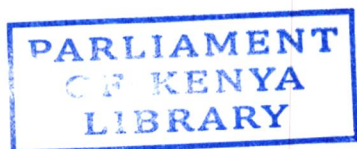


REPUBLIC OF KENYA



TWELFTH PARLIAMENT – FIFTH SESSION

THE SENATE

BRIEFS ON THE ANALYSIS OF THE BUDGET POLICY STATEMENT
2021 AND THE MEDIUM TERM

PRESENTED TO THE SENATE STANDING COMMITTEES

©Parliamentary Budget Office
<http://www.parliament.go.ke/pbo>
Parliament Buildings

FEBRUARY, 2022

TABLE OF CONTENTS

1. AGRICULTURE, LIVESTOCK AND FISHERIES	4
AGRICULTURE SECTOR: POLICY PRIORITIZATION IN THE 2021 BPS	9
Observations.....	18
2. DEVOLUTION AND INTERGOVERNMENTAL RELATIONS.....	20
3. EDUCATION	29
MEDIUM TERM EDUCATION SECTOR POLICIES AND PRIORITIES.....	33
SUMMARY OF KEY ISSUES: POLICY AND BUDGETARY	39
4. ENERGY	41
REVIEW OF RECENT POLICY PRIORITIES AND CEILINGS.....	43
Expenditure Performance for the Ministry of Energy.	43
POLICY PRIORITIZATION AND CEILINGS	45
OBSERVATIONS.....	52
5. HEALTH.....	54
BPS 2021 Health Sector Policies and Priorities.....	58
SUMMARY OF KEY ISSUES: POLICY AND BUDGETARY	61
REVIEW OF SECTOR POLICIES AND PRIORITIES	65
KEY SALIENT ISSUES AND POLICY OPTIONS.....	79
7. JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS.....	86
GJLOS SECTOR: POLICIES AND PRIORITIES ESPOUSED IN THE 2020 BPS.....	90
Observations.....	97

8. LABOUR AND SOCIAL WELFARE	99
REVIEW OF RECENT SECTOR POLICY PRIORITIES AND CEILINGS (2018 – 2020)	101
KEY SALIENT ISSUES	118
9. LAND, ENVIROMENT AND NATURAL RESOURCES.....	120
REVIEW OF PAST POLICY PRIORITIES AND PERFORMANCE	123
SUMMARY OF KEY ISSUES AND RECOMMENDATIONS.....	130
10. NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS	131
SALIENT ISSUES	134
POLICY PRIORITIZATION AND CEILINGS	135
SUMMARY OF KEY ISSUES	139
SECTORAL ANALYSIS OF 2021 BPS AND THE MEDIUM TERM – National Security.....	140
SUMMARY OF KEY ISSUES – National Security.....	143
Lands Sector	145
11. TOURISM, TRADE AND INDUSTRIALIZATION	153
REVIEW OF RECENT SECTOR POLICY PRIORITIES AND CEILINGS (2018 – 2020)	156
Policy Options	158
12. ROADS AND TRANSPORT	160
BPS PRIORITIZATION AND CEILING MEASURES.....	165
SUMMARY OF KEY ISSUES AND POLICY OPTIONS	176

1. AGRICULTURE, LIVESTOCK AND FISHERIES

INTRODUCTION

- 1) The 2021 Budget Policy Statement (BPS) was submitted to Parliament and tabled on 15th February 2021. The policy outlines the broad strategic government priorities and policy goals of the government over the medium term. This Brief provides an analysis of the agricultural sector budget policies and the proposed ceilings under the 2021 Budget Policy Statement.
- 2) The agriculture sector, like other sectors in the economy has been hit by the outbreak of Covid-19 Pandemic. The sector is very critical to the Kenyan economy and even in the times of Covid-19 it prevailed and contributed 1.5% to the GDP growth when almost every other sector was recording a negative growth. According to the First Quarterly Economic and Budgetary Review Report 2020/21, agriculture sector recorded an improved growth of 6.4 percent in the second quarter of 2020. The increase in tea production, milk intake, cane deliveries and fruit exports supported the sector's performance.
- 3) Kenyan agricultural sector continuous to experience a myriad of challenges including the resurgence of desert locust, erratic and unreliable weather patterns, flooding, pest and disease prevalence and the Covid-19 control measures which has disrupted marketing and supply of agricultural products threatening the achievement of food and nutritional security. In addition to the challenges, there is a serious underfunding of essential programmes and projects which have a direct impact on agricultural production and livelihoods of farmers.

LEGAL UNDERPINNINGS

- 4) The Budget Policy Statement is published in accordance with Section 25 of the Public Finance Management Act, 2012. In preparing the Budget Policy Statement, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following financial year and over the medium term.
- 5) The National Treasury is required to include the following in the Budget Policy Statement:-
 - a) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
 - b) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
 - c) The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
 - d) The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

- e) The total resources to be allocated to individual programmes and projects within sector, ministries, departments and agencies indicating outputs expected during the period.
- 6) The National Treasury, while processing the Budget Policy Statement (BPS), is also required to seek and take into account the views of the Commission of Revenue on Allocation, the County Governments, the Controller of Budget, the Parliamentary Service Commission, the Judicial Service Commission, the Public and any other interested parties or groups.
- 7) The submission and processing of the BPS by the Senate is anchored in Standing Order No 180.
- 8) Section 25(2) of the Public Finance Management Act 2012 require the National Treasury to submit the BPS to Parliament by 15th February each year. Parliament has 14 days after its submission to scrutinize and review it in line with section 25(7) of the PFM Act 2012.

HIGHLIGHTS OF THE 2021 BUDGET POLICY STATEMENT

- 9) The theme of the 2021 BPS is “building back better: strategy for resilient and sustainable economic recovery.” The policy measures in the BPS 2021 are aimed at stimulating economic recovery by building on the gains made under the Economic Stimulus Programme to mitigate against the impact of the pandemic on the economy. This is in addition to the continued implementation of the MTP III programmes, notably the Big Four agenda.
- 10) The BPS 2021 and the medium-term projects revenue collection including Appropriation-in-Aid (A.i.A) to increase to Ksh 1,985.2 billion (15.9 percent of GDP) up from the estimated Ksh 1,829.2 billion (16.4 percent of GDP) in the FY 2020/21. While the Government expenditure as a share of GDP for FY 2021/22 is projected to decline to 23.7 percent, the overall nominal expenditure and net lending is projected at Ksh 2,968.9 billion from the estimated Ksh 2,878.1 billion (25.9 percent of GDP) in the FY 2020/21 budget. The expenditures comprise of recurrent of Ksh 1,975.2 billion (15.8 percent of GDP) and development of Ksh 611.0 billion (4.9 percent of GDP).

S/No.	Details	2021/22 BPS Ceiling	Percentage Share
1.	National Government	1,950,377.7	64.6
2.	Executive	1,894,576.8	62.8
3.	Parliament	37,882.7	1.3
4.	Judiciary	17,918.3	0.6

5.	CFS	697,623.5	23.1
6.	County Government	370,000.0	12.3
7.	Total	3,018,001.3	100

Source: The National Treasury

A. REVIEW OF RECENT SECTOR POLICY PRIORITIES AND CEILINGS (2018 – 2020)

- 11) The 2018 Budget Policy Statement introduced the “Big Four Agenda” which identified the four key strategic areas of focus during the next five years. The four strategic areas included: Enhancing Food and Nutritional Security; Providing Universal Health Coverage; Provision of Affordable and Decent Housing; and Raising the Share of Manufacturing Sector to GDP.
- 12) The sector policies and priorities that followed then were therefore geared towards enhancing food and nutritional security to all Kenyans by 2022. Among the key policies that have been consistency implemented from the introduction of the Big Four Agenda include:
 - (i) Expansion of irrigation schemes
 - (ii) Supporting large-scale production of staples,
 - (iii) enhancing the agricultural productivity among smallholder farmers,
 - (iv) Facilitating large scale commercial agriculture to help diversify staples,
 - (v) Increasing access to subsidized agricultural inputs,
 - (vi) Upscaling crop and livestock insurance with the goal of cushioning farmers against climate related risks.
 - (vii) Development and implementation of fisheries, aquaculture and Blue Economy policies, infrastructure and capacities.
 - (viii) Promoting the use of appropriate farming techniques.
- 13) The policies have been focusing on expansion of food production and supply, reduction of food prices to ensure affordability and support value addition in the food processing value chain.
- 14) While the sector has good strategic policies, the implementation of the same is an issue of concern and which will most likely affect the achievement of the greater goal of ensuring food and nutritional security for all Kenyans by 2022. The biggest undoing has been the low budget allocations to key projects expected to drive agricultural productions. Even the low budget allocations are subjected again to budget cuts during the implementation process which begs the question whether the government is serious in achieving food security.

Medium Term Plan III (MTP III) (2018-2022) vs Budget Policies -Programmes and Projects

- 15) The programmes and projects being or implemented under the budget policy statement have been derived from MTP-III. Flagship programmes and projects under the MTP-III include:

- (i) Fertilizer Subsidy Programme – now undertaken under National Value Chain Support
- (ii) Agricultural Mechanization Programme
- (iii) Livestock Value Chain Support Programme
- (iv) Agricultural Insurance Programme
- (v) Youth and Women Empowerment in Modern Agriculture Programme
- (vi) Crop Diversification Programme
- (vii) Small Holder Productivity and Agro-processing
- (viii) Climate Smart Agriculture
- (ix) Pastoral Resilience Building Programme

Table 1; SUMMARY OF POLICIES CONCERNING COUNTIES

Summary of policies affecting the Counties & Policy Recommendations			
	Policies that affect devolution	National Government Policies	Policy options for county governments
1	Policies to reduce post-harvest losses	Investments in Warehousing and Cold Chains sites, aquaculture and fish feeds mills and fish processing industries.	Counties need to allocate funds towards activities to reduce post-harvest losses for major products in a particular county.
2	Economic Stimulus programme	-subsidize supply of farm inputs through the e-Voucher system to reach 200,000 small scale farmers.	The county governments need to compile a data base of the farmers in the county to facilitate the efficiency of the e-voucher system and avoid duplication for the targeted farmers.
3	Food security	-establishment of 1 million Kitchen Gardens Initiative	Counties to institute policies geared towards Collaboration with National Government in promotion of Kitchen garden initiative to boost the goal of achieving food security.
4	Boosting the production of coffee, wheat, Maize, miraa	-Provision of subsidized fertilizer -Warehouse Receipt system	Subsidizing other farm inputs, promotion of production activities and

	and other cash crops	-Negotiating Market Access to international markets. -Crops Value Chain Reforms through the Coffee Bill,2020,Fibre Crops Development Authority Bill,2020 ,The Horticulture Crops Authority Bill,2020, Food Crops Development Bill,2020 ,the Horticulture Crops Authority Bill, the Miraa, Pyrethrum and	exploration of new markets.
5	Boosting fish Production	-Fast -tracking the aquaculture regulations and strategy, Fisheries research and Development Fund, Fish Levy Trust Fund, The Blue Economy and Marine Strategy ,Rehabilitation of fish landing sites in Lake Victoria	Develop policies on small scale fish farming in order to benefit from fish research being undertaken by the National Government.
6	Promotion of Agricultural extension services	-Measures to support the Agricultural sector through extension services.	Since extension services is a devolved function the support towards this should be in form of a conditional grant to counties.(The Senate could push for this in the medium term)
7	Livestock production	-production of 117 million doses of assorted vaccines -Avail to farmers 2million straws of semen -Install 640 Milk coolers.	To solve the challenge of poor information flow the counties should come up with policies to develop strong disease surveillance in livestock producing areas, they should also maintain a database on the number and breed of livestock in given areas.

AGRICULTURE SECTOR: POLICY PRIORITIZATION IN THE 2021 BPS

- 16) The government policy on agricultural sector aims at ensuring food and nutrition security to all Kenyans by 2022. The sector is a key player in economic and social development of the country through food production, job creation, and foreign exchange earnings amongst others.
- 17) The key policy priorities under the BPS 2021 are intended to facilitate attainment of food nutrition and security. The policy focus is on: implementation of Agriculture sector transformation and growth strategy; enhancing the provision of agricultural inputs; provision of support programmes to smallholder farmers and pastoralists; expansion of irrigated land; promotion of appropriate farming techniques; as well as supporting large-scale production of staples.
- 18) All the policies under the agriculture sector are aligned towards increasing food production, boosting smallholder productivity, reduce chronic malnutrition among children under 5 years, and reducing the cost of food. The 2021 BPS has prioritized 5 key programmes to be implemented through the State Department for: Crop Development and Agricultural Research; Livestock; and State Department for Fisheries, Aquaculture and the Blue Economy.

B. AGRICULTURE SECTOR 2021 BPS CEILINGS

- 19) The BPS 2021 proposes the budget ceilings for the three state departments at Ksh. 61,702 million. When compared to the 2020/21 total approved estimates (Ksh. 54,759) the proposed ceilings is an increment of Ksh. 6,942 million which represents 13%.
- 20) The following table shows the proposed ceilings to the three state departments.

Table: showing 2021 BPS ceilings vs 2021/21 approved estimates (Ksh. Millions)					
State Department		Approved 2020/21	BPS Ceilings	changes	% changes
Livestock	Current	2,629	3,297	668	25%
	Capital	3,363	4,392	1,029	31%
	Sub-Total	5,992	7,689	1,697	28%
Crop Development & Agricultural Research	Current	10,799	13,465	2,666	25%
	Capital	31,010	30,486	-524	-2%
	Sub-Total	41,809	43,951	2,142	5%
Fisheries and Blue Economy	Current	1,995	2,105	110	6%
	Capital	4,964	7,956	2,992	60%

	Sub-Total	6,959	10,062	3,103	45%
	Total	54,759	61,702	6,943	13%

Source: 2021 BPS

STATE DEPARTMENT FOR LIVESTOCK

- 21) The proposed ceiling for the state department is Ksh. 7,689 million which comprises of Ksh. 3,297 million recurrent and Ksh. 4,392 million development expenditure. The 2020/21 approved estimates is Ksh. 5,992 million. This proposed ceiling is an increment of Ksh. 1,697 billion which represents a 28% increase.
- 22) The recurrent ceiling is set to rise by Ksh. 668 million from the approved allocation of Ksh. 2,629 million to Ksh. 3,297 million. Development allocation ceiling is proposed to rise by Ksh. 1,029 million from an approved allocation of Ksh. 3,363 million to Ksh. 4,392 million.
- 23) The department's resource requirement in 2021/22 is Ksh. 11,501 million against a proposed ceiling of Ksh. 7,689 million indicating a funding gap of Ksh. 3,812 million.
- 24) The proposed allocation will go towards funding the implementation of the Livestock Resources Management and Development programme. Key targets for the medium (2021/22-2023/24) include: production of 177 million doses of livestock assorted vaccines; availing to farmers 2,035,000 straws of semen; Installation of 4 Liquid Nitrogen plants in strategic sites; installation of 640 milk coolers; Support establishment of 45 feedlots; and engage 3,505 interns in animal health programmes amongst others.
- 25) The following table highlights the 2021/22 key targets of some programmes as provided under the 2021/22 Agriculture Sector Report.

Delivery Unit	Key Outputs	Key Performance Indicators	Target (Baseline) 20/21	Target 2021/22
Kenya Livestock Insurance Scheme	Reduced drought related livestock losses	No. of Tropical Livestock Units	160,000	100,000
Livestock Production Big-4 Interventions	Meat production	No. of feedlot sites supported	10	10
		Establishment of Model Feedlot at Chemongoch farm in Baringo	0	1
		Acreage of pasture/fodder established	2,800	2500
		No. of breeding piglets availed to farmers	11,000	1,200
		No. of rabbit breeding material produced and availed to farmers	2,800	2,000
		Number of indigenous poultry chicks distributed to SMEs	720,000	100,000

Livestock Value Chain Support Project	Milk value addition and marketing	Number of coolers procured and distributed	200	300
		Number of coolers installed and Operational	200	300

Source: 2021/22 Agriculture Sector Report

Observations

- 26) The Regional Pastoral Livelihood Resilience Project (RPLRP) is to be completed this financial year. The project was initiated in December 2014 and is set to be completed in February 2021. A look at the 2021/22 Sector Report indicates that the department has not provided any performance indicators and targets for the financial year despite a proposal to allocate Ksh. 30 million. The objective of the project has been to enhance livelihood resilience of pastoral and agro-pastoral communities in drought prone areas.
- 27) The department's resource requirement in 2021/22 is Ksh. 11,501 million against a proposed ceiling of Ksh. 7,689 million indicating a funding gap of Ksh. 3,812 million.

STATE DEPARTMENT FOR CROPS DEVELOPMENT AND AGRICULTURAL RESEARCH

- 28) The department's proposed ceiling is Ksh. 43,951 million comprising of Ksh. 13,465 million recurrent and Ksh. 30,486 million development expenditure. The approved allocation in 2020/21 is Ksh. 41,809 million comprising of Ksh. 10,799 million recurrent and Ksh. 31,010 million.
- 29) The proposed allocation indicates a net increment of Ksh. 2,141 million (5% increase) in total allocation with an increase of Ksh. 2,666 million in recurrent expenditure (25% increase) and a reduction of Ksh. 524 million in development allocation (2% reduction).
- 30) The department's resource requirement according to the Sector Working Report in 2021/22 is Ksh. 58,094 million against a proposed ceiling of Ksh. 43,951 million indicating a funding gap of Ksh. 14,143 million.
- 31) The department is implementing four programmes whose allocations is as shown the following table.

Programme	Approved 20/21	BPS 2021	Changes
General administration, planning and support services	4,994	5,968	974
Crop development and management	28,878	29,454	576
Agribusiness and Information Management	1,562	1,479	(83)

Agricultural Research and Development	6,374	7,050	676
Total	41,808	43,951	2,143

- 32) The key targets of the programmes for the medium-term(2021/22-2023/24) include:
- (i) Mainstream youth in agriculture and agribusiness through refurbishing eight (8) regional Youth in Agribusiness Incubation Centres (YABICs) to host 520 graduate youth for incubation after which credit to enhance their businesses will be availed through AFC;
 - (ii) Promote reduction in pre and post-harvest losses through provision of 750 MT of Aflasafe, moisture meters, hand shellers and hermetic bags.
 - (iii) Mitigation of Fall Army Worm infestation through distribution of 35,000 litres of pesticides.
 - (iv) Increase maize production from 44.6 million (90 Kgs) bags to 50 Million bags, potato production from 1.2 million MT to 1.9 Million MT and rice production from 128,000 MT to 170,000 MT.
 - (v) Revitalize cotton through expansion land area under cotton production to 170,000 acres and avail 235 MT of Bt and non-Bt seeds per year to farmers;
 - (vi) Enhance access to water for small scale irrigation for crop production and domestic use through rehabilitation of 3252 Ha of land and development of new irrigation schemes to cover 1250 Ha. Further, 300 Ha of land will be brought under micro irrigation and 300 km of rural access road constructed over the planning period in four catchment areas;
 - (vii) Provide a 50% subsidy crop insurance cover to 1,500,000 farmers in 38 Counties;
 - (viii) Conduct desert locust surveillance and awareness creation and develop an early warning system in 16 hot spot counties;
 - (ix) Implement the Warehouse Receipt System Act 2019 as well as refurbishment of 20 warehouses to stabilize commodity prices and food availability.
- 33) The following table highlights the 2021/22 key targets of some programmes as provided under the 2021/22 Agriculture Sector Report.

Delivery Unit	Key Outputs	Key Performance Indicators	Target (Baseline) 20/21	Target 2021/22
Cotton Industry Revitalization Project (AFA)	Cotton production and productivity	No. of cotton value addition technologies promoted	5	3
		Expansion of area (acres) under cotton increased		150,600

		Quantity (MT) of seed cotton produced		225.6
Coconut Industry Revitalization Project (Commodities Fund)	Coconut enterprise financing	Amount in Ksh of loans disbursed to coconut enterprises		65
		No. of loan beneficiaries		2,166
Agricultural Society of Kenya	Modern Jamhuri Park ASK showground	% completion of Jamhuri Park ASK showground		100%
Warehouse Receipt Council	Warehouse Central registry	No. of National Central Registry developed, installed and maintained		1
		No. of County Level registries developed, installed and maintained		2
	Warehouses linked to Central registry	No. of warehouses linked to central registry		5
		No. of smallholder farmers and traders and other depositors linked to certified warehouses		100
		No. of Warehouse operators and WRS e-suite operators capacity built		10
		No. of trade and market linkage service providers capacity built		20
		No. of agribusiness associations to		2

		support collective action trained		
	Warehouses refurbished	No. of participating warehouses refurbished		5
	Commodity prices stabilized	No. of bags delivered to the warehouse (50 kg million bags)		7
Kenya Climate Smart Agriculture Programme (KCSAP)	Empowered small holder agro-pastoral and pastoral producers	Number of direct beneficiaries in Common Interest Groups (CIGs) and Vulnerable and Marginalized Groups (VMGs)		208,600
		Number of micro/sub projects supported with grants	72	2,000
	Climate smart agriculture inputs	No. in MT. of early generation seed produced	9	10
Drought Resilience and Sustainable Livelihoods project	Access to water for small scale irrigation, domestic use and livestock.	Area of irrigation infrastructure rehabilitated (Ha)	120	920
		No. of water structures constructed	44	100
Crop Insurance	Crop Insurance	No. of farmers with crop insurance	400,000	500,000
		Cumulative no. of counties covered	30	38
National Value Chain Support Programme	Crop production inputs availed to farmers through the e-voucher input management system	No. of counties to be covered	34	38
		No. of beneficiaries	300,000	200,000
		Quantity of assorted fertilizers in MT accessed	70,479	46,900

		Quantity of Lime in MT accessed	53,193	35,400
		Quantity of assorted agro-chemicals in Litres accessed	1,932	300
		Quantity of high yielding seeds in MT accessed	450	2,360
Aflatoxin management (Plant Protection)	Food safety and management of post-harvest losses	Quantity of Aflasafe (KE 01) (MT) procured and promoted	600	200
		No. of moisture meters procured and promoted	200	100
		Storage Dust(MT)	12	5
		No. of Hand shellers procured and promoted	350	150
		No. of Hermetic bags procured and promoted	3,000	1,500
Fall Army Worm Mitigation	Management of fall army worm infestation	Liters of pesticides procured and distributed	30,000	35,000
Small-scale Irrigation and Value Addition Project (SIVAP)	Irrigation schemes	Area of new irrigation schemes developed (Ha)	250	500
		Area of existing irrigation scheme rehabilitated (Ha)	520	342
		No. of micro irrigation schemes developed	2	20
Food security and crop diversification project	Food crops diversification and productivity	Acreage under Drought Tolerant Crops	10,000	20,000
		Acreage under high yielding maize varieties	100,000	120,000

		Acreage under high yielding rice varieties	3,000	5,000
		Acreage under Irish potato	20,000	30,000
		Millions of bags (90kg) of maize produced	45	47
		No. of 90kg bags of Maize per acre	22.5	23
		No. (MT) of rice produced	140,000	150,000
		No. (MT) of ware potato produced (Millions)	1.6	1.8
		No. ware and seed potato infrastructure established (aggregation centres, cold stores)	3	5
	Farm incomes diversified	No. of Acreage under Macadamia increased	1,500	1,500
		No. of Acreage under cashew nuts increased	1,500	1,500
		No. of Acreage under coconut increased	500	500
		No. of Acreage under avocado increased	1,000	1,000

		No. of Acreage under mango increased	200	200
	Miraas farmers livelihoods improved	No. of water pans constructed	2	4
		No. of dams constructed	1	1
		No. of bore holes drilled and equipped	1	2
		Construction of market sheds for miraa	1	4
		No. of international markets surveyed	3	2

Source: 2021/22 Agriculture Sector Report

STATE DEPARTMENT FOR FISHERIES, AQUACULTURE, AND BLUE ECONOMY

- 34) The state department's proposed ceiling is Ksh. 10,061 million comprising of Ksh. 2,105 million recurrent and Ksh. 7,956 million development expenditure. The approved allocation in 2020/21 is Ksh. 6,958 million comprising of Ksh. 1,995 million recurrent and Ksh. 4,964 development expenditure.
- 35) The proposed ceiling indicates an overall increase of Ksh. 3,103 million (45% increase) with an increase of Ksh. 110 million (6% increase) in recurrent allocations and Ksh. 2,992 million (60% increase) in capital allocations.
- 36) The department's resource requirement in 2021/22 is Ksh. 17,454 million against a proposed ceiling of Ksh. 10,062 million indicating a funding gap of Ksh. 7,392 million.
- 37) The state department implements three programmes whose proposed allocations are as shown in the following table.

Table showing proposed Ceiling to programmes vs 2020/21 allocations			
Fisheries development and management	5,614.20	9,148.20	3,534
General administration, planning and support services	132.8	135	2

Development and coordination of Blue economy	1,211.90	778	(434)
Total	6,958.90	10,061.20	3,102

Source: BPS 2021

38) The key targets to be achievement under the programmes in the medium term include:

- (i) Increasing fish production from aquaculture from 12,356MT to 84,551MT.
- (ii) Increasing fish production from Marine Fisheries 23,286MT to 126,056MT.
- (iii) Increasing fish production from Inland Fisheries from 99,458MT to 185,964MT.
- (iv) Reducing post-harvest fish loses by 10%; and
- (v) Increasing fish consumption from 4.6kg to 10kg per person per year.

39) The following table highlights the 2021/22 key targets of some programmes as provided under the 2021/22 Agriculture Sector Report.

Delivery Unit	Key Outputs	Key Performance Indicators	Target (Baseline) 20/21	Target 2021/22
Aquaculture Business Development Programme (ABDP) PCU	Smallholder aquaculture farmers supported with pond rehabilitation/construction materials	Number of smallholder aquaculture farmers supported with pond rehabilitation/construction materials to increase aquaculture production base	250	4,000
	Restocking of community Dams supported	Number of fingerlings restocked in Community	100,000	1,000,000
	Aquaculture Support Enterprises established	Number of Aquaculture Support Enterprises (ASEs) targeting youth established in the implementing counties	100	300
Directorate of Blue Economy Management and Development	Fish port infrastructure at Liwatoni and Shimoni developed.	Level of completion of fishing port facilities at Liwatoni, Mombasa	75%	100%
		Level of completion of fishing port facilities at Shimoni, Kwale	0	30%

Source: 2021/22 Agriculture Sector Report

Observations

40) Implementation of Capital Projects-

- The implementation of the Rehabilitation of the six Fish Landing sites in Lake Victoria have taken too long to complete because of the low budget allocations and frequent budget cuts on the projects. The projects were initiated in September 2017 and are meant to be completed by June 2021. The six projects were at an average of

8% completion as at June 2020 having utilized Ksh. 84 million out of the expected total cost of Ksh. 1,045 million.

- The Construction of Fish Market in Mombasa and Malindi is supposed to come to an end in June 2021 but as at June 2020, the completion of Mombasa fish market was at 24% and while that of Malindi was at 21%.
- 41) The department's resource requirement in 2021/22 is Ksh. 11,501 million against a proposed ceiling of Ksh. 7,689 million indicating a funding gap of Ksh. 3,812 million.

2. DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

A. INTRODUCTION

1.1 Preamble

The Budget Policy Statement is drafted by the National Treasury and the main thrust is to provide an avenue for engagement and discussion between the executive and the legislature on the broad policy goals, strategic objectives, programmes, expenditure ceilings, fiscal framework and fiscal risks that will overarch the budget in the coming financial year and in the medium term. Further, the expenditure ceilings for the policies, programmes and projects proposed are indicated, including costing of any proposed new policy. Therefore, Parliament is required to analyze, consult, discuss and scrutinize this document and upon approval, it lays the foundation for the budget estimates for 2021/22 and the medium term.

1.2 Basis of processing the BPS

The Budget Policy Statement is published in accordance with Section 25 of the Public Finance Management Act, 2012. In preparing the Budget Policy Statement, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following financial year and over the medium term. The National Treasury is required to include the following in the Budget Policy Statement:-

- i.) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
- ii.) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
- iii.) The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
- iv.) The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

The submission and processing of the BPS by Parliament is also anchored on Standing Orders of both Houses which require, among other things, that the Budget Policy Statement (BPS) should indicate total resources proposed to be allocated to individual programmes and projects within a sector and indicate the outputs expected from each such programme or projects during the period.

Indeed, Standing Order Number 218 of the Senate Standing Orders assigns the Standing Committee on Devolution and Intergovernmental Relations a mandate to “*consider all matters*

relating to devolution, intergovernmental and inter county relations, governance and management of county governments, cities, town and urban areas”.

2. HIGHLIGHTS OF THE BPS FOR 2021 AND THE MEDIUM TERM

2.1 Introduction

The 2021 Budget Policy Statement whose theme is “building back better: Strategies for resilient and sustainable economic recovery” is prepared at a time when the world is reeling from the continued effects of COVID-19 that has hitherto, disrupted businesses, lives and livelihoods globally, with Kenya not being exempted. The policies contained in the BPS are aimed at providing budgetary and fiscal policy interventions which are aimed at recovery and sustained development beyond the pandemic. Other than the economic recovery strategies, the government is proposing to continue implementing the “Big Four” plan as well as other flagship projects as espoused in the Medium Term Plan III of the long term development blue print, the Kenya Vision 2030.

Specific policies that have been identified as catalysts of recovery comprises of: rolling out of the post Covid-19 Economic Recovery Strategy (ERS); harnessing the implementation of the “Big Four” economic plan for jobs creation; fostering a conducive business environment through maintenance of stable macroeconomics and business regulations; development of critical infrastructure to facilitate ease of doing business and enhance competitiveness; transforming economic sectors for sustainable growth; enhancing access to social services such as education and health as well as cash transfers; facilitating county governments for enhanced service delivery and continued structural reforms among others measures.

2.2 Review of 2020/21 performance thus far

On overall, implementation of the 2020/21 budget has been affected by continued effects of the global pandemic which has dampened economic activities thereby occasioning revenue underperformance. The first half year total revenue reached KSh. 800.1 billion against a target of KSh. 907.7 billion which presents a shortfall of KSh. 107.6 billion. Ordinary revenue was off the target by KSh. 75.8 billion. In the same period, expenditure underperformed by KSh. 67.9 billion. This half year result indicates a deficit of KSh. 362.6 billion which was financed through net domestic borrowing of KSh. 345.4 and net foreign borrowing of KSh. 17.2 billion.

In the 2019/20 financial year, the actual Ordinary Revenue performance was KSh. 1,573.4 billion. In the current financial year, 2020/21, the revenue projection has been reduced from the approved KSh. 1,633.8 billion to KSh. 1,594 billion. With the current financial year revenue shortfall and continued effects of the pandemic, the realism of achieving the projected revenue of KSh. 1,775.6 billion in 2021/22 is potentially doubtful.

2.4 Overarching Policies and targets

Some of the overall policies include: the government’s continued expenditure prioritization and enhance revenue mobilization efforts in order to achieve fiscal consolidation path of reducing the fiscal deficit from the current 8.7% to 3.6% of the GDP in the medium term;

enhancement of efficiency in projects cycle through the Public Investment Management (PIM) unit at the National Treasury; among others.

Specific policies include: rolling out of the post-COVID-19 Economic Recovery Strategy (ERS); continued implementation of the “Big 4”; creation of a conducive business environment by maintaining macroeconomic stability; continued investment in infrastructure to foster competitiveness; continued investment in social sector; facilitation of county governments to strengthen their service delivery systems; implementation of structural reforms to create efficiency in service delivery; among others.

2.5 Overall Fiscal Framework for 2021/22

This Budget Policy Statement projects the total revenue in 2021/22 at KSh. 2,033.9 billion (16.4% of the GDP). Ordinary Revenue is projected at KSh. 1,775.6 billion (14.3% of the GDP) compared to KSh. 1,594.0 billion (14.3% of the GDP) projected in the current financial year, 2020/21. It is worth noting that the first half revenue has already underperformed by KSh. 75 billion. This potentially casts doubt on the realism of the revenue projection despite the anticipation that this ambitious revenue target will be anchored on the on-going measures on tax policy as well as enhancement of tax administration and compliance.

The overall expenditure and net lending has been projected at KSh. 3,010.0 billion which is composed of KSh. 1,986.0 billion of recurrent and KSh. 609.1 billion of development. The overall deficit of KSh. 930 billion including grants, will be financed through net domestic borrowing of KSh. 662.8 and net foreign financing of KSh. 267.2 billion. This level of deficit presents risks such as crowding out private sector investment and increased public debt burden which in turn reduce future revenue that would be available for expenditure in government priorities.

