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REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET

ON

ON THE COUNTY GOVERNMENTS (EQUITABLE SHARE) CASH DISBURSEMENT SCHEDULE FOR FINANCIAL YEAR 2022/23

③ Hon. Speaker
Recommended for approval
Approved for tabling
15/6/2022

CLERK CHAMBERS THE SENATE PARLIAMENT OF KENYA NAIROBI

JUNE 2022

② COS Forwarded and recommended for your approval for processing
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PREFACE

Mandate and Functions of the Committee

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

Parliamentary committees consider policy issues, scrutinize the workings and expenditure of the national and county governments and examine proposals for legislation. The end results of these processes are reports to the House in plenary on inquiry of certain issues under the mandate of a particular committee.

The Senate Standing Committee on Finance and Budget is established under section 8(1) of the Public Finance Management Act, 2012 and standing order 212(3) of the Standing Orders of the Senate and is mandated to -

- a) *To investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to examine –*
 - i) *the Budget Policy Statement presented to the Senate;*
 - ii) *report on the Budget allocated to Constitutional Commissions and independent offices;*
 - iii) *the Division of Revenue Bill, County Allocation of Revenue Bill, and cash disbursement schedule for county governments.*
 - iv) *To consider all matters related to resolutions and Bills for appropriations, share of national revenue amongst the counties and all matters concerning the National Budget, including public finance and monetary policies and public debt, planning and development policy; and*

- b) *To pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.*

Membership of the Committee

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

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

Executive Summary

County Governments Cash Disbursement Schedule is submitted to the Senate by the National Treasury pursuant to Section 17 of the Public Financial Management Act, 2012. The purpose of schedule is for ensuring timely monthly transfers of funds from the Consolidated Fund to respective County Revenue Funds.

The Schedule serves as a guide and facilitates a predictable flow of county funds and thus enabling counties to undertake critical functions in delivery of services to the citizens.

The schedule facilitates implementation of Article 219 of the Constitution which expressly provides that counties share of revenue raised by the National Government shall be transferred to the county governments without undue delay and without deduction, except when the transfer has been stopped under Article 225 (stoppage of transfer for material breaches).

Following the enactment of the County Allocation of Revenue Act, 2021 containing allocations for each County, the Cash Disbursement Schedule for the Financial Year 2022/23 was submitted to the Senate by the National Treasury on 14th June, 2022 for consideration.

The Schedule was tabled in the House and was committed to the Standing Committee on Finance and Budget pursuant to standing order 183(2) of the Senate Standing Orders.

The Committee considered the Cash Disbursement Schedule at its sitting held on 15th June, 2022 and made several observations, among them-

- a) In regards to implementation of the FY 2021/22 Cash Disbursement Schedule, the actual disbursements to counties varies from the Senate resolution. This is a major risk factor to county financing and programme performance including payment of salaries and other components of employee compensation at the devolved level of governments.
- b) The delays in the disbursement of funds to counties affects the operations and delivery of services at the county level and this negates the principles of proper planning and budgeting as well as distorting priority funding at the counties.

- c) The current basis informing preparation of annual cash disbursement schedule in respect of county equitable share is not realistic and not aligned with county expenditure needs including statutory expenditure and hinders compliance to county procurement plans.

The Committee recommends that the Senate approves the County Governments (Equitable Share) Cash Disbursement Schedule for the Financial Year 2022/23 as tabled. Additionally, that-

- a) The National Treasury should transfer equitable share to the counties as per the approved cash disbursement schedule without undue delay and without deduction as per Article 219 of the Constitution, and submit quarterly reports on the status of transfers to the Senate.
- b) Pursuant to Article 224 of the Constitution, the County Governments ensure adherence to budget approval timelines including appropriation measures to ensure service delivery at counties and support smooth transition in view of the 2022 General Election.
- c) In the next FY 2023/24 and going forward, the National Treasury should prepare and submit a realistic County Cash Disbursement Schedule that recognizes budget implementation and procurement plans by enhancing transfers in the first three quarters of the financial year to facilitate service delivery at the counties while mitigating against accumulation of pending bills.

Acknowledgements

The Committee acknowledges the National Treasury for their timely submissions of the County Governments' Cash Disbursement Schedule which is a critical requirement in the execution of the budget.

