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REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT - THIRD SESSION

THE SENATE

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STANDING COMMITTEE ON FINANCE AND BUDGET

REPORT ON THE 2024 BUDGET POLICY STATEMENT

PAPERS LAID	
DATE	05/2/2024
TABLED BY	Chair, Finance and Budget
COMMITTEE	
CLERK AT THE TABLE	Kavato

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

March, 2024

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LIST OF ABBREVIATIONS/ACRONYMS

A.i.A	-	Appropriation-in-Aid
BETA	-	Bottom-Up Economic Transformation Agenda
BPS	-	Budget Policy Statement
CAF	-	County Assemblies Forum
CAIP	-	County Aggregation and Industrial Park
CBC	-	Competence Based Curriculum
CBR	-	Central Bank Rate
CCDR	-	Country Climate Change Development Reports
CEDAW	-	Convention on the Elimination of all forms Discrimination against Women
CFS	-	Consolidated Fund Services
CGT	-	Capital Gain Tax
CHP	-	Community Health Promoters
CILOR	-	Contribution -in- Lieu Rates
COG	-	Council of Governors
CRA	-	Commission on Revenue Allocation
EARC	-	Education Assessment and Resource Center
ECCIF	-	Emergency, Chronic, and Critical Illness Fund
ECDE	-	Early Childhood Development Education
e-CHIS	-	Electronic Community Health Information System
e-GP	-	e-Government Procurement
EPRA	-	Energy and Petroleum Regulatory Authority
e-TIMS	-	Invoice Management System
FDP	-	Field Development Plan
FID	-	Final Investment Decision
FKE	-	Federation of Kenya Employers
GBV	-	Gender Based Violence
GDP	-	Gross Domestic Product
HELB	-	Higher Education Loan Board
HRH	-	Human Resource for Health
HWC	-	Human Wildlife Conflict
IBP	-	International Budget Partnership
ICATA	-	Intergovernmental Conditional Allocation Transfer Agreement
ICMS	-	Integrated Custom Management System
ICPAK	-	Institute of Certified Accountant of Kenya
IFMIS	-	Integrated Financial Management Information System
IGRTC	-	Inter-Governmental Relations Technical Committee
IMF	-	International Monetary Funds
IPP	-	Independent Power Producers
JSS	-	Junior Secondary School

KEMSA	-	Kenya Medical Supply Authority
KETRACO	-	Kenya Electricity Transmission Company
KPLC	-	Kenya Power & Lighting Company
KRA	-	Kenya Revenue Authority
KUSP	-	Kenya Urban Support Project
KYEOP	-	Kenya Youth Employment & Opportunities Project
LAN	-	Local Area Network
LPG	-	Liquified Petroleum Gas
MDAs	-	Ministries, Department and Agencies
MES	-	Medical Equipment Services
MSME	-	Micro, Small and Medium Enterprise
MTRS	-	Medium- Term Revenue Strategy
NHIF	-	National Health Insurance Fund
NOCK	-	National Oil Corporation of Kenya
NSSF	-	National Social Security Fund
NWSA	-	National Water Storage Authority
OSR	-	Own Source Revenue
PAYE	-	Pay as You Earn
PCN	-	Primary Care Network
PFM	-	Public Finance Management
PFMA	-	Public Financial Management Act
PIMIS	-	Public Investment Management Information System
PLEAD	-	Program for Legal Empowerment and Aid Delivery
PPP	-	Public-Private Partnership
PSAB	-	Public Sector Accounting Board
RMLF	-	Road Maintenance Levy Fund
RMNCAH	-	Malaria and Reproductive Maternal Neonatal Child Adolescents
SHIF	-	Social Health Insurance Fund
SOEs	-	State Owned Enterprise
TISA	-	The Institute for Social Accountability
TVETs	-	Technical and Vocational Education Training Authority
UDG	-	Urban Development Grant
UHC	-	Universal Health Coverage
UIG	-	Urban Institutional Grant
VAT	-	Value Added Tax
WSP	-	Water Services Providers
WWDA	-	Water Works Development Agencies

PRELIMINARY

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

Article 124(1) of the Constitution of Kenya 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.

Parliamentary committees consider policy issues, scrutinize the workings and expenditures of the National and County Governments, and examine proposals for legislation. The result of any process in Committees is a report, which is tabled in the House for consideration.

The Senate Standing Committee on Finance and Budget is established pursuant to section 8(1) of the Public Finance Management (PFM) Act, Cap 412A and standing order 228 of the Senate Standing Orders and is mandated to-

- a) investigate, inquire into, and report on all matters relating to coordination, control, and monitoring of the county budgets and examine-
 - (i) the Budget Policy Statement presented to the Senate;
 - (ii) the report on the budget allocated to constitutional Commissions and independent offices;
 - (iii) the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the cash disbursement schedules for county governments;
 - (iv) all matters related to resolutions and Bills for appropriations, the share of national revenue amongst the counties, matters concerning the national budget, including public finance and monetary policies and public debt, planning, and development policy; and
- b) Pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.

MEMBERSHIP OF THE COMMITTEE

Following the constitution of the Standing Committees of the Senate of the Thirteenth (13th) Parliament on Thursday, 13th October, 2022, the Senate Standing Committee on Finance and Budget as currently constituted comprises the following Members-

- | | | |
|---|---|-------------------------|
| 1) Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | Chairperson |
| 2) Sen. Maureen Tabitha Mutinda, MP | - | Vice-Chairperson |
| 3) Sen. (Dr.) Boni Khalwale, CBS, MP | - | Member |
| 4) Sen. Joyce Chepkoech Korir, MP | - | Member |
| 5) Sen. Tabitha Karanja Keroche, MGH, MP | - | Member |
| 6) Sen. Mohamed Faki Mwinyihaji, CBS, MP | - | Member |
| 7) Sen. Richard Momoima Onyonka, MP | - | Member |
| 8) Sen. Shakila Abdalla Mohamed, MP | - | Member |
| 9) Sen. Eddy Gicheru Oketch, MP | - | Member |

CHAIRPERSON'S FOREWORD

Section 25(2) of the Public Finance Management Act, Cap 412A provides that the National Treasury shall submit to Parliament the Budget Policy Statement (BPS) on or before 15th February in each year.

Pursuant to this provision, the National Treasury and Economic Planning submitted the 2024 Budget Policy Statement to the Parliament on 15th February, 2024. Subsequently, the 2024 BPS was tabled in the Senate at its sitting held on 15th February, 2024. Thereafter, and pursuant to standing orders 186(4) of the Senate Standing Orders, the BPS was committed to each Standing Committee for consideration and subsequent submission of recommendations to the Standing Committee on Finance and Budget within seven days.

Section 25(7) of the PFMA, Cap 412A provides that Parliament shall, not later than 14 days after the BPS is submitted to Parliament, table and debate a report on the BPS containing recommendations with aim of approving with or without amendments.

The BPS is a government policy document that sets out the broad strategic priorities and policy goals which guides the national and county governments in the preparation of budgets. It entails-

- a) an assessment of the current state of the economy, including macroeconomic forecasts as well as the priorities of the Government current pillars of growth and strategic directions;
- b) the financial outlook with respect to Government revenue, expenditures and borrowing for the next financial year and over the medium term;
- c) the proposed expenditure ceilings 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; and
- e) Statement of Specific Fiscal Risks.

In compliance with the provisions of standing order 186(6) of the Senate Standing Orders, the Committee proceeded to undertake consultative meetings with key stakeholders. The Committee received either written or and oral submissions on the BPS from the following stakeholders-

- a) The National Treasury and Economic Planning;
- b) The Commission on Revenue Allocation (CRA);
- c) The Council of Governors (CoG);
- d) The Institute of Certified Accountants of Kenya (ICPAK);
- e) The International Budget Partnership-Kenya Chapter;
- f) The County Assemblies Forum (CAF); and
- g) The Institute for Social Accountability (TISA);

The 2024 Budget Policy Statement is designed to build on the gains under the 2023 BPS. The theme of the 2024 BPS is ***Sustaining Bottom-Up Economic Transformation Agenda for Economic Recovery and Improved Livelihoods***.

Regarding the macro-fiscal framework, the National Treasury projects that the economic growth will be approximately 5.5% in 2024. This growth will be supported by continued robust growth in the services sector, and strong recovery of the agriculture sector. The overall inflation is expected to largely remain within the target band of 5(\pm 2.5)% in the medium term.

In regards to the exchange rate; the Kenya shilling depreciated by 19.3 % against the US dollar and 23.4% against the Euro between June 2022 and June 2023, thereby adversely affecting inflation levels and increasing the stock of debt by over Ksh. 800 billion. However, as at 20th February 2024, the Kenya shilling exchange rate had strengthened against major international currencies, appreciating by 10.8 percent against the US Dollar, 10.9 percent against the Sterling Pound and 10.8 percent against the Euro. This is majorly on account of the impact of management of the settlement risk associated with the maturity of the Euro bond due in June 2024, as well as forex inflows from the infrastructure bond.

The ordinary revenue in the FY 2022/23 grew by approximately 6.4% (FY 2021/22 ordinary revenue was Ksh. 1.917 trillion and in the FY 2022/23 it grew to Ksh. 2.041 trillion). The 2024 BPS projections on ordinary revenue as a share of GDP indicates that revenue will increase from 14.3% of GDP in 2022/23 FY to 17% in the medium term (by FY 2026/27). This will be achieved through increasing tax compliance rate from 70% to 90% as well as increasing investment to GDP ratio from 19.3% to 25.7%. The projected

ordinary revenue collection for FY 2024/25 is Ksh. 2.948 trillion. The projected revenue including grants is Ksh. 3.484 trillion.

The proposed total expenditure and net lending for FY 2024/25 is Ksh. 4.188 trillion. This represents 5.2% (Ksh. 206.7 billion) increase relative to the approved Supplementary No.1 budget of FY 2023/24.

The projected fiscal deficit for FY 2024/25 is Ksh. 704 billion (3.9% of GDP). The National Treasury proposes to borrow Ksh. 326 billion from external markets and Ksh. 377.7 billion from the domestic market.

The government proposes to focus on implementation of various interventions and policies geared towards reduction of the cost of living and improving livelihoods. Additionally, it will emphasise fostering a sustainable inclusive economic transformation.

The main interventions will target five key priority areas, namely-

- a) Agricultural Transformation and Inclusive Growth;
- b) Micro, Small and Medium Enterprise (MSME) Economy;
- c) Housing and Settlement;
- d) Healthcare; and
- e) Digital Superhighway and Creative Industry

In regard to division of revenue, the National Treasury proposes an allocation amounting to **Ksh. 391.1 billion** to county governments equitable share for FY 2024/25. This is an increment of Kshs. 5.7 billion (an equivalent of 1.47% growth) from Kshs. 385.4 billion allocated in the FY 2023/24. This proposed allocation is approximately 13.2% of the projected ordinary revenue collection of Ksh. 2.948 trillion for FY 2024/25 and 24.91% of Kshs. 1.570 trillion being the most recent audited and approved revenues raised nationally for FY 2020/21.

The National Treasury attributes this marginal growth to implementation of a fiscal consolidation plan aimed at reducing the fiscal deficit.

Further, the county governments are projected to receive additional allocations amounting to Ksh.54.7 billion. This comprises Ksh.19.06 billion to be financed from the National Government's share of revenue and Ksh.35.66 billion from proceeds of loans and grants from development partners.

Committee Observations

The Committee considered the 2024 BPS and made several observations including-

- a) The continued accumulation of pending bills at both levels of Government, estimated at 5% of GDP as at February 2024, has adversely affected private sector liquidity and profitability, thereby dampening private sector investment. Notably, the non-payment of pensions pending bills amounting to Ksh. 73.4 billion is risking the welfare of retiring county staff.
- b) The national government has employed 20,000 new healthcare workers under the *Afya Nyumbani* Programme. However, the framework within which the two levels of government intend to cooperate in the operationalisation of this programme is not provided in the BPS as contemplated in Article 189(1) and (2) of the Constitution.
- c) The growth of the county equitable share is disproportionately lower than the projected growth in ordinary revenue collection, denoting inequity in resource distribution. The proposed County Equitable Share amounting to Ksh. 391.1 billion has increased by 1.5% from the FY 2023/24 allocation (Ksh.385.425 billion), compared to a 13.9% projected increase in ordinary revenue collection.
- d) The expenditure rationalization strategies highlighted in the 2024 BPS, notably the scaling up of PPPs, eliminating non-priority expenditures, privatization of SOEs, rolling out of e-government procurement, and implementation of PIMIS are similar to the measures included in past BPSs. However, the BPS did not provide status of implementation of these strategies.
- e) There is no additional allocation to counties for the transfer of Library Services Function in FY 2024/25. This is despite a commitment by the National Treasury in the 2023 BPS to provide this allocation to counties in a phased approach over a period of three financial years. In FY 2024/25, the National Treasury was to allocate Ksh. 318.46 million (75% of Ksh. 424.6 million) to this function, and the balance of 25% was to be distributed as equitable share.
- f) The National Treasury has allocated to the Equalisation Fund, a partial payment of arrears amounting to Ksh. 3.533 billion for FY 2024/25, despite a commitment to the Senate to allocate Ksh. 9.98 billion for payment of arrears in FY 2024/25.