3. PROPOSED OVERALL EXPENDITURE FOR 2021/22 AND THE MEDIUM TERM

Table 1: Baseline and proposed budget allocation for 2020/21 and the Medium Term

Summary of budget allocations for 2020/21 to 2022/23 (KSh. Millions)					
Details	2020/21 Baseline	2021/22 BPS	%	Projections	
				2022/23	2023/24
National Government	1,871,648	1,950,377	64.6%	2,047,387	2,171,405
Executive	1,816,342	1,894,576	62.8%	1,989,844	2,112,557
Parliament	37,306	37,882	1.3%	38,536	39,208
Judiciary	17,999	17,918	0.6%	19,007	19,640

CFS*	586,468	697,623	23.1%	796,892	863,577
County Government**	316,500	370,000***	12.3%	370,000	375,000
Total	2,774,616	3,0218,001	100%	3,214,281	3,409,982

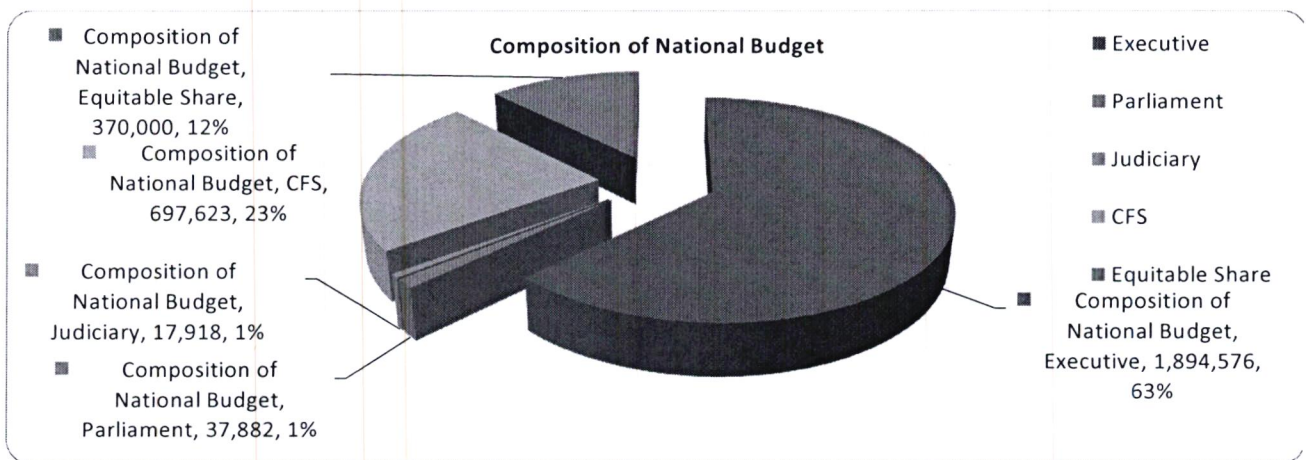
Source: National Treasury

*domestic and foreign interest and pensions

**sharable revenue only

*** the KSh. 370 billion equitable share for 2021/22 is composed of the current baseline of KSh. 316.5 billion; KSh. 36.1 billion on the anticipated revenue growth and KSh. 17.3 billion from turning the four types of conditional grants to counties to unconditional, thereby becoming part of sharable. These are: Road Maintenance Levy Fund; allocation level 5s, compensation for user fees forgone in health facilities and the allocation to village polytechnics.

Chart 1: Composition of the national budget



Source: PBO/National Treasury

It is noted that allocation to consolidated fund services constitutes close to one quarter of the national budget. This is a worrying trend which would exert pressure on the future revenue and reduce available resources.

4. DEVOLUTION MATTERS AND DIVISION OF REVENUE

4.1 Fiscal responsibility

It is noted that most counties are still struggling to adhere with the fiscal responsibility principles as espoused in the laws. For instance, the Controller of Budget report indicates that whereas most counties allocate at least 30% of their budget to development expenditure, the actual implementation of the budget falls short. For instance, in the immediate previous

financial year, only 13 counties had their actual development expenditure at 30% and above. They are: Marsabit, Samburu, Kwale, Kakamega, Isiolo, Muranga, Wajir, Trans Nzoia, Uasin Gishu, Kilifi, Siaya, Makeni and Homabay.

Further, it was reported that in 2018/19, only 11 counties complied with the 35% cap on wage bill expenditure. They are: Mandera, Kwale, Nakuru, Lamu, Narok, Tana River, Uasin Gishu, Kilifi, Nyandarua, Marsabit and Kericho. To address this situation, robust oversight by the legislature at both levels of government on these issues would be paramount.

4.2 Counties Own Source Revenue

Achievement of the On Source Revenue has been a major challenge by counties. In 2019/20, only five (5) counties (Homa Bay, Taita Taveta, Machakos, Lamu and Bomet) managed to surpass their targets. Seven counties failed to realize even half of their revenue targets. These are: Kisii, Kajiado, Wajir, Siaya, Nandi and Meru.

On overall, the actual Own Source Revenue was KSh. 35.8 billion whereas the target was KSh. 54.9 billion which represents 65% performance. Even with this dismal performance, the main focus should be in ascertaining the capacity of county Assemblies with regards to the scrutiny of revenue forecasting and subsequent approval. The other issue is whether revenue potential is known for each county, which should be the basis of projections.

4.3 Fiscal risks

The county governments are still grappling with the management of fiscal risks such as successful settlement of pending bills. For instance, it has been reported that by close to mid November 2020, only KSh. 39 billion of the eligible pending bills had been settled, leaving an outstanding balance of about KSh. 12 billion. The ineligible pending bills are being addressed through the IBEC process.

The other risk is the failure to remit pension contributions to various funds such as LAPFUBD, County Pension Fund and LAPTRUST. The challenging in court of the implementation of the County Governments' Retirement Scheme Act, 2019 has compounded the risk further.

These risks, if not managed prudently, would potentially hamper budget implementation by counties a significant manner. Further, the non remittance of pension deductions would jeopardize access to pension by eligible scheme members who have no role in the non remittance.

4.4 Division of revenue

The Division of Revenue Bill, 2021 proposes to allocate an equitable share of KSh. 370 billion to county governments. This is composed of the baseline allocation of KSh. 316.5 billion; an additional KSh. 36.1 billion which is expected to be realized upon easing of the pandemic. The other one is the additional KSh. 17.4 billion that that would arise from

converting the existing four (4) conditional grants into unconditional. They are: the Roads Maintenance Levy Fund; grants to level 5 hospitals; compensation for the user fees forgone by health facilities in counties and the grant for rehabilitation of village polytechnics. However, the approval of this proposal ought to be granted first.

Table 2: Breakdown of Counties' Equitable Share (KSh. Millions)

Item	2017/18	2018/19	2019/20	2020/21	2021/22
Baseline	280,300	302,000	314,000	316,500	316,500
Adjustment for revenue growth	21,700	12,000	2,500	-	36,100
Revenue share (RMLF; level-5 grant; compensation for user fees forgone and rehabilitation of village polytechnics)	-	-	-	-	17,400
Equitable share	302,000	314,000	316,500	316,000	370,000

Source: National Treasury

It has been submitted that other than the proposed equitable share of KSh. 370 billion, county governments will continue receiving additional conditional allocations such as allocation from loans and grants of KSh. 32.3 billion; leasing of medical equipments at KSh. 7.2 billion and construction of some county headquarters at about KSh. 332 million. This would raise the total allocation to county governments in the fiscal year 2021/22 to about KSh. 409.88 billion as shown in table 3.

Table 3: Breakdown of counties' total allocation (KSh. Millions)

Item	2017/18	2018/19	2019/20	2020/21	2021/22
a) Equitable share	302,000	314,000	316,500	316,000	370,000
b) Conditional allocation, O/W					
Leasing of medical equipment	4,500	9,400	7,000	6,205	7,205
Allocation from loans and grants	12,541	33,241	39,090	30,204	32,344
Supplement for construction of county headquarters	605	605	300	300	332
Total Allocation to counties	319,646	357,247	362,889	352,209	409,881

Source: National Treasury

4.5 Horizontal revenue sharing

In terms of the horizontal sharing of revenue, the Third generation Basis which was approved by Parliament in September, 2020 shall be applied. There are eight (8) parameters with weights ranging from the highest which is basic share at 20% to the lowest which is urban index. The parameters are shown in table 4 in the succeeding page.

Table 4: Third Basis for sharing revenue among the county governments

S.N	Parameter	Percentage
i.	Basic Share	20%
ii.	Population	18%
iii.	Health Index	17%
iv.	Poverty Index	14%
v.	Agriculture Index	10%
vi.	Land Area	8%
vii.	Roads Index	8%
viii.	Urban Index	5%

However, each conditional allocation shall be apportioned based on its objectives, criteria for selecting the beneficiary counties as well as the basis or formula for sharing.

4.6 Intergovernmental fiscal transfers

The national government continues to grant county governments additional resources in form of **conditional grants**. For instance, between the financial years 2013/14 to 2019/20, a total of KSh. 175 billion has been disbursed in adherence to the provisions of the Public Finance Management Regulations and National Treasury guidelines.

The operationalization and administration of the **Equalization Fund** was suspended in 2016 with the annulment of the guidelines by the High Court due to their unconstitutionality. A multi-agency committee has hitherto, been established and drafted new instrument, the Public Finance Management (Equalization Fund) Regulations, 2020. Once approved by the Cabinet, the regulations shall be submitted to Parliament for approval so as the Fund can be operational.

5. EMERGING ISSUES FROM PUBLIC PARTICIPATION

It has been reported that during the public engagements on the 2021/22 fiscal year budget and the medium term, various issues regarding the sector were raised by the citizens. They are such as: local contractors not accorded an opportunity to participate in national development projects; the status of the county governments own source revenue policy; ensuring the streamlining of revenue collection system in counties; timely release of funds to county governments; sustainability of the public debt; expansion of revenue base by bringing informal sector into the tax net; the efficacy and capacity of Contingencies Fund to handle major risks such as Covid-19, among others.

Some of the responses given were such as the following: with regards to local contractors and participation in national development projects, it was submitted that the Public Procurement and Assets Disposal Act, 2015 together with its enabling Regulations do provide for reservations of tenders to local contractors. The issue of the policy on own source revenue was reported to have been approved by the Cabinet and disseminated to counties for input. Further, there is a taskforce that is spearheading systems of collecting revenue by county governments. There is also a Bill to this effect which lapsed with the 11th Parliament which is set for reintroduction.

6. SUMMARY OF KEY ISSUES

i.) Realism of revenue and expenditure projections

The revenue target by the National Treasury for 2021/22 is at 14.1% of the Gross Domestic Product (GDP). This sluggish revenue growth casts doubts on the realism of the economic growth prospects. This, coupled with increased expenditure pressures would potentially exacerbate the challenge of keeping fiscal deficit in check. This would occasion liquidity problems which may also strain vertical sharing of resources between the two levels of government, ultimately causing debt sustainability problems. Again, some of the recently reversed tax incentives have a significant implication on the performance of the economy.

ii.) The Commission on Revenue Allocation to facilitate establishment of county revenue potential

The Commission on Revenue Allocation in conjunction with other relevant stakeholder should spearhead the establishment of revenue potential in all the counties. This should be the basis of Own Source Revenue projections by county governments.

iii.) Budget implementation reporting by the Controller of Budget (CoB)

The Controller of Budget is required, by law, to report to Parliament and the legislative assemblies in county governments, the budget implementation status. Nevertheless, the report ought to contain both the financial and the non-financial performance. The reporting on the

quarterly achievement of targets and key performance indicators would facilitate effective oversight of the budget by the legislatures in both levels of government.

iv.) Conditional to unconditional allocation

It has been proposed that some four currently existing conditional grants will be changed to unconditional grants and be disbursed to form part of the equitable share of revenue to county governments. This move should be scrutinized further to ascertain the motive and efficacy.

7.POLICY OPTIONS

In view of the summary of analysis of the BPS 2021, the following policy options may be considered by the Committee.

1. **Approve the BPS as presented including the ceilings as proposed:** - This can be done if the 2021 BPS is fully in line with the Committees views including that of stakeholders. However, Parliament has power to review policies and ceilings put forward in the BPS (Option2).
2. **Propose adjustments to the policy, programmes and ceilings:** - this process will be a culmination of analysis and engagement of the relevant agencies by the Committees and proposing requisite amendments to the BPS.

8.CONCLUSION

The 2021 Budget Policy Statement has presented overarching key policy direction which is the focus towards the implementation of the “Big Four” economic plan which has also been prioritized in the Third Medium Term Plan of the Kenya Vision 2030. Further, the post COVID-19 Economic Recovery Strategy has been prioritized. Therefore, even as the economy is expected to emerge from the pandemic perhaps soon, the success of this policy focus and indeed the long term development blue print will be anchored on meticulous implementation of the planned projects and programmes through partnership and collaboration between the two levels of government and also among the county governments.

3. EDUCATION

Introduction

1. The 2021 Budget Policy Statement (BPS) is prepared at a time when the country is grappling to contain the COVID 19 pandemic as well as putting in place measures to address the adverse effects of the pandemic in the economy. The COVID 19 pandemic has ravaged the economy resulting into loss of livelihood with the government struggling to ensure key macro-economic variables remain stable. The National Treasury is optimistic that the economy will turn around over the medium term with a projected growth of 6.4% in 2021.
2. The education sector is one of the most affected as a result of the COVID 19 pandemic outbreak where learning institutions remained closed for the better part of 2020 as the government instituted measures to contain the virus. The closure of the schools altered significantly the academic calendar and with the resumption of learning, institutions are struggling to recover the lost academic year. Most notably the COVID 19 pandemic altered the period when the national examinations (KCPE and KCSE) will be undertaken.
3. The pandemic has also put the government in a tight spot in terms of expansion of infrastructure in learning institutions as well as providing Water Sanitation and Health (WASH) facilities. The government had to allocate resources towards expansion of infrastructure despite the economy not doing well. Though efforts have been observed, learning institutions still have infrastructure gaps which need to be addressed and it is expected that under BPS 2021 this is one of the government priorities in the sector.

The Basis For Processing Of The 2021 Budget Policy Statement

4. The Budget Policy Statement is one of the key budget policy documents prepared by the National Treasury and published in accordance with Section 25 of the Public Finance Management Act, 2012 and set the stage for budget engagement between the legislature and the National Treasury.
5. In preparing the BPS, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets for the next MTEF period.
6. The National Treasury is required to include the following in the Budget Policy Statement:-
 - a) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
 - b) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;

- c) The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
- d) The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

Highlights of the BPS 2021 and the Medium Term

- 7. The BPS 2021 whose theme is ‘*Building back better: Strategy for resilient and sustainable economic recovery*’ outlines the broad strategic policy goals of the government intends to pursue over the medium term. This is intended to provide the basis for preparing the budget estimates for the next financial year and over the medium term.
- 8. The policy measures outlined in the 2021 Budget Policy Statement aims at stimulating economic recovery by building on the gains made under the Economic Stimulus Programme (ESP). The Government intends to roll out the Post Covid-19 Economic Recovery Strategy (ERS) which will mitigate the adverse impacts of the Pandemic. According to the National Treasury, the policies in the BPS 2021 are also anchored on the Medium-Term Plan III of the Vision and the 2030 the “Big Four” Agenda.

(a) Overall Fiscal Framework

- 9. The BPS 2021 targets revenue collections including Appropriation-in-Aid (AIA) of **Kshs 2,033.9 billion** (16.4% of GDP) compared to estimated revenue collection of **Ksh.1,849.2 billion** (16.6% of GDP) in FY 2020/21. whereas the overall nominal expenditure are projected at **Kshs 3,010.0 billion** which comprises of recurrent expenditure of **Ksh.1,986.0 billion** and development of **Ksh.609.1 billion**.

(b) Deficit and Financing

- 10. Given the projected expenditures and revenues, the fiscal deficit (including grants), is projected at **Ksh. 930.0 billion** (7.5 percent of GDP) in FY 2021/22. The fiscal deficit in FY 2021/22, will be financed by net external financing of **Ksh 267.2 billion** (2.2 percent of GDP), and net domestic borrowing of **Ksh 662.8 billion** (5.3 percent of GDP).

Vertical and Horizontal Division of Revenue

- 11. The Senate of Standing Order No. 180(e) provides that the BPS shall include the proposed division of revenue, raised nationally, between the National Government and county governments including proposed conditional grants, if any. Table provides a summary of the proposed vertical allocation in the FY 2020/21 and the Medium Term.

Table 1.1: Summary of Proposed Budgetary Allocations in KSh. Millions

	FY 2020/21	FY 2021/22	FY 2022/23	FY 2022/23
Total	2,774,617	3,018,001	3,214,280	3,409,983
<i>Of which:</i>				
(i). The Executive	1,816,342	1,894,577	1,989,845	2,112,558
(ii).The Judiciary	17,999	17,918	19,007	19,641
(iii).The Parliament	37,306	37,883	38,536	39,208
2.Consolidated Fund Services	586,469	697,624	796,893	863,577
3.County Governments	316,500	370,000	370,000	375,000

Source: BPS 2021

12. The County Governments is allocated **Ksh.370 billion** in FY 2021/22 as equitable share translating to growth of **Ksh.53.5 billion**(16.9%) compared to their 2020/21 allocation . Growth in Equitable share is due to:

- i.* Adjustment of FY 2020/21 allocation by **Ksh. 36.1 billion** due to expected improvements in revenue raised nationally in FY 2021/22 when the effects of Covid 19 ease; and
- ii.* Converting four existing conditional grants to County Governments into Equitable shares, and allocating the respective amounts totaling **Ksh. 17.4 billion** towards the Counties' FY 2021/22. The four conditional allocations are: Road Maintenance Levy Fund (RMLF); the level5 hospital grant; the compensation for user fees foregone; and the grant funding rehabilitation of village polytechnics

Table 1.2: County Governments Equitable Share of Revenue (Ksh. Millions)

Budget line	2017/18	2018/19	2019/20	2020/21	2021/22
Baseline(allocation in previous FYs	280,300	302,000	314,000	316,500	316,500
Adjustment for revenue growth	21,700	12,000	2,500	-	36,100
Revenue share(RMLF, level5 hospitals grants, compensation for user foregone fees and					17,400

<i>rehabilitations for village polytechnics</i>					
Total Equitable shares	302,000	314,000	316,500	316,500	370,000

13. In addition to the equitable shares, County Governments will continue to receive the following additional allocations from the national government share of revenue as a conditional grant

- i. Leasing of medical equipment-**Ksh.7.205 billion**
- ii. Supplement for construction of County headquarters-**Ksh.332 million**

County Government will receive **Ksh.6.825 billion** Equalization Fund to the marginalized areas as well as **Ksh 32.3 billion** from proceeds of external loans and grants, which will finance devolved functions in accordance with the signed financing agreement for each loan/grant.

Table 1.3: Disaggregation of County Governments' Allocation (Ksh. Millions)

Types/level of allocation	2017/18	2018/19	2019/20	2020/21	2021/22
Equitable Shares	302,000	314,000	316,500	316,500	370,000
Additional Conditional allocations					
Of Which					
<i>leasing of medical equipment</i>	4,500	9,400	7,000	6,205	7,205
<i>Supplement for construction of County headquarters</i>	605	605	300	300	332
<i>Allocations from loans and grants</i>	12,541.4	33,241.9	39,089.9	30,204.3	32,344
Total County Allocations	319,646.4	357,246.9	362,889.9	353,209.3	409,881

SALIENT ISSUES

- i. **Conditional grants to equitable share-** The BPS 2021 proposes the conversion of all exchequer supported conditional grants into equitable share. The conditional grant in the education sector that is proposed to be turned into equitable share is the grant funding on the rehabilitation of village polytechnics.
- ii. **Policy shift on conditional grants to Village Polytechnics** – in the last four years the National Government has been allocating **Kshs 2 Billion** annually as conditional grants to counties to support village/youth polytechnics. This allocation is now being proposed to be converted into equitable share. This implies that the counties will not be obliged to support the village/youth polytechnics. The question that arises is whether the areas of interventions which were being supported by the grant have fully been addressed. For instance, what is the fate of the students in village/youth polytechnics who used to be allocated a capitation of Kshs 15,000 from this grant.
- iii. The total allocation to county government as an equitable share of nationally raised revenue has only increased by **Ksh.36.1 billion** as a result adjustment on anticipated revenue performance during the FY 2021/22. The increased equitable growth from **Ksh. 316.5 billion** to **Ksh. 370 billion** in FY 2021/22 is due to conversation of already existing conditional grants into equitable share safe from Ksh.36.1 billion.

MEDIUM TERM EDUCATION SECTOR POLICIES AND PRIORITIES

According to the BPS 2021, the government policy on education in 2020/21 and over the medium term is to support the various institutions of learning in order to expand access to education and training which is in line with the National development agenda and quality education for all agenda.

The 2021/22 and the medium term education sector priorities are:

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

Thus, in broad terms, the government has prioritized the following areas in 2021/22 and over the medium term to support basic, technical and higher education through:

- Infrastructure development in all learning institutions,
- Skills development and training,

- Teacher recruitment
- Provision of capitation to learners in primary, secondary, tertiary and university levels of Education;
- Provision of examination fees waivers for all KCPE and KCSE students.

The priorities outlined in the BPS 2021 are the areas which the sector has prioritized in the last 3 years thus creating consistency in terms of prioritization within the sector. Further, an assessment of the education sector priorities outlined in the BPS 2021 indicates that broadly, the priorities enumerated are in line with the vision 2030 and the medium term plan III as well as the sector priorities. The MTP III of the vision 2030 envisages provision of universal and quality education for all Kenyans and this is also a goal contained in sustainable development goals.

CRITICAL AREAS OF SPENDING IN THE EDUCATION SECTOR IN 2020/21

1.1 State Department for Early learning and Basic Education

This is Department that takes care of basic education in the country. It is one of the critical State Departments within the sector since it is implementing a number of critical priorities in the sector among them, the free primary education, free day secondary education, examinations fees waivers, the 100% transition policy to secondary school, the school feeding programme, the implementation of the Competency based curriculum (CBC), implementation of the Digital Learning Programme (DLP) as well as infrastructure support to basic institutions of learning. The basic education sub-sector is also the largest consumer of teaching resources provided by the TSC.

The Department is implementing four programmes in the next MTEF period and the proposed resource ceiling is **Kshs 103 billion**. The proposed ceiling is largely recurrent due to resource allocation towards two critical programmes, that is, free primary and secondary education where all learners enrolled in public schools are provided with capitation.

Table 1.4: Proposed 2021/22 resource ceilings (Kshs Millions)

Details	2021/22 Ceiling			2022/23 Projection			2023/24 Projection		
	Recc	Dev	Total	Recc	Dev	Total	Recc	Dev	Total
Primary Education	16,955	2,809	19,764	17,030	1,777	18,807	19,106	2,594	21,700
Secondary Education	66,343	8,103	74,446	76,943	5,026	81,969	78,810	4,676	83,486
Quality Assurance	4,145	150	4,295	4,229	173	4,402	4,315	0	4,315

and standards									
General Administration	4,706	70	4,776	4,795	129	4,924	4,885	309	5,194
Total	92,149	11,133	103,202	102,997	7,105	110,102	107,116	7,579	114,695

Source: National Treasury

Some of the key targeted outputs and performance indicators in the 2021/22 period are as follows in the three main programmes:

Table 1.5: Key 2021/22 targets set

Programme	KPI	2021/22 Targets
Primary Education	No. of learner supported with capitation	9,200,000
	New classrooms constructed	90
	Old classrooms rehabilitated	300
	Computer labs established	8,000
	Girls provided with sanitary towel	1,700,000
	Learners covered under school feeding programme	1,680,240
Secondary Education	No. of learner supported with capitation	3,140,203
	New classrooms constructed	1,238
	National schools supported by infrastructure	45
	No. of labs constructed	317

1.2 State Department for Vocational and Technical Training

This Department is in charge of the Technical Education where the key areas where resources have been directed is on supporting TVET institutions through infrastructure improvement, support to TVET learners through capitation as well as management of TVET teaching

resources (TVET instructors). The Department is implementing three programmes where the proposed resource ceiling is **Kshs 23.4 Billion**. The key programme is the Technical Education and Training where the resources are towards capitation, infrastructure development and compensation for TVET instructors.

Table 1.6: Proposed 2021/22 ceilings (Kshs Mlns)

Details	2021/22 Ceiling			2022/23 Projection			2023/24 Projection		
	Recc	Dev	Total	Recc	Dev	Total	Recc	Dev	Total
Technical Vocational Education and Training	18,655	4,518	23,173	18,987	4,334	23,321	19,327	3,930	23,257
Youth Training and Development	39	10	49	40	20	60	41	39	80
General Administration	133	0	133	138	0	138	142	0	142
Total	18,827	4,528	23,355	19,165	4,354	23,519	19,510	3,969	23,479

Some of the key targeted outputs and performance indicators in the 2021/22 period are as follows:

Table 1.7: Key 2021/22 targets set

Programme	KPI	2021/22 Targets
Technical Education	No. TVET trainees receiving HELB Loan	216,000
	No. of TVET learners receiving capitation	216,000
	% completion level of TTI's under GOK/AFDB	100
		30

1.3 State Department for University Education and Research

The Department covers the higher education subsector where the key areas of spending is on capitation to university students, allocations to HELB for students' loans, research and development as well as infrastructure development in public universities.

The proposed ceiling for this Department is **Kshs 99 Billion** where the priority programme is the university education with a proposed ceiling of Kshs 98.6 billion as indicated below.

Table 1.8: Proposed 2021/22 ceilings (Kshs Mlns)

Details	2021/22 Ceiling			2022/23 Projection			2023/24 Projection		
	Rec	Dev	Total	Rec	Dev	Total	Rec	Dev	Total
University Education	94,288	4,360	98,648	96,951	5,384	102,335	100,119	7,329	107,448
Research, Science and Technology	894	211	1,105	1,737	391	2,128	2,239	523	2,762
General Administration	226	0	226	311	0	311	337	0	337
Total	95,408	4,571	99,979	98,999	5,775	104,774	102,695	7,852	110,547

Source: National Treasury

Some of the key targeted outputs and performance indicators in the 2021/22 period are as follows:

Table 1.9: Key 2021/22 targets set

Programme	KPI	2021/22 Targets
University Education	No. of government sponsored students in public Universities	275,077
	No. of students awarded loans	240,167
	No. of government sponsored students in private Universities	33,555
	No. of research projects funded	250

1.4 State Department for Post Training and Skills Development

The proposed ceiling for this Department is Kshs 268 Million where the priority programme is General Administration, planning and Support services. The Department main mandate is to provide opportunities where graduates at various levels can learn both work and entrepreneurial skills in readiness to join the work environment.

However, given the proposed ceiling to this Department in 2021/21 and given its historical budgetary allocation since establishment in 2018, the Department has not been able to deliver on its mandate. The allocations have only been towards salaries which is not its core mandate.

Table 2.0: Proposed 2021/22 ceilings (Kshs Mlns)

Details	2021/22 Ceiling		2022/23 Projection			2023/24 Projection			
	Recc	Dev	Total	Recc	Dev	Total	Recc	Dev	Total
General Administration	137	0	137	142	0	142	147	0	147
Workplace Readiness Services	81	0	81	81	0	81	82	0	82
Post Training Information Management	50	0	50	50	0	50	50	0	50
Total	268	0	268	273	0	273	279	0	279

Source: National Treasury

2. TEACHERS SERVICE COMMISSION

The Commission is in charge of management and recruitment of teaching resources for primary, secondary and teachers training colleges. The Commission is implementing three programmes in the MTEF period. The proposed resource allocation for the Commission is **Kshs 281 Billion** and the priority programme is teacher resource management with an allocation of **Kshs 273 Billion**.

Table 2.1: Proposed 2021/22 ceilings (Kshs Millions)

Details	2021/22 Ceiling			2022/23 Projection			2023/24 Projection		
	Recc	Dev	Total	Recc	Dev	Total	Recc	Dev	Total

Teacher Resource Management	272,630	600	273,230	273,456	535	273,991	278,966	275	279,241
Governance and Standards	1020	0	1,020	1020	0	1,020	1020	0	1,020
General Administration	7,409	45	7,454	7,648	62	7,710	7,842	87	7,929
Total	281,059	645	281,704	282,124	597	282,721	287,828	362	288,190

Some of the key targeted outputs and performance indicators in the 2021/22 period for the Commission are as follows:

Table 2.2: Key 2021/22 targets set

Programme	KPI	2021/22 Targets
Teacher Resource Management	No. of primary school teachers recruited	4,920
	No. of primary school interns recruited	4,300
	No. of secondary schools teachers recruited	20,006
	No. of secondary school interns recruited	6,000

The Teachers Service Commission allocation for the Teacher Resource Management programme has increased by Kshs 10 Billion compared the current financial year (2020/21). Given the annual wage drift for the Commission which is above Kshs 6 billion annually, the targets set seem unrealistic. Thus, these targets are too ambitious and cannot be met. Hence the Commission needs to adjust the targets to reflect the available resources.

SUMMARY OF KEY ISSUES: POLICY AND BUDGETARY

The following are the key issues arising from the BPS 2021:

- i. **No policy to address COVID 19 issues in learning institutions-** There is no policy as well as accompanied resources outlined in the education sector to address the

COVID 19 challenges especially in at basic education level e.g provision of facemasks to school going children.

- ii. **Infrastructure allocation** seems to be business as usual, that is, incremental despite the COVID 19 risks to learners where more resources need to be provided towards infrastructure support to ensure that COVID 19 protocols are observed in schools.
- iii. The National Government and County Government should collaborate in establishment of ECD policies which is basically the mandate of County government especially during the time of the pandemic.
- iv. County Government should prioritize funding of village polytechnic as there may be very minimal support from the National Government for the activities initially supported with conditional grants

4.ENERGY

INTRODUCTION

1. The Budget Policy Statement is published in accordance with Section 25 of the Public Finance Management Act 2012. In preparing the BPS, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the National Government and County governments in preparing their budgets both for the following financial year and over the medium term. The National Treasury is required to include the following in the Budget Policy Statement:-
 - i. An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts.
 - ii. The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term
 - iii. The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments
 - iv. The fiscal responsibility principles and financial objectives over the medium term including limits on annual debts.
2. The Submission and processing of the BPS by the Senate is anchored in Standing Order No.180. It provides that upon being laid in the House, the Finance and Budget Committee is to deliberate on the BPS to submit a report to the House for consideration and approval. In line with the provision section 25 (9) of PFM Act 2012, this should be undertaken within 14 days from the time the BPS is tabled.
3. The Second schedule of the Senate Standing Order assigns the Standing Committee on Energy the mandate to consider matters related to exploration; development, production, maintenance and regulation of energy. Pursuant to the assignment, the Committee has a role to scrutinize the proposed sectorial ceilings and the associated budgetary policies, programmes and the envisaged objectives. The scrutiny of the BPS also need to assess the comprehensiveness, realism and effectiveness of planned programmes.
4. The two votes: Vote 1152 (State Department for Energy); and Vote 1193 (State Department for Petroleum) as well as the SAGAs domiciled in the two State Departments.

HIGHLIGHTS OF THE 2021 BPS

5. Premised on the theme *Building Back Better: Strategy for resilient and sustainable economic recovery*, the 2021 BPS is founded on a raft of priority economic policies

aimed at stimulating economic growth , promoting job creation, reduction of poverty ,protection of vulnerable groups and businesses ,among others. To realize the envisaged policy intentions in the FY 2021/22 and in the Medium Term, the government plans to :

- i. Roll out post Covid 19 Economic Recovery Strategy
- ii. Harnessing the implementation of the Big Four Agenda
- iii. Fast track the development of critical infrastructure in the country such as roads, energy and water, rail to reduce the cost of doing business and to facilitate competitiveness.
- iv. Foster a clean and secure business environment by maintaining macroeconomic stability, enhancing security and improving business regulations.
- v. Improve access to education, strengthen healthcare systems cash transfer to support members of our society.

