated **Kshs. 740** million.

3.5 Presentation by the State Department for Housing

The state Department for Housing and Urban Development appeared before the committee on Wednesday, 20th 2020 and made its presentation on the BPS 2020. The budgetary utilization as 31st December 2019 was at 56% for the recurrent and 46% for development.

The State Department currently has outstanding **pending bills** amounting to Kshs **505 million**. The list of the pending bills is as follows:

S/no.	Supplier	Amount	Remarks
1.	Nyoro Construction Co. Ltd	242,245,179	Court award not paid because there is no budgetary provision
2.	Nyoro Construction Co. Ltd	258,865,712	
3.	Nyoro Construction Co. Ltd	2,408,000	
4.	Don-Woods Company	1,805,090	Unresolved Arbitration award Referred to the attorney General for Direction.
	Total	**505,323,982**	

With regards to the proposed ceilings, the State Department has been allocated Kshs. 23,680 million against a resource requirement of Kshs. 119,915 million translating 20% of the required resources. The table below shows a summary of the ceilings.

Allocations and requirements by Vote and by Programme Kshs. Millions					
	Allocation		Requirement	BPS Ceiling	% allocation Vs requirement
Programme	2018/19	2019/20	2020/21	2020/21	
State Dept. for Housing & Urban Development	**27,897**	**31,969**	**119,915**	**23,680**	20%
Housing Development & Human Settlement	8,021	13,616	76,796	11,107	14%
Urban & Metropolitan Development	19,652	18,104	42,926	12,400	29%
General Admin. Planning & Support Services	224	249	193	173	90%

State Department further, submitted the following as critical areas not financed and should be considered for funding subject to availability of resources.

S/no.	Item	Requirement Kshs. (Millions)	Allocation Kshs. (Millions)	Shortfall Kshs. (Millions)
1.	National development Housing Fund	45,000	0	45,000
2.	Development of Uhuru Business Park in Kisumu	350	0	350
3.	Railways Development Authority	625	0	625
4.	Rapid Mass Transit	7,000	0	7,000
	Total	**52,975**	**0**	**52,975**

3.6 Presentation by the State Department for Public Works

The State Department for Public Works appeared before the Committee on Wednesday, 19th February 2020. In their presentation, the State Department submitted that by 31st Dec. 2019, utilized 89% of its recurrent expenditure amounting to Kshs. 1,014 million of the total recurrent allocation of Kshs. 1,137 million. With regards to development the State Department utilized Kshs.637 million out the Kshs. 3,526 million allocated representing only 18%.

With regards to the BPS 2020 ceiling, the state summarized it as shown in the table below.

Allocations and requirements by Vote and by Programme Kshs. Millions					
	Allocation		Requirement	BPS Ceiling	% of allocation vs ceiling
Programme	2018/19	2019/20	2020/21	2020/21	
State Dept. for Public Works	**4,346**	**5,972**	**10,032**	**3,516**	35%
Government Buildings	2,043	3,482	3,031	1,156	38%
Coastline Infrastructure & Pedestrian Access	489	505	3,513	470	13%
General Admin. Planning & Support Services	391	399	431	309	72%
Regulation & Development of the Construction industry	1,423	1,586	3,057	1,581	52%

The state Department has recurrent pending bills of **Kshs. 94 million**. Further, the state department informed the Committee that it requires **Kshs. 5, 700 million** to complete ongoing projects and hand over to the agencies. The State department also informed the Committee that it is allocated resources for designing and supervision of big four projects but faces challenges of utilizing such resources since its depends with speed of drivers.

4.0 COMMITTEE'S OBSERVATIONS

a) **State Department of Infrastructure,**

the committee observed;

i. That the annuity financing model was rolled out in the FY 2014/15 with an initial target of 435 KMs. Since then only 91 KMs road, Lot 33 (Ngong-Kiserian-Isinya Road, and Kajiado-Mashuru-Isara Road) at a cost of **Kshs. 24 billion** translating to approximately Kshs. **264 million** per KM has taken off.

ii. That the National Treasury and the State Department for Infrastructure did not take in to account the expected resource from floating the roads bond when they were finalising the Budget Policy Statement (BPS) 2020..

b) **State Department of Transport**

The committee observed;

i. That the operations and maintenance expenditures for SGR has accumulated about **Kshs. 35 billion** that may lead to the private operator pulling out the operations of the project.

c) State Department for Shipping and Maritime

The Committee observed;

i. That the operationalization of the Kenya National Shipping Line (KNSL) is still formative stage.

d) State Department of Housing and Urban Development

The committee noted that;

i. The affordable housing programme has so far delivered only 228 units making it off track. The slow pace of implementation is attributed lack of funds to operationalize the housing development fund which has a shortfall **Kshs. 45 billion**. The Committee recommends that the National treasury provides the **Kshs. 45 billion** to the National Housing Development in phases starting with the fourth quarter 2019/20 and the balance in the FY 2020/21.

e) State Department for Public Works

The Committee Observed that;

i. The State Department for Public Works is facing challenges in utilizing resources allocated to facilitate projects implemented by the Big Four drivers. The committee recommends that resources to enablers of the big four projects be made available only when sites are ready from the side of the drivers to avoid locking resources from other priority areas or allow the enablers reallocate any amount may not have been spent by the end of the Financial to other priority projects.

ii The state Department is grappling a number of stalled projects on behalf various government agencies requiring Kshs. 5,700 million to complete. The committee recommends that the National Treasury avails those resources to the State Department in the FY 2020/21 to enable state Department hand over to the clients.

5.0 COMMITTEE RECOMMENDATIONS

Emanating from the observations listed above, the committee makes the following recommendations under each State Department.

a) State Department for infrastructure

i. The committee recommends that the National Treasury amends the annuity legal instruments through the finance bill 2020 to allow the annuity fund finance Development of roads and used as counterpart funding in the budget estimates.

ii. That the National Treasury should take into account the expected proceeds from the roads bond in formulating the Budget Estimates for the FY 2020/21.

b) State Department for Transport

i. The committee recommends amendments to the Customs and Excise Act to allow the Railway Development Levy Fund (RDLF) to finance the operations of the Standard Gauge Railway (SGR) since land compensation is completed and phase 2 B (Naivasha – Kisimu) is yet to take off.

c) State Department for Shipping and Maritime

ii. The committee recommends the State Department for shipping and Maritime completes the operationalization of the Kenya National Shipping Line by the end of calendar year 2020.

d) State Department for Housing and Urban Development

i. the Committee recommends that the National Treasury provides the **Kshs. 45 billion** shortfall in the Affordable Housing programme in phases, starting with the fourth quarter 2019/20 and the balance in the FY 2020/21.

e) State Department for Public Works

i. The committee recommends that resources to enablers of the big four projects be made available only when sites are ready from the side of the drivers to avoid locking resources from other priority areas.

ii. The committee recommends that the National Treasury avails the **Kshs. 5.7 billion** to the State Department in the FY 2020/21 to enable the State Department complete the stalled projects hand over to the clients.

6.0 Annexes

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