- g) The most recent audited and approved accounts of revenue is Ksh. 1.570 trillion being for accounts for FY 2020/21.
- h) With the exception of Laikipia County, county governments have not received their Contribution in lieu of Rates (CILOR) payments since the inception of devolution, amounting to Ksh 13.12 billion. However, the National Treasury indicates that a payment plan for outstanding CILOR dues is being processed
- i) The county governments are experiencing additional expenditure pressures emanating from statutory deductions including the proposed housing levy and increased NSSF contributions, which reduces resources for other county government priority expenditure. Additionally, the requirement that county governments provide counterpart funding towards Community Health Promoters further constrains the baseline expenditure levels.
- j) The Road Maintenance Levy Fund Act, Cap 427, that establishes the Road Maintenance Levy Fund was enacted before the coming into force of the 2010 Constitution and the devolved system of government. The Act therefore does not properly deal with the nature of this allocation and the basis for determination of the entitlement for each level of government
- k) Agriculture is a core pillar for the revolutionization of the growth of the economy. However, there is minimal investment towards the sector, especially provision of agricultural extension services to farmers

Some of the salient recommendations include-

Policy Recommendations

- a) That, the most recent audited accounts of revenue received, as approved by the National Assembly is Ksh. 1,570,562,945,014 for FY 2020/21 and shall be the basis for determining the county equitable share under Article 203(3) and the amounts due to the Equalisation Fund under Article 204(1) of the Constitution;
- b) That, the National Treasury prioritizes disbursement of equitable share to counties in line with the cash disbursement schedule and pursuant to Article 219 of the Constitution which provides that a county's share of revenue should be transferred to the county without undue delay and without deduction;

- c) That, the National Treasury in collaboration with CoG should fast-track development of the Integrated County Revenue Management System and submit to the Senate, a status report including draft legislation for the operationalisation of the system by 30th June, 2024;
- d) That, the National Treasury should expedite the approval of the payment of outstanding Contribution in lieu of Rates (CILOR) to county governments;
- e) That, the National Treasury expedites finalisation of the proposed framework for sharing of mineral royalties revenue among the National Government, County Governments and communities with a view to finalising the same by 30th June 2024;
- f) That, within 3 months, the Ministry of Agriculture and Livestock Development should engage with the CoG on possible collaborations to ensure adequate provision of extension services to farmers which is key in transforming and modernising the agriculture sector and consequently increasing food production;
- g) That, National and County governments should ensure realistic revenue projections since over-projection of revenue results in revenue shortfalls that lead to pending bills and further accumulation of debt as a result of budgeting for revenues that will not be realised;
- h) That, the National Treasury should expedite the transition from use of cash basis of accounting to modified accrual basis of accounting which may help in recognition and management of pending bills;

Financial Recommendations

The Committee made several financial recommendations including-

- a) The proposed allocation of shareable revenue to County Governments for FY 2024/25 should be **Ksh. 415.9522** billion, based on the following factors-
 - i) Baseline of Ksh. 385.425 billion being the approved allocation in the FY 2023/24;
 - ii) Adjustment for revenue growth of 6.4% (This is based on the actual ordinary revenue growth realised in the FY 2022/23); and

- iii) Further adjustment by repurposing of the scrapped MES programme allocation amounting to Ksh. 5.86 billion.
- b) The total additional allocations to counties should be **Ksh.55,453,732,777**, comprising-
- i. Road Maintenance Levy Fund - Ksh.10, 522,211,853
 - ii. Aggregated Industrial Parks programme - Ksh.4,500,000,000
 - iii. Supplement for Construction of County HQs- Ksh.445,000,000
 - iv. Transferred Museum Function – Ksh. 30,184,835
 - v. Community Health Promoters (CHPs) – Ksh. 3, 234, 930,000
 - vi. Mineral Royalties – Ksh. 1,055,205,814
 - vii. Court Fines – Ksh. 7,431,745
 - viii. Allocation from Development Partners in the form of Loans and Grants-Ksh. 35,658,768,530
- c) That, the Fiscal Deficit (including grants) for the FY 2024/25 be binding at Ksh.703.9 billion (3.9% of GDP).
- d) That, the allocation to the Equalization Fund for FY 2024/2025 be set at Ksh.7,852,814,725 in line with the most recent audited accounts, approved by the National Assembly (Ksh.1.570 trillion, FY 2020/21). Additionally, based on the commitment by the National Treasury to the Senate, vide letter ref number TNT/ZZ/81/014/E974) dated 19th May, 2023, an additional amount of Ksh. 9.98 billion be allocated to the fund as partial payment of outstanding arrears. The cumulative allocation to the fund should be **Ksh. 17,832,814,725**.

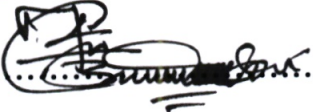
Acknowledgement

The Committee takes this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the 2024 BPS successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment.

Lastly, I wish to thank the stakeholders who submitted written memoranda and who appeared before the Committee to present their comments on the 2024 BPS.

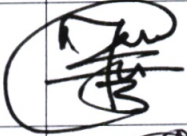


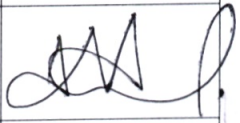

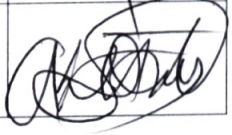
It is now my pleasant duty, pursuant to standing order 186(5) of the Senate Standing Orders and section 25(7) of the PFM Act, Cap 412A to present the 2024 BPS Report of the Standing Committee on Finance and Budget to the Senate.

Signature........Date...04.03.2024.

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP.
CHAIRPERSON,
STANDING COMMITTEE ON FINANCE AND BUDGET)

**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON
FINANCE AND BUDGET ON THE 2024 BUDGET POLICY STATEMENT**

We, the undersigned Members of the Senate Standing Committee on Finance and Budget, do hereby append our signatures to adopt this Report-

	Name	Designation	Signature
1.	Sen. Capt. Ali Ibrahim Roba, EGH, MP	Chairperson	
2.	Sen. Maureen Tabitha Mutinda, MP	Vice-Chairperson	
3.	Sen. (Dr.) Boni Khalwale, CBS, MP	Member	
4.	Sen. Tabitha Karanja Keroche, MGH, MP	Member	
5.	Sen. Joyce Chepkoech Korir, MP	Member	
6.	Sen. Mohamed Faki Mwinyihaji, CBS, MP	Member	
7.	Sen. Richard Momoima Onyonka, MP	Member	
8.	Sen. Shakila Abdalla Mohamed, MP	Member	
9.	Sen. Eddy Gicheru Oketch, MP	Member	

CHAPTER ONE

THE 2024 BUDGET POLICY STATEMENT

1.0 Introduction

1. The Budget Policy Statement (BPS) is prepared and submitted to Parliament pursuant to section 25 of the Public Finance Management Act, Cap 412A. It provides an assessment of the state of the economy and the financial outlook over the medium term including macro-economic forecasts, the overarching policies of the government, the resource envelope and expenditure ceilings. The BPS also sets out indicative transfers to county governments for the next financial year and the medium-term.
2. The 2024 Budget Policy Statement is designed to build on the gains under the 2023 BPS that was themed “*Bottom-Up Economic Transformation Agenda for Inclusive Growth*”. The 2024 theme is “**Sustaining Bottom-Up Economic Transformation Agenda for Economic Recovery and Improved Livelihoods.**” The focus is to ensure poverty reduction and ignite economic recovery by targeting five priority areas namely: Agriculture Transformation and Inclusive Growth; Micro, Small and Medium Enterprise (MSME) Economy; Housing and Settlement; Healthcare; Digital Superhighway and Creative Industry.

I. THE MACRO-FISCAL FRAMEWORK

a) Highlights of the Macro Framework 2024/25

3. The National Treasury projects that the economy will expand by **5.5 percent** in 2024. This growth will be supported by continued robust growth of the services sectors; the accommodation and restaurant subsector, transport and ICT. Rebound in agriculture and ongoing implementation of measures to boost activities in priority sectors by the government are also expected to boost growth.
4. From the supply side, growth will be driven by strong recovery in the agriculture sector and a decline in global commodity prices that will reduce the cost of production. Further, the ongoing fertiliser and subsidy program and provision of adequate affordable working capital to farmers will support growth of the sector. Manufacturing sector will be supported by improved availability of raw materials following recovery in agricultural

production; the construction sector will be supported by the affordable housing programme and government infrastructure projects.

5. From the demand side, growth will be supported by increased household consumption and robust private sector investment, as well as government investments, strong export growth and resilient remittances.
6. The contribution from food prices to headline inflation is expected to decline but pressures from fuel prices are expected to remain in the near term. Overall inflation is expected to largely remain within the target band of 5 (\pm 2.5%) in the medium term. The government will also support a flexible exchange rate system to act as an external shock absorber.
7. There are downside risks to this outlook emanating from unpredictable weather conditions which could affect food production resulting in inflationary pressures, and tight liquidity conditions which could affect financing of the budget. Externally, escalating geopolitical risks could lead to higher global commodity prices. Further, a slowdown in global economic recovery could weaken global demand thereby affecting Kenya's exports, foreign direct investments, and remittances. Continued aggressive global monetary policy tightening especially in the United States also presents significant risks to the exchange rate and financial inflows.

b) Highlights of the Fiscal Framework 2024/25

8. **The National Treasury projects that ordinary revenue as a share of GDP will increase from 14.3% in 2022/23 FY to 17% in 2026/27.** To achieve this, the government has developed a Medium-Term Revenue Strategy (MTRS) whose objectives include, raising revenue as a share of GDP from 16.5% to 20%, increasing tax compliance rate from 70 % to 90% as well as increasing investment to GDP ratio from 19.3% to 25.7%.
9. The projected ordinary revenue collection for FY 2024/25 is **Ksh. 2.948 trillion**. This represents a 14% growth relative to the National Treasury's expected collection in 2023/24. The strategies underpinning the MTRS to enhance revenue collection include the reduction of the corporate rate of income tax to boost Kenya's competitiveness and enhance investment, as well as the review of PAYE bands to improve progressivity. Further, to enhance revenue collection from VAT, the MTRS proposes a rationalization

of exempt and zero-rated supplies, a review of VAT rates downwards, and an introduction of VAT on services such as education and insurance.

10. The MTRS is expected to form the basis for the measures that will be contained in the Finance Bill 2024, and contains measures aimed at expanding the tax base through taxation of the informal sector, the digital sector and the agricultural sectors as well as implementation of revenue administration reforms which will require an additional allocation of Ksh. 12.9 billion.
11. The projected total expenditure and net lending for FY 2024/25 is **Ksh. 4.188 trillion**. This represents 5.2% (Ksh. 206.7 billion) increase relative to the approved Supplementary No.1 budget of 2023/24 FY. The main drivers of the increased budget include an additional Ksh. 89.9 billion expenditure on interest payment on public debt as well as a Ksh. 70.7 billion increase in development expenditure.
12. The BPS highlights expenditure rationalisation strategies aimed at reducing total expenditure and net lending to around 23% in FY 2024/25 and over the medium term. These include scaling up PPPs, eliminating non-priority expenditures, privatization of State-Owned Enterprises (SOEs), rolling out of e-government procurement, and implementation of Public Investment Management Information Systems (PIMIS).
13. The combined impact of the policies aimed at increasing tax revenue collection and curtailing the growth in expenditures is expected to reduce the fiscal deficit (including grants) from Kshs. 886.6 billion (5.5% of GDP) in 2023/24 to Kshs. 704 billion (3.9% of GDP) in 2024/25. To finance this fiscal deficit, the National Treasury proposes to borrow Ksh. 326 billion from external markets and Ksh. 377.7 billion from the domestic market.

II KEY POLICY INTERVENTIONS

i) Transforming the Micro, Small and Medium Enterprises (MSME) Economy

14. Under this pillar, the government intends to review and rationalise all business licences and to cap total licences at 1.5% of total turnover. It also targets to enact administrative burden law ensuring no business spends more than four hours a month on tax and regulatory compliance. Other interventions include establishing MSME business

development centres in every ward, as well as Industrial Park and business incubation center in every TVET.

ii) Housing and settlement

15. Under this pillar, the government targets to provide at least 250,000 houses in every financial year as it fast-tracks the delivery of affordable houses and enables low-cost housing mortgages. To this extent, the BPS reports that the government is structuring affordable long-term housing finance schemes, including a National Housing Fund and Cooperative Social Housing Schemes that will guarantee off-take of houses from developers. The government is also targeting job creation for youths and aims to employ graduates from TVETs in the affordable housing programme. The government further targets to upgrade and support juakali capacity to produce high-quality construction products by linking it with TVETs.

16. Further, to support rural housing and settlement, the government will establish a Settlement Fund similar to the one that was used to acquire land from settler farmers after independence. The land purchased by the scheme will be subject to land use planning where beneficiaries will own transferable residential plots in planned settlement to stop land fragmentation.

iii) Healthcare

17. Key interventions under healthcare include the provision of a fully public financed primary healthcare system, an emergency care fund and a health insurance fund that will cover all Kenyans; installation of a digital health management information system; setting up a fund for improving health facilities; and availing of medical staff to deliver Universal Health Coverage.

18. The Social Health Insurance Act will, among other things, establish the Primary Health Fund, a fully publicly financed chronic, emergency and critical illness fund and the Social Health Insurance Fund. The Government will be implementing a per-household payment system, where a flat rate applies to everyone, regardless of their income.

19. The Government's initiative, Afya Nyumbani, aims to increase the availability of human capital in the public health sector. Key components of the initiative include employing

20,000 new healthcare workers, deploying 8,429 workers whose contracts had lapsed, and enrolling 3,394 interns nationwide.

20. Further, the National Government in partnership with County Governments, plans to ensure sustainability of the 100,000 community health promoters (CHPs) through a matching basis payment scheme for CHPs, with a 50:50 ratio. Each CHP is assigned 100 homes within their neighbourhood. The CHPs use electronic community health information systems (e-CHIS) to collect real-time household data, plan health service delivery, and connect households to health facilities.

iv) Agricultural Transformation and Inclusive Growth

21. The government has indicated that it intends to align all policies under the agriculture sector towards increasing food production and reducing the cost of food. The strategies under this pillar will be geared towards addressing the cost, quality and availability of input; reducing the cost of food and cost of living in general; reducing the number of food insecure Kenyans; raising productivity of key food value chains; increasing access to affordable credit and agricultural extension services, creating direct and indirect jobs, increasing average daily income of farmers as well as foreign exchange earnings and revamping underperforming and collapsed export crops while expanding emerging ones.
22. The government has also mainstreamed nine priority value chains into the budget including those that have the highest potential to impact on the economic vibrancy and reduce cost of food stuffs, increasing exports (tea, dairy, leather), reducing food imports (rice, edible oils, blue economy).

v) Digital Superhighway and Creative Economy

23. Over the medium term, the government targets to increase and fast-track broadband connectivity across the country by construction of national fibre optic connectivity network, enhance digitization and automation of government processes, establish Africa Regional Hub, promote development of software for export, implement the digital master plan, and strengthen Konza Technopolis.
24. With regard to the creative economy, the government intends to leverage digital prowess, protection of intellectual property rights, mainstreaming arts and culture infrastructure

(theatres, music halls, art galleries) into the infrastructure development program, Incorporating Creative Economy into Brand Kenya and commercial diplomacy initiatives, establish a vibrant film ecosystem and facilitate monetization of music to promote entrepreneurship.