Overall Resource Ceilings (FY 2021/22 and Medium Term)

6. **Expenditure** :The total proposed resource allocation to the various spending agencies and the County Government for the period FY 2021/20 is proposed to rise by 9% to Ksh. 3.018 Trillion (up from Ksh. 2.773 Trillion). This is made up of Ksh.1.894 Trillion for the Executive, Ksh. 38 Billion for Parliamentary Service Commission, Ksh.18 Billion for the Judiciary and Ksh.370 Billion to the County Governments and Ksh.697 Billion for the Consolidated Fund Services.
7. **Revenue**: The revenue collection including Appropriation in Aid (AiA) is projected to increase to Ksh. 2,033.9 Billion (16.4 percent of GDP) up from the estimated Ksh.1, 849.2 Billion (16.6 percent of GDP) in the current FY 2020/21. The revenue from tax (ordinary revenue) are expected to amount to Ksh.1, 775.6 Billion (14.3 % of GDP) in the FY 2021/22 from the estimated Ksh.1, 594.Billion in the current FY Year.
8. **The Deficit Financing**: The projected resultant fiscal deficit (including grants) stands at Ksh.930 Billion (7.5% of the GDP) in the FY 2021/22 which translates to a 4% reduction considering the current FY of which it amounts to Ksh. 966.6 Billion(8.8 % of the GDP).

Table 1: Summary of Total Ceilings in the FY (2021/22) and the Medium Term (Ksh. Million)

S/ N o	Details	Approved Budget 2020/21	BPS 2021/22	2022/23	2023/24	% Variation BPS Vs Approve d Budget
		(Ksh.M)	Ksh.M)	Ksh.M)	Ksh.M)	(%)
1	National Government:	1,871	1,950	2,047	2,171	4
	<i>of which:</i>					
	1.1 Executive	1,816	1,894	1,990	2,113	4
	1.2 Parliament	37	38	39	39	2
	1.3 Judiciary	18	18	19	20	0.5
2	Consolidated Fund Services	586	697	797	864	18
3	County Government	316	370	370	375	17
	Total	2,773	3,018	3,214	3,409	9

Source: National Treasury 2021 BPS

9. The highest variations in the proposed ceilings are in Consolidated Fund Services which is planned to increase by Ksh.111Billion and the allocations to County governments that is to rise by Ksh.54 Billion. The rise in CFS is on account of settlement of charges on public debt and pension's payment.

REVIEW OF RECENT POLICY PRIORITIES AND CEILINGS

Expenditure Performance for the Ministry of Energy.

10. The budget absorption for the last three financial years has been fluctuating in the four programmes being implemented in the Ministry of Energy. For the total Ministerial vote, an average of 91% absorption rate has been achieved for the last three years. Higher absorption rates have been realized in the recurrent votes than in development votes. On average, for the last three financial years, the absorption rate in recurrent stands at 94% while that of capital expenditure is at 88%.The table XX provides the trend of the absorption rates

Table: Approved Expenditures vs. Actual Expenditures (Ksh. Million) and the absorption rates for period 2017/18

Category	Approved			Actual			Absorption rate (%)		
	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20
Programme I: Power Generation									
Rec.	810	1,559	2,206	803	1,512	2,121	99	97	96
Devt	9,750	7,924	6,034	9,171	7,547	5,503	94	95	91
Sub-Total	10,560	9,483	8,240	9,974	9,059	7,624	94	96	93
Programme II: Power Transmission & Distribution									
Rec.	793	774	3,916	791	772	3,439	99	99	88
Devt	56,858	50,107	46,728	49,487	43,117	42,094	87	86	90
Sub-Total	57,651	50,881	50,644	50,278	43,889	45,533	87	86	90
Programme III: Alternative Energy Technologies									
Rec.	127	150	180	107	131	168	84	87	93
Devt	8,148	978	3,012	7,556	704	2,705	93	72	90
Sub-Total	8,275	1,128	3,192	7,663	835	2,873	93	74	90
Programme IV: General Administration , Planning and Support Services									
Rec.	424	396	403	372	375	361	88	95	89
Devt	321	125	170	190	108	136	59	86	80
Sub-Total	745	521	573	562	483	497	75	93	87
GRAND-TOTAL	77,231	62,013	62,649	68,477	54,266	56,527	89	88	90

Category	Approved			Actual			Absorption rate (%)		
	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20
Total Rec.Vote	2,154	2,879	6,705	2,073	2,790	6,089	96	97	90
Total Devt Vote	75,077	59,134	55,944	66,404	51,476	50,438	88	87	90

Source: 2020 Sector working report (The National Treasury).

11. Over the period, the programme of Power Generation on average scored highest in absorption rate at 94%, the programmes of Power Transmission and Distribution, Alternative Energy Technologies and Administration, planning and support services at 88%, 86% and 85% respectively.
12. The allocations in the programme of Alternative Energy technologies have been erratic over the period. This is exacerbated by under-absorption of the allocated resources (86%). This impairs the achievement of the envisaged targets on areas such as construction of hydropower projects, installations of wind masts and data loggers, connection of solar PV in off grid areas, efficient charcoal kilns, and institutional biogas plants. This is despite the upsurge in consumption of alternative energy technologies such as solar. In the medium term, the projections indicate a downward trajectory in allocations (Ksh.2.8B in 2021/22, Ksh.2 Billion in 2022/23 and 835 Million in 2023/24).

POLICY PRIORITIZATION AND CEILINGS

13. Overtime, the government policies in the sector have consistently been anchored on the priority to ensure efficient and reliable production and distribution of affordable, clean and reliable energy. The policy goal for the sub-sector is therefore aimed at closing the infrastructural gaps while improving the quality of service delivery. The achievement of the policy goal of the sector is largely hinged on budget allocative and operational efficiency. The thrusts of the policies in the energy sub-sector are enshrined in the following key policies:
 - I. **National Energy Policy:** This aims at enhancing accessibility of affordable and reliable electricity. The policy entails strategies on how to improve transmission networks while scaling up power generation for increased power supply. This is aimed at ensuring 100% access to electricity by both households and businesses by 2022(currently the access is approximated at 75%).

- II. **Feed in Tarrifs Policy** The policy is premised on strategies that incentivize private investments that are below 10 MW from biomass and biogas and small hydros which have been allocated resources over the last medium mainly on a pilot basis under alternative energy programme. The policy initiatives aim at acquisition of renewable energy capacity at competitive prices for solar, wind and small hydro projects above 10 MW.
 - III. **Integrated Energy Plan to National Energy Policy:** This entails the integration of the national energy plans by the National energy providers and county energy plans within the national energy policy. The coordination therein is key for optimal infrastructural investments while pursuing supply options with appropriate technologies.
 - IV. **Policy on Rural Electrification and Renewable Energy:** The policy aims enhancing electrification in rural areas and in public facilities. It also targets improvements in reliance on renewable energy (except for Geothermal and hydros) to close the electricity gaps.
 - V. **National Geothermal strategy:** This sets out to capitalize on exploitation potential of geothermal in a cost effective manner.
14. An assessment of the sector policies as enshrined in the main priorities of the sub-sector indicates that the sector priorities are linked to the overall national agenda as planned in various budget documentations and the Vision 2030(MTP III). Some of the envisaged projects aimed at increasing additional installed electricity capacity to 5,221MW by 2022 is expected to be achieved in various areas:
- 93MW from hydropower projects
 - 913 MW from Geothermal Power projects
 - 800 MW from Wind power projects
 - 157 MW from Biomass Power projects
 - 442 MW from Solar Power Projects
 - 328 from Coal Power projects
15. The realization of the envisaged capacity is based on the alignment of the priorities in various planning and budget documents. The documents include Vision 2030, Sector working reports, BPS and other subsequent reports such as budget estimates.

MTP III(2018-22)	2020 Sector report	2021 BPS
<ul style="list-style-type: none"> • Continuous implementation of the +5000 MW plan (completion of ongoing projects). • Enhanced grid extension network and upgrade. • High voltage transmission line. • Rural electrification and enhanced connectivity to households and public institutions. • Stimulate 24 hour economy and catalyze the manufacturing sector. • Increase in investment in renewable and other cheaper sources of energy. 	<ul style="list-style-type: none"> • Generate 276.8 MW from geothermal resources. • Drill 24 geothermal wells, drill 51 coal exploration wells, train 300 officers on new clear related courses. • Construct 2946 Km of transmission lines and 21 substations. • Connect to electricity 762,000 new customers and 34,900 public facilities to the grid and 200 with solar power. • Install 90,000 street lighting points. • Install 6358 transformers. • Plant 350 Ha of hydro dams water catchment areas with trees, • Construct 6 institutional and 900 domestic biogas plants and implement 	<ul style="list-style-type: none"> • Installation of transformers in constituencies (2200) • Additional installed electricity generation capacity through coal, geothermal, hydro and wind. • Enhanced connectivity through last Mile Electricity connectivity (270,000). • Street lighting, Electrification of economic zones. • Electrification of level 3 and 4 hospitals • Connectivity subsidy. • Number of stand-alone solar home systems installed (60,000). • Geothermal power Generation

MTP III(2018-22)	2020 Sector report	2021 BPS
	KOSAP projects in off grid areas.	

Source: Vision 2030, 2020 Sector report and 2021 BPS

16. It is apparent from the table that the planned priorities enshrined in various budget documents and development plans are consistently linked and are aimed at establishing adequate, affordable and reliable energy supply.

The Proposed Ceilings in the 2021 BPS

A.Vote 1193: Ministry of Energy

17. The BPS proposes total ceilings of Ksh.78 Billion to the Ministry for the FY 2021/22. This represents a net increase of by 8% (Ksh.5.5 billion) when compared to the current FY estimates (Ksh.72.5 Billion). The proposed ceilings are made up of Ksh.6.6 Billion for recurrent and 71.4 Billion for development. The proposed increase is made up of an increase of Ksh 725 Million in recurrent and Ksh.4.8 Billion in development.
18. The proposed increases are made up of Ksh.3.3 Billion in the programme of Power Generation, Ksh 2.7 B in the programme of Power Transmission Distribution and Ksh 50 Million in General administration and of Ksh.666 Million in the programme of alternative energy technologies.

19. An evaluation of the funding levels on the basis of the resource requirements and the proposed ceilings reveal that in total, only 47% of the resource requirements in the Ministry is proposed to be catered for. The programme of Power Transmission and Distribution is proposed to have only 44% and that of administration, planning and support services at 41% of the required resources funded. The Table provides the details of variances and the level of proposed resource allocations per programme.

Table: Ministry of Energy: Approved 2020/21 Estimates, Resource requirements & Proposed BPS Ceilings (Amounts in Ksh.M)					
	Approved Estimates 2020/21	Resource Requirement	Proposed Ceilings(2021 BPS)	Variance(under/over funding	Proposed BPS ceiling as a % of Resource Requirement
Genera Administration, Planning & Support Services	484	1,298	534	764	41%
Power Generation	10,393	20,459	13,734	6,725	67%
Power Transmission and Distribution	58,149	139,343	60,887	60,907	44%
Alternative Energy Technologies	3,466	3,369	2,893	697	76%
Total	72,493	164,469	78,048	69,093	47%

Source: 2021 BPS, Sector working Reports (various issues)

Analysis of Proposed Ceilings per programme:

20. The Ministry shall continue to implement Four programmes :The analysis of the allocations per programmes are:

Programme I: Power Transmission and Distribution

21. The programme (which is composed sub-programmes of National Grid System and Rural Electrification) plays a critical role in evacuation and supply of high voltage power and balances between demand and supply of electric power. The programme is critical in ensuring equitable supply of power, reduce system losses and enhance national grid infrastructure outreach. These are instrumental as enablers in the realization of the Big Four Agenda through value addition in Manufacturing, and facilitate achievement of targets in Health and Education sectors.
22. The programme is proposed to have the largest ceiling of Ksh.60, 887 Million of which recurrent is Ksh 3,743 Million (6%) and development is Ksh.57, 144 Million (94%) In total this represents an increase of by 8% (up from Ksh.58, 149 Million in the current FY). Of this programme ceilings, there are two sub-programmes to be funded namely;
 - i. *The Sub-programme of National Grid System:* This deals in construction of transmission lines from substations, last mile connectivity, street lighting, connectivity subsidy and electrification of health facilities among others.
 - ii. *Sub-programme of rural electrification:* This deals majorly in installation of transformers at Constituencies, electrification of public facilities, number of new customers connected (REREC), maintenance of solar systems in primary schools.
23. Key envisaged Outputs under the programme include :
 - ❖ Last Mile connectivity programme for universal electricity access by 2022 from the current 75%.
 - ❖ Setting up of 37 transmissions and 45 distribution sub-stations to improve system reliability and reduce electricity losses.
 - ❖ In order to promote a 24 hour economy and enhance security in designated areas, 110,000 areas have been set for street light installation.
 - ❖ 3,082.9 Km of additional transmission lines set construction.
 - ❖ 3,003 public facilities (schools, trading centres, health centres, water points and administrative offices) to be connected to electricity.

Programme II: Power Generation

24. The programme is composed of two sub-programmes of geothermal generation and Nuclear power generation. The programme plays a critical in role in enhancing the power capacity. The increased energy availability has a direct impact on the accessibility, reliability and affordability of power.

25. The programme is proposed to have a ceiling of Ksh.13, 734 Million of which recurrent is Ksh. 2,268 Million and development is Ksh.11, 466. In total, this represents an increase of by 13% (Ksh 3.34 B) down from Ksh.10, 393 Million in the current FY. The programme is composed of the sub-programmes of Geothermal Generation, Development of Nuclear energy and coal exploration and mining.
26. The Key Output under the programme include: Power generation to be boosted from the current 2,819 MW to 6,700 MW with major energy sources being geothermal, coal and wind, solar and hydro.

Programme III: Alternative Energy Technologies

27. The programme is proposed to have a ceiling of Ksh.2, 893 Million a decrease of Ksh 573 Million reduction of by 6.6 % (up from 3,466 Million).
28. The programme has only one sub-programme of Alternative Energy Technologies. Its key outputs include connection of public institutions with Solar PV in off grid areas, installation of wind masts and data loggers, development of community small hydropower projects, construction of domestic household biogas digesters among others.

Programme IV: General administration, planning and support services.

29. The programme is critical in ensuring efficient and effective administrative service delivery. The programme is proposed to have a ceiling of Ksh.534 Million of which recurrent is Ksh. 404 Million and development is Ksh.130 Million. In total, this represents an increase of by 10% (down from Ksh.484.4 Million in the current FY).
30. The key outputs include: Administrative services: The Sub-programme which deals in customer satisfaction and refurbishment of Kawi House, development of procurement and work plans, among others.

Vote 1152: State department for Petroleum

31. The BPS proposed total ceilings of Ksh.2, 985 Million to the State Department for in FY 2021/22. This represents a net decrease of by 23% (by.Ksh.903 Million) when compared to the current FY estimates (Ksh.3, 888 Million). The proposed ceilings is made up of Ksh 336 Million for recurrent and Ksh.2, 649 Million for development. The proposed decrease is in the development vote.
32. The Department implements only one programme of exploration and distribution of Oil and Gas.
33. An evaluation of the funding levels on the basis of the resource requirements and the proposed ceilings reveal that in total, 80% of the resource requirements in the Department is proposed to be catered for. Details are as shown in the table.

Table: State Dept. for Petroleum: Approved 2020/21 Estimates, Resource requirements & Proposed BPS Ceilings					
	Approved Estimates 2020/21	Resource Requirement	Proposed Ceilings(2021 BPS)	Variance(under/over funding	Proposed BPS ceiling as a % of Resource Requirement
Exploration and Distribution of Oil and Gas	3,644	3,753	2,985	768	80%
Total	3,644	3,753	2,985	768	80%

Source: 2020 Sector Working Report and 2021 BPS.

Review of the recent expenditure Performance

Table: Absorption rate: State Department for Petroleum (Amounts in Ksh. Million)

Financial Year	2016/17	2017/18	2018/19
Approved Estimates	3,073	4,145	3491
Actual Expenditure	1,657	3,032	2879
Absorption rate	53%	73%	82%

Source: 2021 Sector report

34. The key outputs under the two sub-programmes include:

- ❖ Under Gas and oil exploration: crude oil marketing surveys conducted, barrels of oil delivered (under Early Oil monetization) at Kenya Petroleum Refineries Limited (KPRL). Terminal, Petroleum Blocks created and gazette, fuel marking, and
- ❖ Under sub-programme of Petroleum and Gas Distribution, output include: construction of LPG cylinder outlets, distribution of LPG skids, installation of real time monitoring devices installed in LPG filling station.

OBSERVATIONS

The key salient issues include:

- I. **Reprioritization of programmes:** The comparison between the resource requirements and the proposed ceilings reveal a huge funding gaps for the two State Departments. The proposed ceilings can only cater for 80% of the total resource requirements of State department. This hard budget constraint calls for reorganization of the priorities so that more urgent programs with highest desirable impacts on the public services are given first priorities.
- II. **Need for enhanced budget implementation:** Given that the state departments have not been able to fully utilize their approved allocations as indicated by an average absorption rate of 70% for the last three years, there is need for the department to put in place measures that shall yield over 95% in absorption rate for improved public service delivery. The Committee also need to enhance its oversight role on budget implementation.
- III. **Policy stance on alternative energy technologies:** The allocation to the programme of exploration and distribution of gas is proposed to decline substantially by 23%. There is need for clarification on the consistency in this area and an enhanced monitoring and evaluation needs to be conducted to ensure realization of the long term targets.
- IV. **Realism of the targets:** Assessing the pace at which some of the achievements within the sub-sector have been realized and considering the budget and time constraints, the realism of some of the set targets is doubtful. Achievement of some of the targets can require substantial resource allocations and timeframe to be achieved. Example of the unrealistic targets include :
 - ❖ The target of achieving universal electricity connectivity (100% connectivity) by 2022 under the last mile connectivity programme, it has taken several years and substantial resources to achieve the current 75%.
 - ❖ Power generation to be boosted from the current 2,819 MW to 6,700 MW with major energy sources being geothermal, coal and wind, solar and hydro.
- V. **Clarification on Set Targets for the FY 2021/22:** The State departments need to clarify their respective set targets based on the Key Performance Indicators (KPIs) in the various programmes. This need arises from the fact that the planned targets and outputs have not been comprehensively provided for (comprehensive submission usually in form of annexure which is missing).
- VI. **Evaluation of the projects under Public-Private Partnership (PPP):** The sector has several projects being executed under PPP arrangement with effective power purchase agreements. There is need to evaluate the projects with an aim of establishing the contingency liabilities associated with them to inform policy directions on the same.

5.HEALTH

Introduction

1. The 2021 Budget Policy Statement (BPS) is prepared at a time when the country is grappling to contain the COVID 19 pandemic as well as putting in place measures to address the adverse effects of the pandemic in the economy. The COVID 19 pandemic has ravaged the economy resulting into loss of livelihood with the government struggling to ensure key macro-economic variables remain stable. The National Treasury is optimistic that the economy will turn around over the medium term with a projected growth of 6.4% in 2021.
2. This is the fourth BPS to be prepared since the introduction of the Big Four agenda in 2018 where UHC was identified as one of the Big Four agenda for the government. Though progress has been made towards the UHC goal, some of the key elements which were envisaged to be undertaken since 2018 have never taken off completely. For instance the issue of reforms at NHIF has not yet kicked off 3 years down the line yet it is a key enabler for the success of the UHC dream. There is no justification as to why the reforms at NHIF have been delayed.
3. The 2021 Budget Policy Statement come at a time when countries in the world are gearing up to COVID 19 vaccines, however there is no indication from the BPS on the acquisition of vaccines and whether resources have been earmarked towards COVID 19 vaccines. Further there is no policy towards alternative interventions towards fight against COVID 19 such as investments in traditional medicine which could be an alternative to conventional medicine.

The Basis For Processing Of The 2021 Budget Policy Statement

11. The Budget Policy Statement is one of the key budget policy documents prepared by the National Treasury and published in accordance with Section 25 of the Public Finance Management Act, 2012 and set the stage for budget engagement between the legislature and the National Treasury.
12. In preparing the BPS, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets for the next MTEF period.
13. The National Treasury is required to include the following in the Budget Policy Statement:-
 - e) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
 - f) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;

- g) The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
- h) The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

Highlights of the BPS 2021 and the Medium Term

- 14. The BPS 2021 whose theme is '*Building back better: Strategy for resilient and sustainable economic recovery*' outlines the broad strategic policy goals of the government intends to pursue over the medium term. This is intended to provide the basis for preparing the budget estimates for the next financial year and over the medium term.
- 15. The policy measures outlined in the 2021 Budget Policy Statement aims at stimulating economic recovery by building on the gains made under the Economic Stimulus Programme (ESP). The Government intends to roll out the Post Covid-19 Economic Recovery Strategy (ERS) which will mitigate the adverse impacts of the Pandemic. According to the National Treasury, the policies in the BPS 2021 are also anchored on the Medium-Term Plan III of the Vision and the 2030 the "Big Four" Agenda.

(a) Overall Fiscal Framework

- 16. The BPS 2021 targets revenue collections including Appropriation-in-Aid (AIA) of **Kshs 2,033.9 billion** (16.4% of GDP) compared to estimated revenue collection of **Ksh.1,849.2 billion** (16.6% of GDP) in FY 2020/21. whereas the overall nominal expenditure are projected at **Kshs 3,010.0 billion** which comprises of recurrent expenditure of **Ksh.1,986.0 billion** and development of **Ksh.609.1 billion**.

(b) Deficit and Financing

- 17. Given the projected expenditures and revenues, the fiscal deficit (including grants), is projected at **Ksh. 930.0 billion** (7.5 percent of GDP) in FY 2021/22. The fiscal deficit in FY 2021/22, will be financed by net external financing of **Ksh 267.2 billion** (2.2 percent of GDP), and net domestic borrowing of **Ksh 662.8 billion** (5.3 percent of GDP).

Vertical and Horizontal Division of Revenue

- 12. The Senate of Standing Order No. 180(e) provides that the BPS shall include the proposed division of revenue, raised nationally, between the National Government and county governments including proposed conditional grants, if any. Table provides a summary of the proposed vertical allocation in the FY 2020/21 and the Medium Term.

Table 1.1: Summary of Proposed Budgetary Allocations in KSh. Millions

	FY 2020/21	FY 2021/22	FY 2022/23	FY 2022/23
Total	2,774,617	3,018,001	3,214,280	3,409,983
<i>Of which:</i>				
(i). The Executive	1,816,342	1,894,577	1,989,845	2,112,558
(ii).The Judiciary	17,999	17,918	19,007	19,641
(iii).The Parliament	37,306	37,883	38,536	39,208
2.Consolidated Fund Services	586,469	697,624	796,893	863,577
3.County Governments	316,500	370,000	370,000	375,000

Source: BPS 2021

13. The County Governments is allocated **Ksh.370 billion** in FY 2021/22 as equitable share translating to growth of **Ksh.53.5 billion**(16.9%) compared to their 2020/21 allocation . Growth in Equitable share is due to:

- iii.* Adjustment of FY 2020/21 allocation by **Ksh. 36.1 billion** due to expected improvements in revenue raised nationally in FY 2021/22 when the effects of Covid 19 ease; and
- iv.* Converting four existing conditional grants to County Governments into Equitable shares, and allocating the respective amounts totaling **Ksh. 17.4 billion** towards the Counties' FY 2021/22. The four conditional allocations are: Road Maintenance Levy Fund (RMLF); the level5 hospital grant; the compensation for user fees foregone; and the grant funding rehabilitation of village polytechnics

Table 1.2: County Governments Equitable Share of Revenue (Ksh. Millions)

Budget line	2017/18	2018/19	2019/20	2020/21	2021/22
Baseline(allocation in previous FYs	280,300	302,000	314,000	316,500	316,500
Adjustment for revenue growth	21,700	12,000	2,500	-	36,100
Revenue share(RMLF, level5 hospitals grants, compensation for user foregone fees and rehabilitations for village polytechnics					17,400
Total Equitable shares	302,000	314,000	316,500	316,500	370,000

14. In addition to the equitable shares, County Governments will continue to receive the following additional allocations from the national government share of revenue as a conditional grant

- iii. Leasing of medical equipment-**Ksh.7.205 billion**
- iv. Supplement for construction of County headquarters-**Ksh.332 million**

County Government will receive **Ksh.6.825 billion** Equalization Fund to the marginalized areas as well as **Ksh 32.3 billion** from proceeds of external loans and grants, which will finance devolved functions in accordance with the signed financing agreement for each loan/grant.

Table 1.3: Disaggregation of County Governments' Allocation (Ksh. Millions)

Types/level of allocation	2017/18	2018/19	2019/20	2020/21	2021/22
Equitable Shares	302,000	314,000	316,500	316,500	370,000
Additional Conditional allocations					
Of Which					

<i>leasing of medical equipment</i>	4,500	9,400	7,000	6,205	7,205
<i>Supplement for construction of County headquarters</i>	605	605	300	300	332
<i>Allocations from loans and grants</i>	12,541.4	33,241.9	39,089.9	30,204.3	32,344
Total County Allocations	319,646.4	357,246.9	362,889.9	353,209.3	409,881

SALIENT ISSUES

- iv. **Conditional grants to equitable share-** The BPS 2021 proposes the conversion of all exchequer supported conditional grants into equitable share. The following two conditional grants in the health sector are being proposed to be turned into equitable share, that is, conditional grants to level 5 hospitals and compensation of user foregone fees.
- v. Most of the Level 5 hospitals in the country serve patients seeking health care services across counties therefore without conditional grant support the quality of services offered by such hospitals may deteriorate.
- vi. The total allocation to county government as an equitable share of nationally raised revenue has only increased by **Ksh.36.1 billion** as a result adjustment on anticipated revenue performance during the FY 2021/22. The increased equitable growth from **Ksh. 316.5 billion to Ksh. 370 billion** in FY 2021/22 is due to conversation of already existing conditional grants into equitable share safe from Ksh.36.1 billion.

BPS 2021 Health Sector Policies and Priorities

14. The policy for the Health sector contained in budget policy statement is the continued support towards universal health coverage (UHC), which is one of the big four agenda for the government. The UHC policy aims at ensuring that the entire population has access to affordable and quality health care services by 2022. The UHC goal was introduced in 2018 and the government envisages to enroll the entire country to affordable health care by 2022 as indicated below.

Item	2018	2019	2020	2021	2022
-------------	-------------	-------------	-------------	-------------	-------------

Coverage (population)	25,740,788	33,517,183	41,616,322	49,813,085	51,572,636
--------------------------	------------	------------	------------	------------	------------

Source: National Treasury (BPS 2018)

15. The various policies outlined in the BPS 2021 seem to be a build up for support towards the 100% UHC agenda that was initiated in 2018. However, there seems to be inconsistencies between priorities outlined in the BPS 2021 and policies outlined between 2018 and 2020. For instance in terms of delivery of UHC which is a key goal in the sector, the BPS 2021 has laid more emphasis on social insurance as the main delivery tool unlike in the BPS 2020 which was a combination of social insurance and strengthening primary health systems through provision of HPT's in health facilities.

16. The following are the priority areas outlined in the BPS 2021 in relation to the UHC program:

- Fast tracking NHIF reforms and transform it into a national social health insurer;
- Establishment of a mandatory UHC scheme to be managed by NHIF and regulated by the Ministry of Health and act as the national scheme for all persons resident in Kenya, notwithstanding one's social status;
- Adoption of Essential Health Benefits Package at a cost of Kshs 6,000 per household per annum to enable Kenyans gain access to an essential set of health services at a much lower cost. The package is envisaged to cover several areas including outpatient and inpatient services, communicable and non-communicable disease management, maternity, dialysis, radiology, mental health, minor and major surgery, substance abuse rehabilitation, emergency services and cancer treatment, among others;
- Provision of health insurance cover to initially one million households who are vulnerable and unable to meet even that low cost premium. The identification of these one million households is done by the Ministry of Health and the Ministry of Labour and Social Protection;
- Fostering partnerships with the County Governments to realize the goals of UHC.
- The rolled out the UHC insurance scheme which will consolidate all the state sponsored schemes into UHC scheme (HISP OVC, Elderly, PWD, Linda Mama, Edu-Afya). The UHC insurance scheme, a one single national scheme will achieve equity and efficiency through effective cross-subsidization across the poor and rich and across the sick and healthy.
- The establishment of the UHC fund to ensure seamless operations of the UHC agenda and that the UHC fund regulations are being drafted.

17. The other key priorities outlined in the BPS 2021 which is continuity from the priorities outlined earlier are:

- Improvement of maternal, new born and child health services; reduce malaria related mortality in Kenya;
- Enhance early diagnosis and management options for cancer and renal diseases through the recently launched oncology center at Kenyatta University Teaching, Research and Referral Hospital.
- Prioritization of cancer treatment services through the establishment of 10 cancer centers across the country to manage the cancer burden.
- Focus on the mental illness which has increasingly caused serious national distress and anguish across the country. This will be done through the establishment of an ultra-modern National Mental Health Hospital by elevating Mathari National Teaching and Referral Hospital as a semi-autonomous specialized hospital.

An assessment of the health sector priorities outlined in the BPS 2021 indicates that the priorities enumerated are in line with the key national policy documents such as the vision 2030 and the medium term plan III as well as the Health sector priorities. The vision 2030 envisages provision of quality and affordable health care for all Kenyans.

The MTP III envisions provision of healthcare that guarantees quality health care, the sustainable development goals target to have universal health care whereas the BPS 2020 goal is to provide Universal Health Coverage by 2022.

a) Health Sector proposed ceilings

18. The sector plans to continue implementing the existing five programmes in 2021/22 financial year given that policy prioritization in 2021 and over the medium term fits well within the five programmes. The proposed allocation to the sector is **Kshs 112.5 billion**. The allocation is expected to increase to **Kshs 115.2 Billion** in 2023/24. Table 1.4 gives the proposed budget ceilings (recurrent and development) for 2021/22 financial year and the projections within the medium term broken down to various programmes being implemented by the Ministry.

Table 1.4: Proposed resource ceilings (Kshs Millions)

Programmes	2021/22 Ceiling			2022/23 Projection			2023/24 Projection		
	Recc	Dev	Total	Recc	Dev	Total	Recc	Dev	Total
Preventive, Promotive and RMNCAH	4,149	14,884	19,033	4,338	12,011	16,349	4,587	12,243	16,830

National Referral and specialized services	35,774	11,475	47,249	34,908	12,761	47,669	36,560	2,508	39,068
Health Research and Development	9,684	588	10,272	9,542	1,202	10,744	9,695	1,067	10,762
General Administration and Planning	7,617	1,060	8,677	7,127	568	7,695	7,344	0	7,344
Health Policy, Standards and Regulations	7,835	19,506.2	27,341.2	10,972	16,398	27,370	11,044	30,208	41,252
Total	65,059.5	47,513.2	112,572.7	66,887	42,940	109,827	69,230	46,026	115,255

Source: National Treasury

19. The key priority programme in the sector is the National referral and specialized services with an allocation of **Kshs 47.2 billion**. This programme relates to financing of National referral facilities in the country which is a key national government function. The other priority programme is the health policy standards and regulations with a proposed allocation of **Kshs 27.3 billion**. This is the programme that is directly in charge of implementation of the UHC and other social protection programmes such as HISP.

SUMMARY OF KEY ISSUES: POLICY AND BUDGETARY

The following are the key issues arising from the BPS 2021 :

20. **Vaccines for COVID 19-** There is no mention in the BPS 2021 regarding the availability of vaccines for COVID 19 and whether it is one of the government priorities in 2021/22 and over the medium term;
21. **Identification of Million Households to be provided with health insurance cover-** the BPS envisaged the identification of one million vulnerable household by the Ministry of Health, Labour and Social Protection to be provided with health insurance cover, however the BPS does not indicate the guiding criteria on the identification of the household across the country for purpose of enhancing equity.
22. **Investment in alternative medicine in dealing with COVID 19-** there is no investment in alternative medicine solutions towards response against the COVID 19. There is need to invest in research and policy formulation on use of alternative (herbal) medicine as a complement to conventional drugs. This is a key component of the natural products initiative which is part of vision 2030. The initiative advocates for investment in building

capacity for value addition to the enormous biodiversity in the country, estimated to have high medicinal, cosmetic and nutritional value.

- 23. Reforms at NHIF-** To support the UHC goal, the government intends to modernize NHIF systems and improve governance structure through legal and institutional reforms in order to transform it into a social health insurer. However, since 2018 when the UHC agenda was introduced, no tangible reforms have been undertaken in this critical institution as envisaged.
- 24. Level 5 hospitals act as referral hospitals and serves patients seeking health care services across the county .therefore the relevant counties can collaborate on the management of the hospital since the exchequer supported conditional grant earmarked for level 5 hospitals has since been converted to supplement county equitable share of revenue.**
- 25. Change in UHC policy-** strengthening of primary health systems seems not be to given attention whereas previously UHC was to be achieved through a combination of insurance system and strengthening of primary health care facilities through provision of HPT's.
- 26. Contributory pensions-** As a policy, the contributory pension schemes be brought on board in terms of providing medical scheme through the NHIF platform to cover the post retirement period for their members. This will expand the pool of resources available for UHC;
- 27. Public private partnerships projects (PPP's)** – given the limited resources which constraint the sector from fully actualizing its goals and priorities, PPP's need to be explored within the sector especially in supporting key projects including the completion of on-going projects.