The Committee thanks the Offices of the Speaker and Clerk of the Senate for the support extended to the Committee in execution of its mandate.

Appreciation also goes to all Members of the Committee for their patience, sacrifice and commitment to complete the assigned task within the stipulated time.

It is now my pleasant duty and privilege, on behalf of the Standing Committee on Finance and Budget, to present to the Senate, this Report of the Committee on the County Governments (Equitable Share) Cash Disbursement Schedule for the Financial Year 2022/23.

SIGNATURE: 

SEN. CHARLES KIBIRU, MP.

(CHAIRPERSON, STANDING COMMITTEE ON FINANCE AND BUDGET)

DATE:15th June 2022.....

1.0 Overview

1.1 Introduction

1. Article 218 of the Constitution provides for the annual enactment of the Division of Revenue Act and the County Allocation of Revenue Act. Subsequently, Section 17 (6) and (7) of the Public Finance Management (PFM) Act provides that the National Treasury shall, at the beginning of every month, and in any event not later than the 15th day from the commencement of the month, disburse monies to county governments. This is on the basis of a disbursement schedule prepared by the National Treasury in consultation with the Intergovernmental Budget and Economic Council (IBEC) and with the approval of the Senate.
2. The County Cash Disbursement Schedule upon approval by the Senate operationalizes the release and transfer of respective equitable share as outlined in the Annual County Allocation of Revenue Act, 2022. The preparation of the Schedule is informed by the National Treasury estimate on revenue collection trends and overall cash flow needs for implementing programmed activities, projects and policies.
3. The National Treasury submitted the disbursement schedules for FY 2022/23 for approval by the Senate. According to standing order 183 of the Senate Standing Orders, the cash disbursement schedule for the County governments shall be submitted not later than fifteen days following the enactment of the County Allocation of Revenue Bill. The indicated amounts in the schedules are in line with the allocations provided in the County Allocation of Revenue Act, 2022 and spread across the 12 months of the fiscal year.

1.2 Analysis of the Implementation Cash Disbursement for FY 2021/22

4. Section 17 (6) of PFM, 2012 stipulates that the National Treasury shall, at the beginning of every month, and in any event not later than the fifteenth day from the commencement of the month, disburse monies to county governments for the expenditure of the following month.
5. With regards to the performance of releases for the current FY 2021/22, counties received a total of Kshs. 61.05 billion in the 1st Quarter against a target of Kshs. 92.50 billion. In addition, counties received a total amount of Kshs.83.93 billion in the 2nd Quarter against a target of Kshs. 90.65 billion, reflecting less than the expected performance in the first half of the fiscal year. As at May 2022, counties received a total equitable share of Kshs. 286.50 billion out of the total expected amount of Kshs. 340.40 billion as per the approved disbursement schedule.
6. Analysis of the past trends reflect substantial noncompliance to approved Schedules thus hampering service delivery at the devolved levels of government.
7. Table 1 shows the comparison between the actual disbursements and approved disbursement schedule and for the FY 2021/22.

	Disbursement Schedule	Actual Disbursements	%
1 st Quarter	92,500,000,000	61,050,000,000	66.00
2 nd Quarter	90,650,000,000	83,933,318,517	92.59
3 rd Quarter	92,500,000,000	71,336,352,880	77.12
April disbursements	33,300,000,000	44,681,264,954	134.18
May Disbursements	31,450,000,000	25,495,087,794	81.07
Total (As at May 2022)	340,400,000,000	286,496,024,145	84.16

Source: National Treasury

1.3 Analysis of the Cash Disbursement Schedule for FY 2022/23

8. The Schedule outlines monthly disbursements to all the county governments totaling to Kshs 370.00 billion. The disbursements will be made from the Consolidated Fund to the respective County Revenue Funds on the 15th of every month.
9. However, this is based on the performance of revenue raised nationally which is the main underlying assumption underpinning the monthly transfers which averages approximately 8% to 9%. The National Treasury will be responsible for the transfer of these funds with the approval of the Controller of Budget.