COUNTY FINANCIAL MANAGEMENT AND DIVISION OF REVENUE

i. Division of Revenue for FY 2024/25

a) County Equitable Share

25. The County Governments are proposed to receive **Ksh.391.1 billion** as equitable share; translating to 13.2% of the projected ordinary revenue collection of Ksh. 2.948 trillion for FY 2024/25 and 24.91% of Kshs. 1.570 trillion being the most recent audited revenues raised nationally for FY 2020/21. The county equitable share for FY 2023/24 was Ksh. 385.425 billion, when compared to the proposed allocations of Ksh.391.1 billion there is a marginal increase of 1.5 % (Ksh.6 billion).

26. The National Treasury attributes the marginal growth of the County Equitable share to implementation of a fiscal consolidation plan by the government aimed at reducing the fiscal deficit to 3.9% of GDP in FY 2024/25, increased debt service and low ordinary revenue collections.

b) Additional Allocations to County Governments in FY 2024/25

27. Pursuant to Article 202(2) of the Constitution, County governments are projected to receive additional allocations amounting to Ksh.54.7 billion in FY 2024/25. This comprises Ksh.19.06 billion to be financed from the National Government's share of revenue, and Ksh.35.66 billion from proceeds of loans and grants from development partners.

28. There are several new additional allocations: Ksh. 10.522 billion for the Road Maintenance Levy Fund (RMLF); Ksh.2.5 billion for Community Health Promoters (CHPs) and Ksh.30.2 million for the transfer of the Museum Function to cater for personal emoluments. New donor projects include the Food Systems Resilience Project (FSRP) with an allocation of Ksh.2.25 billion and UNFPA Grant - 10th Country Kenya Programme with an allocation of Ksh.65.19 million.

c) Intergovernmental agreements in respect of the Additional Conditional Allocations

29. The National Treasury has constituted an interagency task force to develop model Intergovernmental Conditional Allocations Transfer Agreement (ICATA). As at February 2024, the final model ICATA was forwarded to the Council of Governors for onward transmission to the county governments for processing in line with sections 191A to 191E of the PFM Act, Cap 412A.

d) Equalization Fund

30. The 2024 BPS proposes an allocation of Ksh.11.4 billion in FY 2024/25 to the Equalisation Fund. This allocation includes Ksh. 7.867 billion as the 2024/25 allocation and Ksh. 3.533 billion as partial payment of arrears to the Fund.

ii. Compliance with Fiscal Responsibility Principles

31. The Budget Policy Statement (BPS), 2024 highlights that in FY 2022/23, out of the forty-seven (47) counties, only seven (7) met the threshold of the PFMA requirement that development expenditure be at least 30% of total expenditure. Actual expenditure on development in the last three financial years has averaged at 26%. The trend has been dwindling from 29% in FY 2018/19 to 23% in FY 2022/23.

32. The BPS further highlights that expenditure on wages and benefits by County Governments has consistently been above the 35% threshold of their total revenue in contravention of *regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015*. The trend over the past five (5) years shows an increase from 36.5% in FY 2018/19 to 41.9% in FY 2022/23. When compared with the total of equitable share and own revenue sources (OSR) the wage expenditures are over 50% on average. Notably, in FY 2022/23 only six (6) counties (Migori, Kilifi, Mandera, Kwale, Turkana and Tana River) had their expenses on wages and salaries below 35%.

iii. Enhancement of County Governments' Own Source Revenue (OSR)

33. Due to poor performance of Own Source Revenue (OSR) among all the county governments, the 2024 BPS proposes the enactment of the National Rating Bill and the County Governments (Revenue Raising Process) Bill, as well as offering rigorous training on tax policy and Revenue Forecasting to enhance OSR collection.

34. The National Rating Bill shall provide a legislative framework for the imposition of property taxes on land and buildings by County governments. The Bill also gives the procedure for claiming and payment of Contribution in Lieu of Rates (CILOR); and timely updating of valuation rolls by the County Governments. The overall objective of the Bill is to provide for enhancement, certainty, uniformity, and fairness in the levying of property rates by the counties.

iv. Prudent management of fiscal risk

35. As at 30th September 2023, counties reportedly accumulated pending bills amounting to Ksh. 163.2 billion. Notably, pending bills owed to various pension funds (LAPTRUST, LAPFUND and County Pension Fund) amounting to Ksh.73.4 billion have not been factored by some County Governments in their pending bills stock. The amount consists of principal debt of Ksh.12.5 billion (17% of the total debt) and Ksh.60.9 billion (83% of the total) as accrued interest. Owing to these huge outstanding balances towards the pension schemes, some County staff risk retiring without pensions. The BPS 2024, urges the affected counties to prioritize the settling of the liabilities.

36. County Governments owe the Kenya Power & Lighting Company (KPLC) Ksh.3,492,122,613.47 as outstanding electricity bills over the years; with Nairobi City County owing the highest amount of Ksh.2,171,944,344.79.

CHAPTER TWO

SUBMISSIONS BY STAKEHOLDERS

37. This Chapter entails a summary of stakeholders' comments on the BPS as received from the following -

- a) The National Treasury and Economic Planning;
- b) The Commission on Revenue Allocation;
- c) The Council of Governors (CoG);
- d) The Institute of Certified Public Accountants of Kenya (ICPAK);
- e) The International Budget Partnership, Kenya (IBP-K);
- f) The Institute of Social Accountability (TISA); and
- g) The County Assembly Forum (CAF).

2.1 Submissions by The National Treasury

The Cabinet Secretary for National Treasury and Economic Planning appeared before the Committee and submitted as follows-

38. The 2024 Budget Policy Statement (BPS) marks the second iteration prepared under the Kenya Kwanza Administration. It reiterates the government's commitment to the Bottom-Up Economic Transformation Agenda (BETA) as outlined in the Fourth Medium-Term Plan of Vision 2030.

Theme and focus of the 2024 Budget Policy Statement

39. The theme for the 2024 Budget Policy Statement (BPS) is: *Sustaining Bottom-Up Economic Transformation Agenda for Economic Recovery and Improved Livelihoods.*

40. The agenda outlined in the 2024 Budget Policy Statement (BPS) recognizes the critical significance of managing the cost of living through effective market mechanisms. This approach aims to not only enhance income generation but also boost productivity and ensure the availability and affordability of goods and services for all citizens. The interventions target five core priority areas namely: i) Agricultural Transformation and Inclusive Growth; ii) Micro, Small and Medium Enterprise (MSME) Economy; iii) Housing and Settlement; iv) Healthcare; and v) Digital Superhighway and Creative Industry.

41. The agenda places special emphasis on achieving specific socio-economic objectives, including increased employment, equitable income distribution, enhanced social security, expanding the tax revenue base, and boosting foreign exchange earnings. To realize these objectives, the Government has targeted 9 value chains with the largest impact on jobs creation and economic recovery as follows: (i) Leather; (ii) Cotton; (iii) Dairy; (iv) Edible Oils; (v) Tea; (vi) Rice; (vii) Blue Economy; (viii) Natural Resources Including Minerals & Forestry; and (ix) Building Materials.

Recent Economic Developments

42. The 2024 BPS is framed against a backdrop of an improved outlook for global growth, moderating international oil prices, and heightened geopolitical tensions particularly in the Middle East. Global growth is estimated at 3.1% for 2023 while that of 2024 has been revised upwards in the January 2024 World Economic Outlook (WEO), from 2.9% to 3.1%. This growth outlook for 2024 reflects stronger-than-expected growth in the United States, continued strengthening of the Chinese economy, and strong growth in several large emerging market and developing economies.

43. Following the various interventions rolled out during the past one year by the Government, the Kenyan economy remained strong and resilient in the first three quarters of 2023 despite the challenging external environment and significant losses and damages due to frequent extreme weather conditions. The economic growth averaged 5.6% (5.5% in Q1 and Q2, and 5.9% Q3) primarily driven by a rebound in agriculture activities and a continued resilience of the service sector.

44. Growth for 2024 is anticipated to remain strong, with a projected rate of 5.5%. This forecast represents a modest increase from the estimated growth of 5.5% in 2023, indicating a sustained upward trajectory. This growth trend is notably higher than the 4.8% growth observed in 2022. This growth outlook will be driven by improvement in aggregate demand supported by: household private consumption driven by the easing of inflationary pressures which will result in strong household disposable income; robust private sector investments coupled with ongoing Government investments in Affordable Housing programme, PPP infrastructure projects and the ongoing work on building and maintaining

public infrastructure; and improvement in the external account supported strong exports and resilient remittances.

45. The government's commitment to scaling up efforts on policy and structural reforms under the BETA framework reflects its determination to address pressing developmental challenges and accelerate economic recovery. By prioritizing human capital development, market reform, domestic resource mobilization, institutional restructuring, and digitization, the government aims to build a resilient and inclusive economy that can withstand global turbulence and drive sustainable growth in the long run.
46. The coordination between monetary and fiscal policies continues to support macroeconomic stability. The Central Bank of Kenya tightened monetary policy by gradually raising the Central Bank Rate (CBR) by 550 basis points from 7.5% in May 2022 to 13% in February 2024 in order to maintain price stability consistent with our inflation target of $5\pm 2.5\%$. This monetary policy action was complemented by Government interventions aimed at lowering the cost of production, easing of global food prices and favourable weather conditions that increased food supply. As a result, overall inflation rate declined to 6.9% in January 2024 from a peak of 9.6% in October 2022.
47. The Kenya shilling exchange rate has strengthened against major international currencies since 9th February 2024. By 20th February 2024, the Kenya Shilling Strengthened by 10.8% against the US Dollar, 10.9% against the Sterling Pound and 10.8% against the Euro, compared to 9th February 2024. This is attributed to forex inflows from the Government infrastructure bond which was oversubscribed by 412.4%, and the impact of de-risking the 2024 Euro bond through USD 1.5 billion received from international investors.

FY 2023/24 Budget Execution

48. Budget execution for the first seven months of FY 2023/24 has been hampered by challenges in raising resources. By end January 2024, revenue collection amounted to Ksh. 1,499.7 billion and was below target by Ksh. 195.4 billion mainly on account of a shortfall in ordinary revenues of Ksh. 232.6 billion.
49. Revenue performance represented a growth of 14.4% compared to a growth of 9.8% in the same period in FY 2022/23. Over the course of the fiscal year, revenue performance is anticipated to improve in light of improved tax administration.

Expenditure Performance

50. Expenditures were below target by Ksh. 350.4 billion on account of below target disbursements towards both recurrent expenditure and development expenditures. The below target performance in expenditures is largely explained by the shortfalls in revenue performance as well as underperformance in external and domestic financing.
51. Fiscal operations of the Government by the end of January 2024 resulted in an overall deficit including grants of Ksh. 310.7 billion (1.9% of GDP) against a target of Ksh 461.2 billion (2.9% of GDP). The deficit was funded with net domestic financing of Ksh 203.1 billion (1.3% of GDP) and net foreign financing of Ksh. 84.5 billion (0.5% of GDP).

Emerging Challenges in the Implementation of the FY 2023/24 Budget

52. During the implementation of the FY 2023/24 Budget, the challenges encountered include: expenditure carryovers and fuel subsidy arrears amounting to Ksh 102.2 billion by the beginning of the year, ordinary revenue shortfall of Ksh. 104.3 billion by closure of the Financial Year and debt service costs significantly above the budget levels as a result of exchange rate movements and elevated domestic interest rates.
53. In order to address these challenges, the approved Supplementary Estimates 1 of FY 2023/24 introduced rationalisation of non-primary expenditures to take into account the carryovers and upward adjustment to interest payments. This allowed the overall fiscal deficit to widen to Ksh 886.6 billion (5.5% of GDP) from Ksh 718.9 billion (4.4% of GDP) in the budget estimates.
54. The National Treasury observed the following in regard to implementation of FY 2023/24 Budget-
- a) Ordinary revenue collection has experienced shortfalls since July 2023 with the total cumulative shortfalls in ordinary revenue collections as at end January 2024 amounting to Ksh. 232.6 billion;
 - b) Borrowing from the domestic market have also lagged behind target to January 2024 with the cumulative net domestic borrowing below target by Ksh 264.7 billion; and
 - c) Outstanding exchequer requests amounted to Ksh 294.1 billion cumulatively by end of January 2024. The liquidity challenges are expected to ease in the second half of

the FY as the resources from external sources come in. This will address the outstanding exchequer requests.

55. The combination of revenue underperformance and the underperformance in the raising resources from the domestic borrowing market has compromised the ability to timely fund the FY 2023/24 budget. For smooth implementation of the budget, a Supplementary II Budget needs to be finalised by rationalizing expenditures further to increase the primary surplus and reduce the fiscal deficit to 4.7% of GDP in line with the IMF program.

Fiscal Policy for FY 2024/25

56. The fiscal policy stance for the FY 2024/25 and the medium term budget aims to support the Bottom-Up Economic Transformation Agenda (BETA) through a growth friendly fiscal consolidation plan. The consolidation will be supported by enhanced revenue mobilization and rationalization of non-priority expenditure while protecting essential social and development spending.

57. Fiscal policy path recognizes the pressing need for debt trajectory to be firmly put on a downward path over the medium term to reduce debt vulnerabilities while recognizing the difficult trade-offs exerted by Kenya's limited fiscal space and continued financing constraints. The focus of fiscal policy remains on reducing the deficit from 5.6% of GDP in FY 2022/23 to 4.7% of GDP in FY 2023/24 and further to 3.9% of GDP in FY 2024/25.

58. There will be continued focus on aggressive domestic resource mobilization through the continued implementation of the Medium-Term Revenue Strategy (MTRS). In addition, tax administration by the Kenya Revenue Authority will be strengthened through scaling up use of technology to seal leakages through enhancements of iTax and Integrated Customs Management System (iCMS) and usage of Tax Invoice Management System (e-TIMS).

59. In the FY 2024/25 budget, revenue collection including Appropriation-in-Aid (A.i.A) is projected at Ksh 3,435.0 billion (19.1% of GDP). Of this, ordinary revenue is projected at Ksh 2,948.1 billion (16.4% of GDP).