6. INFORMATION COMMUNICATION AND TECHNOLOGY

I. INTRODUCTION

Overview and Purpose of the Budget Policy Statement (BPS)

1. The Budget Policy Statement (BPS) for FY 2021/22 and the Medium term has been submitted on the backdrop of subdued economy occasioned by the compounding impact of the novel Corona Virus (COVID-19). The health pandemic adversely affected global output and continues to disrupt global supply chains and trade, travel and other economic activities particularly small and medium enterprises.
2. Moreover, and despite incipient recovery trend from the knock-off impact of the containment measures, the slow recovery pace is likely to persist particularly in low and middle income countries on account of continuous but relaxed containment measures and the challenges of supplying and administering vaccines.
3. The International Monetary Fund (IMF) projects contraction of 4.9 percent in 2020 from a growth levels of 2.9 percent in 2019. Locally, growth outputs contracted by 5.7 percent in the second quarter of 2020 compared to 4.9 percent in the first quarter, largely due to significant contraction in the services and industry sub-sectors during the initial pandemic outbreak. This has also exacerbated debt vulnerabilities substantially affecting budget execution including transfers to counties due to revenue underperformance and mounting priority obligations (majorly debt services). To partly stymie debt linked fragilities facing the economy, the country continues to utilize the Debt Service Suspension Initiative (DSSI) through multi-lateral arrangements (The IMF and World Bank) which is expected to be key fiscal support measure in the medium term as well as basis to evaluate trends and predictable flow of fiscal transfers (equitable share) to counties and extent of compliance or deviation from senate approved cash flow plans.
4. Following substantial easing of the containment measures, economic activities improved in the third and fourth quarters of 2020, albeit within negative growth rates. In the fiscal year under considerations, the 2021 BPS projects the economy to bounce back to 6.4 percent compared to estimated output performance of 0.6 percent in 2020¹.

¹ real economic growth is projected to have contracted by -0.1% in 2020 (IMF, Feb 2021)

The purpose of the Brief and the Mandate of the Committee

5. This brief provides brief analysis of the 2021 BPS covering the medium term and in particular the agencies under the purview of the committee (ICT sector).
6. The scrutiny of the BPS by the Committees thus provides the legislative avenue to inform the budget at policy level towards finalization of estimates and programme outputs including at county level. The scrutiny primarily to assess the comprehensiveness, realism and effectiveness of planned programmes and proposed policies.
7. The Senate Standing Committee on Information and Communication is established under the Standing Order 218 (and Second Schedule) to consider all matters relating technology, engineering and electronic research, information, and broadcasting and Information Communications Technology (ICT) development. The two main votes under the purview of the Committee include:
 - a. Vote 1122: State Department for ICT & Innovation.
 - b. Vote 1123 : State Department for Broadcasting & Telecommunications.

The Legal Basis for Processing of the BPS

8. The Budget Policy Statement is one of the key budget documents prepared by the National Treasury and published in accordance with Section 25 of the Public Finance Management Act, 2012.
9. The National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets for the next MTEF period. Consequentially, approved BPS informs the Division of Revenue (Bill) dividing national revenue between the two levels of government. The National Treasury is required to include the following in the Budget policy Statement.
 - i) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic outlook.
 - ii) Financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term.
 - iii) The proposed expenditure ceilings for the 3 arms of Government and indicative transfers to County Government.
 - iv) The fiscal responsibility principles and financial objectives over the medium-term including limits on total annual debt.

- v) The total resources to be allocated to individual programmes and projects within sector, ministries, departments and agencies indicating outputs expected during the period.

10. Section 25(2) of the Public Finance Management Act 2012 **require the National Treasury to submit the BPS to Parliament by 15th February each year.**

Parliament is expected to consider the same within 14 days after its submission with or without amendments as stipulated in Section 25(7) of the PFM Act 2012 and the Senate Standing Orders (S.O. 180). Consequently, The Cabinet Secretary shall take into account the Resolution passed by the Senate in finalizing the budget for the relevant financial year (2021/22).

11. The BPS is thus a key budget documents that is subject to consultation on budget and economic matters and in particular between the Legislature and the Executive arms of government and between both Houses and its respective committees

REVIEW OF SECTOR POLICIES AND PRIORITIES

12. The main objectives of the policies of underpinning the sector are to enhance accessibility, reliability and affordability of ICT and digital services². The policy thrust has informed the enhanced investments in development of the requisite ICT and digital infrastructure to facilitate E-commerce and delivery of public services, to a large extent provided enabling role to the economy particularly at the height of the containment measures. Some of the key policies in the sub-sector include:

(a) The Kenya National ICT Policy: Outlines requirements for the design, development, acquisition, deployment, operation, support and evolution of public and private ICT Sector. The policy identifies key focus areas, namely, requisite ICT infrastructure, market (enhanced digital economy), Skills and Innovation (world class research), public service delivery (E-Government Services).

(b) The Digital Economy Blueprint: Provides framework to improve Kenya's ability to leapfrog digital growth. It is based on the national priorities as articulated by Kenya Vision 2030 and the Big Four Agenda. The aim is to make Kenya a globally competitive and informed society that effectively participates in the knowledge based economy and it identifies ICT as a key enabler. The blue print identifies five pillars- Digital Government, infrastructure, innovation-driven entrepreneurship and digital skills and values - as foundation for the growth of a digital economy.

(c) The National Broadband Strategy (NBS) 2023: This is aimed at transforming Kenya into a knowledge based economy through provision of quality broadband services to all citizens in the country. By implementing it, the government aims at increasing access to broadband coverage to 100% of the population by 2023, increase digital literacy in schools and in workplaces. This includes also the expansion of the broadband in the 47 counties.

² These objectives are also core and inline with the universal internet design principles of openness, access including affordability and end-to-end communication.

However, investment made so far under this strategy have not met it is expected performance indicators with counties most affected. The expansion and maintenance of fiber cables to county headquarters and sub-headquarters have faced considerable change inters of reliability, maintenance and sustainability concerns of the underlying financing framework.

13. In view of the imperative for universal access to ICT services, connectivity is key particularly to broadband across the major towns, in which the current infrastructure to enhance access has been development to 60% by both government and private sector.

14. Some of the key interventions over the years include:

- ❖ County Connectivity Project (CCP) and the National Optic Fibre Backbone Infrastructure (NOFBI) II with later indicating connectivity with fiber broadband network by 2017.
- ❖ Government Common Core Network (GCCN) Extension
- ❖ Government Data Centre (GDC) Upgrade Government Private Cloud , with an upgrade both in capacity and support applications from government, data consolidation and data sharing within government.
- ❖ Local Area Network (LAN) cabling
- ❖ Network Operation Center (NOC)
- ❖ 4G Networks through government licensed telecommunications operators
- ❖ Analogue to Digital TV Migration with ongoing rollout in public digital infrastructure (with further commitment under the the 2020 BPS)
- ❖ Migration from Medium Wave to FM Radio Transmission
- ❖ Universal Access to ICT Services - Basic Voice Infrastructure and Broadband connectivity where role play by the Communication Authority is key
- ❖ National Information Security
- ❖ One Network Area Programme, with key objective including harmonized EAC rates for outgoing calls and eliminating charges for incoming for ease of doing business. However, this needs to be reviewed to ensure commitment and curtail non-compliance by telcos.

15. Other policies under broadcasting and telecommunication is towards achievement of universal access to information and communication services in the country which include telecommunications policy, broadcasting policy , development of local content, centralized government advertisement through the Government Advertising Services

Moreover, summary review of sector priorities contained in the second MTP, 2019/2020 sector report and the previous BPS reflect consistency and predictability in sector funding. However, there is need to ensure consistency in target achievements and reported outputs so as to evaluate programme performance to primarily inform subsequent allocations and strengthen effectiveness of sector policies.

I. REVIEW OF PAST SPENDING PERFORMANCE

(A) State Department for ICT and Innovation

16. In the recent past, the sub-sector utilized its allocated resources and undertook various activities within its programmes. Key among the achievements realized in the sub-sector during the previous MTEF in include:

- a) 2,500 Km National Optic Fibre Backbone Infrastructure (NOFBI) phase II expansion connecting sub-counties, hospitals and police stations
- b) Increased access to ICT infrastructure and connectivity through roll out of the Basic Voice Infrastructure in 67 sub-locations in the un-served areas.
- c) Konza complex Phase I Office Block completed.
- d) Deployment of public digital TV broadcasting Infrastructure to enhance national coverage to the current level of 92%.
- e) Communications and Multimedia Appeals Tribunal established and operationalized.
- f) Established 135 Constituencies Innovation Hubs across the country to provide free Wi-Fi and internet access.
- g) The National ICT policy finalized.

17. The budget allocations for the last three financial years (2017/18, 2018/19 and 2019/20) for the department have been unstable, with below target absorption rates. The under absorption results into missed opportunities to deliver planned public services. The rate of absorption for the State Department for ICT and Innovation has been on a downward trend at 89%, 87 and 78% respectively (averaging at 85%). The table 3 details the trend of absorption rates.

Program	Approved Budget			Actual Expenditure			Absorption rates (%)		
	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20
	8	9	0	8	19	20	18	19	0

Program	Approved Budget			Actual Expenditure			Absorption rates (%)		
	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20
General Admin	243	302	264	193	219	237	79	73	90
E-Government Services	1,206	3,315	3,552	909	1,619	1,553	75	49	44
ICT Infrastructure Development	11,655	21,493	16,650	10,554	19,900	13,997	91	93	84
Film Devt Services	0	0	1,061	0	0	985			93
Total	13,104	25,110	21,527	11,656	21,738	16,772	89	87	78

Source: 2020 sector report , The National Treasury.

(B) State Department for Broadcasting and Telecommunications

18. The Broadcasting and Telecommunication in the recent past has had a modest rise in its absorption rates. Indeed, the rates have been 81%, 87% and 88% in 2017/18, 2018/19 and 2019/20 (average of 85%). The table 4 shows the expenditure performance.

Program	Approved Budget			Actual Expenditure			Absorption rates (%)		
	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20
Gen Admin	329	254	215	293	241	201	89	95	93
Information and Communication Services	3,154	5,614	4,763	2,522	4,772	4,134	80	85	87

Program	Approved Budget			Actual Expenditure			Absorption rates (%)		
	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20
Mass Media Skills Development	260	457	393	207	441	334	80	96	85
Total	3,743	6,325	5,371	3,022	5,454	4,669	81	86	87

Source: 2020 Sector report

II. HIGHLIGHTS OF THE 2021 BPS

19. The theme of the policy document being “*Building Back Better: Strategy for Resilient and Sustainable Economic Recovery*” takes into account, as also noted earlier, the post COVID-19 pandemic strategies and revival of the economy to beyond pre-pandemic growth levels in the medium term.
20. The policy measures outlined in the 2021 Budget Policy Statement aims at stimulating economic recovery, building on incipient gains under the Economic Stimulus Programme and further roll-out of Post Covid-19 Economic Recovery Strategy and through ‘stable macroeconomic environment, turn around in trade as economies recover from Covid-19 Pandemic and expected favorable weather that will support agricultural output’. However, these may be evaluated against specific sector policies and actionable indicators such as roads and transport to determine its efficacy in achieving expected outcome.
21. As per the proposed BPS, to primarily stimulate growth and promote job creation, among other macro targets, the government will:
 - 1) Roll out the Post-Covid-19 Economic Recovery Strategy;
 - 2) Implement the “Big Four” Agenda for job creation;
 - 3) Foster a secure and conducive business environment by maintaining macroeconomic stability, enhancing security; improving business regulations;
 - 4) Fast track development of critical infrastructure in the country such as roads, rail, energy and water, among others, so as to reduce the cost of doing business as well as promote competitiveness;
 - 5) Transform economic sectors for broad based sustainable economic growth;

- 6) Improve access to education, strengthen health care systems and enhance cash transfers to support the vulnerable members of our society;
- 7) Support youth, women and persons with disability to enable them actively contribute to the economic recovery agenda;
- 8) Facilitate the County Governments in strengthening their systems to enhance service delivery;
- 9) Implement various structural reforms to enhance the efficiency of public service delivery while at the same time ensuring accountability for better macroeconomic and fiscal stability, sustained credit ratings, improved fiscal discipline and minimized corruption.

22. With regards to specific interventions under the ICT....

Overall Fiscal Framework

23. The BPS 2021 projects revenue collection including Appropriation-in-Aid (A.i.A) to increase to KSh 1,985.2 billion (15.9 percent of GDP) up from estimated KSh 1,829.2 billion (16.4 percent of GDP) in the current FY 2020/21. Whereas share of government expenditure relative to GDP for FY 2021/22 is projected to decline to 23.7 percent, the overall nominal expenditure and net lending is projected to marginally increase to KSh 2,968.9 billion from current estimates of KSh 2,878.1 billion (25.9 percent of GDP).

24. Proposed overall expenditure component consist of recurrent (KSh 1,975.2 billion or 15.8 percent of GDP) and development (KSh 611.0 billion or 4.9 percent of GDP). Fiscal deficit (including grants) is projected at KSh 930.05 billion (7.5 percent of GDP) in FY 2021/22, to be financed through net external borrowing amounting to KSh 267.27 billion (2.2 percent of GDP) and net domestic borrowing of KSh 662.77 billion (5.3 percent of GDP) (See also Annex I for a summary fiscal framework).

25. Moreover, figures provided under the CFS may require further review as they are below revised levels of approximately KSh 1,073.71 billion³.

Table 5 provides a summary of proposed MTEF allocation, in KSh million.

Table 5 : Summary of Proposed MTEF allocations, Amounts in KSh.Millions					
S/No.	Details	2021/22 BPS Ceiling	Percentage Share	Projections	
				2022/23	2023/24
1.	National Government	1,950,377.7	65	2,047,387.2	2,171,405.9

³ 2020/21 Tabled supplementary Budget, February 2021

2.	Executive	1,894,576.8	63	1,989,844.9	2,112,557.9
3.	Parliament	37,882.7	1.3	38,535.7	39,207.6
4.	Judiciary	17,918.3	1	19,006.7	19,640.5
5.	CFS	697,623.5	23	796,892.9	863,577.0
6.	County Government	370,000.0	12	370,000.0	375,000.0
7.	Contingency Fund	5,000.0	-	5,000.0	5,000.0
Total		3,023,001.3	100	3,219,280.2	3,414,983.0

Source: 2021 BPS, The National Treasury

26. Due to the constraining fiscal space on account of increasing mandatory expenditure (consolidated fund services and debt services), sectoral expenditure ceilings are likely to be affected in the medium term and likely to curtail capital investments. Moreover, the following criteria are proposed to guide and apportion capital budget allocation:

- ❖ **On-going projects** - completion of on-going capital projects and in particular infrastructure projects with high impact on poverty reduction, equity and employment creation;
- ❖ **Counterpart funds** - priority to donor counterpart funds, being government support to projects financed by development partners;
- ❖ **Post-Covid 19 Recovery** - interventions supporting Post-Covid 19 recovery;
- ❖ **Strategic policy interventions:** policy interventions covering the entire nation, regional integration, social equity and environmental conservation.

27. Given past budget executions and trends in revised budgets, adherence to these criteria (particularly prioritizing allocation to on-going projects) remains a major challenge. Legislative resolution to extend compliance by counties to these criteria may enhance budget credibility, speed up completion of pending infrastructure works and curtail initiating new projects during budget execution as well as strengthening overall budget coherence and credibility.

III. BPS PRIORITIZATION AND CEILING MEASURES

(A) Inter-Fiscal : Proposed Allocation between the Two Levels of Government

28. Figure 1 gives summary of the allocation of revenue raised nationally between the two levels of government as well as the conditional grants

Figure 1: Vertical Allocation and conditional grant to Counties for FY 2021/22, in KSh

Type/level of allocation	Amount in Ksh.	Percentage (%) of 2016/17 audited approved Revenue i. Ksh. 1,357,6 Million
A. Total Sharable Revenue	1,775,624,173,860	
B. National Government	1,398,798,856,427	
Of which:		
1. Leasing of Medical Equipment	7,205,000,000	
2. Supplement for construction of county headquarters	332,000,000	
C. Equalization Fund	6,825,317,433	0.51
D. County equitable share	370,000,000,000	27.1
Memo items		
1. County equitable share	370,000,000,000	
2. Additional conditional allocations (National Government share of Revenue) of which;	7,537,000,000	
2.1. Leasing of Medical Equipment	7,205,000,000	
2.2 Supplement for construction of county headquarters	332,000,000	
3. Conditional allocations (Loans & grants) of which:	32,343,890,512	
3.1 IDA-Kenya Devolution Support Program (KDSP) (Level 2 Grant)	4,600,000,000	
3.2 IDA-Transforming Health Systems for Universal Care Project	2,234,664,075	
3.3 DANIDA Grant-Primary Health Care in Devolved Context	701,250,000	
3.4 IDA-National Agriculture & Rural Inclusive Growth Project (NARIGP)	6,394,997,407	
3.5 EU-Instruments for Devolution Advice and Support (IDEAS)	230,730,934	
3.6 IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP)	7,838,338,490	
3.7 World Bank- Kenya Informal Settlement Improvement Project II (KISIP II)	2,800,000,000	
3.8 IDA- Water and Sanitation Development Project (WSDP)	5,000,000,000	
3.9 Sweden Agriculture Sector Development Programme II (ASDP II)	1,300,042,902	
4.0 Drought Resilience Programme in Northern Kenya	370,000,000	
4.1 Emergency Locust Response Project (ELRP)	800,000,000	
4.2 UNFPA- 9th Country Programme Implementation	73,866,704	
Total County Allocations= (1+2+3)	409,880,890,512	

Source: 2021 BPS and related submissions

29. According to the 2021 BPS, the proposed equitable share, which is KSh 370.00 billion up from KSh 316.5 billion, is informed by two main factors:

- a) Expected revenue growth translating to 11.4 percent (or KSh 36.1 billion) increase in equitable share to counties
- b) Conversion of some existing conditional allocations totaling KSh 17.4 billion to unconditional grant i.e. to be part of the county equitable share amount. The affected four conditional grant allocation include: Road Maintenance Levy Fund (RMLF); level 5 hospital; compensation for user fees foregone; and, the grant funding rehabilitation of village polytechnics to support youth training.

30. Comparatively, proposed combined amount under the four grant items totaling to KSh 17.4 billion translates to a marginal increase of 740 million (or 4%) up from current combined amount of KSh 16.65 billion. Consequently, the conversion of these grants to equitable share has marginal impact on baseline levels - to the extent of the

marginal increase - given that these grants are part of the existing expenditure baseline/items.

Budget item	2017/18	2018/19	2019/20	2020/21	2021/22
Baseline (i.e. allocation in the previous FY)	280,300	302,000	314,000	316,500	316,500
Adjustment for revenue growth	21,700	12,000	2,500	-	36,100
revenue share (i.e. RMLF, level-5 hospital grant, compensation for foregone user fees and rehabilitation of village polytechnics)					17,400
Computed equitable revenue share allocation	302,000	314,000	316,500	316,500	370,000

Source: 2021 BPS, National Treasury

National Government - Ministerial and Specific State Department Allocation

State Department for ICT and Innovation

31. The proposed total ceiling for the State department is KSh.23.8 Billion, reflecting an additional KSh.3.8 billion compared to current allocation.
32. The allocation consists of recurrent expenditure (KSh.1.6 billion , or 7% of total ceilings) and development outlay (KSh 22.2 Billion or 93%).
33. The table 6 provides a summary of the proposed ceilings for the programmes under State Department.

Table 6: Comparison between the Approved Estimates (2020/21) and the proposed ceilings (201/22), Amounts in KSh Millions

Programme /FY	Approved Estimates 2020/21			BPS 2021/22			variation		
	Rec	Dev	Total	Rec	Dev	Total	Rec	Dev	Total
General Admin.	230	0	230	234	0	234	4	-	4
ICT Infrastructure Devt	477	16,940	17,418	535	20,677	21,212	58	3,737	3,794
E-Govt Services	796	1,564	2,359	884	1,483	2,367	88	-81	8
Total	1,503	18,504	20,008	1,653	22,160	23,813	150	3,656	3,805

Source: 2021 BPS (The National Treasury)

34. According to the 2020 Sector report, the proposed ceilings only caters for 58% of the resource requirements of the State Department resulting to a funding gap approximated at KSh.17.4 billion. Whereas the funding gap is related to prevailing resource constraints and partly due to cost overestimation as result of weak costing, a review of the impact of consistent underfunding of the programmes/projects under the sector may be necessary to reveal and mitigate underlying but underestimated risks (of on-going ICT projects) and enhance credibility of sector budgets given that these projects are critical enablers to the (digital) economy and job creation.
35. Moreover, and in view of the impact of past ICT investment on the emerging digital economy, the government has introduced digital services tax on income from services provided through a digital marketplace in Kenya at the rate of 1.5 percent on the gross transactional value. Whereas revenue yields are expected from the emerging digital economy it is important to ensure government continues to invest in critical ICT and digital infrastructure and use part of the revenue to address the funding gap.

36. Breakdown of funding gaps per programme is as indicated in Table 7.

Table 7: Resource Requirement Vs Proposed Ceilings, Amounts in KSh Millions									
Programme/ FY	Resource Requirement			2021 BPS Ceilings			Funding Gap		
	Rec	Dev	Total	Rec	Dev	Total	Rec	Dev	Total
General Admin.	487	0	487	234	0	234	253	0	253
ICT Infrastructure Development *	837	25,461	26,297	535	20,677	21,212	302	4,784	5,085
E-Government Services	1,395	13,094	14,489	884	1,483	2,367	514	11,611	12,122
Total	2,719	38,555	41,273	1,653	22,160	23,813	1,069	16,395	17,457

Source: Sector report and 2021 BPS

Programme Analysis

37. The proposed total ceilings to the department are to facilitate the realization of set targets to be evaluated on the Key Performance Indicators (KPIs) within the various programmes. The three programmes under implementation are:

- ICT Infrastructure Development:** Proposed to get a ceiling of KSh.21.2 B (an increase of KSh.3.8 B under Development expenditure and a rise of KSh. 58 Million towards Recurrent expenditure). The programme is made up of three sub-programmes namely ICT Infrastructure development, ICT and BPO Development and Digital Learning. The Key expected outputs from the Sub-programme of ICT Infrastructure development include: County connectivity project, maintenance and rehabilitation of NOFBI network, NOFBI II Expansion Fiber networks, establishment of Constituency innovation hub, and establishment of Konza Technopolis horizontal infrastructure. Key outputs in Digital learning sub-programme include: installation of digital devices in public primary schools also under the ministry of Education.

- **E-Government Services:** Proposed to get a ceiling of KSh 2.4 billion (0.9 Billion for recurrent and KSh. 1.5 Billion for recurrent). This reflects a modest increase (KSh 8 Million) compared to current baseline but substantially lower than resource requirement (KSh.14 billion).

Key outputs under the programme include: Broadband connectivity to Big 4 projects completed, procurement and delivery of ICT Systems and networks to MDAs, ICT Infrastructure development of ICT skills, upgrading and maintenance of websites and data centres. However, there is need to evaluate whether value for consolidated approach to purchase of ICT equipment have been achieved and if successful whether a similar policy can be extended to subnational level to promote savings through economies of scale and minimize duplication.

- **General Administration, Planning and Support Services:** This is proposed to have a ceiling of KSh 234 Million, an increase by KSh.4 Million from the current year allocations. Key outputs include: Development of Project Monitoring and Evaluation reports, development of financial management's reports and review and development of policies. Monitoring and evaluation of ICT infrastructure – particularly large projects - is critical in minimizing inherent risks such as cost overruns and ensuring delivery according to specifications. The committee may request for these reports on a regular basis to evaluate value for money considering ICT programmes/ flagship projects are critical enablers to the achievement of the big four agenda particularly connectivity under health and to county headquarters.

State Department for Broadcasting and Telecommunications

38. The proposed total ceilings amounts to KSh 6.4 billion, an additional KSh.140 million relative to the current allocation. The Recurrent being KSh.5.9Billion (92 % of total ceilings) while the Development vote amounts to KSh.451 Million (8 %). The table provides a summary of the proposed ceilings for the programmes under State Department.

Table 8 : Approved Estimates Vs. Proposed Ceilings for Broadcasting & Telecommunication (KSh.M)									
Programme	Approved Estimates 2020/21			BPS 2021/22			variation		
	Rec.	Cap.	Total	Rec.	Cap.	Total	Rec	Cap.	Total
General Admin.	201	0	201	205	0	205	4	0	4
Info. & Communication services	4,247	530	4,777	4,595	306	4,901	348	-224	124
Mass Media Skills Devt	202	69	271	225	40	265	23	-29	-6
Film Development Services	880	99	979	892	105	997	12	6	18
Total	5,530	698	6,228	5,917	451	6,368	387	-247	140

Source: 2021 BPS (The National Treasury)

39. According to the 2020 Sector report, the proposed ceilings only caters for 50% of the resource requirements of the State Department resulting to a funding gap amounting to KSh.5.8 Billion. Details of the funding gaps per programme as hereunder contained in the table.

Table 9: Approved Estimates Vs. Proposed Ceilings for Broadcasting & Telecommunication(KSh.M)									
Programme	Resource Requirement			BPS 2021/22			Funding Gap		
	Rec	Cap	Total	Rec	Cap	Total	Rec	Cap.	Total
General Admin.	263	0	263	205	0	205	58	0	58
Info. & Communication services	8,224	1,025	9,249	4,595	306	4,901	3,629	719	4,348

Programme	Resource Requirement			BPS 2021/22			Funding Gap		
Mass Media Skills Devt	263	350	613	225	40	265	38	310	348
Film Development Services	1,565	504	2,069	892	105	997	673	399	1,072
Total	10,315	1,879	12,194	5,917	451	6,368	4,398	1,428	5,826

Source: 2020 Sector report and 2021 BPS

40. Under the Information and Communication Services programme, expected targets are aligned to ensure well informed citizenry. However, and in view of the current baseline allocation, the allocation under this programme are substantially recurrent expenditure component and are composed of transfers to SAGAS including Media Council, Kenya Year Book, KBC, among others and allocation to Government Advertisement Agency thus less resources are towards capital projects.

41. Currently, mandates under this programme are:

- ❖ Delivery of weekly MYGOV Publications comprising of government advertisement and other information (50 pull out)
- ❖ Establishment of studio mashinani. However, there is inordinate delay in delivering project outputs thus compromising the key project objectives particularly in support of job creation among the youth and promote the creative sub-sector.
- ❖ Achieving national digital signal coverage by KBC as well as delivery of public broadcasting services. Given resource constraints under KBC and its financial challenges, there is need to evaluate the comprehensiveness and realism of expected targets under KBC. Similarly, a performance review may be necessary for postal corporation - currently on extended exchequer support to sustain core operations - since it's critical to the delivery of some of the objectives underpinning sub sector policies such as meeting universal obligations in the context of information services and addressing.
- ❖ Media regulatory services

42. Annex II B provides further information relating to specific projects and its financial details under the State Department.
43. With regards to Government Advertisement Agency, current budget allocation towards centralized advertisement for government is KSh 1.09 billion to promote government policy to centralize advertisement budget to eliminate duplication as well as pursue cost effective outreach services to citizens. However, and review of past trends, the allocation to the centralized budget is not informed by actual expenditure trends and has been increasing mainly to cater for payment of accumulated pending bills. The current allocation for FY 2020/21 is proposed to be enhanced to KSh 2.5 billion, an increase of KSh 1.4 billion or 129%⁴. Additionally, pending bills have also been accumulating and payment of outstanding amounts are not based on First-In First-Out (FIFO) basis in managing stock of pending bills over the years, reflecting material expenditure malpractice. Moreover, this presents threat to media sector performance given its role in providing advertisement services. There is need to relook at this policy with a view to achieve its primary objectives informed by changing advertisement dynamics such as emergence of new media and digital applications which continues to impact circulation and distribution dynamics as well as underlying costs.
44. In addition, the state departments is also mandated to oversee use of the universal service fund and support access to internet and telecom services to unserved areas. To ensure legislative accountability, there is need to link the fund's performance framework to the annual programme based budget. This will put the fund to more legislative scrutiny by House committees and enhance delivery of services to Kenyans in areas with un(der)served telecommunication infrastructure and meeting objectives of key policies.

KEY SALIENT ISSUES AND POLICY OPTIONS.

- VII. Reprioritization of programmes:** The comparison between the resource requirements and the proposed ceilings reveal a huge funding gaps for the two State Departments. The proposed ceilings can only cater for 58% and 52 % of the total resource requirements of State departments for ICT & Innovation and Broadcasting & Telecommunication respectively. This hard budget constraint calls for reorganization of the priorities so that more urgent programs with highest desirable impacts on the public services are given first priorities.
- VIII. Budget implementation:** Given that the two state departments have not been able to fully utilize their approved allocations, there is need for the departments to enhance utilization for improved public service delivery and delivery of ICT projects. The Committee may also also need to enhance its oversight role on budget implementation especially those programmes that will leverage

⁴ Tabled Supplementary Budgets , Feb 2021.

performance of counties such as connectivity of hospitals, NOFBI connectivity at county headquarters and sub-county level as well as data protection and security.

- IX. Review of performance trends of the Government Advertising Agency,** reflects that allocation to the centralized budget is not informed by actual expenditure trends and has been increasing mainly to cater for payment of accumulated pending bills. The current allocation for FY 2020/21 is proposed to be enhanced to KSh 2.5 billion, with proposed additional increase of KSh 1.4 billion. Additionally, pending bills have also been accumulating and payment of outstanding amounts are not based on First-In First-Out (FIFO) basis in managing stock of pending bills, reflecting material expenditure malpractice. Moreover, this presents threat to media sector performance given its role in providing advertisement services and contribution to information services which is a key service delivery activity by government to the citizens. There is need to relook at the current approach towards the centralized advertising budget policy at the national level with a view to achieve its primary objectives of enhancing cost efficiency in government advertisement and eliminating duplication. This may further be informed by the changing advertisement landscape such as emergence of new media and digital applications which continues to impact on circulation and distribution dynamics as well as underlying costs. The policy objectives may also be cascaded to counties through an approved framework to promote cost savings in county advertisements.
- X. Fast tracking the implementation of the universal service fund** in line with the objectives of the access gap study. The aim is to enhance provision of telecommunication and information services to un(der)served areas/location in the country.
- XI. Taxation of digital market place** - In view of the impact of past ICT investment on the emerging digital economy, the government has introduced digital services tax on income from services provided through a digital marketplace in Kenya at the rate of 1.5 percent on the gross transactional value. Whereas revenue is expected to mobilized from the emerging digital economy it is important to ensure government continues to invest in critical ICT and digital infrastructure and use part of the revenue to address the funding gap. The committee may consider scaling up investment such as modernizing postal services and address systems critical to the digital economy as well as addressing constraints faced by private sector in the ICT sector as government seeks to enhance revenue yield from the digital market place.
- XII. Clarification on Set Targets for the FY 2021/22:** The State departments need to clarify their respective set targets based on the Key Performance Indicators (KPIs) in the various programmes. This need arises from the fact that the planned targets and outputs were not annexed in the tabled 2021 BPS.