2.0 Committee Observations

10. The Committee observed that-

- a) In regards to implementation of the FY 2021/22 Cash Disbursement Schedule, the actual disbursements to counties varies from the Senate resolution. This is a major risk factor to county financing and programme performance including payment of salaries and other components of employee compensation at the devolved level of governments.
- b) The delays in the disbursement of funds to counties affects the operations and delivery of services at the county level and this negates the principles of proper planning and budgeting as well as distorting priority funding at the counties.
- c) Monthly exchequer releases published in the Kenya Gazette by the National Treasury does not provide for breakdown of disbursed amounts. Published data on disbursed amounts aggregates both equitable share and conditional grants making it difficult to track compliance to the Schedule as well as negating transparency measures and other principles relating to clear fiscal reporting and public financial management.
- d) The current basis informing preparation of annual cash disbursement schedule in respect of county equitable share is not realistic and not aligned with county expenditure needs including statutory expenditure and hinders compliance to county procurement plans.

3.0 Committee Recommendations

11. The Committee recommends that-

- a) The Senate approves the County Governments (Equitable Share) Cash Disbursement Schedule for the Financial Year 2022/23 as tabled.
- b) The National Treasury should transfer equitable share to the counties as per the approved cash disbursement schedule without undue delay and without deduction as per Article 219 of the Constitution, and submit quarterly reports on the status of the transfers to the Senate.
- c) Pursuant to Article 224 of the Constitution, the County Governments should ensure adherence to budget approval timelines including appropriation measures to ensure service delivery at the counties and support smooth transition in view of the 2022 general election.
- d) The National Treasury should disaggregate monthly exchequer releases to counties published in the Kenya Gazette. To enhance transparency and accountability, the breakdown indicates transferred amounts under equitable share, specific grants and loans by each development partner.
- e) In the next Financial Year 2023/24 and going forward, the National Treasury should prepare and submit a realistic County Cash Disbursement Schedule that recognizes budget implementation and procurement plans by enhancing transfers in the first three quarters of the financial year to facilitate service delivery at the counties while mitigating against accumulation of pending bills.

Appendices

Minutes

MINUTES OF THE 287TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON WEDNESDAY, 15TH JUNE, 2022 ON ZOOM ONLINE PLATFORM AT 9.00 A.M.

PRESENT

- | | | |
|--|---|------------------|
| 1. Sen. Charles Kibiru, MP | - | Chairperson |
| 2. Sen. (Dr.) Ochillo-Ayacko, EGH, MP | - | Vice-Chairperson |
| 3. Sen. CPA Farhiya Haji, MBS, MP | - | Member |
| 4. Sen. Mutula Kilonzo Junior, CBS, MP | - | Member |
| 5. Sen. Rose Nyamunga, CBS, MP | - | Member |

ABSENT WITH APOLOGY

- | | | |
|---|---|--------|
| 6. Sen. Kimani Wamatangi, MP | - | Member |
| 7. Sen. Aaron Cheruiyot, MP | - | Member |
| 8. Sen. Millicent Omanga, MP | - | Member |
| 9. Sen. Moses Wetangula Masika, EGH, MP | - | Member |

SECRETARIAT

- | | | |
|-----------------------------|---|----------------------|
| 1. Mr. Christopher Gitonga | - | Clerk Assistant |
| 2. Ms. Beverlyne Chivadika | - | Clerk Assistant |
| 3. Ms. Lucy Radoli | - | Legal Counsel |
| 4. Ms. Lucy Makara | - | Deputy Director, PBO |
| 5. Ms. Sharon Rotino | - | Researcher |
| 6. Ms. Yunis Amran | - | Fiscal Analyst |
| 7. Mr. William Wambiru | - | Fiscal Analyst |
| 8. Ms. Doris Nyambura Mburu | - | Intern |

MIN. NO. 4071/06/2022: PRELIMINARIES

The Chairperson called the meeting to order at 9.28 a.m. and thereafter followed by a word of prayer.

MIN. NO. 4072/06/2022: ADOPTION OF THE AGENDA

The agenda was adopted after it was proposed by Sen. Mutula Kilonzo Junior, CBS, MP, and seconded by Sen. CPA Farhiya Haji, MBS, MP.