60. Total expenditure is projected at Ksh 4,188.2 billion (23.2% of GDP); comprising of recurrent expenditure of Ksh 2,859.3 billion (15.9% of GDP); development expenditure of Ksh 887.8 billion (4.9% GDP); transfer to County Governments of Ksh 446.0 billion

(includes Ksh 391.1 billion for equitable share and Ksh 54.9 billion in additional allocations); and Ksh 5.0 billion for Contingency Fund.

Budget for FY 2024/25

61. The total budget ceiling for FY 2024/25 is 4,143.7 billion. It is proposed that the National Government be allocated Ksh. 2,511.5 billion (60.6% of total expenditure) which comprises Executive (Ksh2,438.9 billion); Parliament (Ksh. 41.6 billion) and Judiciary (Ksh 23.7 billion), county governments Ksh. 391.1 billion (9.4% of total expenditures) and Ksh. 1,241.1 billion (30% of total expenditure) for consolidated Funds.
62. Following deliberations with the Committee-
- a) The National Treasury indicated that they would provide further information regarding Integrated County Revenue Management System (iCRMS) and provision for additional conditional allocation for the transfer of library function.
 - b) The Committee expressed dissatisfaction with the proposed meagre 1.5% growth of the county equitable share

2.2 Submissions by The Commission on Revenue Allocation (CRA)

The Commission on Revenue Allocation appeared before the Committee and submitted as follows. That-

63. CRA averred that the growth of county share of nationally raised revenue should reflect the actual revenue growth trend of 6% over the past fiscal years. In this respect therefore CRA proposes that county governments be allocated Ksh. 398 billion as their share of nationally raised revenue as opposed to the proposed Ksh.391.1 billion. In their submission to the Committee, the Commission stated that they had arrived at their proposal for county equitable share (Kshs. 398 billion) by using a base of Ksh. 375 billion where they had deducted RMLF (Ksh. 9.8 billion) from the county equitable share allocated in FY 2024/25 and had grown this base by Ksh. 22.5 billion representing a 6% growth in expected revenues in FY 2024/25.
64. CRA noted that the BPS proposed-
- a) a reduction in the proposed baseline ceiling in Agriculture from Kshs. 98 billion to Kshs. 87 billion and the education sector from Kshs. 689.6 billion to Ksh. 666.5 billion. CRA noted that there is need to explain the huge reductions given the

priorities in these two sectors under the BETA, specifically fertilizer subsidy and Junior Secondary School which have remained grossly underfunded.

- b) an increased allocation on healthcare by Kshs. 8.7 billion in the FY 2024/25. The Commission suggested that the health sector budget should be reduced and be reallocated to the county government since Health care system is a devolved function and the counties should be left to perform their tasks.
65. There is a need for measures to ensure county governments submit to the Office of the Controller of Budget and implement budgets that comply with fiscal responsibility principles. Further, that analysis of national government's compliance with fiscal responsibility principles should be provided as part of the main content of the BPS and not an annexure.
66. The analysis of county government pending bills as per the BPS, is done in detail while that of the National Government is presented as an annex. The details of National Government pending bills should be part of the analysis done in the document and not an annexure.
67. CRA submitted that the argument of the National government that Kshs. 343 billion (being the balance after deduction of county equitable share and other non-discretionary expenditures) to finance its functions fails to consider the enormous non-tax revenue being collected by the national government, ministries, departments and agencies estimated at Kshs. 486.9 billion. The analysis fails to acknowledge that Kshs. 106.8 billion allocated to national interest is also spent by the MDAs. Further, that the non-tax revenues being collected by MDAs is for ensuring they're self-sustaining.
68. Road Maintenance Levy Fund (RMLF)- BPS proposes additional conditional allocations to county governments of Kshs. 19.1 billion out of which Kshs. 10.5 billion are proceeds from the RMLF. However, CRA noted that RMLF is not an additional allocation from the national government's equitable share, and that in line with Article 206(1)(a) and (b) of the Constitution the RMLF should be excluded from being part of the shareable revenue.
69. On the adjustment for the RMLF at Ksh. 10.9 billion, CRA noted the following-
- a) Clarity is required on the right adjustment figure for the RMLF as the last figure provided to counties for RMLF in 2021/22 was Ksh. 9.8 billion;

- b) No additional allocation was given to counties in 2022/23 when the allocation to counties remained constant at Ksh. 370 billion.
- c) The increment of county allocation in 2023/24 to Ksh. 385.4 billion was on account of increase in collections from RMLF; and
- d) The correct adjustment for RMLF for the baseline allocation in FY 2023/24 should be Kshs. 9.8 billion and not Kshs. 10.9 billion.

70. In their submission, CRA noted that the BPS considers RMLF as an additional allocation to counties from the national government's equitable share of revenue. However, the Commission recommended that RMLF should not be considered as an additional allocation to county governments from national governments share of nationally raised revenue.

71. There is no provision for the conditional allocation for leasing of medical equipment in the BPS. CRA indicated that the understanding of MES has always been that the national government was paying the supplies of the equipment on behalf of county governments. Therefore, now that the programme has come to an end, the resources should be sent to the county governments as part of their equitable share.

72. Following deliberations, the Committee cautioned the Commission that they had erred in fact and in law by adjusting the base by deducting RMLF. The county equitable share for FY 2023/24 as allocated in the Division of Revenue Act, 2023 is Ksh. 385.425 billion and in accordance with the judgment in High Court Petition No. 252 of 2016, the Division of Revenue Act only deals with the question of division of nationally raised revenue between the two levels of government. This Act cannot include conditional allocations such as the RMLF, a Fund whose proceeds are used for purposes of the maintenance of roads. Indeed, the notion that the allocation to counties under the Division of Revenue Act includes a component of RMLF is unconstitutional and has prejudiced the counties entitlement to proceeds from the RMLF in the last three financial years.

2.3 Submissions by Council of Governors (CoG)

The Council of Governors appeared before the Committee and made the following submissions-

73. The CoG contested the proposed county equitable share of Ksh.391.1 billion for FY 2024/25 out of the total ordinary revenue of Ksh. 2.948 trillion. The Ksh. 10.52 billion being allocated as the RMLF conditional grant is an allocation comprising proceeds from the RMLF and is not part of ordinary revenue being shared under the Division of Revenue Bill.
74. According to the Kenya Roads Board, there were no allocations to counties from the RMLF in respect to FY 2023/24, as the funds were allocated to Kenya Rural Roads Authority and Kenya Urban Roads Authority.
75. The CoG submitted that the projected ordinary revenue is set to grow by 15% (an absolute revenue increment of Kshs. 376.9 billion) from the revenue that underpinned revenue sharing for the FY 2023/24 (Kshs. 2.5712 trillion). However, out of the Kshs. 376.9 billion only Kshs. 5.7 billion (5.6%) is being added to the counties baseline allocation of Kshs. 385.4. They termed this proposal as disproportionate and inequitable.
76. The CoG proposed an allocation of Kshs. 450 billion for FY 2024/25: Kshs. 439.5 billion being county governments equitable share, and Kshs.10.5 billion as proceeds from RMLF to county governments.
77. The CoG gave the following reasons for additional allocation-
 - a) Emerging issues that will occasion additional expenditure by counties which include; the lapsing of the Medical Equipment Services (MES) Program, National government priority projects/Programs that are being implemented jointly by the National and County governments on a 50:50 matching basis, the new housing levy, Social Health Insurance Fund and NSSF contributions which will increase counties' expenditure, the annual salary increments and recently transferred Library and Museum functions.
 - b) Proposal of an adjustment for revenue growth of Ksh.21.6 billion, that is at an average growth of 5.6% as projected.
 - c) Overall average annual inflation that has remained above target of 7.5%.

- d) Increased prices of goods and services as a result of the weakening shilling against the dollar.
 - e) the Counties percentage share has been on a downward trend since the FY 2013/14 as compared to the National government which has been increasing at least from the FY 2020/21 onwards, and that in FY 2024/25 it is projected to go lower to 13.2% from 15.0% in FY 2023/24 as per the National Treasury proposal. Further, that interest on public debt has been rising astronomically since FY 2013/14 to the detriment of the county's share of revenue.
78. The 2024 BPS has not provided for payment of the outstanding balance of Kshs. 13,119,281,744 Contributions in Lieu of Rates (CILOR) to Counties. The 2023 BPS provided an indication of a proposed payment plan that is yet to be actualized. CoG therefore proposed a provision in the 2024 BPS for a payment plan for the outstanding CILOR to county governments.
79. The Ksh.10.52 billion allocations from the RMLF is included in the Ksh.19.1 billion allocated as part of the National government's share of revenue. CoG proposed an amendment to remove this allocation from the National government's share and instead add it to the county government's share of revenue.
80. CoG proposed Ksh.439.5 billion as equitable share, and allocation of Ksh.8.37 billion as Equalisation Fund being 0.5% of last audited accounts as approved by the National Assembly of Ksh 1.673 trillion for FY 2019/20, and Ksh 3.533 billion towards payments arising from Equalisation Fund arrears.
81. That the proposed equitable share of Ksh. 391.1 billion in the FY 2024/25 is equivalent to 23.36 % (not 24.86%) of the last audited and approved accounts, which is in compliance with the Article 203(2) of the Constitution which states that the basis is on the last audited accounts as approved by the National Assembly and not the revenues approved by the National Treasury. The proposed figures by the National Treasury are therefore in contravention of Article 203 (2) of the Constitution.
82. Further, basing the counties share of revenue on the records of the National Treasury is a blatant violation of Article 203 (2) of the Constitution. The National Treasury is not the law in itself and should therefore be restricted to the accounts approved by the National Assembly until and unless the same is vacated by the House. The last audited revenue

raised nationally, as approved by the National Assembly is Ksh 1.673 trillion and it is yet to be vacated.

83. The CoG indicated that the following conditional grants should be captured as follows;
- a) County Aggregation and Industrial Parks (CAIP) amounting to Ksh 4.5 billion: The amount due to Counties for FY 2024/25 amounts Ksh.7.25 billion being Ksh.250 million allocations to the 29 Counties that were not allocated in the FY 2023/24.
 - b) IDA (World Bank) Credit – Kenya Urban Support Project (KUSP): The Ksh. 1.575 billion Urban Institutional Grant (UIG) ought to have been allocated to counties in the FY 2023/24 and the Urban Development Grant (UDG) amounting to Ksh. 7.852 billion allocated in the FY 2024/25. The 2024 BPS should therefore provide for the UDG component.
84. According to the BPS, 8,429 health workers whose contracts had lapsed have been renewed. CoG recommended that BPS need to specify renewal period and capture associated indicative costs.
85. The BPS should have a budgetary allocation to rollout Electronic Community Health Information System (e-CHIS) in 47 Counties.
86. BPS 2024 to provide for funding towards establishment of Primary Care Networks (PCN) across the 47 Counties. Currently, only 105 Primary Care Networks (PCNs) out of 315 PCNs have been established leaving a deficit of 210 PCNs.
87. CoG submitted that the BPS has allocated higher resources to the Ministry of Health compared to counties even though health is a devolved function. The combined (47 county health budgets) is less than what MOH is allocated therefore allocations to counties should be increased.
88. The actual number of Community Health Promoters is 107,831 therefore the annual budgetary allocation should be Kshs. 3.234 billion as opposed to the Kshs.2.5 billion stated in the BPS.

2.4 Submissions by Institute of Certified Public Accountants- Kenya (ICPAK)

The Institute of Certified Public Accountants in Kenya appeared before the Committee and made the following submissions-

89. On Agricultural Transformation and Inclusive Growth in the BPS, ICPAK made the following recommendations-

- a) Increase spending to 10% of the total budget. Currently, allocation to the Agriculture, Rural and Urban Development sector is projected at 3.5% of total Ministerial expenditure as per the BPS 2024. This will enhance agriculture's contribution to GDP as well as export potential for the country.
- b) Adopt cutting-edge technologies to boost productivity and enhance the climate resilience of food systems in the region. Precision agriculture is an example of productivity-enhancing disruptive technologies.
- c) Enhance value addition chains and diversify trading partners across the globe to offer an opportunity to enhance resilience and supply new markets for Kenyan farmers.
- d) Zero Rate – agro-inputs, Seeds, Machinery, Irrigation Equipment and farm implements
- e) Deploy more Agricultural Extension Officers to the ratio of 3 per constituency for agro-produce growing areas.
- f) Provide resources for developing soil testing 3 lab centres within agricultural departments per county and repository of information on results mapping across the nation.
- g) Establish an information centre on demand for diverse foods produce, specialty crops and cash crops across the global markets where farmers and investors can obtain reliable information to engage in farming.
- h) Incentivize and promote comparative advantages agricultural output to maximize productivity based on climatic conditions and market linkages.
- i) Establish appropriate policy interventions to promote the growth of livestock sub-sector.

90. On transforming the Micro, Small and Medium Enterprise (MSME) Economy in the BPS, the institute recommended that-

- a) Leverage and utilize technology and data management to identify potential taxpayers to design an appropriate mechanism for registration.
- b) Require every legal person issued with a PIN to keep proper books of accounts for tax determination and those with annual turnover of over Kshs.15 million to be subject to audit and representation by a tax agent.
- c) Enhance Taxpayer morale through transparency and openness in public expenditures and efficient service delivery as these will encourage taxpayers to pay their taxes.
- d) Enhance credit worthiness of sectoral MSMEs through formalization and taxpayer education.
- e) Adopt a simplified, easy to administer non-disruptive taxation system that is easily understandable to MSME actors and lower tax rates to maximum 25% for both individuals and corporates to remove tax arbitrage.
- f) Address the run-away cost of energy now at Kshs. 35 per KW and cost of fuel that is discouraging use of electric and motorized equipment to improve production efficiency.