Annex II A: Project Financial Details , State Department for ICT & Innovation

No.	Project Title/Head	Estimated cost of Project, Millions	Start Date	Expected Completion date	Status of the project , %	Approved Allocation FY 2019/20	Approved Estimates FY 2020/21
1	Konza Complex, PHASE 1B	3,929	2016	2023	50	490,000,000	400,000,000
2	Konza Consultancy Master Delivery Partner 2 (mdp2)	38,000	2014	2022	40	630,000,000	480,000,000
3	Access Roads-Konza(/ Streetscape/ Wastewater Reclamation Facility) (renamed Supervision of Streetscape & Waste Water Reclamation Facilities)	3,800	2016	2023	40	116,000,000	125,000,000
4	Konza EPCF - Engineer, Procure, Construct and Finance of Infrastructure projects (EPC-F), Phase I (renamed Horizontal Infrastructure Phase I - EPCF)	39,200	2018	2024	20	7,200,000,000	6,300,000,000
5	1122101800 Konza data Center & Smart City Facilities		2019	2022	5	5,080,000,000	5,100,000,000
6	Kenya Transparency Communication Project (KTCIP)	17,699	2007	2018	99	11,200,000	14,200,000
7	Eastern Africa Regional Transport, Trade and trade development Facilitation Project (EARTTDFP) (renamed : Installation and	2,900	2016	2023	30	200,000,000	400,000,000

No.	Project Title/Head	Estimated cost of Project, Millions	Start Date	Expected Completion date	Status of the project , %	Approved Allocation FY 2019/20	Approved Estimates FY 2020/21
	Commissioning of Eldoret - Nadapal Fibre Optic Cable						
8	Supply and installation of an internet based 4000 network county connectivity -CCP phase III (renamed Maintenance & Rehabilitation of Last Mile County Connectivity Network)	2,700	2016	2019	50	1,117,600,000	440,600,000
9	NOFBI Phase II (note : named: Maintenance & Rehabilitation of NOFBI II Cable)	7,250	2011	2018	99	362,000,000	711,585,886
10	NOFBI Phase II Expansion (to all Sub Counties) (renamed : Maintenance & Rehabilitation of NOFBI II Expansion Cable)	10,377	2016	2020	90	3,884,000,000	2,204,000,000
11	Government Shared Services(Components) including ICT SHARED services	10,000	2015	2024	80 and 50	2,884,600,000	1,120,000,000
13	Digital Literacy Programme- laptop	76,000	2013	2022	90	2,000,000,000	670,000,000
14	Ajira Fund (Seed Capital)	500	2019	2022	0	1,000,000,000	-
15	Constituency Innovation Hubs	1,000	2016	2025	20	76,000,000	95,000,000

No.	Project Title/Head	Estimated cost of Project, Millions	Start Date	Expected Completion date	Status of the project , %	Approved Allocation FY 2019/20	Approved Estimates FY 2020/21
16	Acquisition and refurbishment of cinema theatre	287	2016	2023	35	80,000,000	-
17	Film Location mapping	100	2015	2023	5	30,000,000	-
18	Kenya Film School	691	2015	2017	20	30,000,000	-
19	Connectivity to Health Facilities		2019	2022	na	-	409,290,271
20	Connectivity to Special Economic Zone Textile Park - Naivasha		2019	2022	na	-	2,000,000
21	Connectivity to Leather Industrial Park - Kenanie		2019	2022	na	-	1,910,000
22	Connectivity to Dongo Kundu Special Economic Zone		2019	2022	na	-	2,000,000
23	Connectivity to Konza Data Centre & Smart City		2019	2022	na	-	28,616,355
Total		224,433				25,191,400,000	18,504,202,512

Source: Various Estimates Books and ministerial Submissions

Annex II A: Project Financial Details, State Department for Broadcasting and Telecommunication

No.	Project Title	Estimated cost of Project, Millions	Start Date	Expected Completion date	Approved Allocation FY 2019/20	Approved Allocation FY 2019/20 (Suppl. II)	Approved Estimates FY 2020_21
1	KBC Analogue to Digital TV migration	6,000	2014	2021	310,000,000	310,000,000	273,000,000
2	KBC Roll out Studio Mashinani	500.00	2016	2023	-	-	57,000,000
3	Modernization of KIMC Film Media Training Facilities - Headquarters	405.00	2015	2020	118,000,000	118,000,000	-
4	405 Bed Capacity Hostel	500.00	2014	2020	51,000,000	51,000,000	69,000,000
5	Modernization of KNA National Desk and Press Centre.	791.00	2017	2023	52,143,905	52,143,905	200,000,000
6	Digital printing press	115.00	2020	2021	-	-	-
7	Acquisition and refurbishment of cinema theatre	287	2016	2023	-	-	34,000,000
8	Film Location mapping	100	2015	2023	-	-	15,000,000

9	Kenya Film School	691	2015	2017	-	-	50,000,000
Total		9,389.00			531,143,905	531,143,905	698,000,000

Source: Various Estimates Books and ministerial Submissions

7. JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS

1. Introduction

- 1) The brief presents an analysis of the 2021 Budget policy statement which sets out the broad strategic priorities and policy goals that will guide the National Government and County Governments in preparing their budgets for the subsequent financial year and over the medium term.

- 2) The 2021 Budget Policy Statement was prepared at a time when the country is recovering from the adverse effects of the outbreak of the corona virus and its containment measures which have not only disrupted the normal lives and livelihoods but also the businesses and the economic activities of the country. As a result, our economy contracted by 5.7 percent in the second quarter of 2020 from a growth of 4.9 percent in the first quarter in 2020. The economy is therefore estimated to slow down to a growth of around 0.6 percent in 2020 from the earlier projection of 2.6 percent in the 2020 Budget Review and Outlook Paper (BROP). In terms of fiscal years, economic growth is projected to grow by 3.5 percent in FY 2020/21 and further to 6.2 percent over the medium term.
- 3) The Governance, Justice Law and Order Sector plays an important role in creating a favorable environment for economic, social and political development in line with the Third Medium Term Plan (2018 – 2022), and is a huge contributor towards the achievement of Kenya’s Vision 2030 political pillar.

a) Overview and Purpose of Budget Policy Statement (BPS)

- 4) The Budget Policy Statement is published in accordance with Section 25 of the Public Finance Management Act, 2012. In preparing the Budget Policy Statement, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following financial year and over the medium term.
- 5) The National Treasury is required to include the following in the Budget Policy Statement:-An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts; The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term; The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments; The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.
- 6) The National Treasury, while processing the Budget Policy Statement (BPS), is also required to seek and take into account the views of the Commission of Revenue on Allocation, the County Governments, the Controller of Budget, the Parliamentary Service Commission, the Judicial Service Commission, the Public and any other interested parties or groups.
- 7) The submission and processing of the BPS by the National Assembly is anchored in Standing Order No 232. The Standing order requires among other things The Budget Policy Statement (BPS) to indicate total resources to be allocated to individual programmes within a sector and indicate the outputs expected from each such Programme. Therefore, this is an in depth analysis of the Budget Policy Statement for 2020/21 and the medium term for the agencies under the purview of the committee.

- 8) Upon being tabled in parliament the BPS is committed to Departmental Committees in the National Assembly for scrutiny of the Votes under their purview and makes policy recommendations to the Budget & Appropriations Committee which compiles a final report for approval by the National Assembly.

b) Mandate and Spending Agencies under the Purview of the Committee

- 9) In accordance with the Second Schedule of the National Assembly Standing Orders, the Committee is mandated to oversee all matters pertaining to Constitutional affairs, the administration of law and justice, including the Judiciary, public prosecutions, elections, ethics, integrity and anti-corruption and human rights. In executing its mandate, the Committee oversees the following agencies;
- i. State Law Office & Department of Justice
 - ii. The Judiciary
 - iii. Ethics & Anti-Corruption Commission
 - iv. Office of the Director of Public Prosecutions
 - v. Office of the Registrar of Political Parties
 - vi. Witness Protection Agency
 - vii. Kenya National Commission on Human Rights
 - viii. Independent Electoral & Boundaries Commission
 - ix. Judicial Service Commission
 - x. Commission on Administrative Justice
- 10) The legislative scrutiny of the BPS promotes good governance, fiscal transparency and accountability, and is expected to facilitate effective allocation and mobilization of resources and ensure that fiscal policies are unbiased and effectively implemented. It also ascertains the legitimacy of transactions completed and their compliance with established norms, regulations and statutes; the scrutiny ensures that all allocations are as per the provisions, appropriate acts and financial regulations.

2. Highlights of the 2020 Budget Policy Statement

- 11) The theme for the BPS 2021 and the medium term is “*Building Back Better: Strategy for Resilient and Sustainable Economic Recovery*”. as noted above, the BPS is submitted against a backdrop of ravaged economy from the COVID-19 pandemic. The policy measures outlined in the 2021

Budget Policy Statement aims at stimulating economic recovery. It will build on the gains made under the Economic Stimulus Programme, the Government will roll out the Post Covid-19 Economic Recovery Strategy (ERS) which will mitigate the adverse impacts of the Pandemic on the economy and further re-position the economy on a steady and sustainable growth trajectory.

12) The 2021 BPS, articulates measures that will stimulate growth, promote job creation, reduce poverty, protect the vulnerable groups and businesses. To achieve these, the Government will roll out the Post-Covid-19 Economic Recovery Strategy, harnessing the implementation of the “Big Four” Agenda for job creation; foster a secure and conducive business environment by maintaining macroeconomic stability, enhancing security and improving business regulations among others.

13) The policies in the BPS have also been anchored on the Medium-Term Plan III of the Vision 2030 as prioritized in the “Big Four” Agenda. The focus of the policies is to continue providing an enabling environment for economic recovery to safeguard livelihoods, jobs, businesses and industrial recovery. In this respect, the Government will strengthen implementation of programmes and measures that ensure a more inclusive growth, foster macroeconomic stability, and avail liquidity to the private sector including initiating innovative products to boost credit to Micro, Small and Medium Enterprises (MSMEs).

Overall Fiscal Framework

14) The BPS 2021 and the medium-term projects revenue collection including Appropriation-in-Aid (A.i.A) to increase to Kshs 1,985.2 billion (15.9 percent of GDP) up from the estimated Kshs 1,829.2 billion (16.4 percent of GDP) in the FY 2020/21. While the Government expenditure as a share of GDP for FY 2021/22 is projected to decline to 23.7 percent, the overall nominal expenditure and net lending is projected at Kshs 2,968.9 billion from the estimated Kshs 2,878.1 billion (25.9 percent of GDP) in the FY 2020/21 budget. The expenditures comprise of recurrent of Kshs 1,975.2 billion (15.8 percent of GDP) and development of Ksh 611.0 billion (4.9 percent of GDP).

S/No.	Details	2021/22 BPS Ceiling	Percentage Share	Projections	
				2022/23	2023/24
8.	National Government	1,950,377.7	64.6	2,047,387.2	2,171,405.9
9.	Executive	1,894,576.8	62.8	1,989,844.9	2,112,557.9

10.	Parliament	37,882.7	1.3	38,535.7	39,207.6
11.	Judiciary	17,918.3	0.6	19,006.7	19,640.5
12.	CFS	697,623.5	23.1	796,892.9	863,577.0
13.	County Government	370,000.0	12.3	370,000.0	375,000.0
14.	Total	3,018,001.3	100	3,214,280.2	3,409,983.0

Source: The National Treasury

GJLOS SECTOR: POLICIES AND PRIORITIES ESPOUSED IN THE 2020 BPS

- 15) The Sector plays a key role in establishing and maintaining a favorable environment for economic, social and political development of the country as envisaged in the Kenya Vision 2030. Among the key functions of the sector is provision of Security and Enhancement of National Values and Ethics, which are enablers for Macro-Economic Performance.
- 16) Key outputs planned in the FY2021/22 – 2023/24 MTEF period include: conducting the general elections; maintenance of security, law and order; enhancement of access to justice; promotion of the rule of law; advise and representation of the Government in International and domestic courts; provision of legal training and administration of Advocates Training Programme examinations; provision of public legal services; combating corruption; enforcing human rights and gender equality; ensuring free, fair and credible elections; and promotion of competitive politics and democracy.
- 17) The Government remains committed in eliminating corruption which inhibit Kenya’s economic growth and development through loss of funds. In this respect, the Government has stepped its efforts in the fight against corruption through implementing a raft of measures that strengthens accountability at all stages of the public finance management cycle.
- 18) Moreover, in recognition of the critical role played by institutions mandated to fight corruption, the Government has progressively increased allocations to these institutions such as the Office of the Director of Public Prosecutions, the Office of the Auditor General, the Ethics and Anti-Corruption Commission, the Assets Recovery Agency, the Criminal Investigations Services and the Financial Reporting Centre. This is to enable them to work seamless together in developing and promoting standards and best practices in ethics and anti-corruption which will increase efficiency in the fight against corruption as well as recovery of the corruptly acquired assets
- 19) To enhance access to justice, the Government expanded physical infrastructure including establishment of mobile courts, automation of court processes and digitization of judicial systems, adoption of virtual courts, entrenchment of alternative dispute resolution initiatives such as mediation, arbitration and traditional justice systems, clearance of case backlog and improvement in case management in courts.

3. Approved allocations FY 2020/21 and Budget Ceiling for FY 2021/22

20) The proposed budgetary ceiling for the spending agencies in FY 2021/22 is Kshs 46.8 billion composed of Kshs 44.1 billion (94.2%) as recurrent expenditure and Ksh 2.8 billion (5.8%) as development expenditure. In comparison, the agencies were allocated Kshs 36.2 billion in FY 2020/21 out of which Kshs 33.0 billion (88.0%) was spent on recurrent expenditure and Kshs 3.2 billion (12%) as development expenditure. The significant increase in allocation in the FY 2020/21 is on account of enhanced budgetary allocation for the Independent Electoral and Boundaries Commission whose budget was increased from Kshs 4.5 billion to Kshs 14.5 billion.

21) It is also notable that the budgetary requirements for the department for FY 2021/22 is Kshs 89.1 billion comprised of Kshs 79.7 billion for recurrent expenditure and Kshs 9.4 billion for development expenditure. The shortfall resulting from the allocation is Kshs 42.2 billion.

Table 2: Resource Requirements versus Proposed Ceiling FY 2020/21 (Kshs millions)

Sector/ Vote/Programme Details	Resource Requirement 2021/22			Approved allocation 2020/21			2021/22 Ceiling			% variation
	Current	Capital	Total	Current	Capital	Total	Current	Capital	Total	
1252 State Law Office & Dept. of Justice	6,281.1	454.5	6,735.6	4,603.9	185.0	4,788.9	4,977.5	123.5	5,101	26.1%
1261 The Judiciary	28,300	7,100	35,400	14,720	2701.0	17,423.4	15,003	2,333.4	17,336.5	50.8%
Judicial Service Commission	1,381	-	1,381	576.4	-	576.4	581.8	-	581.8	58.3%
1271 Ethics & Anti-Corruption Commission	5,501.8	971.4	6,473.2	3,072.2	40.8	3,113.0	3,258.5	64.9	3,323.4	51.9%
1291 Office of the Director of Public	4452.0	503.5	4,955.5	2,957	129	3,086.0	3,125.3	145.1	3,270.4	37.7%

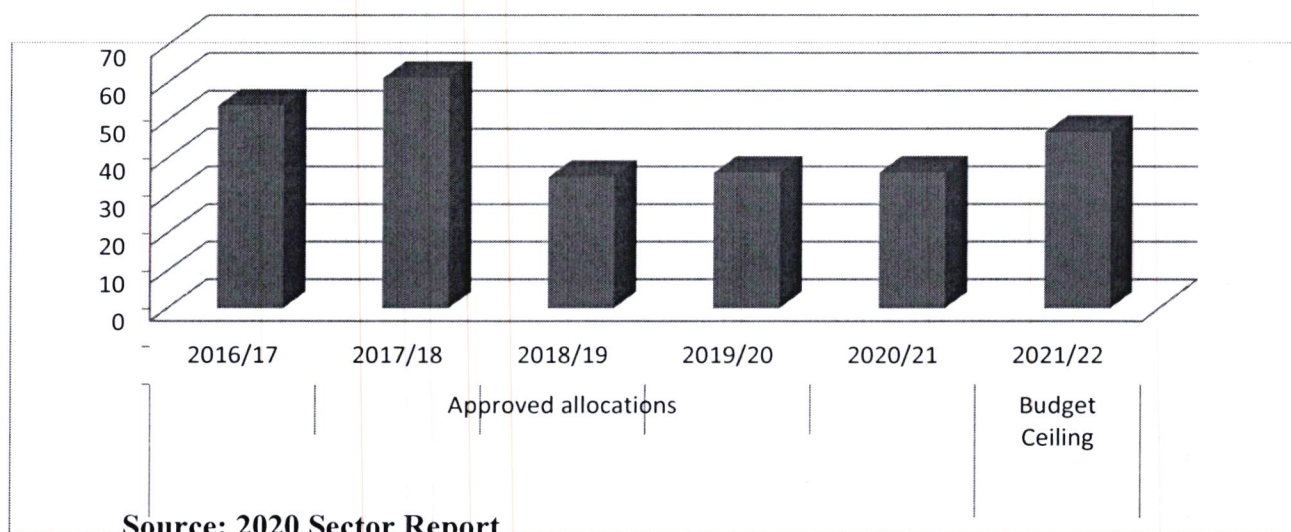
Prosecution s										
1311 Office of Registrar of Political Parties	5568.9	-	5,568.9	1,345.8	-	1,345.8	1,346.5	-	1,346.5	75.8%
1321 Witness Protection Agency	631.9	-	631.9	472.8	-	472.8	487.9	-	487.9	25.2%
201 Kenya National Commission on Human Rights	600.1	-	600.1	400.7	-	400.7	407.9	-	407.9	32%
203 Independent Electoral & Boundaries Commission	25,772.1	350.0	26,122.1	4322.9	150	4472.9	14,385.9	78.5	14,464.4	44.9%
2131 Commission on Administrati ve Justice	1,200.2	-	1200.2	494.7	-	494.7	527.9	-	527.9	56%
TOTALS	79,689.1	9,379.4	89,068.5	32,968.8	3,205.8	36,174.6	44,102.2	2,745.4	46,847.7	41%

Source: BPS 2021 and 2020 Sector Report

- 22) Agencies that have registered an increase in their budgets include the following; the Independent Electoral and Boundaries Commission - Kshs 10 billion, State Law Office and Department of Justice - Kshs 312.1 million, Office of the Director of Public Prosecution - Kshs 184.4 million, Witness Protection Agency – Kshs 15.1 million, Kenya National Human Right Commission - Kshs 7 million. However, the budget of judiciary has been reduced slightly by Kshs 86.9 million.
- 23) The significant increase in the budgetary allocation for the Independent Electoral and Boundaries Commission of Kshs 10 billion is largely meant to finance the costs that may arise out of the proposed constitutional amendments

24) Figure 1 shows that the highest budgetary allocations (both current and capital) were made during the 2017/18 financial year as a result of election preparations. The budget reduced in FY 2018/19 and thereafter maintains a steady increase as we approach the 2022 election period. The Judiciary usually takes up the largest portion of the overall budget but as the 2022 election approaches this would be shared out between the Judiciary and IEBC.

Figure 1: Approved Budgetary Allocations FY 2016/17 – 2019/20 and Budget Ceiling 2021/22



25) An analysis of the trends in absorption of the budget allocated for the different agencies shows there has been a gradual increase in the average absorption rate steadily rising from 87.2% in FY 2016/17 to 95.5% in FY 2019/20. In the FY 2019/20, The State Law Office & Dep't of Justice and the office of the Registrar of Political Parties have recorded the lowest and highest absorption rates at 93.8% and 100% respectively.

Table 3: Expenditure Performance FY 2016/17 – 2019/20 – Kshs billions

ANALYSIS OF APPROVED BUDGET VS ACTUAL EXPENDITURE AMOUNT IN KSH MILLION												
Vote & Vote Details	Approved Allocation				Actual Expenditure				Absorption			
	2016/17	2017/18	2018/19	2019/20	2016/17	2017/18	2018/19	2019/20	2016/17	2017/18	2018/19	2019/20
1252 State Law Office & Dep't of Justice	4.9	4.9	4.8	4.8	4.0	3.9	4.3	4.5	81.95%	79.92%	89.5%	93.8%
1261 The Judiciary	17.1	14.3	16.3	17.0	15.3	12.7	15.4	16.2	89.44%	89.1%	94.4%	95.3%

ANALYSIS OF APPROVED BUDGET VS ACTUAL EXPENDITURE AMOUNT IN KSH MILLION												
Vote & Vote Details	Approved Allocation				Actual Expenditure				Absorption			
	2016/17	2017/18	2018/19	2019/20	2016/17	2017/18	2018/19	2019/20	2016/17	2017/18	2018/19	2019/20
1271 Ethics & Anti-Corruption Commission	3.5	4.3	3.2	3.1	3.4	4.3	3.2	3.0	98.55%	99.49%	100%	96.8%
1291 Office of the Director of Public Prosecutions	2.2	2.0	3.0	3.3	1.8	1.9	2.2	3.1	81.74%	95.66%	73%	94%
1311 Office of the Registrar of Political Parties	0.83	0.81	1.1	1.2	0.64	0.75	1.0	1.2	77.24%	93%	90.9%	100%
1321 Witness Protection Agency	0.39	0.44	0.43	0.48	0.36	0.41	0.41	0.47	93.42%	93.18%	95.3%	98%
201 Kenya National Commission on Human Rights	0.42	0.40	0.36	0.39	0.41	0.39	0.35	0.39	98.22%	97.66%	97.2%	100%
203 Independent Electoral & Boundaries Commission	2.4	33.4	4.9	4.8	20.2	28.8	4.6	4.6	85.38%	86.17%	93.8%	96%
205 Judicial Service Commission	0.45	0.28	0.41	0.50	0.43	0.2	0.38	0.48	95.78%	73%	92.6%	96%
2131 Commission on Administrative Justice	0.45	0.41	0.49	0.54	0.42	0.39	0.47	0.52	89.4%	93.96%	95.9%	96.3%
Total	53.8	61.2	35.0	36.1	47.0	53.8	32.3	34.5%	87.2%	87.8%	92.2%	95.5%

Source: 2020 Sector Report

4. Review of Non-financial indicators For Judiciary

I. Ongoing Projects - Constructions and Rehabilitations

26) In reviewing the performance of the non-indicators of the sector, the analysis has focused mainly on the ongoing projects of the Judiciary. Presently, there are seventy six (76) projects that are ongoing out of which twenty six (26) projects are funded under the World Bank loan while the remaining Fifty (50) projects are funded under the exchequer. In the FY 2020/21, the Judiciary has been allocated Kshs 906 million for the JPIP projects and Kshs 1.8 billion for the G.O.K funded projects.

27) The JPIP projects total estimated cost is Kshs 5.9 billion. The actual cumulative expenditure for the projects as at 31st March, 2020 stands at Kshs 2.7 billion bringing the total outstanding project cost to Kshs 3.2 billion as at 31st March, 2020. The projects were allocated additional Kshs 906 million in FY 2020/21 therefore reducing outstanding cost of the project substantially.

Table 4: Judicial Performance Improvements Projects – Kshs millions

Key Projects	Total Cost	Actual Expenditure	Outstanding Balance	Status	Allocation 2020/21
Mombasa Law Courts	445.2	182.6	262.9	55%	42.5
Makueni Law Courts	410.1	119.1	291.0	63%	44.6
Kapenguria Law Courts	400.8	92.0	308.9	56%	40.4
Ol-Kalau Law Courts	399.3	48.4	350.9	30%	124.0
Kajiado Law Courts	398.4	112.1	286.3	70%	25.4
Others	3,875.9	2,177.4	1,698.1	-	629.1
Total	5,929.7	2,731.6	3,198.1	-	906.0

Source: Budget estimates 2020/21, National Treasury

28) The costs of the G.O.K funded projects that are ongoing are estimated to be Kshs 6.6 billion. The actual cumulative expenditure for the projects as at 31st March, 2020 stands at Kshs 1.2 billion bringing the total outstanding project cost to Kshs 8.9 billion as at 31st March, 2020. In FY 2020/21, the projects were allocated Kshs 1.8 billion. The average completion rate for the projects stands at 65%. Once completed, these courts are expected to provide adequate infrastructure that will improve physical access to courts and reduce the distance travelled in search of justice.

Table 5: G.O.K Funded Projects – Kshs millions

Key Projects	Total Cost	Actual Expenditure	Outstanding Balance	Status	Allocation 2020/21
Marsabit Law Courts	370.2	30.1	340.1	22%	85.0
Homabay Law Courts	367.3	26.3	341.0	32%	97.8
Kabarnet Law Courts	366.8	21.2	345.6	15%	52.2
Mbita Law Courts	148.3	45.2	103.1	46%	66.3
Habasweini Law Courts	143.2	10.0	133.2	7%	44.2

Others	5,228.1	1,105.8	1,627.4	-	1,449.5
Total	6,623.9	1,238.6	2,890.4	-	1,795

Source: Budget estimates 2020/21, National Treasury

II. New Projects - Constructions and Refurbishments

29) In the FY 2020/21, the judiciary in its efforts to enhance access to court services is initiating construction of a Court of Appeal complex in Nairobi and three (3) new High Court buildings in Kisii, Eldoret and Meru counties. The estimated cost of the court of appeal complex is Kshs 1.6 billion while the High Court buildings will each cost Kshs 650 million. In the FY 2020/21, the approved budget for the construction of the Court of Appeal Complex is Kshs 100 million while the allocation for the construction of the high court building is Kshs 120 million.

Table 6: New Projects - Constructions – Kshs millions

Key Projects	Total Cost	Actual Expenditure	Outstanding Balance	Allocation 2020/21
Court of Appeal Complex	1,600.0	-	-	100.0
Kisii Law Courts	650.0	-	-	40.0
Eldoret Law Courts	650.0	-	-	40.0
Meru Law Courts	650.0	-	-	40.0
Total	3,650.0	-	-	220.0

Source: Budget Estimates 2020/21, National Treasury

III. ICT Hardware and Infrastructure Development

30) The fourth pillar of the Judiciary Transformation Framework (JTF) (2012-2016) identified ICT as a key result area that would facilitate speedier trials and enhance administrative efficiency.

31) The Judiciary Digital Strategy covers five broad areas. These are Judicial Operations Support Systems, Court Management Systems, Enterprise Resource Planning, Document and Archive Management, and ICT Infrastructure. The programmes aim to automate all functions of the institution by 2021.

32) The total estimated cost of the project is Kshs 2.5 billion. In FY 2019/20, the project was allocated Kshs 400 million and an additional Kshs 460 million was allocated in FY 2020/21. The Judiciary

plans to install 5 High Courts stations with automated e-filing and proceedings system and 30 courts with automated e-filing system.

Observations

5. Policy options

- a) The sector should adopt strategic prioritization to promote allocative efficiency in programs/projects based on affordability, and the expected results. There is also need to have effective linkages between the department's plans and the budget at their disposal so as to not have an unachievable and overly ambitious plan. For instance the judiciary has many ongoing projects yet there are no adequate funds for the completion of those projects. It is therefore imperative that the department prioritizes ongoing projects without introducing new projects.
- b) **Resource Constraint-** In terms of resource allocation, the proposed budget ceiling for the sector for FY 2020/21 is Kshs 46.9 Billion which is less compared to the resource requirement for the sector which stood at Kshs 89.1 Billion. This is a significant resource gap in the sector and it is important for the national treasury additional funding for key agencies such as the Judiciary which has ongoing projects that are yet to be finished.
- c) **Court Building Designs** – The judiciary intends to undertake a number of new projects in FY 2020/21 such as the construction of appeal court complex in Nairobi and High court stations in Eldoret, Meru and Kisii. However, there has been concern about the mismatch between the huge court buildings being built by the judiciary vis a vis the traffic at the court. It seems the building designs are not linked with the traffic at the court and therefore it is important for the judiciary to bear in mind such issues as it undertakes these new projects.
- d) The government has been allocating consistently the Office of the Director of Prosecution Kshs 100 million for refurbishment of County offices in the last two financial years. However the project has not been taking off as planned, therefore it is therefore important for the office to clarify the bottle necks hindering the implementation of the project.
- e) **Pending Suits against the Government:** - There are suits against the government with financial risks to the tune of Kshs 1.2 trillion. In addition, the awards against the government pending payment stand at Kshs 88.1 billion and they are ranging from awards to victims of torture as well as business litigants against the state. It is therefore imperative for the committee to find a lasting solution to this issue with a view to settle the most compelling cases.
- f) **Court Deposits** - By June 30, 2018, the Judiciary held court deposits and other funds held in trust for third parties amounting to KShs. 5,126,896,135. This was an increase from the Kshs 4,367,834,191 that was held at the end of FY 2016/17. The funds are refundable as and when court orders are issued or after six months liability period for retention monies. However, there has been concern about the magnitude of deposit yet it is not generating interest for the parties involved.

8. LABOUR AND SOCIAL WELFAIRE

A. INTRODUCTION

- 1) The BPS 2022 is prepared on the background that the economy will perform well with the expected recovery from the negative impact of Covid-19 pandemic. This is relation to the easing of the containment measures of Covid-19 and the uptake of vaccines contributing the opening of the economy. These measures have enabled the reopening of the sports activities, the hospitality industry and the tourism sectors which were widely affected by the pandemic.
- 2) This is a brief for the Budget Policy Statement (BPS) 2022. It is prepared by the national treasury in line with PFM Act Section 25 and it provides the national and county governments with the broad strategic priorities and policy goals that guide in preparing their budgets for the subsequent financial year and over the medium term.
- 3) The 2022 BPS was tabled on 30th November 2021 with respect to the revised budget calendar to accommodate the August 2022 general elections. The BPS is submitted and processed in accordance with senate standing order 180 and it should contain the following;
 - a. An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
 - b. The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
 - c. The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
 - d. The fiscal responsibility principles and financial objectives over the medium-term including limits on total annual debt.
 - e. Statement of specific fiscal risks
- 4) In accordance with the Second Schedule of the Senate Standing Orders, the Committee is mandated to oversee all matters pertaining to manpower and human resource planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare, national heritage, betting, lotteries, sports, public entertainment, trade union relations, public amenities and recreation. In executing its mandate, the committee oversees the following agencies;
 1. State department for sports development
 2. State department for culture and heritage
 3. State department for labour
 4. State department for social protection, pensions & senior citizens Affairs
 5. State department for Gender

6. State department of public service
7. State department of youth affairs

B. HIGHLIGHTS OF THE 2022 BUDGET POLICY STATEMENT

- 5) The theme of the 2022 BPS is “*Accelerating Economic Recovery for Improved Livelihood.*” The policy measures in the BPS 2022 are aimed at accelerating the pace of the economic growth and sustain the gains made under the Economic Stimulus Programme by implementing the programmes under the MTP III.
- 6) The BPS 2022 and the medium-term projects revenue collection including Appropriation-in-Aid (A.i.A) to increase to Ksh 2,431.3 billion (17.4 percent of GDP) up from the estimated Ksh 2,036.1 billion (16.3 percent of GDP) in the FY 2021/22. The Revenue performance will be supported by the on-going reforms in tax policy and revenue administration.
- 7) While the Government expenditure as a share of GDP for FY 2022/23 is projected to decline to 23.7 percent, the overall nominal expenditure and net lending is projected at Ksh 3,324.4 billion from the estimated Ksh 3,154.3 billion (25.0 percent of GDP) in the FY 2021/22 budget. The expenditures comprise of recurrent of Ksh 2,201.0 billion (15.7percent of GDP) and development of Ksh 711.8 billion (5.1 percent of GDP).
- 8) The fiscal deficit (including grants), is projected at Ksh 846.1 billion equivalent to 6.0 percent of GDP in FY 2022/23 against the estimated overall fiscal balance of Ksh 1,029.3 billion (8.2 percent of GDP) in FY 2021/22. The fiscal deficit will be financed by net external financing of Ksh 275.9 billion (2 percent of GDP), and net domestic borrowing of Ksh 570.2 billion (4 percent of GDP).

Overall Resource Ceilings

- 9) For the fiscal year 2022/2023, the total resource allocation to the various spending National Government agencies and the County Government is estimated to be Kshs. 3,309.14 billion, with Kshs. 2,017.65 billion for the Executive, Kshs. 38.48 billion for Parliament, Kshs 18.88 billion for the Judiciary, and Kshs. 370 billion for County Government.
- 10) According to the BPS 2022, total government allocations will grow marginally in FY 2022/23 to Kshs. 3,309.14 billion, and then climb further in the subsequent years to Kshs. 3,476.16 billion in FY 2023/24 and Kshs. 3,669.19 billion in FY 2024/25.
- 11) The Equitable share to the county governments in FY 2022/23 will not change from the allocation given in FY 2021/22 of Ksh 370.0 billion. In the Medium Term, the allocations will increase slightly to Kshs. 375 billion in FY 2023/24 and Kshs 380.22 billion in FY 2024/25.