MIN. NO. 4073/06/2022: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The minutes of the 286th sitting held on Thursday, 9th June, 2022 at 9:00 a.m. were confirmed as a true record of the proceedings of the Committee after having been proposed by Sen. Rose Nyamunga, CBS, MP, and seconded by Sen. CPA Farhiya Haji, MBS, MP.

MIN. NO. 4074/06/2022: CONSIDERATION AND ADOPTION OF THE REPORT ON THE APPROVAL FOR THE NATIONAL GOVERNMENT TO GUARANTEE LAIKIPIA COUNTY GOVERNMENT TO BORROW KSHS. 1.16 BILLION BY ISSUANCE OF INFRASTRUCTURE BOND

The Committee considered and deliberated on the report on the approval for the National Government to guarantee Laikipia County Government to borrow Kshs.1.16 billion by the issuance of an infrastructure bond.

The Committee unanimously adopted the report after having been proposed by Sen. Rose Nyamunga, CBS, MP, and seconded by Sen. Mutula Kilonzo Junior, CBS, MP, with the recommendation that the Senate approves the request by the Cabinet Secretary, National Treasury, and Planning for National Government to guarantee Laikipia County Government to borrow Kshs. 1.16 billion by the issuance of infrastructure bond.

MIN. NO. 4075/06/2022: CONSIDERATION AND ADOPTION OF THE REPORT ON THE COUNTY GOVERNMENT (EQUITABLE SHARE) CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2022/23

The Committee considered the report on the County Governments (Equitable Share) Cash Disbursement Schedule for Financial Year 2022/23.

The Committee unanimously adopted the report after it was proposed by Sen. CPA Farhiya Haji, MBS, MP, and seconded by Sen. Rose Nyamunga, CBS, MP, with the following recommendations-

- a) The Senate approves the County Governments (Equitable Share) Cash Disbursement Schedule for the Financial Year 2022/23 as tabled.
- b) The National Treasury should transfer equitable share to the counties as per the approved cash disbursement schedule without undue delay and without deduction as per Article 219 of the Constitution, and submit quarterly reports on the status of transfers to the Senate.
- c) Pursuant to Article 224 of the Constitution, the County Governments to ensure adherence to budget approval timelines including appropriation measures to ensure service delivery at counties and support smooth transition in view of the 2022 general elections.
- d) The National Treasury should disaggregate monthly exchequer releases to counties published in the Kenya Gazette. To enhance transparency and accountability, the breakdown to indicate transferred amounts under equitable share, specific grants, and loans by each development partner.
- e) In the next FY 2023/24 and going forward, National Treasury to prepare and submit a realistic County Cash Disbursement Schedule that recognizes budget

implementation and procurement plans by enhancing transfers in the first three quarters of the financial year to facilitate service delivery at the counties while mitigating against the accumulation of pending bills.

MIN. NO. 4076/06/2022: CONSIDERATION AND ADOPTION OF THE COMMITTEE'S 12TH PARLIAMENT EXIT REPORT

The Committee considered the exit report for the 12th Parliament as summarized below-

- a) The Committee held a total of two hundred and eighty-seven (287) sittings including meetings with various key stakeholders;
- b) The Committee conducted two county oversight visits to Uasin Gishu County and Vihiga County;
- c) The Committee was able to respond to all the thirty-eight (38) statements that were referred to the Committee;
- d) The Committee considered Six (6) Petitions and 27 Bills;
- e) Committee moved 17 motions; and
- f) Committee considered and tabled 57 reports.

The Committee unanimously adopted its exit report after having been proposed by Sen. (Dr.) Ochillo-Ayacko, EGH, MP, and seconded by Sen. CPA Farhiya Haji, MBS, MP.

MIN. NO. 4077/06/2022: ANY OTHER BUSINESS

- a) The Members of the Committee thanked the Secretariat for effectively facilitating the Committee in executing its mandate during the 12th Parliament.
- b) The Chairman appreciated the members for their dedication and commitment in ensuring committee's was effectively executed.

MIN. NO. 4078/06/2022: ADJOURNMENT

The Chairperson adjourned the meeting at 10:05 a.m.

SIGNATURE: 

(CHAIRPERSON: SEN. CHARLES KIBIRU, MP.)

DATE: 15th June, 2022