91. ICPAK gave the following Alternative Development Approaches on Housing and Settlement-

- a) Parliament should set aside funds for housing. Funding should not be through the payroll as the employee is already paying PAYE. As such, any other deduction on employment income should not be treated as tax since it amounts to double taxation.
- b) The government ought to pursue more Public-Private Partnerships (PPPs) to relieve it of the responsibility of overseeing construction and subsequently the burden of funding huge infrastructure projects such as housing.
- c) As part of leveraging on PPPs, the government should utilize the climate action funding towards affordable housing developments.
- d) Provide Capital Gain Tax (CGT) waiver relief for land transaction acquired for affordable housing purposes in designated zones to incentivize landowners to make land available for development of affordable housing

92. The Institute lauded the efforts by the Government in initiating reforms that would streamline and transform the healthcare systems in Kenya in tandem with the global healthcare provision prescriptions. However, they made the following recommendations;

- a) Increase the budget allocation for health to 15% of the total annual budget as recommended by the AU under the auspices of Abuja declaration.
- b) The primary funding mechanism of 2.75% is too high and should be reduced and supplemented through designated taxation e.g. from “sin-tax” or environmental taxes could be channelled to the Fund.
- c) Invest more to enhance human resources, build robust infrastructure that supports healthcare delivery.
- d) The proposal on the Health Insurance Fund adds to the burden of taxation— Personal Tax Rates upped to 35%, Housing Levy 1.5% add Health Insurance at 2.75% all on gross income a whopping 9.25%, likely increase in NSSF rates, scrapping of payroll reliefs - Insurance and Mortgage increase with no corresponding improvement of economic environment instead the invasion of high prices of goods and services.
- e) Consider retaining the original voluntary NHIF contribution of Kshs 500 and cap NHIF maximum contributions to Kshs. 5,000 given that employers are required to match up contributions for employees. This should give SHIF/NHIF three times the collections it used to make previously.
- f) Address the classification of medical service providers under the new Health Insurance Scheme right from Country Health Services, Private Medical Hospitals and Clinics, Faith Based Health Institutions, Community Based Health Service providers regarding accessing medicinal supplies from KEMSA, and pricing of common medicines across all players to ensure access and integrity of Health Insurance.

93. On Environment and Climate Change, ICPAK proposed the following;

- a) The government should invest more in research and development for targeted policies that seek to improve the environment.
- b) Involve professionals such as accountants and train them on the emerging issues and trends on environmental sustainability including carbon credits.

- c) Support and monitor implementation of the National Green Climate Fund Strategy.
- d) There is a need to engender environmental and climate change aspects in the education system, for instance, through 4K clubs to stimulate awareness and sustainable actions.
- e) Adopt the recommendations in the Country Climate Change and Development Reports (CCDR).

94. The Institute observed that Government funding for education in Kenya is a significant part of the national budget, reflecting the country's commitment to providing accessible and quality education for its citizens. Some of the challenges facing the sector include; lack of proper investment in education infrastructure, high pupil teacher ratios especially in public schools, among others. The institute suggested that the government-

- a) Construct more primary and secondary schools in the regions with high average school sizes to ensure provision of quality education to the students.
- b) Revise capitation for instructional materials and projects based on an informed analysis in order to facilitate proper planning and seamless running of schools in general and the sustainability of varied diversities of schools within the country e.g. ASAL areas.
- c) Recruit more teachers on permanent and pensionable terms to bridge the gap created in the current adoption of the JSS system and also reduce the Pupil-Teacher ratio especially in public schools.
- d) Consider direct procurement of learning materials from manufacturers in order to access quantity discounts and economies of scale much like what the government does with medicines via KEMSA.

95. The institute noted that to ensure financial autonomy for the Judiciary as envisaged in the Constitution and sufficient Judicial officers to administer justice, the establishment should be revised to 480 Judges to enhance access to justice and prompt delivery of cases, and budgetary allocation to the development expenditure kitty should be increased.

96. ICPA-K opined that the National Tax Policy is a step in realising the country's dream of having an efficient and fair tax system that promotes equity in tax administration and predictable tax environment for business to operate. However, the Institute is of the

opinion that the current structure of taxation is not sustainable since there is a continued reliance on a small pool of taxpayers. They suggested the following-

- a) Expedite implementation of the national tax policy.
- b) Publish, publicise and capacity build the public on the policy.
- c) Finalise the formulation and enhance the implementation of the National tax policy.
- d) Harmonize various laws to facilitate the registration of a single identifier to ensure all potential taxpayers are registered with the KRA from cradle to grave.
- e) Harmonize taxes, levies, and charges to reduce their multiplicity at National and county government levels. Specifically, guard against the deleterious effect of levies on primary tax revenues such as income tax.

97. The Institute submitted that food inflation remained the dominant driver of overall inflation in December 2023 and that fuel inflation has remained elevated reflecting the impact of higher international oil prices, resulting to rising cost of living which has impacted on people's wallets, affecting their financial stability and overall well-being in several ways such as reduced disposable income. Therefore, they suggested that taxes on fuel and tariffs rates of electricity be reduced, and VAT Zero Rating on food to be expanded to lower the cost of living in the country. Further, the contribution to the Housing Levy be capped for a specified time limit (a maximum of five years) to allow the creation of a revolving fund henceforth.

98. Management of county finances should be in accordance with the Constitution, Public Finance Management (PFM) Act, 2012 and the Public Finance Management (County Government) Regulations, 2015. The institute recommended the following policies;

- a) Spending units (MDAs and County Governments) should enhance synchronization of the strategic plans with their procurement plans, the budget and cash flow projections.
- b) Revenue forecasting should be based on ambitious but attainable revenue projections to deal with aspects of shortfalls which affect disbursement to spending units.
- c) The National Treasury should strive to release funds to the MDAs, County Governments and other spending units based on their work plans and cash flow projections as presented at the beginning of the financial year.

- d) Start tying additional allocation to entities to the real fiscal responsibility issues such as absorption capacity, structural balance between recurrent and capital expenditure and compliance to PFM systems as measured by the report from both internal audit and the Auditor General.
99. County governments' Own Source Revenue- according to the Controller of Budget Reports, during the first quarter of FY 2023/24, county governments generated a total of Kshs.10.21 billion from their own-source revenue (OSR), which was 13% of the annual target of Kshs. 78.61 billion. ICPAK recommended the following; capacity-building to all critical players and cadres of county staff on revenue administration, professionalisation of revenue officers to ensure qualified staff handle the revenue function, and the automation of OSR systems (use of a common system across all counties) to address leakages and enhance visibility.
100. Pending bills- that as at 30th September, 2023, the pending bills owed to various service providers by the devolved units stood at Sh168.62 billion according to the County Governments Budget Implementation Review Report, and as at Jan 30th, 2024, the Pending Bills Verification Committee had received 1,537 claims from 38 MDAs amounting to Kes 145.5 billion. The Institute recognized pending bills as inimical to the growth of the private sector, MSMEs and the economy at large and suggested the following;
- a) The Government should expedite shifting its budgeting from the current cash basis to an accrual basis to reduce pending bills.
 - b) Government institutions should employ accountants who are members of ICPAK with the requisite and continually build their capacity through professional development programs.
 - c) Through realistic budgets, proper oversight by the Controller of Budget and prudent spending and planning by the devolved units would significantly reduce further accumulation.
 - d) While the PFM framework permits expenditure to be incurred based on an appropriation, the challenges imposed by the ever-increasing level of pending bills could necessitate the recommendation for a short-term measure where expenditure is only incurred based on the availability of funds.

2.5 Submissions by The Institute for Social Accountability (TISA)

The Institute for Social Accountability appeared before the Committee and made the following submissions-

101. That the economic vibrancy as reported in the BPS, with a projected growth of 5.5% in 2024 – supported by a broad-based private sector growth, has not been felt on the ground and that various private entities have issued profit warnings while others have closed their operations in Kenya. Further, there are massive job losses in the private sector, approximately 70,000 jobs, because of new taxation measures according to Federation of Kenya Employers (FKE).
102. Public participation- TISA observed that there has been no proper public participation on various government initiatives such as Finance Act 2023, change of NHIF to SHIF among others. TISA noted that the government should ensure public consultations are conducted transparently and are inclusive – giving clear and timely information and actively seeking input from all Kenyans.
103. TISA submitted that the national government should expedite the transfer of all functions constitutionally assigned to counties and ensure increased allocation to counties in line with the principles of devolution.
104. BPS projects expenditure to grow to Ksh. 4.188 trillion for FY 2024/25 compared to a projection of Ksh. 3.902 trillion in FY 2023/24. TISA noted that Kenya’s expenditure projections have always been on the rise despite numerous calls to cut spending – particularly around wage bill, unnecessary travels, and on other unproductive projects. They suggested the need to rationalise expenditure to ensure that public expenditure grows at the same rate as public revenue to reduce concerns with huge budget deficits. Further, implement budget monitoring to establish budget absorption and utilization rates performance to help in ensuring that expenditure projections are within the MDAs’ capacity to implement.
105. That whereas there is an increase in budget for the health sector from Ksh. 138.8 billion in FY 2023/2024 to Kshs. 147.6 billion in 2024/2025, this does not match the recommendation of the 2023 Health Sector Report which estimated that the sector required an estimate of Ksh. 371.8 billion. They proposed the following-

- a) That planned changes in the health sector, particularly from NHIF to SHIF, to prioritize 70% of health disbursements to public health facilities and service providers to help in enhancing the capacity of public health institutions to cater for the growing population.
 - b) Prioritize accountability mechanisms in the disbursement and utilization of SHIF once it is fully reconfigured from NHIF.
 - c) Sector players to dialogue to end accountability and transparency concerns around moving from NHIF model to SHIF model of health financing, equity, and service delivery.
 - d) The BPS should be informed by the sector reports to allocate resources to different critical sectors such as health.
106. Expenditure reforms- TISA called for the government to speed up rolling out of an end-to-end e-Government Procurement (eGP) system to the National and County Governments in the FY 2024/25 and interface it with IFMIS for enhanced accountability in public spending, pending bills, and procurement processes.

2.6 Submissions by International Budget Partnership, Kenya (IBP-K)

The International Budget Partnership appeared before the committee and made the following submissions-

107. IBP – K submitted that the proposed budget for 2024/25 shows a larger increase to the Consolidated Fund Services (CFS) while the additional allocations to county governments and national governments remain relatively small. Low allocations to county governments will affect the delivery of devolved services such as health, agriculture and water for Kenyans across the country. They therefore recommended that for continued and effective delivery of services at the national and sub-national level, the National Treasury should devise ways to service debt obligations in a manner that enables more substantial additional allocations to national and county governments.
108. The 2024 BPS has provided budget ceilings that all Sector Working Groups and Ministries/Departments/Agencies (MDAs) anticipate preparing their budgets from. The maximum budget cap has increased from Ksh. 2.25 trillion in FY 2023/24 to KShs. 2.51 trillion in FY 2024/25. However, IBP-K noted, based on a comparison between 2023

and 2024 budget ceilings, that all ministries, with the exception of Health, had a significant increment in the proposed budget allocations. Such increments may have a positive impact as far as implementation of development projects and service delivery are concerned but can increase the risk of fiscal deficit and unsustainable debt accumulation.

109. The BPS 2024 proposes increased allocation to the National Security and Public Administration and International Relations (PAIR) sectors, while social sectors such as social protection, education and ARUD are seeing decreases. IBP-K noted that these are sectors for which the functions of government are shared by both national and county governments such that the funds that they both input into the delivery of these services are complementary. Therefore, if less funds flow into the sector from one level of government, there may be a greater financing or service delivery requirement on the other level of government – in this case counties. Therefore, the national government should not divest significant resources from social sectors where the functions are shared/complementary.
110. Gender Responsive Budgeting - Gender equity is enshrined in the Constitution. Various policy documents also articulate the government's commitment, including the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) at the international level and the National Policy on Gender and Development (2019) at the local level. However, the implementation and enforcement of these legal and policy proclamations need resources. IBP-K noted that the BPS does not provide a budget for Gender and therefore recommended the incorporation of a gender budget statement to mainstream gender within the national budgeting framework and enhance gender equality in budgeting and policy decisions.
111. Fiscal Consolidation and Supplementary Budgets- in line with the constrained fiscal space, IBP pointed out that the BPS is not clear on the fiscal consolidation plan, and therefore recommended that the current deliberations should emphasize the need for realistic estimates that are in line with the fiscal consolidation plan to avoid the constant need for budget revisions and the resultant cuts especially in sectors such as health.
112. Pending bills- As at 30th September, 2023, Counties reported accumulated pending bills amounting to Kshs 163.2 billion as per the Office of the Controller of Budget.

According to IBP-K, due to rising pending bills, some county government functions are barely being rendered due to huge amounts of pending bills which continue to accrue. Therefore, they recommended the following;

- a) That since some of the pending bills accrued by county governments are as result of non-consideration of cash brought forward from previous financial years which then implies a deficit budget that eventually leads to unplanned pending bills at the end of the financial year, Counties should prepare budgets with correct opening balance amounts and with respective expenditures to ensure a balanced budget and avoid unplanned pending bills.
- b) Public Sector Accounting Board (PSAB) should provide guidelines on reporting on pending bills and assets which will facilitate the smooth handover between county government regimes.
- c) Counties should ensure that the procurement plans align with the disbursement of funds and the expected revenue targets. Additionally, they should adhere to the preparation of credible budgets with realistic revenue targets.
- d) The accuracy and completeness of the pending accounts payable is a question that needs close monitoring to ensure that unauthorized and unsupported expenditures are not part of the pending bills. This calls for transparency and accountability of the pending bills and County governments to settle eligible pending bills as a first charge as required by the PFM (County Governments) Regulations 2015.

2.7 Submissions by County Assemblies Forum (CAF)

CAF submitted the following-

113. They acknowledged the national government's commitment to ensure the success of devolution. Further, they welcomed the undertaking of the national government, through the President Directive to ensure a complete transfer of all functions constitutionally earmarked to counties and develop a framework for ensuring that state-owned firms carrying out devolved or shared functions adhere to the principles of

governance and ensure that the principle of funding-follows-functions is adhered to with respect to all devolved functions.