Table 1: Budget appropriations and BPS ceilings

S/No.	Details	Financial Years				
		Approved Original Budget	2022/23 BPS Ceilings	Percentage Share	Projections	
		2021/22			2023/24	2024/25
1.	National Government	1,942,008.80	2,075,014.60	62.0	2,192,370.00	2,306,421.90
	Executive	1,886,207.90	2,017,653.30	61	2,132,412.30	2,242,698.80
2.	Parliament	37,882.80	38,476.60	1.2	39,883.90	41,349.40
3.	Judiciary	17,918.20	18,884.70	0.6	20,073.80	22,373.70
4.	CFS	718,316.80	864,125.00	26.1	908,804.00	982,520.00
5.	County Government	370,000.00	370,000.00	11.2	375,000.00	380,220.00
	Total	3,030,325.60	3,309,139.60	100	3,476,174.00	3,669,161.90

Source: National treasury budget books

REVIEW OF RECENT SECTOR POLICY PRIORITIES AND CEILINGS (2018 – 2020)

I. State department for sports development

The table below gives a summary of the key targets and achievements for the FY 2018/19 to 2020/21

Table2: Actual achievement against targets set for FY 2018/19 – 2020/21

Programme	KPI	Planned target			Achieved target		
		2018/19	2019/20	2020/21	2018/19	2019/20	2020/21
Sports Training and competitions	No. of teams presented in regional and international sports competitions	60	70	35	65	34	46

	No. of competitions hosted	10	8	6	5	6	9
	No. of Licenses issued to professional sports bodies	10	10	15	1	5	2
	No. of Sports Elections Observed	15	15	15	3	1	9
	No. of athletes enrolled for training in sports academies	1,800	10,000	2,500	1,850	2,665	1,875
Development and management of sports facilities	Percentage completion of phase 1 of the Kenya Academy of Sports	100	100	100	90	95	100
	No. of regional and county stadia constructed and upgraded to international standards (Chuka, Kipchoge Keino, Kamariny, Marsabit, Wote, Karatu)	7	7	7	-	-	1
	No of programs	0	0	4	0	0	2

	funded to facilitate talent development, training and capacity building for technical personnel						
Administration, Planning and Support Services	Number of policies and bills developed /reviewed	3	2	2	2	0	2

Source: National treasury sector report

- 12) In the FY 2020/21 among the 7 regional stadia under construction the Karubi Stadium in Chuka was completed, however contractual challenges and delays in disbursement of funds affected the completion of other stadia.

II. State department for culture and heritage

- 13) The state department of heritage is mandated to manage the National Heritage Policy, culture policy, language policy, national archives/public records, national museums and monuments, historical sites, heroes and heroine policy, develop the music industry and carry out research and conservation of music.
- 14) It comprises of six departments and three Semi-Autonomous Government Agencies (SAGAs). The departments include: Culture and Arts, Permanent Presidential Commission on Music, Kenya National Archives and Documentation Services, Library Services, Public Records and Information Management and Administration and the SAGAs include National Museums of Kenya, Kenya Cultural Centre and the Kenya National Library Service.

The table below gives a summary of the key achievements for the period specified below.

Table3: Actual achievement against targets set for FY 2018/19 – 2020/21

Programme	KPI	Planned target			Achieved target		
		2018/19	2019/20	2020/21	2018/19	2019/20	2020/21

Conservation of Heritage	No. of Heritage sites and monuments monitored and restored	18	12	12	11	6	5
Public Records and Archives Management	No. of records digitized	1,000,000	200,000	200,000	240,827	2,386	97,183
	No. of networked Public Records and Information Management Units	4	6	-	-	1	-
Development and promotion of Culture	No. of traditional herbal medicine practitioners promoted	-	100	150	-	120	61
	No. of international cultural exchange programs held	36	20	20	23	12	4
Library services	No. of Government libraries networked.	10	5	5	-	1	1

Source: National treasury sector report

- 15) Most of the targets set out under the state department were not achieved mainly because of the budget cuts and the decrease in the AiA because of the outbreak of covid 19 that restricted the movement of people and social distancing.
- 16) The budget allocated to the department during the period under review was Kshs. 4,360.38 million in FY 2018/19, Kshs 3,908.67 million in FY 2019/20 and Kshs 2,489.69 million in FY 2020/21. Thus cumulatively, the budget approved for the three year period was Kshs 10,758.74 million while total expenditure for period was Kshs 10,278.75 million which represents an absorption rate of 95.54%. In addition, sector had an actual expenditure of Kshs. 4145.52 million in FY 2018/19, Kshs 3,732.72 million in FY 2019/20 and Kshs 2,400.51 million in FY 2020/21 representing an absorption rate of 95.07%, 95.5% and 96.42% respectively.

III. State department for labour

The state department implemented the following programmes with the following objectives;

1. Promotion of the Best Labour Practice with the objective of promoting harmonious industrial relations, and a safety and health culture at work
2. Manpower Development, Employment and Productivity Management and the objective is to enhance competitiveness of the country's workforce
3. General Administration Planning and Support Services with the objective of improving service delivery and coordination of State Department's functions, programmes and activities

The table below gives the summary of the key targets and achievements for the FY 2018/19 to 2020/21

Table4: Actual achievement against targets set for FY 2018/19 – 2020/21

Programme	KPI	Planned target			Achieved target		
		2018/19	2019/20	2020/21	2018/19	2019/20	2020/21
Promotion of harmonious industrial relations	Percentage (%) resolution of disputes between Kenya Migrant Workers and Employers	80	80	90	97.9	99.6	70
Manpower development, employment	No. of trainees placed on	21,950	30,000	30,000	26,429	25,421	17,109

Industrial Productivity Management	Industrial attachment						
	No. persons trained in relevant industrial skills	38,000	45,000	40,000	42,742	38,384	55,600
	Number of private employment agencies vetted and registered	150	240	24	154	320	415
	Number of Bilateral Labour Agreements negotiated and signed	2	4	0	-	-	-

Source: National treasury sector report

- 17) In the achievements of the state department include training of 55,600 persons for various industrial skills against the target of 40,000 persons. This is due to availability of more resources but the target set for the FY 2019/20 was not met due to closure of institutions because of covid-19 pandemic. The department also vetted and registered 415 private employment agencies from the target of 24 due to the high demand on the low skilled labour in the Middle East.

IV. State department for social protection, pensions & senior citizens Affairs

This state department undertakes three programmes with specific objectives as highlighted below;

- a) Social Development and Children Services - To empower communities for effective participation in socioeconomic activities as well as to provide protection and care to children and victims of human trafficking
- b) National Social Safety Net - To promote coordination of social protection and cushion vulnerable groups including children, persons with disabilities, older persons and street families to meet basic human needs and live a dignified life

- c) General Administration, Planning and Support Services - To improve service delivery and coordinate functions, programmes and activities for the State Department

Key achievements for this state department are summarized by the table below.

Table5: Actual achievement against targets set for FY 2018/19 – 2020/21

Programme	KPI	Planned target			Achieved target			deviation
		2018/19	2019/20	2020/21	2018/19	2019/20	2020/21	
Social Welfare and Vocational Rehabilitation	No. of skilled PWDs provided with tools of trade	250	250	22	252	276	33	
	No. of schools targeted for “supplemental school lunch programme”	-	-	4	-	-	3	
	No. of farmer groups trained on livelihood diversification	-	-	4	-	-	3	
	No. of boreholes solarized and water pan rehabilitated	-	3	2	-	2	1	
Food Security Management	No. of beneficiary households under regular hunger safety net programme	100,000	101,800	100,850	98,039	100,538	100,363	

	No. of people supported through cash/food for assets	-	100,000	30,000	-	-	30,000	
Peace building and conflict management	No. of health facilities developed	-	-	133	-	-	53	
	Kilometres of roads rehabilitated	-	-	38	-	-	15	
	Hectares of land rehabilitated	-	-	318	-	-	35	
	No. of community groups trained and funded to undertake livelihood activities	-	-	1,816	-	-	1,816	

Source: National treasury sector report

V. State department for Gender

The state department for gender undertakes the following programmes with specific objectives as given below.

Community Development - To promote socio-economic empowerment to vulnerable groups including youth, women and persons with disabilities.

Gender Empowerment -To mainstream gender in government and private sector and promote equitable socio-economic development between men, women, boys and girls.

General Administration, Planning and Support Services -To coordinate and provide efficient and effective administrative, financial and planning support services.

The table below gives the summary of the key targets and achievements met for the FY 2018/19 – 2020/21

Table6: Actual achievement against targets set for FY 2018/19 – 2020/21

Programme	KPI	Planned target			Achieved target		
		2018/19	2019/20	2020/21	2018/19	2019/20	2020/21
Community development	No. of vulnerable students benefiting from Bursary and Scholarships	16,200	27,000	35,037	26,781	24,897	40,371
Gender mainstreaming	No. of people reached in creating awareness on Gender issues during commemoration of International days on gender	3,000	15,000	500	34,000	1,800	560

Source: National treasury sector report

VI. State department of public service

The state department for public service undertakes the following programmes with their objectives;

- a. General Administration Planning and Support Services -To transform the quality and enhance Public Service Delivery.
- b. Public Service Transformation -To provide leadership and policy direction for effective service delivery.
- c. National Youth Service -To develop discipline and empowered youth for effective participation in national development

Table7: Actual achievement against targets set for FY 2018/19 – 2020/21

Programme	KPI	Planned target			Achieved target		
		2018/19	2019/20	2020/21	2018/19	2019/20	2020/21
Public Service Transformation	No. of customers (million) served in Huduma centres and Huduma Mashinani	8.5	9	9.5	8.1	9.3	9.5
	No. of New Services Introduced to Huduma Channels	8	10	10	26	9	10
National Youth Service	No. of youth recruited and trained in paramilitary skills	-	-	10,000	-	-	15,546
	No. of youths imparted with vocational and technical skills	-	-	50,920	-	-	39,524

Source: National treasury sector report

VII. STATE DEPARTMENT OF YOUTH AFFAIRS

In the state department for youth affairs, they undertake one programme that is the Youth Empowerment with the objective of enhancing empowerment and participation of youth in all aspects of national development.

Table 8 gives a summary of key targets and achievements set out by the state department.

Table8: Actual achievement against targets set for FY 2018/19 – 2020/21

Programme	KPI	Planned target			Achieved target		
		2018/19	2019/20	2020/21	2018/19	2019/20	2020/21
Youth Empowerment	No. of youth recruits regimented and trained	30,000	10,000	-	12,194	12,194	-
	No. of youth employed in the Textile and Garment Technology Institute	418	250	-	250	250	-
	No. of youth enrolled in Technical & Vocational skills	31,304	39,524	-	31,500	39,524	-
	No. of Youth engaged in internships and Apprenticeship	8,000	8,500	12,000	8,500	10,500	9,200
	Youth Empowerment Centers (YEC) operationalize	10	84	40	21	70	18

Source: National treasury sector report

C. REVIEW OF THE STATE DEPARTMENTS POLICIES AND THE POLICY PRIORITIES UNDERPINNED IN THE 2022 BPS

I. State department for sports development

- 18) In the BPS 2022, the government's goal for tourism recovery, sports, culture, and the arts is to embrace sports tourism as a way of marketing Kenya as a preferred tourist destination. The government hosted international sporting events such as the World Under-20 IAAF and the return of the *fédération internationale de l'automobile* (FIA) World Safari Rally Championship to assist sports development, boost tourism, and also unlock economic opportunities.
- 19) The government will spend in improving various sport venues for events and competitions in order to boost Kenya's worldwide status, with the long-term goal of promoting Kenya as a sporting destination in Africa as well as a tourism powerhouse.

Key priorities heightened in the 2022 BPS include;

1. Talent development in areas of sports, music and arts
2. Development of sports infrastructure into international standards
3. Sports arts and social development fund

Table9: Resource requirement verses resource allocation (Ksh. millions)

State department on sports	Resource Requirement			Resource Allocation BPS Ceiling		Deviation
	2021/22 Baseline	2022/23	2023/24	2022/23	2023/24	
Recurrent	1,338.85	7,522.26	9,167.31	1,075.70	1,407.32	-6,446.56
Development	15,147.79	19,917.30	19,258.10	16,008.00	16,269	-3,909.30
Total	16,486.64	27,439.56	28,425.41	17,083.70	17,676.32	-10,355.86

Source: National treasury sector reports

II. State department for culture and heritage

The BPS 2022 policy proposals set out for this state department is mainly conservation of heritage and facilities.

The table below gives a summary of the resources required by this state department and also the ceilings set out for each financial year;

Table10: Resource requirement verses resource allocation (Ksh. millions)

State department on culture and heritage	Resource Requirement			Resource Allocation BPS Ceiling		Deviation
	2021/22 Baseline	2022/23	2023/24	2022/23	2023/24	
Recurrent	2,931.10	4,420.30	4,442.67	2,950.23	2,995.78	-1,470.07
Development	55.9	1741.2	2,049.90	77.5	171	-1,663.70
Total	2,987.00	6,161.50	6,492.57	3,027.73	3,166.78	-3,133.77

Source: National treasury sector reports

- 20) The deficit of Ksh,3,133.77 is seen under the state department of culture and heritage which is a significant figure. The amount can result in the state department not undertaking crucial development that is planned for the next three financial years.

III. State department for labour

The BPS 2022 has highlighted the following key policy proposals which include;

- a) Harmonious industrial relations
- b) Promotion of the skilled manpower for the industry
- c) Improvement of youth employability
- d) Kazi mtaani programme to be allocated 10 billion to benefit 200,000 more youths

The table below gives a summary of the resources required by the state department to be able to undertake all its programmes as well as the ceilings set out in the BPS.

Table 11: Resource requirement verses resource allocation (Ksh. millions)

State department on labour	Resource Requirement			Resource Allocation BPS ceiling		Deviation
	2021/22 Baseline	2022/23	2023/24	2022/23	2023/24	
Recurrent	2,782.70	4,509.70	5,044.40	2,800.70	2,852.90	-1,709.00
Development	2,560.70	8,049.00	467.5	572.5	308.9	-7,476.50
Total	5,343.40	12,558.70	5,511.80	3,373.20	3,261.80	-9,185.50

Source: National treasury sector reports

- 21) The deficit of Ksh,9,185.5 million is seen under the state department of labour which is a significant figure. The amount can result in the state department not undertaking crucial development that is planned for the next three financial years since the development deficit has the lion share of Ksh. 7,476.5 million.

IV. State department for social protection, pensions & senior citizens Affairs

The 2022 BPS has the following key interventions for the FY 2022/23

- a) Support to vulnerable members of the society through the social safety nets programme known as Inua Jamii
- b) Skin care for persons with albinism
- c) National council for persons living with disabilities fund
- d) Fight eradication against FGM and GBV
- e) Establishment and operationalize of government run shelter for victims of human trafficking

Table12: Resource requirement verses resource allocation (Ksh. millions)

State department for social protection, pensions and senior citizens	Resource Requirement			Resource Allocation		Deviation
	2021/22 Baseline	2022/23	2023/24	2022/23	2023/24	
Recurrent	30,485.40	44,613.80	54,222.80	31,421.60	36,084.50	-13,192.20
Development	3,082.60	8,060.40	4,474.10	2,850.30	2921	-5,210.10
Total	33,568.10	52,674.10	58,696.89	34,271.90	39,005.50	-18,402.20

Source: National treasury sector reports

- 22) The state department has a deficit of Ksh.18,402.2 million with the recurrent expenditure having a deficit of Ksh.13,192.2 which is a significant figure. The amount can result in the state department not undertaking even the general administration mandate. The amount should be reconsidered otherwise money allocated for development could be used under the recurrent expenditure.

V. State department for Gender

The BPS 2022 has the following key strategic policies to implement;

1. Empowerment of youths, women and vulnerable groups through:
 - a) Kenya youths and empowerment project
 - b) National youth service
 - c) Youth enterprise development fund
 - d) Women enterprise fund
 - e) Uwezo fund
 - f) Established youth empowerment centres

Table13: Resource requirement verses resource allocation (Ksh. million)

State department for gender	Resource Requirement			Resource Allocation BPS ceiling		Deviation
	2021/22 Baseline	2022/23	2023/24	2022/23	2023/24	
Recurrent	1,035.80	2,851.30	3,189.90	1200.4	1,570.90	-1,650.90
Development	2,032.00	3,565.50	3725	2,776	2580	-789.50
Total	3,067.80	6,416.80	6,914.90	3976.4	4,150.90	-2,440.40

Source: National treasury sector reports

- 23) The allocations to the state department of gender has a deficit of Ksh.2,440.4 million in for both recurrent and development. The total 2022/23 budgetary deviation amount which is significant may affect the implementation of the planned activities which may include those in the recurrent expenditure. Further, the deviation could also lead to allocation of resources to other areas of urgency and not areas allocated for by the government.

VI. State department for public service

The BPS 2022 policy proposals set out for this state department is the implementation of various policy, legal and institutional reforms to enhance efficiency of public service delivery

The table below gives a summary of the resources required by this state department and also the ceilings set out for each financial year;

Table10: Resource requirement verses resource allocation (Ksh. millions)

State department on public service	Resource Requirement			Resource Allocation BPS Ceiling		Deviation
	2021/22 Baseline	2022/23	2023/24	2022/23	2023/24	

Recurrent	18,325.07	45,615	47,500	20,079.9	21,383.2	- 25,535.10
Development	568	2,797.0	1,633	602.94	724.81	-2,194.06
Total	18,893.07	48,412	49,133	20,682.87	22,108	- 27,729.16

Source: National treasury sector reports

VII. State department for youth affairs

The BPS 2022 policy proposals set out for this state department are;

- a) internships, mentorship and apprenticeship programmes
- b) Kenya Youth Empowerment and Opportunities Project,
- c) National Youth Service,
- d) rAjira Digital Programme
- e) Youth Enterprise Development Fund (YEDF),
- f) establishment of Youth Empowerment Centers (YECs) across the country.

The table below gives a summary of the resources required by this state department and also the ceilings set out for each financial year;

Table10: Resource requirement verses resource allocation (Ksh. millions)

State department on public service	Resource Requirement			Resource Allocation BPS Ceiling		Deviation
	2021/22 Baseline	2022/23	2023/24	2022/23	2023/24	
Recurrent	1,439.93	2,986.4	2,706.59	1,454.3	1,496.85	-1,532.10
Development	3,210.49	3,264.79	2,561.64	1,937.79	1,387.54	-1,327.00
Total	4,650.42	6,251.19	5,268.23	3,392.12	2,884.39	-2,859.10

Source: National treasury sector reports

KEY SALIENT ISSUES

1. The transfer of library functions to county governments under the legal notice No. 142 of 2019 has not materialized. This was to be implemented by 1st of July 2020 until now since attendant resources for the same was not allocated. This could be done by transferring resources to respective counties in form of grants to ensure this function takes off.
2. Most of the state departments considered by the labour committee have significant deficit between the resources required verses resources allocated. The deviation could make the departments not be able to properly execute its mandate and also the development projects.
3. The crisis and issues surrounding the Football of Kenya Federation are likely to compromise the football industry in the country. Some of the issues arising include misappropriation of funds which need to be addressed with urgency. Further, the federation need a stable management that should be independent to enhance and promote the football in the country as well as adhere to the international standards of FIFA.
4. The “kazi mtaani” initiative is being undertaken under the state department of housing and it is a labour issue. The resources for this programme should be channeled through the state department of labour. In cases of labour disputes that could arise from this initiative can only be addressed by the labour department and it can be well managed if the programme is being undertaken by the state department of labour.
5. The Inua Jamii programme that supports the elderly people in the society has had issues on the criteria used for registration of the elderly since there are eligible people who are supposed to benefit but they are not. Further, the distribution of the people benefitting is not even across the country.
6. The labour migration to the middle East has had challenges since the number of workers in this region who have had distress and required assistance and evacuation are alarming. The manner in which they are being recruited and transported there, the government should have clear record on the same. Further, with regard to the recruiting agencies of the labour migrants, the government should have a clear record on the same and their physical addresses.

D. COUNTY ALLOCATIONS FOR FY 2022/23

1. The Division of Revenue Bill 2022 proposes allocating Kshs. 370 billion to county governments as their equitable revenue share and Kshs. 7.1 billion to the Equalization Fund. The retention of the equitable share allocation at Kshs. 370 billion is informed by:
 - a. The impact of COVID-19 on revenue mobilization has created uncertainty in revenue projections and thus it would be imprudent to raise county sharable.
 - b. The government is adopting a fiscal consolidation strategy which is expected to be split between the two levels of government.

c. The Consolidated Fund Services (CFS) budget for FY 2022/23 which has been revised upwards by Ksh 46.9 billion. Thus, in order to retain the deficit at the BPS 2021 level, the National Government ceilings have already been revised downwards by Ksh 15.0 billion while maintaining the county equitable share at the same level.

2. In addition to their proposed equitable share of revenue, County Governments will continue to receive the following additional allocations as per the Table 13 below.

Table 13: County Governments allocations FY 2018/19 – 2022/23 (Kshs. Million)

Type/ Level of Allocation	2018/19	2019/20	2020/21	2021/22	2022/23
County equitable share	314,000	316,500	316,500	370,000	370,000
Additional conditional allocations, of which:					
Leasing of Medical Equipment	9,400	6,205	6,205	7,205	5,200
Supplement for construction of County Headquarters	605	300	300	332	454
Allocations from loans and grants	33,242	39,090	30,204	32,334	31,382
Total County Allocations	372,741.9	378,305	369,868	409,871	407,036

Source: National Treasury, 2021

3. Horizontal allocation of revenue among the County Governments shall be based on the third basis formula, which was considered and approved by Parliament in September, 2020. The third formula takes into account the following parameters; (i) Population (18%); (ii) Health Index (17%); (iii) Agriculture Index (10%); (iii) Urban Index (5%); (iv) Poverty Index (14%); (v) Land Area Index (8%); (vi) Roads Index (8%), and; (vii) Basic Share index (20%). Application of the Third Basis is on condition that the formula's implementation would be preceded by a Ksh 53.5 billion increase in the Counties' equitable revenue share, which has now been achieved. Accordingly, in FY 2022/23, the Counties will share an estimated Ksh 370 billion as equitable share.

9. LAND, ENVIROMENT AND NATURAL RESOURCES

A. INTRODUCTION

1. The second schedule of the Standing Orders for the Senate mandates the Committee on Lands, Environment and Natural resources to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resources management and development.
2. This Brief guide the Committee as it accomplishes the important role of scrutinizing and reviewing the policies, programmes, and expenditure ceilings proposed in the Budget Policy Statement for the Lands, Environment and Natural Resources sectors. The Lands sector as a critical enabler for the Big Four Agenda and the Vision 2030. For example, construction of the social housing program under the affordable housing program is heavily dependent on the availability of affordable land, while the attainment of food and nutrition security is also dependent on reforms around land issues and supportive ecosystem services.

B. THE LEGAL BASIS FOR PROCESSING OF THE BPS

3. The Budget Policy Statement (BPS) is one of the pre-budget documents that allows consultation to take place in particular between the legislative and the executive arms of government. It sets out the Government's priority programs to be implemented in the Medium-Term Expenditure Framework (MTEF) under a devolved system of Government. The BPS seeks to address the challenges that continue to hold the economy back from achieving its full potential by setting out priority programs to accelerate and sustain a broad-based economic growth.
4. The Budget Policy statement is published in accordance with Section 25 (2) of the PFM) Act 2012. The law requires that the National Treasury to submit the BPS to Parliament by the 15th February each year and Section 232 (1) of Standing Orders which requires that each year not later than the 15th February the Cabinet Secretary responsible for finance submits to the Assembly a BPS.
5. Section 25 of the PFM Act requires the National Treasury to prepare and submit to Cabinet the BPS for approval. The National Treasury is then required to submit the approved BPS to Parliament, by the 15th February in each year. The BPS 2022 was submitted on 30th November, 2021 due to the General Elections in August 2022.
6. Further, Parliament has fourteen (14) days after its submission to scrutinize and review the BPS. The Standing Orders give all the Departmental Committees 7 days to prepare a report and submit to the Budget and Appropriations Committee after which Parliament shall adopt the report with or without amendments.
7. The BPS contains the following:

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

C. HIGHLIGHTS OF THE BUDGET POLICY STATEMENT 2022

8. The theme for the BPS 2022 and the medium term is “*accelerating economic recovery for improved livelihood*” The submission of the BPS is against a backdrop of an economy ravaged by the COVID-19 pandemic. The policies in the BPS are anchored on the Medium-Term Plan III of the Vision 2030 as prioritized in the “Big Four” Agenda. The focus of the policies is to continue providing an enabling environment for economic recovery to safeguard livelihoods, jobs, businesses and industrial recovery.
9. In this respect, the Government will strengthen implementation of programmes and measures that ensure a more inclusive growth, foster macroeconomic stability, and avail liquidity to the private sector including initiating innovative products to boost credit to Micro, Small and Medium Enterprises (MSMEs).

(a) Overall Fiscal Framework

10. Revenue collection to October 2021 grew by 29.3 percent compared to a contraction of 9.6 percent in October 2020. This growth is attributed to the improved business environment following the reopening of the economy and ease on measures put in place to contain the spread of the COVID-19 pandemic. As at end October 2021, the cumulative total revenue inclusive of Ministerial Appropriation in Aid (AiA) was Kshs. 653.6 billion against a target of Kshs. 635 billion. This performance was Kshs. 18.6billion above the set target.
11. Total expenditure and net lending for the period ending October 2021 was Kshs. 854.2 billion which was below the projected amount of Kshs. 904.2 billion. Recurrent spending amounted to

Kshs. 612.8 billion while development expenditures amounted to Kshs.148.9 billion. Transfer to County Governments amounted to Kshs. 92.5 billion.

Table 1: Summary of Proposed MTEF allocations (Kshs. Millions)

Details	2022/23 BPS Ceiling	% Share in the Total Allocation	BPS Projections	
			2023/24	2024/25
National Government	2,075.01	62.7	2,192.37	2,306.42
Executive	2,017.65	61.0	2,132.41	2,242.70
Parliament	38.48	1.2	39.88	41.35
Judiciary	18.88	0.6	20.077	22.37
CFS	864.13	26.1	908.80	982.52
County Government	370.00	11.2	375.00	380.22
Total	3,309.14	100	3,476.17	3,669.16

Source: The National Treasury and Planning

12. The following table shows the allocation to the County Governments from 2019/20 to 2022/23 with the highest allocation being Kshs. 370billion in the financial years 2021/22 and 2022/23.

Table 2: Division of revenue raised Nationally for FYs 2019/20-2022/23(Kshs. Million)

Type/ Level of Allocation	2019/20	2020/21	2021/22	2022/23
National Government	1,554,916	1,533,700	1,398,799	1,764,516
Of Which				
Leasing of Medical Equipment	6,205	6,205	7,205	5,200
Supplement for construction of County Headquarters	300	300	332	454
Equalization Fund	5,760	6,500	6,825	7,068

County Equitable share	316,500	316,500	370,000	370,000
Total Shareable revenue	1,887,176	1,856,700	1,775,587	2,141,585

Source: The National Treasury.

13. The following table shows the disaggregation of the proposed transfers to counties from the financial year 2018/19 to 2022/23 with the Financial Year 2022/23 having the highest share at Kshs.407billion.

Type/Level of allocation	2018/19	2019/20	2020/21	2021/22	2022/23
County Equitable share	314,000	316,500	316,500	370,000	370,000
Additional allocations of which					
Leasing of medical equipment	9,400	6,205	6,205	7,205	5,200
Supplement for construction of county headquarters	605	300	300	332	454
Allocations from loans and grants	33,242	39,090	30,204	32,334	31,382
Total County Allocations	372,741	378,305	369,868	409,871	407,036

Source: The National Treasury.

REVIEW OF PAST POLICY PRIORITIES AND PERFORMANCE

a) Lands

14. Between the MTEF periods 2017/18-2020/21 the Ministry of Lands and Physical had a target of registration and issuance of 1,350,000 title deeds countrywide. 1,282,757 title deeds were processed from land adjudication sections, settlement schemes, informal settlements, public institutions, market/urban centers, company & cooperative farms, group ranches, colonial villages and subdivisions.
15. During the same period, some of the set targets were missed; out of 12 land offices set for digitization only one was achieved. NLIMS was developed and fully digitized for Nairobi registry in 2020/2021 as a pilot. This is where individuals would be able to conduct all land related processes online including transfer of ownership, registration of charges, discharges, cautions and withdrawals, payment of land rent, stamp duty and capital gains tax.

16. Another missed target is the Land survey where only 50,269 land parcels were Geo-referenced from a target of 60,000. This was due to inadequate survey equipment and software.

b) Environment and Forestry

17. Under the Environment and Forestry sub-sector, some targets of projects under certain programmes were not achieved. These include the Imarisha Naivasha Programme, Establishment of forest plantations whose targets were not achieved due to no budgetary provisions since 2019; Green Zones Development Support Project Phase II whose targets were not achieved due to late start of activities occasioned by late disbursement of funds from the development partner among others.

c) Water, Sanitation and Irrigation

18. Under the Water, Sanitation and Irrigation sub-sector, some targets of projects under certain programmes were not achieved. These include: the Itare Dam water Project whose implementation stopped and remains at 27% since September 2018 due to contractual issues; Rwabura Irrigation Development Project whose current progress is 12% due to delays occasioned by tax exemptions and Covid-19 travel restrictions for the Spanish contractors among others.

d) Wildlife

19. Under the wildlife sub-sector, some targets of projects under certain programmes were not achieved. These include: The Modernization of Anti-poaching technology whose targets were not achieved due to budget cuts among others.

20. A review of the Sector performance and achievements for the period 2018/19 to 2020/21 shows major achievements. Under the programme: Environment Management and Protection during the financial year 2019/20, most of the planned targets were achieved or even exceeded. For instance, in 2019/20, the Green Innovation Award Project exceeded the targets by the number of green innovations incubated and upscaled/commercialized.

D. REVIEW OF SECTORAL POLICY PRIORITIES FOR FY 2022/23 AND THE MEDIUM-TERM

a) Land Sector

21. BPS 2022 builds on the tremendous progress realized in the land sector and highlights the following as the key priorities and policies:

- a) Implementation of key reforms in the lands sector to ensure that all land transactions across the country are digitized
- b) Fast-tracking the processing and registration of title deeds
- c) Strengthening implementation of National Spatial Plan (NSP) and National Land Use Policy (NLUP), construct and renovate more land offices
- d) Enhancing land survey by developing topographical and thematic maps
- e) Geo-referencing land parcels,
- f) Developing a policy framework for public land management strategy,
- g) Fast tracking implementation of the Public Land Information Management System (PLIM).

a) Environment and Natural Resources Sector

22. The overall goal of the Sector is to ensure sustainable development in a clean and secure environment. The specific objectives are to:

- a) Protect and manage the environment for sustainable development and posterity;
- b) Increase forest and tree cover to enhance socioeconomic benefits of the Kenyan people and healthy environment;
- c) Promote sustainability of water resources for enhanced development in water and sanitation infrastructure
- d) Improving utilization of land through irrigation and land reclamation
- e) Enhance wildlife conservation and management of biodiversity resources for sustainable development;
- f) Promote equitable and sustainable use of wildlife resources
- g) Provide policy, legal and integrated planning framework for sustainable management of environment and natural resources for socio-economic development.

E. REVIEW OF FY 2022/23 SECTOR RESOURCE REQUIREMENT AGAINST PROPOSED BPS CEILINGS.

a) Lands Sector.

23. During the period under review, the sector's projected total resource requirements amount to Kshs.16.4billion, Kshs.15.2 billion and Kshs.13.7 billion for the Financial Years 2022/23, 2023/24 and 2024/25 respectively.
24. The resource ceiling for the Ministry of lands and Physical Planning in 2022/23 of Kshs 5.8 billion is against a resource requirement of Kshs 10.9 billion implying a resource shortfall of Kshs. 5.1 billion. The National Land Commission also has a resource ceiling of Kshs 1.4 billion against a resource requirement of Kshs 5.4 billion leaving them with a resource shortfall of Kshs. 4 billion. Table 4 below shows the difference between the ceilings and what the MDA had requested in the sector reports.