114. CAF lauded the several interventions by the national government, which include: rolling out of fertilizer subsidy; increased maize acreage under production by an extra 200,000 acres among others. However, they noted that there is a lot of focus and investment on maize production leaving out 4 other cereals like wheat, rice, sorghum which are important to several County economies and people. They indicated that the government should diversify its agricultural investments in order to make Kenya food secure.
115. The newly enacted Social Health Insurance Act, 2023 will introduce several key components, including the creation of the publicly financed Primary Health Fund, a fully publicly financed fund for chronic, emergency, and critical illnesses, and the Social Health Insurance Fund. CAF noted that initially, 80% of the claims submitted to NHIF came from private hospitals, and therefore the concern arises regarding how County Health facilities will derive benefits from the funds, given that county governments are the primary financiers. There is also a need to address how the national government plans to assist county governments in enhancing their health facilities to match the standards of private health facilities, ensuring equitable access to the UHC funds.
116. That since BPS indicates that the Emergency, Chronic, and Critical Illness Fund (ECCIF) funding will come from appropriations by the National Assembly, grants, gifts, donations, endowments, and other lawful sources, there is a lack of clarity on how this resource mobilization process may impact the funds allocated to County Governments or those meant for devolved purposes. Further, County Governments should seek a clearer understanding of the implications of ECCIF resource mobilization on their allocated funds.
117. Health sector budget allocation- The Health Sector has been allocated Ksh. 147.5 billion, in the FY 2024/25. CAF raised a concern over this huge allocation to the national government noting that health function is almost fully devolved.
118. CAF expressed concerns about the sustainability of the Community Health Promotion (CHP) given shortages of operational kits and budgetary resources. That the allocated

- budget of Kshs. 5 billion for FY 2024/25 is inadequate considering the extensive scope of the program.
119. CAF noted that the Medical Equipment Services (MES) leasing contract expired, and that there is an agreement between Counties and the national government to engage service providers based on individual needs. Notably, the Ministry of Health issued advertisements for equipment contracts on behalf of Counties for a three-year duration. CAF submitted that the BPS lacks budgetary provisions for leasing MES as a conditional grant to Counties and therefore are faced with more expenditure pressures which directly supports CAF's stance for an increase in the counties equitable share.
 120. CAF expressed concern over the insufficient and inadequate equipment and facilities for cancer care services in most County Level 5 Hospitals. Notably, the BPS does not incorporate a budgetary allocation to counties aimed at enhancing their capacity to deliver effective cancer care services.
 121. Electronic Community Health Information Systems (e-CHIS)-= CAF proposed that the BPS should have a budgetary allocation to rollout e-CHIS in 47 Counties.
 122. CAF submitted that they support CoG's proposal for the County Governments equitable share to be increased from the proposed Kshs.391 billion to Kshs.450 billion since County Governments are going to have increased expenditure burden in their budget for the FY 2024/25.
 123. Roads Maintenance Levy Fund (RMLF)- 15% of Roads Maintenance Levy Fund (RMLF) estimated at Ksh.10.52 billion for the FY 2024/25 be allocated to county governments as equitable share for maintenance of county roads. CAF reiterated that Parliament to review legislation passed before 2010 to align them to the devolved system of governance, key among them being the: Road Maintenance Levy Fund Act, 1993; Kenya Roads Boards Act, 1999; and Kenya Roads Act of 2007.
 124. Pending bills- Treasury stated that the outstanding pending bills owed to Kenya Power & Lighting Company (KPLC) by County Governments as at 24th September, 2023 amounted to Ksh. 3,492,122,613.47 with Nairobi County Government having the largest outstanding bill amounting to Ksh 2,171,944,344.79. The amounts have been accumulating over the years. CAF acknowledged the importance of settling these

pending bills and also urged the National Treasury to also issue a circular to National government MDAs that have pending bills owed to Counties to settle them. For instance, according to the National Treasury, MDAs owe land rates totaling to Kshs. 239,800,387.55 as at June, 2023. Moreover, KPLC owes Nairobi City County outstanding payments for utilization of county way leaves.

125. Further, CAF highlighted that the National Treasury should submit a clear plan with measures on how they will support County Governments to settle their pending bills to avoid the risk of County employees retiring without their pensions and also to curtail their meteoric rise.
126. Own Source Revenue- CAF lauded the National Treasury initiatives of implementing the National Policy to Support Enhancement of County Governments Own Source Revenue, such as the National Rating Bill, the County Revenue Raising Process Bill and the development of a model Tariffs and Pricing Policy by use by the County Governments. However, CAF urged the National Treasury to formulate guidelines in the interim that will guide collection of OSR and also curb the loss of County revenues.
127. Intergovernmental Agreements in respect to Additional Conditional Allocation- CAF submitted that as the watchdogs of county funds and the body that safeguards county public interests, they should be involved in the respective processing of the Intergovernmental Conditional Allocations Transfer Agreements and that the agreements should be approved by county assemblies for them to be lawful and effective.

CHAPTER THREE

SUBMISSIONS BY STANDING COMMITTEES

The Senate Standing Committees considered their sector specific areas and made submissions as follows-

3.1 STANDING COMMITTEE ON ENERGY

128. The proposed Liquefied Petroleum Gas (LPG) growth policy which proposes provision for LPG reticulation infrastructure for all housing developments is important in enhancing uptake of LPG as a clean cooking solution by households. The committee noted that since gas reticulation is a county government function pursuant to the Constitution and the Energy Act, 2019, involvement of counties in the implementation of the policy is important. The Committee further recommended collaboration between the two levels of government and capacity building for county governments to address safety concerns in handling gas.
129. The committee noted that the proposed public-private partnership (PPP) projects to support electricity transmission lines are important in ensuring supply of electricity in the proposed areas. There is a need for the identified projects to be fast-tracked. The committee recommended that within 2 months upon approval of the 2024 BPS by the Senate, the State Department for Energy and KETRACO should provide an update on the status/stage of the proposed PPP projects to support electricity transmission and percentage of completion of other key identified transmission lines which can contribute to efforts to lower the cost of power in the country.
130. The committee further noted that from a report submitted by KETRACO on critical infrastructure/transmission lines that are yet to be completed, the following critical lines need to be funded for completion-
- i. Completion of the 132KV Narok- Bomet line which allows the switching off of Muhoroni gas turbine thus contributing to reduction of the fuel charge component in electricity bills;
 - ii. Completion of the 400/220KV Mariakani Sub Station which will allow more geothermal generated power to flow to the coastal region thus displacing the expensive thermal power; and

- iii. Completion of the Turkwell- Ortum- Kitale line which will stabilise power supply in the western region.
131. The Committee noted counties owe Kenya Power debts amounting to Ksh. 3.49 billion with Nairobi County accounting for Ksh. 2.17 billion of the total bills while Kenya Power also owes huge debts to other agencies in the sector and IPPs and there is a need to also settle the debts. The committee recommended that within 3 weeks of the adoption of the report on 2024 BPS, Kenya Power should submit a breakdown and details of all the pending bills it is owed by counties and other entities and elaborate the steps it is taking to recover the debts to ensure its profitability and sustainability. In addition, a plan on how it intends to pay the pending bills it owes IPPs and other sector agencies should be submitted.
 132. The committee noted that more efforts are needed to promote adoption of e-mobility. The committee recommended that more incentives should be provided to increase uptake. Assemblers of electric vehicles may be incentivized to set up shops in the country and provide the requisite charging infrastructure including spare parts which would help address cost concerns including purchase and maintenance costs.
 133. The committee was concerned by the undue delay in the approval of the Field Development Plan (FDP) for South Lokichar oil project which is supposed to inform the Final Investment Decision (FID) on the project. The committee recommended that the State Department for Petroleum and EPRA should complete the review of the Field Development Plan (FDP) for South Lokichar oil fields within a period of 2 months and submit the same to Parliament for consideration and approval.
 134. The committee further noted that there is need for the nature of the proposed restructuring and commercialization strategy for National Oil Corporation of Kenya (NOCK) to be made clear. The committee recommended that the State Department for Petroleum should within 2 months provide details of the restructuring and commercialization strategy for NOCK including the nature of the partnership that NOCK is entering into and the entities/strategic investors proposed in the restructuring and the commercialization strategy.

3.2 STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

135. The committee observed that the sector is underfunded at both levels of government. The committee further noted that the budgetary allocation to the sector in the 2024 BPS is proposed to be reduced by Ksh. 11 billion despite Agricultural Transformation and Inclusive Growth being a key pillar in line with BETA. The committee therefore recommended that the National Treasury should provide additional resources in the budget estimates for 2024/25 in order for the sector to prioritise value chains, provide water for irrigation as well as to support the exploration of the blue economy.
136. The committee also noted that counties allocated approximately Ksh. 36.9 billion to the agriculture sector in the FY 2022/23 which is only 7.2% of the total (aggregate) county governments' budgets. Therefore, to further close the funding gap in the sector, the committee recommended that over the medium-term, counties should progressively increase allocations to the sector to at least 10 % of their total budgets.
137. The committee further observed that the National Government, which ideally should only deal with Agricultural and Veterinary policy, continues to perform devolved functions under the agriculture sector. The committee recommended that Cabinet Secretary (CS), Ministry of Agriculture and Livestock Development and the Council of Governors (CoG) should engage through the Inter-governmental Relations Technical Committee (IGRTC) to develop a framework for progressively transferring county functions and the attendant resources and submit a report to the Senate by June 2024.
138. Additionally, the committee noted low or minimal provision of agricultural extension services to farmers by counties which is mainly attributed to lack of facilitation of agricultural extension officers to reach farmers and offer extension services. The committee recommended that within 3 months, the CS, Ministry of Agriculture and Livestock Development to engage with the CoG on possible collaborations to ensure adequate provision of extension services to farmers which is key in transforming and modernising the agriculture sector and consequently increasing food production.
139. The Committee noted a lack of uniform classification/naming of sectors by counties thereby making reporting and monitoring across counties difficult. In this regard, the

committee recommended that within 6 months after the adoption of this report by the Senate, the CoG to come up with guidelines of ensuring that classification or naming of sectors by counties is uniform across counties for purposes of ensuring ease of monitoring and reporting.

3.3 STANDING COMMITTEE ON INFORMATION, COMMUNICATION AND TECHNOLOGY

140. The Committee noted that despite the immense financial challenges faced by the State Department for Broadcasting and Telecommunication, the overall ceiling for the State Department is projected to decline by Ksh. 65 million. The committee recommended that allocations to this State Department should be increased since some of the state corporations under it have had immense challenges including payment of salaries and pending bills which have contributed to poor performance.
141. The Committee also noted that E-Government Services Costing is proposed to have a substantial increase in its allocations (Ksh. 8.98 billion). The Committee recommended that a larger portion of the fund be directed to research, development, and re-engineering of some of the Telecommunication parastatals under the Ministry.
142. An analysis of the Own Source Revenue (OSR) performance in the FY 2022/23 shows that counties raised a total of Ksh. 47.1 billion against annual target of Ksh. 66.1 billion representing an outturn of 71.3% with only six (6) Counties meeting the targets. The committee recommended that the County Governments should adopt and implement an Integrated County Revenue Collection and Management Systems to enhance OSR administration and management at the County level for improved service delivery and to also ensure uniformity in the collection of revenues in the counties.

3.4 STANDING COMMITTEE ON HEALTH

143. Social Health Insurance is a key focus of the Government in the roll-out of UHC. The Social Health Insurance Act, 2023, among other things, established a Primary Health Fund, a Chronic, Emergency and Critical Illness Fund and the Social Health Insurance Fund. The Committee recommended the operationalisation and implementation of the Primary Health Care Fund and the Chronic, Emergency and Critical Illness Fund.

144. With regards to the Social Health Insurance Fund (SHIF), the Government will implement a per-household payment system and has committed to ensuring universal access to healthcare based on the health needs of every Kenyan rather than the ability to pay.
145. The committee noted that in addition to premiums paid, SHIF will receive funds/contributions for indigents and persons in custody. In previous years, the enrolment of new beneficiaries into the government-sponsored indigents schemes have stagnated at 1 million indigents against a target of 2 million indigents. Notably, Ksh. 9 billion had been allocated in the financial year 2023/24 to enrol the 2 million government-sponsored indigents.
146. The Committee noted that as at March, 2023, the now defunct National Health Insurance Fund (NHIF) was owed at least Ksh. 20.69 billion under the various health subsidy schemes, leading to delayed payments of health service providers and huge pending bills by NHIF. The Ministry of Health should therefore ensure the seamless transition from NHIF to SHIF particularly with regards to pending bills due to healthcare providers and delayed reimbursements to NHIF for health subsidy programs by various government agencies and departments.
147. The Committee further noted that historically, NHIF remittances had been heavily skewed with private hospitals accounting for almost 80% of all NHIF claims submitted and paid. There is therefore a need to institute mechanisms to protect county health facilities and ensure that they benefit equitably under the SHIF.
148. The Committee noted that the inadequate human resources for health (HRH) both in numbers and skill continue to affect the health sector. To address this challenge, the government has committed to employ 20,000 health workers in phases to address the shortage. The BPS 2024 also indicates that the government has renewed expired health workers' contracts and also onboarded new health workers. The committee recommended that the payment of salaries for the 20,000 health care workers on contract be ring-fenced and disbursed by the national government directly to the counties as additional conditional allocation.
149. The Committee observed that salaries for healthcare workers account for disproportionately huge county recurrent expenditure which had affected the ability of

County Governments to recruit additional health workers owing to statutory budget ceilings for recurrent expenditure. The committee recommended that the Senate should allow for recurrent expenditure in counties to be classified to either critical or non-critical expenditure, and allow for the reclassification of health workers salaries as development expenditure with a view of allowing for the recruitment of additional health workers.

150. The Committee further noted that in order to address perennial health worker shortages affecting Kenya, there was a need to develop a legal and policy framework to allow for the progressive transition of health workers from contract to permanent and pensionable status over a specified period of time with a view to provide counties with adequate room to plan and budget for the progressive recruitment and absorption of health workers. In this regard, the committee recommended that the Senate consider amending the Employment Act to allow for the progressive transition of county health workers from contract to permanent and pensionable status over a specified period of time.
151. On the Medical Equipment Services (MES), the Committee observed that the MES project was scheduled to lapse in March 2024 with counties being expected to engage service providers on a need basis. Whereas MES equipment was distributed to all counties, some counties never utilized the equipment for the entire contract period owing to structural challenges such as lack of three-phase electricity connectivity and shortages of trained personnel. The national government should therefore allocate funds for the installation and connection of three-phase electricity in all Level 4 and 5 hospitals in the country to enhance the roll-out of UHC and promote the functionality of MES equipment.
152. The government had rolled out a community health services program for the provision of basic preventive and promotive health services, health education, basic first aid for minor injuries and referrals for facility healthcare at the counties. The sustainability of the program was dependent on the availability of working CHP kits and adequate budgetary resources, the Committee observed that a budgetary allocation of Ksh. 2.5 billion as stated in the BPS 2024 was inadequate for the sustainability of the program. The committee recommended that the national government should enhance the budgetary allocation towards Community Health Services with a view to ensuring the

adequate and sustainable compensation of CHPs, distribution of CHP kits, and on the effective utilization of data from CHPs.

153. The Committee also noted that whereas the National Government had initiated major projects for the delivery of specialized medical services in counties, e.g. the establishment of a Cancer and Renal Centers, there is no budgetary allocation that had been specified in the BPS 2024 for the same. The National Government should therefore allocate an adequate budget for the completion of national health projects initiated in the counties, particularly the Cancer and Renal Centers.
154. There is declining Donor Support for Strategic Health Programs. The Committee recommended that the Government prioritize domestic resource mobilization to address declining donor support and enhance sustainability in strategic health programs especially in TB, HIV, Malaria and Reproductive Maternal Neonatal Child Adolescent Health (RMNCAH).
155. The Committee further made the following additional recommendations:
 - i. A conditional grant to counties aimed at raising the quality and standard of devolved health services with a view towards making public health services competitive and enhancing potential remittances from SHIF.
 - ii. The allocation and disbursement of additional allocation from proceeds of loans and grants from development partners should reflect fairness in distribution and selection in successive years across the counties. No county should receive consecutive allocation at the expense of other counties.

3.5 STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

156. The Committee noted that the policy priorities in the 2024 BPS and in the previous BPS has remained to be the completion of the transfer of functions from the national government to the county governments. However, this has not been realized to date despite the government having targeted to complete the process by August 2023. The Intergovernmental Relations Technical Committee should therefore fast-track the process of unbundling, delineation and transfer of functions to County Governments and submit a report to the Senate by June 2024.

157. The government under the Agricultural Transformation and Inclusive growth pillar has put more emphasis and priorities on crop production. The policies have not recognized the actual and potential role of livestock, fisheries and the blue economy in reducing food insecurity, supporting the export market and creating jobs. The Committee therefore recommends that the National Treasury should give equal policy priority emphasis to livestock, fisheries, and blue economy sector and invest more in enhancing the productivity of livestock as the case for crop production.
158. Part 2 of the Fourth Schedule to the Constitution assigns the implementation of housing projects to the County government. However, the national government is implementing the housing agenda as a key policy priority without any intergovernmental coordination and implementation agreement in place. The National Government (State Department for Housing) should ensure the development of intergovernmental agreement partnerships by May 2024, to enable the implementation of the housing projects in the budget for the FY 2024/25.
159. The Committee observed that the Water (Amendment) Bill, 2023 which is now under consideration by the Senate seeks to promote private investment in the water sector through the Public-Private Partnerships (PPPs) model. The Bill expands the role of the National Government entities to provide water services by allowing them to enter into bulk water purchase agreements. The Bill further excludes the county governments in the PPP arrangements and takes away their constitutional role in water service provision.
160. The Committee also observed that the key pillars of the Bottom-up Economic Transformation Agenda Programmes of the National Government largely touch on devolved functions. The National Treasury should therefore put in place mechanisms such as intergovernmental agreements which clearly state the roles played by each county and to ensure that the National Government does not claw back on devolution.
161. The Committee observed that county governments owe Ksh. 82.36 billion to the various pension funds. The pension liabilities are however not included in the pending bills stock of the counties hence posing a great risk that these liabilities may not be prioritised for payment. The Committee therefore recommended that the county government should prioritise payment of due pension liabilities.

162. There is variation in the equitable share amount proposed by the National Treasury, Commission on Revenue Allocation, and the Council of Governors which is due to lack of an agreed formula in calculating the equitable share. The IGRTC should undertake costing of devolved functions by January 2025 to ensure resources allocated to county governments are sufficient to carry out the functions assigned.
163. The 2024 BPS provides that there is no funding for the leasing of medical equipment in the FY 2024/2025. The Committee observed that the project contract has ended. The Auditor-General should do a special audit on the leasing of medical equipment within 6 months after approval of the BPS 2024 and submit a report to the Senate. The report should contain among other things, value for money, successes and challenges of the project, to ensure smooth transitioning of the project to the county governments.
164. On various conditional grants given to counties from donors and development partners, the Committee observed that there are bilateral agreements between the donors and the National Government while there is no intergovernmental agreement between the national government and county governments for any such monies issued as conditional grants from the National government to the county government. The two levels of government should expedite development of intergovernmental agreements with the county governments on all conditional grants issued from the National government to the county government.

3.6 STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING

165. The Committee noted that given the trend in the resource requirements versus the ceilings provided in the 2024 BPS, all the State Departments within the sub sectors under the purview of the Committee are under resourced. In this regard, the committee noted that this will require priority allocation to be undertaken by respective state departments.
166. The committee was concerned that the grant for supplement for construction of county headquarters in the five counties (Lamu, Tharaka Nithi, Nyandarua, Tana River and Isiolo) had taken too long and it was imperative that it be concluded. Since FY 2017/18, allocations were made for these projects but the implementation of the projects has been

slow and in some counties has stalled. There is need to evaluate the actual status with a view to establish the challenges facing the completion of county headquarters.

167. The Committee noted that managing risks under PPPs is important. With the 2024 BPS having highlighted two major PPP projects namely, Mombasa-Nairobi Express way and the JKIA Terminals 1E and 2E at Feasibility Study phase, with targeted commencement period set for FY 2024/2025. There is need to evaluate the financing and negotiated terms to ensure the proposals conform to the applicable laws and manage potential contingent liabilities and other fiscal risks by appraising the Committee on the status of each project and committed funds.

3.7 STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS

168. The Committee observed that most counties owe money to various pension funds, and which have not been reflected in the pending bills stock, hence posing a great risk that these liabilities may not be prioritized for payment. The total unremitted deductions stood at Kshs. 82.3 billion. County governments should therefore fast-track the unremitted pension deductions, and ensure that all the accumulated deductions are remitted to the respective pension schemes and also ensure timely remittance of current and future pension obligations.
169. There is a reduction in the proposed budget for the various agencies under its purview including the State Law Office and Department of Justice (Ksh. 83.2 million reduction), Office of the Director of Public Prosecutions (Kshs.377.5 million reduction) and Witness Protection Agency (Ksh. 31.4 million reduction).
170. The Committee recommended that the National Treasury should enhance the budget to the Registrar of Political Parties and adhere to the provisions of section 24 of the Political Parties Act 2011. The budgetary allocation to Witness Protection Agency and Kenya National Commission on Human Rights should also be enhanced so as to promote among others; respect for Human Rights and strengthening the rule of law.
171. Additionally, the committee noted that the reduction in budgetary allocation for the ongoing development projects under the State Law Office and the Department of Justice will adversely affect the ongoing refurbishment of regional offices in Machakos, Kisii,

Kisumu and Malindi, installation of Local Area Network (LAN) at the Headquarters, and the Programme for Legal Empowerment and Aid Delivery in Kenya (PLEAD).

172. The Committee recommended that revenues raised as a result of contravention of County legislation should be transferred to the respective benefiting county governments to boost their operations. Additionally, there is need to enhance and streamline county legislation across the 47 Counties by strengthening capacity building on legislative drafting for the county Attorneys.
173. Moreover, the Committee also noted the lack of uniformity in the pace at which the justice sector players are implementing digitization and noted that the ultimate goal of enhancing access to justice through ICT may be hindered if the pace is not improved.

3.8 STANDING COMMITTEE ON EDUCATION

174. The Committee noted that the total Education Sector proposed ceiling of Kshs. 666.4 billion indicates a decline by Kshs. 23 billion despite the need for implementation of the Competence Based Curriculum (CBC) and the new University Funding Model.
175. The total proposed ceiling for the State Department for Basic Education is proposed at Kshs. 141 billion decreasing by Kshs.17 billion compared to the 2023/24 Supplementary Estimates 1. The National Treasury should increase the resource ceiling for the State Department for Basic Education by Kshs. 19 billion to Kshs. 160 billion to adequately cater for critical priorities such as capitation funds for primary and secondary education, examination fees waivers, the 100% transition to junior and senior secondary schools, the school meals program, the implementation of the CBC and for infrastructural support to basic institutions of learning.
176. The resource allocation to the State Department for Technical Vocational Education and Training (TVET) is projected to decrease with the ceiling proposed at Ksh.27.9 billion compared to an allocation of Ksh.32.9 billion in 2023/24. The resource allocation is therefore projected to decline by Ksh.5 billion.
177. The State Department for Higher Education and Research targets to enrol 1,982,583 students in universities; award loans to 2,413,042 students in Universities and TVET through HELB and support 570 Research projects. However, the resource ceiling is

Kshs. 126.5 billion which will be a decline by Kshs. 28 billion in comparison to FY 2022/23 printed estimates.

178. The resource ceiling for research technology and innovation is projected to increase by Ksh.237 million which is a positive note towards supporting research in the universities however it is still low compared to the government commitment to Increase funding for research and development from the current 0.8 percent to 2% of GDP.
179. Whereas within the last eight (8) years the universities have accumulated pending bills totalling to Kshs. 56.6 Billion out of which 77% (Kshs. 43.4 Billion) of the accumulated pending bills are statutory obligations which cannot be serviced, the overall ceiling is projected to decline.
180. The 2023 BPS envisaged the doubling of the allocation to the school feeding programme in order to increase accessibility. Further, the National Government prioritized to provide a conditional grant to County Governments to support the ECDE feeding programme. However, there is no evidence to confirm that this programme was implemented and the status report on its implementation.
181. The Committee recommended the following-
 - i. The National Treasury to set aside Kshs. 1 billion to establish and equip Education Assessment and Resource Centres (EARC) in every county, provide physical access for learners with special needs and disabilities to learning institutions, provide adequate tools and appropriate assistive devices such as rails and other equipment used by learners with physical disability; and
 - ii. The National Treasury and Ministry of Education should consider introducing a conditional grant in the County Government Additional Allocation Bill, 2024 to support the ECDE school feeding programme.

3.9 STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

182. The Committee noted that the funding for key components such as mobility in the National Police Service have been placed in other government ministries. These include leasing of motor vehicles, police airwing and the resources for modernization

- programme. The Ministry of Interior and National Administration working closely with other government ministries should ensure that the police airwing and the leasing of motor vehicles for the National Police Service is reverted back to the national police service within six (6) months from the adoption of this report.
183. The Committee noted that accessing key document like passport in the immigration department is still a challenge despite government policy in enhancing immigration services; More resources should therefore be allocated to the State Department for Immigration and Citizen Services in the FY 2024/25 to enhance provision of immigration services such as clearing passports backlog and routine maintenance of passports printing machines;
184. The Committee further noted the absence of a specific policy in the BPS to address inter-county border security challenges in several counties across the country despite the BPS policy geared towards addressing border security by earmarking Port of Entry in different parts of the country. In this regard, the Ministry of Interior and National Administration working closely with the county governments should come up policies and measures to deal with inter-county borders security challenges that exist between several counties within six (6) months of the adoption of this report;
185. The Committee observed that many of the newly gazetted Police Stations and Sub-County Headquarters are yet to operationalized thus denying the expected national government services delivery to the residents of the concerned areas. The National Treasury should allocate more funds to ensure full operationalization of the newly gazetted Police Stations and sub-county headquarters for the provision of services.
186. Additionally, the Committee observed that there are no policy measures in the 2024 BPS on how prisons decongestion will be achieved despite it being one of the policy priority areas. The Committee therefore recommended that within six (6) months upon adoption of this report, the State Department for Correctional Services should come up with policies geared towards achieving the decongestion of prisons in the country.

3.10 STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM

187. On the implementation of the County Integrated and Industrial Parks (CAIP's) program, the Committee noted that only 4 out of the 18 counties have begun the construction of the Parks. The National Treasury should therefore fast-track the release of KSh. 4.5 billion grant allocated in the FY 2023/2024 to support the construction of the CAIPs.
188. The Committee also noted the need for enhanced oversight of funds advanced from Kenya Youth Employment & Opportunities Project Kenya (KYEOP), UWEZO fund, Financial Inclusion Fund (Hustler) Fund under the State Department of MSME's. The State Department should provide the status report on loans disbursed and how much per county. Further, the audit report by the Auditor General should give guidance on the default rate of the total loans issued by the State Department. This audit should be reviewed by the committee before any more disbursement of funds is released from the Fund.
189. The Committee also raised concerns about the Tourism Fund not benefiting counties and recommended the amendment of the Tourism Fund Act to ensure that counties benefit from the fund. The State Department for Tourism should submit a report on how much money from the Tourism Promotion Fund has been channelled to showcase and promote County Tourism.

3.11 STANDING COMMITTEE ON LANDS, ENVIRONMENT AND NATURAL RESOURCES

190. The Committee observed that the pace of digitization of Land Registries needed to be enhanced. This is a key priority project in 2024 BPS for the government with a target of digitalizing 45 land registries countrywide, construction of 12 and renovation of 30 county land offices. However, only 2 registries (Nairobi and Murang'a) have undertaken digitization.
191. It was further noted that the budget ceiling for the State Department for Lands and Physical Planning had been reduced by Kshs.83.4 million. The Committee recommended that the budget for the State Department be increased to accommodate the priorities as highlighted in the 2024 BPS.

192. The Committee also raised concerns over challenges in the un-adjudicated lands both in the Arid and Semi-Arid areas that have never been adjudicated and yet to date, allocations of money to improve the state of land adjudication in the counties has not been catered for.
193. The Human Wildlife Conflict (HWC) Compensation Programme had a proposed allocation of Ksh 1.1 billion in the FY 2024/25 for the compensation of human wildlife conflict victims against Ksh.1.8 billion worth of verified HWC claims and Ksh. 5.5 billion worth of unverified claims thus the amount allocated might not be sufficient to cater for all the cases. In addition, the committee noted an increase in the ceiling of the State Department for Wildlife by Kshs.1.64 billion for both recurrent and development expenditure. The HWC Compensation Programme funding should be enhanced to sufficiently cater for all the pending verified cases.
194. The Water (Amendment) Bill, 2023 seeks to expand the role of National Government entities such as the Water Works Development Agencies (WWDAs) and National Water Storage Authority (NWSA) to provide water services by allowing them to enter into bulk water purchase agreements under the PPP Act, 2021. This was previously the preserve of county water service providers (WSPs). The Committee noted that the proposal to construct 100 dams by the government in the next 5 years under PPPs will depend on the enactment of this legislation.
195. The Committee noted that the National Treasury proposes to allocate Ksh 1.055 billion to thirty-two (32) counties in FY 2024/25, being the total sum of mineral royalties accrued in the FY 2021/22 as submitted by the State Department for Mining. To facilitate the transfer of 10% share of mineral royalties due to communities, the Committee recommends that the State Department for Mining, should expedite finalization of regulations and submission to Parliament for approval.