Table 4: Proposed Resource Requirements Vs Resource Allocations FY 2022/23 - 2024/25 in Kshs in Millions								
	Description	Approved Estimates 2021/22	2022/23 Ceilings		2023/24 Ceilings		2024/25 Ceilings	
			Resource Required	Resource Allocation	Resource Required	Resource Allocation	Resource Required	Resource Allocation
National Land Commission	Rec.	1,437	4,943	1,469	5,796	1,531	4,712	1,587
	Dev.	0	525	90	425	105	425	171
	Sum. Total	1,437	5,468	1,559	6,221	1,636	5,137	1,758
Ministry of Lands and Physical Planning	Rec.	3,044	3,509	3,160	3,705	3,312	4,010	3464
	Dev.	2,432	7,479	2,731	5,208	3,908	4,573	4718
	Sum. Total	5,478	10988	5,892	8,985	7,221	8,583	8,182
Summary of the Sector	Grand Total	6,915	16,456	7,451	15,206	8,857	13,720	9,920

Source: The National Treasury (Sector Working Group report October 2021)

25. Importantly, the National Lands Commission has been given Kshs 90 billion for development budget against a requirement of Kshs 523. billion. This resource gap means that the Commission will not be able to perform most of the roles for which it was established.

b) Environment and Natural Resources Sector

26. During the period under review, sector's projected total resource requirements amount to Kshs.182.01billion, Kshs.181.31billion and Kshs.200.18 billion for the Financial Years 2022/23, 2023/24 and 2024/25 respectively. Out of the total resource requirements, Kshs.41.121 billion, Kshs.41.41 billion and Kshs.43.81 billion represent Current expenditure requirements whereas Kshs.140.89 billion, Kshs.139.90 billion and Kshs.156.37 billion represent capital expenditure requirements for the same period. This is as shown in the table 3

Table 5: Proposed Resource Requirements Vs Resource Allocations FY 2022/23 - 2024/25 in Kshs in Millions

Vote	Description	Budget 2021/22	2022/23 Ceilings		2023/24 Ceilings		2024/25 Ceilings	
			Resource Required	Resource Allocation	Resource Required	Resource Allocation	Resource Required	Resource Allocation
	Gross Current	24,489	41,121	24,500	41,411	29,395	43,807	31,523
	Gross Capital	76,097	140,886	86,228	139,899	97,289	156,370	118,691
	Grand Total	100,586	182,007	110,728	181,310	126,684	200,177	150,214
Vote 1108- Enviroment and Forestry	Rec.	10,482	17,810	10,636	17,317	12,675	18,078	13,646
	Dev.	4,245	16,205	4,290	15,481	5,130	14,810	7,658
	Sum. Total	14,727	34,015	14,926	32,798	17,805	32,888	21,304
Vote 1109- Water, sanitation	Rec.	6,396	9,755	6,456	10,854	7,530	11,741	8,106
	Dev.	71,219	120,430	80,515	120,476	91,090	137,964	109,406

and irrigation	Sum. Total	77,615	130,185	86,971	131,330	98,620	149,705	117,512
Vote 1203- Wildlife	Rec.	7,612	13,557	7,164	13,240	9,190	13,988	9,771
	Dev.	633	4,251	923	3,942	1,069	3,596	1,627
	Sum. Total	8,245	17,808	8,087	17,182	10,259	17,584	11,398

Source: The National Treasury (*Sector Working Group report October 2021*)

27. In the MTEF period 2022/2023 - 2024/25, the sector has prioritized programs and sub programs intended to promote sustainable utilization and management of natural resources for socioeconomic development. In order to enhance its contribution to the national economy in the medium-term period, the sector programmes and sub programmes requires Kshs. 182.01 billion, Kshs. 181.31 billion, and Kshs. 200.18 billion in FY 2022/23, FY 2023/24 and FY 2024/25 respectively. The sector allocation for the same period is Kshs. 110.73 billion, Kshs. 126.68 billion and Kshs 150.21 billion translating to an allocation of 60%, 70% and 75% in the respective financial year. The budgetary allocation is key in the implementation the prioritized programmes and sub programmes but is far below the financial resource requirements.

28. The following Tables (6&7) shows the Approved budget and the Actual expenditures for both recurrent and development expenditure of the five votes under the Lands, Environment and Natural resources sector for the last three financial years and the absorption rates.

Vote	Approved Budget VS Actual Expenditure 2018/19-2020/21			
	Description	2018/19	2019/20	2020/21
Ministry of Lands	Approved Budget	2,710	2,681	2,829
	Actual Expenditure	2,411	2,266	2,783
	Absorption Rate	89%	85%	98%
National Lands Commission	Approved Budget	1,239	1,664	1,138
	Actual Expenditure	1,165	1,619	1,109
	Absorption Rate	94%	97%	97%

Environment and Forestry sub sector	Approved Budget	10,199	10,358	10,221
	Actual Expenditure	9,785	9,809	9,912
	Absorption Rate	96%	95%	97%
Water, Sanitation and irrigation	Approved Budget	6,971	6,487	6,077
	Actual Expenditure	6,811	6,406	6,064
	Absorption Rate	98%	99%	99%
Wildlife Sector	Approved Budget	6,340	8,088	9,105
	Actual Expenditure	6,301	7,708	9,056
	Absorption Rate	99%	95%	99%

Table 7. Analysis of the Development Expenditure

Vote	Approved Budget VS Actual Expenditure 2018/19-2020/21			
	Description	2018/19	2019/20	2020/21
Ministry of Lands	Approved Budget	2,836	4,515	3,299
	Actual Expenditure	2,193	4,016	3,243
	Absorption Rate	77%	89%	99%
National Lands Commission	Approved Budget	0	0	0
	Actual Expenditure	0	0	0
	Absorption Rate	-	-	-
Environment and Forestry sub sector	Approved Budget	4,370	3,656	3,753
	Actual Expenditure	3,269	2,374	2,829
	Absorption Rate	75%	65%	75%
Water, Sanitation and irrigation	Approved Budget	42,641	63,937	75,724
	Actual Expenditure	35,501	51,523	71,523
	Absorption Rate	83%	81%	94%

Wildlife Sector	Approved Budget	1,053	1,539	650
	Actual Expenditure	1,066	516	609
	<i>Absorption Rate</i>	<i>100%</i>	<i>34%</i>	<i>94%</i>

SUMMARY OF KEY ISSUES AND RECOMMENDATIONS.

29. **Enhance the pace of digitalization of Land Registries** – This is a flagship project for the government with a target of digitalizing all land records countrywide by 2024. However, the goal is unlikely to be met due to the slow pace of project implementation. Slow implementation is both technical and financial
30. **Funding of Final Survey and Vesting** – This is the final step when government acquires land from private and communities for construction of critical infrastructure. However, no funding has been provided over the years making acquired public lands unprotected from illegal occupation and repossession after compensation.
31. **Funding for Human Wildlife Conflict Claims** – With the reduction in budget for State Department for Wildlife, it is unlikely that there is adequate funding for HWC claims. Current approved claims are in excess of KShs. 10 billion and exponentially increasing yet less than Kshs. 1 billion has been allocated annually to settle claims.
32. **Funding for KWS** – with the reduction in the budget for State Department for Wildlife and the COVID-19 Pandemic, the KWS may not collect enough resources from the gate collections.
33. **Funding for the 10% forest cover project** – The ceiling for the Ministry of Environment and Forestry is not able to accommodate the resource requirement to implement it. The forest and water towers programme had a resource requirement of Kshs. 9 billion but the BPS has only allocated KShs. 2.5 billion

10. NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

A. Introduction

4. The 2021 Budget Policy Statement (BPS) is prepared at a time when the country is grappling to contain the COVID 19 pandemic as well as putting in place measures to address the adverse effects of the pandemic in the economy. The COVID 19 pandemic has ravaged the economy resulting into loss of livelihood with the government struggling to ensure key macro-economic variables remain stable. The National Treasury is optimistic that the economy will turn around over the medium term with a projected growth of 6.4% in 2021.

B. The Basis For Processing Of The 2021 Budget Policy Statement

2. The Budget Policy Statement is one of the key budget policy documents prepared by the National Treasury and published in accordance with Section 25 of the Public Finance Management Act, 2012 and set the stage for budget engagement between the Parliament and the National Treasury.
3. In preparing the BPS, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets for the next MTEF period.
4. The National Treasury is required to include the following in the Budget Policy Statement:-
 - i) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
 - j) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
 - k) The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
 - l) The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

C. Highlights of the BPS 2021 and the Medium Term

5. The BPS 2021 whose theme is '*Building back better: Strategy for resilient and sustainable economic recovery*' outlines the broad strategic policy goals of the government intends to pursue over the medium term. This is intended to provide the basis for preparing the budget estimates for the next financial year and over the medium term.
6. The policy measures outlined in the 2021 Budget Policy Statement aims at stimulating economic recovery by building on the gains made under the Economic Stimulus Programme (ESP). The

Government intends to roll out the Post Covid-19 Economic Recovery Strategy (ERS) which will mitigate the adverse impacts of the Pandemic. According to the National Treasury, the policies in the BPS 2021 are also anchored on the Medium-Term Plan III of the Vision and the 2030 the “Big Four” Agenda.

(a) Overall Fiscal Framework

7. The BPS 2021 targets revenue collections including Appropriation-in-Aid (AIA) of **Kshs 2,033.9 billion** (16.4% of GDP) compared to estimated revenue collection of **Ksh.1,849.2 billion** (16.6% of GDP) in FY 2020/21. whereas the overall nominal expenditure are projected at **Kshs 3,010.0 billion** which comprises of recurrent expenditure of **Ksh.1,986.0 billion** and development of **Ksh.609.1 billion**.

(b) Deficit and Financing

8. Given the projected expenditures and revenues, the fiscal deficit (including grants), is projected at **Ksh. 930.0 billion** (7.5 percent of GDP) in FY 2021/22. The fiscal deficit in FY 2021/22, will be financed by net external financing of **Ksh 267.2 billion** (2.2 percent of GDP), and net domestic borrowing of **Ksh 662.8 billion** (5.3 percent of GDP).

D. Vertical and Horizontal Division of Revenue

13. The Senate of Standing Order No. 180(e) provides that the BPS shall include the proposed division of revenue, raised nationally, between the National Government and county governments including proposed conditional grants, if any. Table provides a summary of the proposed vertical allocation in the FY 2020/21 and the Medium Term.

Table 1.1: Summary of Proposed Budgetary Allocations in KSh. Millions

	FY 2020/21	FY 2021/22	FY 2022/23	FY 2022/23
Total	2,774,617	3,018,001	3,214,280	3,409,983

Of which:

(i). The Executive	1,816,342	1,894,577	1,989,845	2,112,558
(ii).The Judiciary	17,999	17,918	19,007	19,641
(iii).The Parliament	37,306	37,883	38,536	39,208
2.Consolidated Fund Services	586,469	697,624	796,893	863,577
3.County Governments	316,500	370,000	370,000	375,000

Source: BPS 2021

14. The County Governments is allocated **Ksh.370 billion** in FY 2021/22 as equitable share translating to growth of **Ksh.53.5 billion**(16.9%) compared to their 2020/21 allocation . Growth in Equitable share is due to:

- v. Adjustment of FY 2020/21 allocation by **Ksh. 36.1 billion** due to expected improvements in revenue raised nationally in FY 2021/22 when the effects of Covid 19 ease; and
- vi. Converting four existing conditional grants to County Governments into Equitable shares, and allocating the respective amounts totaling **Ksh. 17.4 billion** towards the Counties' FY 2021/22. The four conditional allocations are: Road Maintenance Levy Fund (RMLF); the level5 hospital grant; the compensation for user fees foregone; and the grant funding rehabilitation of village polytechnics

Table 1.2: County Governments Equitable Share of Revenue (Ksh. Millions)

Budget line	2017/18	2018/19	2019/20	2020/21	2021/22
Baseline(allocation in previous FYs	280,300	302,000	314,000	316,500	316,500
Adjustment for revenue growth	21,700	12,000	2,500	-	36,100
Revenue share(RMLF, level5 hospitals grants, compensation for user foregone fees and rehabilitations for village polytechnics					17,400

Total Equitable shares	302,000	314,000	316,500	316,500	370,000
-------------------------------	----------------	----------------	----------------	----------------	----------------

15. In addition to the equitable shares, County Governments will continue to receive the following additional allocations from the national government share of revenue as a conditional grant

- v. Leasing of medical equipment-**Ksh.7.205 billion**
- vi. Supplement for construction of County headquarters-**Ksh.332 million**

County Government will receive **Ksh.6.825 billion** Equalization Fund to the marginalized areas as well as **Ksh 32.3 billion** from proceeds of external loans and grants, which will finance devolved functions in accordance with the signed financing agreement for each loan/grant.

Table 1.3: Disaggregation of County Governments' Allocation (Ksh. Millions)

Types/level of allocation	2017/18	2018/19	2019/20	2020/21	2021/22
Equitable Shares	302,000	314,000	316,500	316,500	370,000
Additional Conditional allocations					
Of Which					
<i>leasing of medical equipment</i>	4,500	9,400	7,000	6,205	7,205
<i>Supplement for construction of County headquarters</i>	605	605	300	300	332
<i>Allocations from loans and grants</i>	12,541.4	33,241.9	39,089.9	30,204.3	32,344
Total County Allocations	319,646.4	357,246.9	362,889.9	353,209.3	409,881

SALIENT ISSUES

- vii. The total allocation to county government as an equitable share of nationally raised revenue has only increased by **Ksh.36.1 billion** as a result adjustment on anticipated revenue performance during the FY 2021/22. The increased equitable growth from **Ksh. 316.5 billion** to **Ksh. 370**

billion in FY 2021/22 is due to conversion of already existing conditional grants into equitable share safe from Ksh.36.1 billion.

POLICY PRIORITIZATION AND CEILINGS

1. The role of security in economic development cannot be gainsaid. An environment free of conflicts is a boost to investor confidence and will ease the process of implementing the “Big Four” plan. National security is a pre requisite for any development to take place. The role of the various security agents therefore helps to bring about confidence on the minds of the people, because, if the people are assured of security, the economy market will equally have their thrust and support which in turn win bring about progress and development, (Garuba 1997)
2. As part of the Post-Covid-19 ERS measures, the Government will enhance budgetary allocations to facilitate delivery of services by security related agencies. Police and security officers play a crucial role in maintaining law and order and ensuring adherence to curfews and other rules and regulations put in place to contain the pandemic including contact tracing. In part these resources will enhance training of police officers in appropriate Covid-19 personal safety measures to protect themselves and those they serve from being infected by the virus; and provide police officers with adequate protective gear and equipment including face masks, sanitizers and WASH facilities.
3. To further enhance security operations during and after the pandemic, the Government will: operationalize of the newly Gazetted Police Stations and National Government Administration (NGA) offices; implement border security management system to enhance cross border movements of both passengers and goods; acquire of additional security equipment, vehicles and motor cycles; cascade of e-passports and visa automation to help clear backlog and fast track the process; and complete digitization and automation of Immigration, Comprehensive Ranking System (CRS) and National Registration Bureau (NRB) services.

E. Governance Sub-sector

Key areas of spending

- i. **In the next MTEF period, the government focus will be on enhancing allocation to the governance sub-sector.** As part of the Post-Covid-19 ERS measures, the Government will enhance budgetary allocations to facilitate delivery of services by security agencies. The government will utilize the proposed resources towards: -
 - (i) Operationalization of the newly gazetted Police Stations and sub-county headquarters; **It is emerging that there are a number of police stations and sub-county headquarters that are yet to be operationalized due to inadequate resources. Utmost care should be taken to ensure the operationalization is done equitably in all the regions**

- (ii) Implementation of border security management system to enhance cross border movements of both passengers and goods;
- (iii) Acquisition of additional assorted security equipment. **Utmost consideration should be given to provision of proper equipment to operations in risky settings where there is elevated vulnerability to attacks on personnel**
- (iv) Acquire additional vehicles for National Government Administration (NGA) officers and acquire over 5,000 motor cycles for Chiefs and Assistant Chiefs.

Observation: It is however emerging that service delivery is compromised by lack of enough vehicles. There is need for the State Department to develop a policy on how the acquired vehicles and motor cycles shall be utilized to ensure equity in distribution across the various counties and sub-counties.

- (v) Under the affordable housing programme, the government is working on expanding the housing units for the police officers.

Observation: It is not known how many housing units the government is targeting. It is however emerging that the policy on payment of allowances for officers to get accommodation outside the police line is not effective given the nature of security operations and the economic realities to enable officers acquire houses with the house allowance entitlement.

- (vi) Cascading e-passports and visa automation to four additional stations locally and abroad;
- (vii) Completing digitization and automation of immigration; Comprehensive Registration System (CRS).

S/No.	MDA	Sup I 2020/21	BPS Ceiling 2021/22	% Change	Projections	
					2022/23	2023/24
1.	Interior	133,218.6	138,103.1	4%	139,900.9	144,364.7
2.	Correctional Services	27,579.9	29728.7	8%	31,275.4	33211.7
3.	NPSC	581.0	722.2	24%	685.3	706
4.	IPOA	817.0	914.2	12%	932	960.1
5.	Total	162,196.5	169,468.2	4%	172,793.6	179,242.5

Source: The National Treasury

- (viii) The other key outputs planned in the FY2021/22 – 2023/24 MTEF period include: implementation of police reforms; equipping of the forensic laboratory; acquisition of additional assorted security equipment; installation of CCTV cameras in Nairobi, Mombasa, Kisumu, Nakuru and Eldoret, improved population management system; production of Huduma cards; enhancement of accountability and governance structures; maintenance of security, law and order; provision of safe custodial rehabilitation of offenders
- (ix) Review and finalize Sessional Paper No. 8 on National Values and Principals of Governance; Review of Sessional Paper No. 9 on National Cohesion and Integration; and Review of the National Cohesion and Integration Act No. 12 of 2008.

F. Public Administration Sub-sector

4. The Sub-Sector is a fundamental pillar of the Kenyan economy. It provides overall national leadership, oversight and policy direction and ensures effective and efficient Public Service. The key areas of spending in 2021/22 and over the medium term, based on the priorities outlined in the BPS 2021 are among others: -

- i. Providing oversight of the country's development agenda in line with enabling the Big Four development initiatives;

- ii. Implementation of the transferred functions of the Nairobi City County Government to the Nairobi Metropolitan Services (NMS) in line with the signed deed of transfer,
- iii. Improvement of State houses and Lodges and Deputy President's official residences,
- iv. Administration of statutory benefits to the retired Presidents, Vice Presidents and other State officers, facilitating the programmes of the First Lady and the Spouse to the Deputy President
- v. Sensitization on the application of Power of mercy Act and; development of the annual Presidential report on the national values and principles of governance.
- vi. Development of Public Human Resource Management Bill for Public Service in line with Article 235 on uniform norms and standards
- vii. Enhance access to Government services at Huduma Centres and huduma mashinani

5. The sub -sector, intends to achieve this by implementing 12 programmes domiciled majorly in the Executive Office of the President, The State Department for Public Service and Public Service Commission. In order to support these programmes, the 2021/22 proposed resource ceiling is KSh. 55.7 billion. This is a reduction from the baseline allocation which currently stands at KSh. 60.4 billion.

S/No.		Sup I 2020/21	Ceiling 2021/22	% Change	Projections	
					2022/23	2023/24
1.	E. Office of the President	42,626.1	34,806.4	-18%	35087.1	36335.6
2.	State Department for PS	15,624.8	18,578.2	19%	20212.1	20473.2
3.	PSC	2,172.0	2284	5%	2252.8	2295.6
4.	Total	60,422.90	55,668.60		57,552.00	59,104.40

Source: The National Treasury

SUMMARY OF KEY ISSUES

1. **MTEF allocation:** - The total projected for the three arms of government including County equitable share, equalization Fund and Contingency Fund amounts to **KSh.3,023 billion**. It is projected to grow to **KSh. 3,219.3 billion** and **KSh.3,414 billion** in the medium term.
2. **Sectoral MTEF allocation:** - The total proposed ceiling for the Governance sub-sector comprising Interior and Citizen Services, Correctional Services, National Police Service Commission and the Independent Policing Oversight Authority is **KSh. 169.5 billion**. It is projected to increase to **KSh. 172.8 billion** and **KSh. 179.2 billion** in the medium term. Further, the proposed resource ceiling for the Public Administration sub-sector comprising of the Executive Office of the President, Public Service Commission and the Public Transformation Programme is **KSh. 55.7 million**. It is projected to grow to **KSh.57.6 billion** and **KSh. 59.1 billion** in the medium term.
3. **Operationalize the newly gazetted Police Stations and sub-county headquarters to boost service delivery.** The BPS promises to operationalize gazetted police stations and sub-county Headquarters in FY 2021/22 even though the actual target is not provided, Utmost care should be taken to ensure the operationalization is done equitably in all the regions
4. **Acquisition of additional vehicles and 5,000 motor cycles for National Government Administration (NGA).** Over the years, service delivery has been hampered by lack of vehicles for both police officers and the NGA officers. While the vehicles are majorly provided through the leasing programme, there seems to be a problem on equitable distribution across the counties and sub-counties. Preliminary inquiry by the Committee shows that most stations don't have enough vehicles for service delivery. There is need for the State Department to develop a policy on how the acquired vehicles and motor cycles shall be utilized to ensure equity in distribution across the various counties and sub-counties.
5. **Police Housing.** The BPS 2021 promises to expand the housing units for the police under the affordable housing programme, it is not known how many housing units the government is targeting. It is however emerging from Committee visits that the policy on payment of allowances for officers to get accommodation outside the police line is not effective given the nature of security operations and the economic realities to enable officers acquire houses with the house allowance entitlement. There is need for a review of the same policy to enable it be more effective.
6. **Limited Funds.** The analysis reveals that the resource requirement for the all the MDAS under the purview of the Committee is below the ceilings that has been proposed in the BPS. Given the unprecedented macroeconomic and fiscal constraints including the rising debt levels, it is recommended that the MDAs operate within the ceilings as provided. The ceilings for development expenditure need to be retained as proposed while that of recurrent may also be retained or reviewed downwards in light of fiscal consolidation efforts. The MDAs may consider deferring less priority projects by one year while prioritizing to complete critical projects which are near completion.

7. No new projects should be introduced. Some projects that are not urgent may wait till the economy recovers

SECTORAL ANALYSIS OF 2021 BPS AND THE MEDIUM TERM – National Security

a) National Security Sector

8. The National Security sector is key in creating a secure and conducive environment for socioeconomic and political development. The sector entails promoting a cohesive, egalitarian, technologically efficient and progressive society with a good quality of life. It is therefore a critical enabler in the realization of the “Big Four” Agenda.
9. The BPS 2021 re-affirms the policy framework of the previous BPSs to guide the allocation of resources in the FY 2021/22 and the medium term. To this end, the sector will continue to address contemporary and emerging threats to national security that undermine peace and development.
10. The BPS commits to enhance allocation to the National Security sector in order to maintain economic stability and attract investment. A safe and secure environment remains a prerequisite for achieving the “Big Four” Agenda and any recovery post COVID-19. The Government has undertaken reforms that target to improve the capacity of the security forces to protect Kenyans against internal and external aggression. In particular, the Government has increased funding to all security agencies to improve their operations including the Ministry of Defence and the National Intelligence Service. (See Chart 1). In order to implement the prioritized programmes and minimize the above-mentioned threats, the sector has been allocated Ksh 170.0 billion, Ksh 180.9 billion and Ksh 196.8 billion in FY 2021/22, FY 2022/23 and FY 2023/24, respectively.

Table 1.6: Summary of Expenditure ceilings by programmes for the National Security sector (KSh. Millions)

	Baseline	Ceilings		Projections	
		Supp I	2021/22	% Change	2022/23
1. Ministry of Defence	122,366.0	127,563.5	4.2	133,054.0	146,048.9
Defence	120,427.0	125,187.0	4.0	130,508.6	143,231.8
Civil Aid	200.0	200.0	0.0	200.0	200.0
General Administration	1,589.0	1,976.5	24.4	2,045.4	2,117.1
National Space Management	150.0	200.0	33.3	300.0	500.0
2 National Intelligence Service	45,551.0	42,451.0	-6.8	47,837.3	50,794.1

3.	Total	167,917.0	170,014.5		180,891.3	196,843.0
4.	% of GDP	1.7	1.7		1.7	1.6
	% of Total Budget	5.6	5.7		5.6	5.8

11. It is observed that the budget for the sector is growing as a share of the total budget. This may be at the expense of other spending in other sectors such as Agriculture, Health, Education among others.

G. International Relations Sub-Sector

12. The role of the sub-sector is to pursue Kenya's foreign policy in accordance with the Constitution of Kenya, with the overarching objective of protecting and promoting the nation's interests abroad. In pursuing this objective, the sub-sector has inclined Kenya's foreign policy towards fostering better relations with neighbors and the rest of the world.

13. Kenya's foreign policy aims to achieve several national objectives, inter alia to: Protect Kenya's sovereignty and territorial integrity; Promote integration; Enhance regional peace and security; Advance the economic prosperity of Kenya and her people; Project Kenya's image and prestige; Promote multilateralism; Promote the interests of Kenyan Diaspora and partnership with the Kenyans abroad.

14. Kenya's foreign policy is therefore anchored on five interlinked pillars that characterize her bilateral and multilateral engagement. These pillars are Peace, Economic, Diaspora, Environmental and Cultural. The following table shows how the policies in the BPS 2021 is interwoven in the five pillars.

S/No.	Details	Baseline	Ceilings		Projection	
			2021/22	% Change	2022/23	2023/24
1.	Ministry of Foreign Affairs	16,941.0	18,457.9	9.0	17,709.4	18,837.7
	General Administration	1,888.8	2,011.7	6.5	2,325.7	2,551.0
	Foreign Relation and diplomacy	14,825.5	16,097.5	8.6	14,985.0	15,888.0

	Economic and CD	48.7	48.7	0.0	48.7	48.7
	Foreign Policy Research, CD&TC	178.0	300.0	68.5	350.0	350.0
2.	State Department of EAC	539.3	609.0	12.9	630.0	651.0
	EAA & RI	539.3	609.0	12.9	630.0	651.0
3.	TOTAL	17,480.3	19,066.9	9.1	18,339.4	19,488.7

Source: The National Treasury

15. It is observed that the resource ceilings for the ministry of Foreign Affairs is set to grow by 9 percent from the baseline. The major growth being in the foreign policy research, General Administration and foreign relation and diplomacy programmes. The growth is on account of projected growth in establishment of more diplomatic footprints across the globe and the role Kenya is expected to play in the regional front in EAC Affairs as well as in IGAD, AU among others. Further, the elevation of Kenya to the UN security council with a fully-fledged Secretariat in New York will require more resources. It is projected however to dip to KSh. 17.7 billion before rising again to KSh.18.8 billion in the medium term. The projected growth on regional integration is in tandem with the broad policy on promoting deeper and wider integration within the East African region and the African continent at large, given that Africa constitutes Kenya's largest export market with immense potential for growth.

H. Regional Development Authority and Northern Corridor Development Sub-Sector

16. The sub-sectors role is to coordinate Regional Development Authorities by monitoring and evaluating the implementation of the Northern Corridor development; and fast tracking the identified northern corridor integration projects. The State Department majorly drives the deliverables under the Integrated Basin Based Development programme running across the country and at which various projects and activities aimed at uplifting the livelihood of Kenyans are implemented.

Table 1.8: Proposed Expenditure ceilings for the RDA & NCD sub-sector (KSh. Millions)

	Details	Baseline	Ceilings 2021/22	2022/23	2023/24
--	---------	----------	---------------------	---------	---------

1	Integrated regional Development	2,996.7	3,751	3,976	4,144
	Total	2,996.7	3,751	3,976	4,144

17. It is critical to note that most of these activities however relate to functions which are devolved.

SUMMARY OF KEY ISSUES – National Security

The following are the Key issues arising from the BPS 2021 and the medium term.

1. **Overall MTEF Allocation.** The overall budgetary allocation for 2021/22 is **KSh. 3,018 billion**. It is projected to grow to KSh. 3,214.3 billion by 2022/23 and KSh. 3,405 billion by 2023/24. Out of the KSh. 3,018 billion for FY 2021/22, **KSh. 1,894 billion** will go towards Ministerial recurrent and development, **KSh. 37.9 billion** towards Parliament and **KSh. 17.9 billion** towards the Judiciary.
2. **National Security MTEF Allocation.** The proposed allocation for the National Security sector is projected to grow to from **KSh. 170.2 billion** in FY 2021/22 to **KSh. 180.9 billion** in FY 2022/23 and **KSh. 196.8 billion** by 2023/24. The proposed allocations represent 1.7 of the GDP. In terms of share of the total budget, it is projected to rise from 5.6 percent to 5.8 percent by 2022/23. This may imply critical sectors such Agriculture, Health and Education may lose out to National Security.
3. **Resource Constraint in light of rising debt level:** - The proposed 2021/22 budget ceiling for the agencies national security sector and the other sub-sectors of International Relations and Regional Development Authorities is below their resource requirement. This calls for better resource utilization and improved fiscal discipline through curbing of wastages and leaving within the ceiling as provided. The sub-sectors are therefore called upon to restructure their operations to ensure the limited resources are used to achieve the set outputs and targets.
4. **Absence of policy on asset acquisition.** The Ministry of Foreign Affairs has been acquiring Assets in foreign missions in the absence of a policy to guide them in the acquisition of such assets. As such, there has been wastages associated with constructions which are way above the economic realities facing the country. In view of this, there is need for the ministry to develop a policy to deter constructions which are not in tandem with Kenya's economic situation.
5. **Assets Acquisition.** The ministry's allocation for development is significantly below its requirement yet the ministry's budget for rentals is escalating Currently the total cost of rentals takes 20 percent of the mission's budget. There is therefore a need to pursue the policy on acquiring such assets. In view of limited funds, the ministry may pursue finance mortgaging to achieve their objective of acquiring such assets or

6. Most projects under the state department for Regional Development Authorities have faced governance challenges including Aror and Kimwarer dams among others. Over the past budgets, the projects have received some allocation towards the settlement of pending bills. There is need for the Committee to come up with a policy of not appropriating any money to projects with such governance challenges. Further, there is need for appraisal of such projects. Further the value for money, affordability and returns on investments on these projects are not known. To enhance transparency in identification and selection process of projects, the Public Management Unit should prepare annual reports on all ongoing and new projects detailing value for money and returns on investments on such projects.

Lands Sector

Annex 1: Analysis of Programmes and Sub – Programmes (Current and Capital) Resource allocation (Kshs. Millions)

Programme Details	Approved Estimates 2021/22			2022/23			2023/24			2024/25		
	Current	Capital	Total	Current	Capital	Total	Current	Capital	Total	Current	Capital	Total
Ministry of Lands and Physical Planning												
Programme: Land Policy and Planning												
Development planning and Land reforms	636	950	1586	684	1050	1734	724	1407	2131	765	1407	2172
Land Information management	915	935	1850	941	1009	1950	969	1540	2509	993	1780	2773
Land Survey	822	88	910	842	193	1035	879	392	1271	916	801	1717
Land Use	253	160	413	263	180	443	282	200	482	306	230	536
Land Settlement	418	299	717	431	300	731	458	370	828	485	500	985
Total	3044	2432	5476	3161	2732	5893	3312	3909	7221	3465	4718	8183

Programme Details	Approved Estimates 2021/22	2022/23	2023/24	2024/25
-------------------	----------------------------	---------	---------	---------

	Curr ent	Capi tal	To tal	Cur rent	Cap ital	To tal	Cur rent	Cap ital	To tal	Cur rent	Cap ital	To tal
National Land Commission												
Programme: Land Administration and Management Services												
General Administra tion, planning and Support Services	1,351	-	1,3 51	1,081	-	1,0 81	1,117	-	1,1 17	1,111	-	1,1 11
Land Administra tion and Managemen t	54	-	54	266	-	26 6	282	-	28 2	308	-	30 8
Public Land Informatio n Managemen t	5	-	5	45	90	13 5	50	105	15 5	51	171	22 2
Land Disputes & Conflict resolutions	26	-	26	77	-	77	82	-	82	117	-	11 7
Total	1,436	-	1,4 36	1,46 9	90	1,5 59	1,53 1	105	1,6 36	1,58 7	171	1,7 58

Environment and Natural resources Sector.