3.12 STANDING COMMITTEE ON NATIONAL COHESION, EQUAL OPPORTUNITY AND REGIONAL INTEGRATION

196. The Committee observed that the State Department for Gender, State Department for Youth Affairs, State Department for Diaspora Affairs, State Department for ASALS, Regional and Northern Corridor Development and State Department for East African

Community have a reduced budget ceiling for the FY 2024/25 as compared to the Approved budget for FY 2023/24. Thus, these State Departments may therefore not be able to finance all their ongoing projects and activities and still be able to cater for the additional policy priorities as highlighted by the BPS 2024.

197. On Women Agenda, the government is committed to ending Gender-Based Violence (GBV) in its policy. However, the National Gender and Equality Commission has an increment of Ksh 53 million in the proposed allocation for FY 2024/25 which is insufficient as compared to the resource requirement of the Commission. The Committee recommended increasing the allocations to the Commission to enable it ending Gender-Based Violence (GBV) and related activities.
198. The Committee observed that the National Social Safety Net has a decrease in the allocation by Ksh 2.8 billion in the 2024 BPS despite the government proposing to have an expanded cash transfer programmes for the elderly and investment in training for caregivers and medical staff who provide specialized care for older people.
199. The Committee observed that the Equalization Fund was not realising the purpose it was envisaged for as its effect has not been felt in the marginalized areas. Therefore, there is need to review the allocation framework.
200. Overall, the Committee recommended that all the State Departments that have a reduced budget ceiling for the FY 2024/25 as compared to the Approved budget for FY 2023/24 be considered for an increase as they might not be able to finance all their ongoing projects and activities and still be able to cater for the additional policy priorities as highlighted by the BPS 2024.

CHAPTER 4

COMMITTEE OBSERVATIONS AND FINDINGS

201. Having considered the 2024 BPS, submissions from Stakeholders and Standing Committees, the Committee made the following observations and findings-

- a) The continued accumulation of pending bills at both levels of Government, estimated at 5% of GDP as at February 2024, has adversely affected private sector liquidity and profitability, thereby dampening private sector investment. Notably, the non-payment of pensions pending bills amounting to Ksh. 73.4 billion is risking the welfare of retiring county staff.
- b) The national government continues to allocate a significant amount of resources towards Health and Agriculture even though these functions are devolved. Notably, in the 2023 BPS, the National Treasury committed to ensure that there is a complete transfer of county functions. However, this has not been realized despite the government having targeted to complete the process by August 2023.
- c) The national government has employed 20,000 new healthcare workers under the *Afya Nyumbani* Programme. However, the framework within which the two levels of government intend to cooperate in the operationalisation of this programme is not provided in the BPS as contemplated in Article 189(1) and (2) of the Constitution.
- d) The growth of the county equitable share is disproportionately lower than the projected growth in ordinary revenue collection, denoting inequity in resource distribution. The proposed County Equitable Share amounting to Ksh. 391.1 billion has increased by 1.5% from the FY 2023/24 allocation (Ksh.385.425 billion), compared to a 13.9% projected increase in ordinary revenue collection.
- e) Given that the shortfall in ordinary revenue collection by the end of January 2024 is Ksh. 232.6 billion, total revenue collection for FY 2023/24 is likely to be lower than projected. This lower base may adversely affect the projected revenue collection for FY 2024/25 thereby affecting funding of the proposed projects and programmes as set out in the 2024 BPS.
- f) The expenditure rationalization strategies highlighted in the 2024 BPS, notably the scaling up of PPPs, eliminating non-priority expenditures, privatization of SOEs,

rolling out of e-government procurement, and implementation of PIMIS are similar to the measures included in past BPSs. However, the BPS did not provide status of implementation of these strategies.

- g) There is no additional allocation to counties for the transfer of Library Services Function in FY 2024/25. This is despite a commitment by the National Treasury in the 2023 BPS to provide this allocation to counties in a phased approach over a period of three financial years. In FY 2024/25, the National Treasury was to allocate Ksh. 318.46 million (75% of Ksh. 424.6 million) to this function, and the balance of 25% was to be distributed as equitable share.
- h) The National Treasury has allocated to the Equalisation Fund, a partial payment of arrears amounting to Ksh. 3.533 billion for FY 2024/25, despite a commitment to the Senate to allocate Ksh. 9.98 billion for payment of arrears in FY 2024/25.
- i) Despite the BPS proposal that it is only the national government that bears revenue shortfalls in any given financial year, counties have also borne the revenue shortfalls as evidenced by the National Treasury's non-compliance with the cash disbursement schedule. Notably, as at January 2024, the National Treasury had disbursed Ksh. 174.33 billion against a disbursement target of Ksh. 223.55 billion.
- j) The most recent audited and approved accounts of revenue is Ksh. 1.570 trillion being for FY 2020/21. There is a need to expedite the approval of the audited accounts of revenue as this delay disadvantages marginalised areas in beneficiary counties in terms of the equalisation fund allocation.
- k) With the exception of Laikipia County, county governments have not received their Contribution in lieu of rates (CILOR) payments since the inception of devolution, amounting to Ksh 13.12 billion. However, the National Treasury indicates that a payment plan for outstanding CILOR dues is being processed.
- l) The county governments are experiencing additional expenditure pressures emanating from statutory deductions including the proposed housing levy and increased NSSF contributions, which reduces resources for other county government priority expenditure. Additionally, the requirement that county governments provide counterpart funding towards Community Health Promoters further constrains the baseline expenditure levels.

- m) The proposed conditional allocation to Community Health Promoters is Ksh. 2.5 billion. However, the Council of Governors indicated that this amount is inadequate and the budgetary requirement for the programme is Ksh. 3.2 billion.
- n) There has been an inordinate delay in the finalization of regulations to facilitate disbursement of mineral royalties for communities under section 185(3) of the Mining Act.
- o) The proposed conditional allocation from the RMLF to cater for county roads amounts to Ksh.10.5 billion. However, the Committee, while noting the positive step in providing allocations to respective Counties, observed that the proposed share is not based on objective criteria in allocating the expected collections among the beneficiary entities.
- p) The National Government Executive is allocated 58.9% of the total budget for FY 2024/2025 compared to a 1% and 0.6% allocation to Parliament and the Judiciary respectively. This is a disproportionate allocation to Parliament and the Judiciary and is likely to hamper service delivery including oversight of the Executive in fulfilment of their constitutional roles to ensure checks and balances and promote the rule of law.
- q) The proposed allocations to the Executive, Judiciary and Parliament is Ksh.2,438 billion, Ksh. 23.69 billion and Ksh. 41.62 billion, respectively. This is an increase of Ksh 38.8 billion for the Executive, Ksh 91 million for the Judiciary and Ksh. 88 million for Parliament. However, the marginal allocation to Parliament to cater for the various votes remains inadequate due to enhanced mandate including committee operations and statutory functions that remained underfunded. Moreover, Parliament's baseline allocation is way below the cost of running both the oversight function and technical operations as it was not properly funded in the FY 2023/24 that coincided with the beginning of the 13th Parliament. Consequently, committee operations are currently hampered therefore affecting the constitutional mandate of Parliament and delivery of services.
- r) Following submissions by CoG, the Committee observed that the National Treasury did not submit to Parliament any documentation on the proposed additional allocation for development partners on IDA (World Bank)- Kenya

Urban Support Project an amount of Kshs. 7.852 billion meant for Urban Development Grants for FY 2024/25

- s) The Committee noted a difference of Ksh.44.5 billion between the projected overall expenditure and net lending (Ksh.4,188 billion) and the projected total budget ceilings (Ksh 4,143 billion) for FY 2024/25 as proposed in the BPS. This may be attributable to understatement of Appropriation in Aid (A.i.A) by some Ministries, Departments and Agencies (MDAs).
- t) Proceeds from RMLF shall not be used for any other purpose other than the repair and maintenance of public and unclassified roads. Proceeds from this Fund therefore, should be properly classified as conditional additional allocation to county governments. This conditional additional allocation however, does not proceed from the national government's share of revenue but is of a nature of its own.
- u) The Road Maintenance Levy Fund Act, Cap 427, that establishes the Road Maintenance Levy Fund was enacted before the coming into force of the 2010 Constitution and the devolved system of government. The Act therefore does not properly deal with the nature of this allocation and the basis for determination of the entitlement for each level of government.
- v) Agriculture is a core pillar for the revolutionization of the growth of the Economy. However, there is minimal investment towards the sector, especially provision of agricultural extension services to farmers.
- w) There has been significant improvement in the sugar sector in recent years due to recent substantial reforms to revive the industry. This is led to a boost in productivity of the industry and contributor to the economic recovery.

CHAPTER 5

COMMITTEE RECOMMENDATIONS

202. Arising from the above observations, the Committee recommends as follows-

a) Policy Recommendations

- a) That, the most recent audited accounts of revenue received, as approved by the National Assembly is Ksh. 1,570,562,945,014 for FY 2020/21 and shall be the basis for determining the county equitable share under Article 203(3) and the amounts due to the Equalisation Fund under Article 204(1) of the Constitution.
- b) That, by 30th April, 2024, the Ministry of Health should submit to the Senate a framework of collaboration between the national government and county governments on the management including funding of human capital in the health sector, with clear roles for each level of government indicated.
- c) That, the National Treasury prioritizes disbursement of equitable share to counties in line with the cash disbursement schedule and pursuant to Article 219 of the Constitution which provides that a county's share of revenue should be transferred to the county without undue delay and without deduction.
- d) That, the National Treasury in collaboration with CoG should fast-track development of the Integrated County Revenue Management System and submit to the Senate, a status report including draft legislation for the operationalisation of the system by 30th June, 2024.
- e) That, the National Treasury should expedite the approval of the payment of outstanding Contribution in lieu of Rates (CILOR) to county governments.
- f) That, the Intergovernmental Relations Technical Committee fast-tracks the process of unbundling, delineation and transfer of functions to County Governments and submit a report to the Senate by June 2024.
- g) That, the National Treasury expedites finalisation of the proposed framework for sharing of mineral royalties' revenue among the National Government, County Governments and communities with a view to finalising the same by 30th June 2024.
- h) That, the National Government (State Department for Housing) should ensure the development of intergovernmental agreement partnerships by May 2024, to enable the implementation of the housing projects in the budget for the FY 2024/25.

- i) That, since gas reticulation is a county government function pursuant to the Constitution and the Energy Act, 2019, The State Department for Petroleum should collaborate with county governments in the implementation of the proposed LPG growth policy. Further, the collaboration should encompass capacity building for county government personnel in order to address safety concerns in handling gas.
- j) That, within 3 months, the Ministry of Agriculture and Livestock Development should engage with the CoG on possible collaborations to ensure adequate provision of extension services to farmers which is key in transforming and modernising the agriculture sector and consequently increasing food production.
- k) That, National and County governments should develop systems to aid in ensuring realistic revenue projections. Since over-projection of revenue results in revenue shortfalls that lead to pending bills and further accumulation of debt.
- l) That, the National Treasury should expedite the transition from use of cash basis of accounting to modified accrual basis of accounting which may help in recognition and management of pending bills.
- m) That, the Ministry of Agriculture and Livestock Development in collaboration with the National Treasury, should reconsider the allocation to the sugarcane industry and further include the industry in the value chain priorities currently being implemented by the government and requisite resources be allocated to increase production efficiency in the sector thereby improving the country's self-reliance on sugar production.

b) Financial Recommendations

203. The Committee made the following financial recommendations-

- a) The proposed allocation of shareable revenue to County Governments for FY 2024/25 should be **Ksh. 415.9522** billion, based on the following factors-
 - i) Baseline of Ksh. 385.425 billion being the approved allocation in the FY 2023/24.
 - ii) Adjustment for revenue growth of 6.4% (This is based on the actual ordinary revenue growth realised in the FY 2022/23).
 - iii) Further adjustment by repurposing of the scrapped MES programme allocation amounting to Ksh. 5.86 billion.

- b) The total additional allocations to counties should be **Ksh.55,453,732,777**, comprising-
- i. Road Maintenance Levy Fund - Ksh.10, 522,211,853;
 - ii. Aggregated Industrial Parks programme - Ksh.4,500,000,000;
 - iii. Supplement for Construction of County HQs- Ksh.445,000,000;
 - iv. Transferred Museum Function – Ksh. 30,184,835;
 - v. Community Health Promoters (CHPs) – Ksh. 3, 234, 930,000;
 - vi. Mineral Royalties – Ksh. 1,055,205,814;
 - vii. Court Fines – Ksh. 7,431,745; and
 - viii. Allocation from Development Partners in the form of Loans and Grants-Ksh. 35,658,768,530.
- c) That, the Fiscal Deficit (including grants) for the FY 2024/25 be binding at Ksh.703.9 billion (3.9% of GDP).
- d) That, given the underfunding of the various Votes under the Parliamentary Service Commission, the proposed total allocation of Kshs. 41.62 billion be enhanced to a total amount of Kshs.65.81 billion of which total allocation for Vote 2044 (Senate) is Kshs. 14.419 billion.
- e) That, the allocation to the Equalization Fund for FY 2024/2025 be set at Ksh.7,852,814,725 in line with the most recent audited accounts, approved by the National Assembly (Ksh.1.570 trillion, FY 2020/21). Additionally, based on the commitment by the National Treasury to the Senate, vide letter ref number TNT/ZZ/81/014/E974) dated 19th May, 2023, an additional amount of Ksh. 9.98 billion be allocated to the fund as partial payment of outstanding arrears. The cumulative allocation to the fund should be **Ksh. 17,832,814,725**.