ANNEX 2: ANALYSIS OF EXPENDITURE BY VOTE AND PROGRAMMES FOR THE PERIOD 2018/19 – 2020/21 “Kshs. Millions”

			Approved Budget		
			2018/19	2019/20	2020/21
Summary of the Sector		Rec.	24,527	25,519	25,519
		Dev.	48,372	69,464	80,000
	Total	Total	72,899	94,983	105,519
Vote 1108	Environment Management and Protection	Rec.	1,500	1,976	1,976
		Dev.	1,733	1,275	1,500
		Sub Total	3,233	3,251	3,476
	General Administration, Planning and Support	Rec.	527	320	35
		Dev.	93	-	-
		Sub Total	620	320	35

	Meteorological Services	Rec.	1,074	968	86
		Dev.	1,022	534	25
		Sub Total	2,096	1,502	1,1
	Forests and Water Towers Conservation	Rec.	7,035	7,094	7,0
		Dev.	1,338	1,847	1,9
		Sub Total	8,373	8,941	9,0
	Resource Surveys and Remote Sensing	Rec.	63	-	26
		Dev.	184	-	20
		Sub Total	247	-	46
	Sub-Total Recurrent - Vote 1108		10,199	10,358	10,1
	Sub-Total Development - Vote 1108		4,370	3,656	3,1
Vote 1109	Water Resources Management		1,458		

	Rec.		1,645	1,6
	Dev.	3,634	8,990	6,9
	Sub Total	5,092	10,635	8,3
General Administration, Planning and Support	Rec.	555	718	700
	Dev.	35	84	70
	Sub Total	590	802	770
Water and Sewerage Infrastructure Development	Rec.	3,277	3,292	3,0
	Dev.	25,091	36,594	46,1
	Sub Total	28,368	39,886	49,1
Irrigation and Land Reclamation	Rec.	1,672	818	682
	Dev.	6,840	7,461	9,4
	Sub Total	8,512	8,279	10

	Water Storage and Flood Control		9		
		Rec.		-	-
			7,041		
		Dev.		9,683	10
		Sub Total	7,050	9,683	10
	Water Harvesting and Storage for Irrigation		-		
		Rec.		14	29
		-			
	Dev.		1,125	2,2	
	Sub Total	-	1,139	2,2	
Sub-Total Recurrent - Vote 1109			6,971		
				6,487	6,0
Sub-Total Development - Vote 1109			42,641		
				63,937	75
Vote 1192	Mineral Resources Management		355		
		Rec.		240	251
		Dev.	295		
				209	22
	Sub Total	650	449	273	
	Geological Surveys and Geo-Information				

		Rec.	-	57	54
		Dev.	-	85	55
		Sub Total	-	142	10
	General Administration, Planning and Support				
		Rec.	662	289	24
		Dev.	13	38	3
		Sub Total	675	327	246
	Sub-Total Recurrent - Vote 1192		1,017	586	548
	Sub-Total Development - Vote 1192		308	332	80
Vote 1203	Wildlife Conservation and Management		6,340		
		Rec.		8,088	9,11
		Dev.	1,053	1,539	650
		Sub Total	7,393	9,627	9,1
	Sub-Total Recurrent - Vote 1203		6,340	8,088	9,11

	Sub-Total Development - Vote 1203	1,053	1,539	650
--	--	--------------	--------------	------------

11. TOURISM, TRADE AND INDUSTRIALIZATION

INTRODUCTION

- 1) The 2021 Budget Policy Statement (BPS) was submitted to Parliament and tabled on 15th February 2021. The policy outlines the broad strategic government priorities and policy goals of the government over the medium term. This Brief provides an analysis of the Trade, Tourism and Industrialization subsectors budget policies and the proposed ceilings under the 2021 Budget Policy Statement.
- 2) In March 2020, the COVID-19 pandemic took hold of the economy, crippling major sectors notably in tourism, hospitality, manufacturing and industry. The economic burden of the health pandemic is mainly an outcome of the containment measures put in place by the government to curb the spread of the virus. These include; dusk to dawn curfew, ban on public gatherings, and work from home directive and cessation of movement in counties most affected by the virus.
- 3) These measures led to a significant decline in economic activity resulting in reduced incomes and mass layoffs which adversely affected consumer spending thereby reducing aggregate demand. Furthermore, industries that rely on imported raw materials and intermediate goods experienced a disruption in their supply chains leading to significant scale-down of operations
- 4) Recovery is expected in the medium term leveraging on policies geared towards boosting exports. The opportunities available include; expected increased in trade due to the lifting of travel restrictions as a result of the development of the Covid 19 Vaccine, and potential increase in trade as a result of the African Continental Free Trade Area arrangement which is estimated to increase Africa's by \$560 billion particularly in manufacturing.

C. LEGAL UNDERPINNINGS

- 5) The Budget Policy Statement is published in accordance with Section 25 of the Public Finance Management Act, 2012. In preparing the Budget Policy Statement, the National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following financial year and over the medium term.
- 6) The National Treasury is required to include the following in the Budget Policy Statement: -

- f) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
 - g) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
 - h) The proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
 - i) The fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.
 - j) The total resources to be allocated to individual programmes and projects within sector, ministries, departments and agencies indicating outputs expected during the period.
- 7) The National Treasury, while processing the Budget Policy Statement (BPS), is also required to seek and take into account the views of the Commission of Revenue on Allocation, the County Governments, the Controller of Budget, the Parliamentary Service Commission, the Judicial Service Commission, the Public and any other interested parties or groups.
 - 8) The submission and processing of the BPS by the Senate is anchored in Standing Order No 180.
 - 9) Section 25(2) of the Public Finance Management Act 2012 require the National Treasury to submit the BPS to Parliament by 15th February each year. Parliament has 14 days after its submission to scrutinize and review it in line with section 25(7) of the PFM Act 2012.

D. HIGHLIGHTS OF THE 2021 BUDGET POLICY STATEMENT

- 10) The theme of the 2021 BPS is “building back better: strategy for resilient and sustainable economic recovery.” The policy measures in the BPS 2021 are aimed at stimulating economic recovery by building on the gains made under the Economic Stimulus Programme to mitigate against the impact of the pandemic on the economy. This is in addition to the continued implementation of the MTP III programmes, notably the Big Four agenda.
- 11) The BPS 2021 and the medium-term projects revenue collection including Appropriation-in-Aid (A.i.A) to increase to Ksh 1,985.2 billion (15.9 percent of GDP) up from the estimated Ksh 1,829.2 billion (16.4 percent of GDP) in the FY 2020/21. While the Government expenditure as a share of GDP for FY 2021/22 is projected to decline to 23.7

percent, the overall nominal expenditure and net lending is projected at Ksh 2,968.9 billion from the estimated Ksh 2,878.1 billion (25.9 percent of GDP) in the FY 2020/21 budget. The expenditures comprise of recurrent of Ksh 1,975.2 billion (15.8 percent of GDP) and development of Ksh 611.0 billion (4.9 percent of GDP).

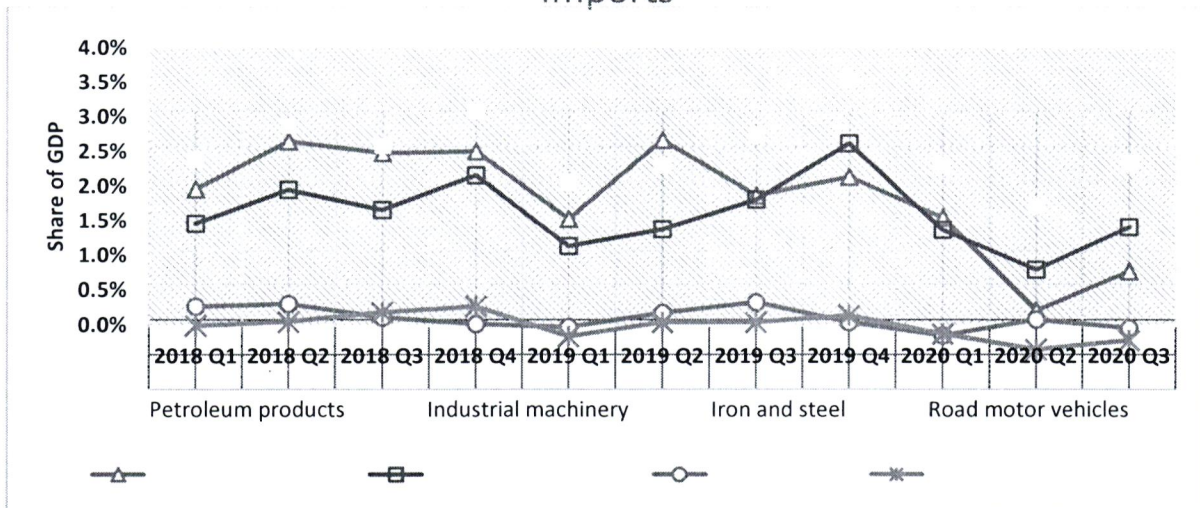
S/No.	Details	2021/22 BPS Ceiling	Percentage Share
8.	National Government	1,950,377.7	64.6
9.	Executive	1,894,576.8	62.8
10.	Parliament	37,882.7	1.3
11.	Judiciary	17,918.3	0.6
12.	CFS	697,623.5	23.1
13.	County Government	370,000.0	12.3
14.	Total	3,018,001.3	100

Source: The National Treasury

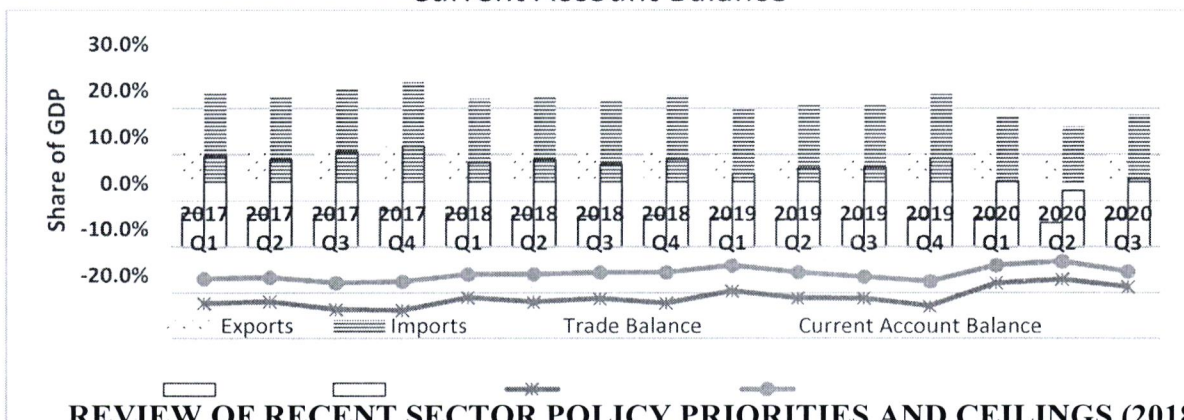
E. External sector at a glance

The current account deficit as a share of GDP declined from -5 % in the first three quarters of 2019 to -4 % over a similar period in 2020. However, the improvement in the current account deficit was a result of a significant drop in the value of import of petroleum products and industrial machinery and not growth in exports. The decline in imports in the second and third quarter of 2020, was as a result of a slump in economic activities as a result of the Covid-19 pandemic coupled with lower fuel import prices.

Imports



Current Account Balance



REVIEW OF RECENT SECTOR POLICY PRIORITIES AND CEILINGS (2018 – 2020)

According to the BPS 2021, key interventions under the manufacturing, tourism and trade sector include;

- i. The development of special economic zones; Example, Dongo Kundu SEZ, Naivasha SEZ and Kisumu SEZ
- ii. agro-processing; diversified tea varieties and restructuring coffee value chain to increase productivity
- iii. Boosting value addition; local value addition for meat, dairy fruits, nuts and oils; operationalization of various factories for example the Mango Value Chain factory in Eldoret, Integrated fruit and honey processing in Mombasa, Gums Arabic and raisins factory in Wajir and the Tomato Processing factory in Kajiado.

- iv. investment in warehousing and cold chain sites; aquaculture, fish feed mills and fish processing industries;
- v. Leather sector; improvement of infrastructure at kinanie, athi river textile hub and leather development centre; investment in KIRDI; operationalization of leather laboratory in Kisumu among others.
- vi. For the enhancement of industrial skills, the Kenya Industrial training institute (KITI) is being transformed into a centre of excellence.
- vii. Revival and Modernization of RIVATEX
- viii. Modernization of Aviation facilities aimed at boosting the tourism sector.
- ix. Scaling up of tourism promotion activities and provide support for hotel refurbishment through soft loans to be channeled through the Tourism Finance Corporation.

The BPS Ceilings for 2021/22 and the medium term

Department	2020/21			2021/22			2022/23		
	Current	Capital	Total	Current	capital	Total	Current	Capital	Total
State Department for Trade & Enterprise	1,921.80	1,095.60	3,017	1,962	3,822.90	6,767.90	2,030	416	2,445.90
State Department for Industrialization	2,851.90	5,268.10	8,120	2,945	3,822.90	6,767.90	3,018	3,673	6,691.30
State Department for Tourism	8,495.8	4,310.8	12,806.6	8,594.0	500	9,094.0	8,657.0	338.8	8,995.8
State Department For Tourism	8,495.80	4,310.80	12,806.60	8,594	500	9,094.00	8,657.00	338.8	8,995.80

x. Source; BPS 2021

Salient issues:

- i. **Resource constraints:** The sector is routinely underfunded with significant expenditure cuts during the supplementary budget process.
- ii. **Agricultural underperformance:** Most industries in Kenya are agro based - approximately 40 percent of total manufacturing output is from food, beverages and tobacco⁵. Given the poor state of Kenya's agriculture, the predominantly agro-based manufacturing industry cannot thrive. To improve manufacturing therefore, will also require significant effort towards improving performance in the agriculture sector. Factors that hinder development of a viable agro-processing sector include poor investment in infrastructure in agricultural areas, Poor yields due to poor farming processes leading to inadequate supply of raw materials, inadequate technical know-how, poor and outdated equipment used for farming as well as in agro-processing industries, poor enforcement of quality standards by regulatory bodies, inadequate skills.
- iii. Low value addition can be attributed to lack of requisite skills, knowledge and expertise in addition to limited access to finance which has prevented some of these enterprises, both formal and informal, from expanding. Most of the country's exports are raw food substances. Only 16 percent of Kenya's agricultural exports are processed. Beans and pineapples are the only food crops where the processing industry is well established. Productivity improvement through investment in the right technologies (from planting, harvesting, processing), quality training, increasing of yields, increasing of harvesting and storage facilities (especially cold storage facilities); where and how will these be implemented? These are not clearly addressed in the BPS. Rather, the focus is more on the end product than on the inputs required in the process.

Policy Options

- i. The Government should invest in the promotion and marketing of exports of agricultural products such as fruits, which have performed well during the pandemic. Promotion of access to new export markets and value addition by small and medium-sized fruit farmers, through existing government agencies, will promote diversification of agricultural exports and contribute improvement of living standards in rural areas.
- ii. Continued Implementation of the duty remission scheme under Tax Remission for Export Office (TREO) will enhance the value of exports for Kenyan manufacturers. However,

the government should also invest in a comprehensive review of the impact of the policy to enhance its effectiveness in export promotion.

- iii. In the medium-term, public investments in key enablers such as access to cheaper uninterrupted electricity supply, efficient and cheap transport system and creation of a favorable business environment will enhance the competitiveness of Kenya's exporters.
- iv. Counties could provide land to promote the Policy of Special Economic zones. This will spur local industries and create employment at the county level
- v. Counties could provide land to enable the establishment of the zones. This will spur local industries and create employment at the county level.
- vi. The counties to put in place policies to encourage production of cotton support the modernization of RIVATEX.
- vii. Provide for a Post Covid 19 stimulus package for the sector for at least three years to allow recovery in MSME 'S, Tourism, Regional Trade and development.

12. ROADS AND TRANSPORT

1.0 INTRODUCTION

Recent Economic Developments

1. The Budget Policy Statement (BPS) for FY 2021/22 and the Medium term has been submitted on the backdrop of subdued economy occasioned by the compounding impact of the novel Corona Virus (COVID-19). The health pandemic adversely affected global output and continues to disrupt global supply chains and trade, travel and other economic activities particularly small and medium enterprises.
2. Moreover, and despite incipient recovery trend from the knock-off impact of the containment measures, the slow recovery pace is likely to persist particularly in low and middle income countries on account of continuous but relaxed containment measures and the challenges of supplying and administering vaccines.
3. The International Monetary Fund (IMF) projects contraction of 4.9 percent in 2020 from a growth levels of 2.9 percent in 2019. Locally, growth outputs contracted by 5.7 percent in the second quarter of 2020 compared to 4.9 percent in the first quarter, largely due to significant contraction in the services and industry sub-sectors during the initial pandemic outbreak period. This has also exacerbated debt vulnerabilities substantially affecting budget execution including transfers to counties due to revenue underperformance against priority obligations (majorly debt services). To partly stymie debt linked fragilities facing the economy, the country continues to utilize the Debt Service Suspension Initiative (DSSI) through multi-lateral arrangements (The IMF and World Bank) which is expected to be key fiscal support measure in the medium term as well as basis to evaluate trends of fiscal transfers (Equitable share) to counties and extent of compliance or deviation from senate approved cash flow plans.
4. Following substantial easing of the containment measures, economic activities improved in the third and fourth quarters of 2020, albeit within negative growth rates. In the fiscal year under considerations, The BPS projects the economy to bounce back to 6.4 percent compared to estimated growth of 0.6 percent in 2020.

The purpose of the Brief and the Mandate of the Committee

5. This brief provides brief analysis of the 2021 BPS covering the medium term and in particular the agencies under the purview of the committee (road and transport sector)

6. The scrutiny of the BPS by the Committees thus provides the legislative avenue to inform the budget at policy level towards finalization of estimates and programme outputs including at county level.
7. The Senate Standing Committee on Roads and Transport established under the Standing Order 218 (and Second Schedule) is mandated to oversight all matters relating to transport, roads, public works, construction and maintenance of roads, rails and buildings, air, seaports, housing and communication.

THE LEGAL BASIS FOR PROCESSING OF THE BPS

8. The Budget Policy Statement is one of the key budget documents prepared by the National Treasury and published in accordance with Section 25 of the Public Finance Management act, 2012.
9. The National Treasury is required to set out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets for the next MTEF period. Consequentially, the approved BPS informs the Division of Revenue (Bill) between the two levels of government. The National Treasury is required to include the following in the Budget policy Statement.
 - xi) An assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic outlook.
 - xii) Financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term.
 - xiii) The proposed expenditure ceilings for the 3 arms of Government and indicative transfers to County Government.
 - xiv) The fiscal responsibility principles and financial objectives over the medium-term including limits on total annual debt.
 - xv) The total resources to be allocated to individual programmes and projects within sector, ministries, departments and agencies indicating outputs expected during the period.
10. Section 25(2) of the Public Finance Management Act 2012 **require the National Treasury to submit the BPS to Parliament by 15th February each year.** Parliament is expected to consider the same within 14 days after its submission with or without amendments as stipulated in Section 25(7) of the PFM Act 2012 and the Senate Standing Orders (S.O. 180). Consequently, The Cabinet Secretary shall take into account the Resolution passed by the Senate in finalizing the budget for the relevant financial year (2021/22).

11. The BPS is thus a key budget documents that is subject to consultation on budget and economic matters and in particular between the Legislature and the Executive arms of government and between both Houses and its respective committees⁶

2.0 HIGHLIGHTS OF THE BPS 2021

12. The theme of the policy document being “*Building Back Better: Strategy for Resilient and Sustainable Economic Recovery*” takes into account, as also noted earlier, the post COVID-19 pandemic strategies and revival of the economy to beyond pre-pandemic growth levels in the medium term.
13. The policy measures outlined in the 2021 Budget Policy Statement aims at stimulating economic recovery, building on incipient gains under the Economic Stimulus Programme and further roll-out of Post Covid-19 Economic Recovery Strategy and through ‘stable macroeconomic environment, turn around in trade as economies recover from Covid-19 Pandemic and expected favorable weather that will support agricultural output’. However, these may be evaluated against specific sector policies and actionable indicators such as roads and transport to determine its efficacy in achieving expected outcome.
14. As per the proposed BPS, to primarily stimulate growth and promote job creation, among other macro targets, the government will:
- 1) Roll out the Post-Covid-19 Economic Recovery Strategy;
 - 2) Implement the “Big Four” Agenda for job creation;
 - 3) Foster a secure and conducive business environment by maintaining macroeconomic stability, enhancing security; improving business regulations Fast track development of critical infrastructure in the country such as roads, rail, energy and water, among others, so as to reduce the cost of doing business as well as promote competitiveness;
 - 4) Transform economic sectors for broad based sustainable economic growth;
 - 5) Improve access to education, strengthen health care systems and enhance cash transfers to support the vulnerable members of our society;
 - 6) Support youth, women and persons with disability to enable them actively contribute to the economic recovery agenda;

- 7) Facilitate the County Governments in strengthening their systems to enhance service delivery; and
 - 8) Implement various structural reforms to enhance the efficiency of public service delivery while at the same time ensuring accountability for better macroeconomic and fiscal stability, sustained credit ratings, improved fiscal discipline and minimized corruption.
15. With regards to specific interventions under the roads and transport sector, fast tracking the passing and implementation of legislation on Road Toll fees to crowd in private sector participation in construction and maintenance of roads and highways is among major proposals. In addition the other major policy goal of the government is through:
- Expansion of the rail network through rehabilitation Metre Gauge Rail (MGR)
 - Decongestion of road traffic through Diesel Multiple Units(DMUs) and modernization of the Central Railway Station in Nairobi
 - Repairing, expansion and modernization of aviation facilities to maintain the country's competitive edge in the region.
 - Provision of affordable Housing programme by prioritizing Social housing, mobilizing funds through National Housing Development Fund, and specifically fostering Public – Private Partnership to fund 500,000 units

Overall Fiscal Framework

16. The BPS 2021 projects revenue collection including Appropriation-in-Aid (A.i.A) to increase to KSh 1,985.2 billion (15.9 percent of GDP) up from estimated KSh 1,829.2 billion (16.4 percent of GDP) in the current FY 2020/21. Whereas share of government expenditure relative to GDP for FY 2021/22 is projected to decline to 23.7 percent, the overall nominal expenditure and net lending is projected to marginally increase to KSh 2,968.9 billion from current estimates of KSh 2,878.1 billion (25.9 percent of GDP).
17. Proposed overall expenditure component consist of recurrent (KSh 1,975.2 billion or 15.8 percent of GDP) and development (KSh 611.0 billion or 4.9 percent of GDP). Fiscal deficit (including grants) is projected at KSh 930.05 billion (7.5 percent of GDP) in FY 2021/22, to be financed through net external borrowing amounting to KSh 267.27 billion (2.2 percent of GDP) and net domestic borrowing of KSh 662.77 billion (5.3 percent of GDP) (See also Annex I for a summary fiscal framework).

18. Moreover, figures provided under the CFS may require further review as they are below revised levels of approximately KSh 1,073.71 billion⁷.

Table 1 provides a summary of proposed MTEF allocation, in KSh million.

Table 1: Summary of Proposed MTEF allocations (KSh, Millions)					
S/No.	Details	2021/22 BPS Ceiling	Percentage Share	Projections	
				2022/23	2023/24
	National Government	1,950,377.7	65	2,047,387.2	2,171,405.9
	Executive	1,894,576.8	63	1,989,844.9	2,112,557.9
	Parliament	37,882.7	1.3	38,535.7	39,207.6
	Judiciary	17,918.3	1	19,006.7	19,640.5
	CFS	697,623.5	23	796,892.9	863,577.0
	County Government	370,000.0	12	370,000.0	375,000.0
	Contingency Fund	5,000.0	-	5,000.0	5,000.0
	Total	3,023,001.3	100	3,219,280.2	3,414,983.0

Source: 2021 BPS, The National Treasury

19. Due to the constraining fiscal space on account of increasing mandatory expenditure (consolidated fund services and debt services), sectoral expenditure ceilings are likely to be affected in the medium term and curtail capital investments. Moreover, the following criteria are proposed to apportioning capital budget:

- ❖ **On-going projects** - completion of on-going capital projects and in particular infrastructure projects with high impact on poverty reduction, equity and employment creation;
- ❖ **Counterpart funds** - priority to donor counterpart funds, being government support to projects financed by development partners;
- ❖ **Post-Covid 19 Recovery** - interventions supporting Post-Covid 19 recovery;

⁷ 2020/21 Tabled supplementary Budget, February 2021

❖ **Strategic policy interventions:** policy interventions covering the entire nation, regional integration, social equity and environmental conservation.

20. Given past budget executions and trends in revised budgets, adherence to these criteria (particularly prioritizing allocation to on-going projects) remains a major challenge and continues to pose substantial downside risk particularly in view of pending roads under construction or initiated but have been delayed. A legislative resolution to extend compliance by counties to these criteria may enhance budget credibility, speed up completion of pending infrastructure works (county roads and transport related infrastructure) and curtail initiating new projects during budget execution.

BPS PRIORITIZATION AND CEILING MEASURES

(A) Inter-Fiscal : Proposed Allocation Between the Two Levels of Government

21. Table 2 gives summary of the allocation of revenue raised nationally between the two levels of government as well as the conditional grants.

Figure 1: vertical allocation and conditional grants to counties for fy 2021/22, ksh.

Type/level of allocation	Amount in Ksh.	Perc (%) 201 audit app Reve Ksh.1 M
A. Total Sharable Revenue	1,775,624,173,860	
B. National Government	1,398,798,856,427	
Of which:		
1. <i>Leasing of Medical Equipment</i>	7,205,000,000	
2. <i>Supplement for construction of county headquarters</i>	332,000,000	
C. Equalization Fund	6,825,317,433	
D. County equitable share	370,000,000,000	
Memo items		
1. County equitable share	370,000,000,000	
2. Additional conditional allocations (National Government share of Revenue) of which;	7,537,000,000	
2.1. <i>Leasing of Medical Equipment</i>	7,205,000,000	
2.2. <i>Supplement for construction of county headquarters</i>	332,000,000	
3. Conditional allocations (Loans & grants) of which:	32,343,890,512	
3.1 <i>IDA-Kenya Devolution Support Program (KDSP) (Level 2 Grant)</i>	4,600,000,000	
3.2 <i>IDA-Transforming Health Systems for Universal Care Project</i>	2,234,664,075	
3.3 <i>DANIDA Grant-Primary Health Care in Devolved Context</i>	701,250,000	
3.4 <i>IDA-National Agriculture & Rural Inclusive Growth Project (NARIGP)</i>	6,394,997,407	
3.5 <i>EU-Instruments for Devolution Advice and Support (IDEAS)</i>	230,730,934	
3.6 <i>IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP)</i>	7,838,338,490	
3.7 <i>World Bank- Kenya Informal Settlement Improvement Project II (KISIP II)</i>	2,800,000,000	
3.8 <i>IDA- Water and Sanitation Development Project (WSDP)</i>	5,000,000,000	
3.9 <i>Sweden Agriculture Sector Development Programme II (ASDP II)</i>	1,300,042,902	
4.0 <i>Drought Resilience Programme in Northern Kenya</i>	370,000,000	
4.1 <i>Emergency Locust Response Project (ELRP)</i>	800,000,000	
4.2 <i>UNFPA- 9th Country Programme Implementation</i>	73,866,704	
Total County Allocations= (1+2+3)	409,880,890,512	

Source: 2021 BPS and related submissions

22. According to the 2021 BPS, the proposed equitable share, which is KSh 370.00 billion up from KSh 316.5 billion, is informed by two main factors:

- c) Expected revenue growth translating to 11.4 percent (or KSh 36.1 billion) increase in equitable share to counties
- d) Conversion of some existing conditional allocations totaling KSh 17.4 billion to unconditional grant i.e. to be part of the county equitable share amount. The affected four conditional grant allocation include: Road Maintenance Levy Fund (RMLF); level 5 hospital; compensation for user fees foregone; and, the grant funding rehabilitation of village polytechnics to support youth training.

23. Comparatively, proposed combined amount under the four grant items totaling to KSh 17.4 billion translates to a marginal increase of 740 million (or 4%) up from current combined amount of KSh 16.65 billion. Consequently, the conversion of these grants to equitable share has marginal impact on baseline levels - to the extent of the marginal increase - given that these grants are part of the existing expenditure baseline/items.

Budget item	2017/18	2018/19	2019/20	2020/21	2021/22
Baseline (<i>i.e. allocation in the previous FY</i>)	280,300	302,000	314,000	316,500	316,500
Adjustment for revenue growth	21,700	12,000	2,500	-	36,100
revenue share (<i>i.e. RMLF, level-5 hospital grant, compensation for foregone user fees and rehabilitation of village polytechnics</i>)					17,400
Computed equitable revenue share allocation	302,000	314,000	316,500	316,500	370,000

Source: 2021 BPS, National Treasury

24. Moreover, except level 5 hospital grant towards 11 counties hosting the county referral facilities, the other three grants currently benefit all 47 counties through equitable approach, meaning its based on needs of each county using particular criteria/basis⁸.
25. However, the proposed conversion, though giving budgeting autonomy on county equitable share, may present different trends in subsequent allocation including substantial deviation from current baseline allocation. For instance, striking an optimal balance in allocation between maintaining existing county roads and opening new roads may pose some tradeoff challenges when budgeting. Current allocation in respect of the affected grant allocation is informed by conditional arrangements and executed through disbursement linked indicators with counties deciding on the additional amount to supplement ring fenced allocation.
26. To mitigate against possible negative expenditure shift due to this policy change, there is need for enhanced in-year oversight and regular disclosure to sustain objective allocation linked to county government approved annual work plans. For instance entrenching cost effective approved plans on road construction (and opening new roads) and maintenance

⁸ Share of Road Maintenance Levy Fund to counties is shared on the basis of the 'formula' in force, being the Second basis; Allocation under rehabilitation of village polytechnic shared based on criteria such as enrolment (capitation amount per trainee) and equal share for other amounts; allocation under user fee forgone takes into account county population and recipient health centers and dispensaries in a county is based on outpatient attendance workload as reported routinely in DHIS.

at the county level. This is likely to curtail in-year re-allocations to non-core expenditure items and mitigate the current breaches on fiscal responsibility principles⁹.

27. Share of Road Maintenance Levy Fund current allocation to counties stands at KSh 9.43 as per the County Allocation of Revenue Act, 2020. Kenya Roads Board also oversees use of the fund by respective counties through regular monitoring and evaluation.

(B) National Government - Ministerial and Specific State Department Allocation

28. In view of the resource requirement, this reflects a substantial underfunding likely to persist in the medium term due to constraining fiscal space. Moreover, the specific cost component per project/drivers of these levels of resource requirement is not provided in the BPS as it would indicate the kind of risks this underfunding portends especially if it may relate to funding gaps for on-going projects. In principle, unfunded commitments may present an obligation in the medium term - depending on the inherent fiscal risks given that the infrastructure sector is among sectors relying on external funding and PPP arrangements. These risks are likely to affect vertical share dynamics in subsequent years if not properly disclosed and assessed.

State Department for infrastructure

29. The state Department for Infrastructure (Roads) has been allocated a ceiling of KSh **191,976 million** up from KSh **189,553 million** in the current FY 2020/21. The proposed ceiling is 46% of total requirement (KSh 420,523 million).
30. In view of ceilings provided, the State Department reflects the following targets for financial Year 2021/22;
- i. Construction of roads and bridges: 1,863 KMs of roads and 24 bridges
 - ii. Rehabilitation of Roads: 100 KMs of roads to be rehabilitated
 - iii. Maintenance of Roads: 35,122 KMs of roads will be maintained
 - iv. Design of roads and bridges: 1,457 KMs of roads and 22 bridges designed
31. More specifically, proposals under the road include scaling up roads networks and connectivity such as the construction of the Nairobi Expressway Project and Nairobi-Mau-Summit Express Way, the construction of 649.5 Km of Mau Mau Road and the 84 Km of Kenol – Sagana - Marua Road, Dongo Kundu Southern Bypass – connecting port city to neighboring Kwale County. It also includes construction of various roads across

⁹ Whereas the prescribed legal wage limit is at 35% ceiling, aggregate county wages stand at 44.8% and 43.2% in 2019/20 and 2018/19, respectively. The average development to recurrent expenditure ratio is currently at 27:73 against PFM safeguards of at least 30:70 expenditure rule limiting recurrent expenditure at 70%, with some counties reflecting substantial non-compliance (Nairobi - 8:92 ratio) (COB County Reports 2019/20)

the country under Low Volume Seal Road to open up rural areas including linking agricultural areas to market.

32. The State Department implements the largest portfolio of projects totaling over a thousand projects¹⁰. Moreover, projects implemented by KeRRA are valued below KSh15 million presenting value for investment and sustainability concerns partly due to the budgeting practice of allocating funds thinly among many projects across the country. Additionally, it is noted that most of these projects are introduced or considered for budgeting without undertaking proper feasibility, appraisal and value for money assessments.
33. The State Department also engages Private sector through Public Private Partnership (PPP) arrangements to implements key projects. Whilst leveraging on private sector resources alleviates fiscal pressure it comes with certain risks which includes weak oversight and inherent contingency risks integrated in the contracts, most commonly government guarantees on “deemed usage or demand” clauses. With possible weak and opaque negotiations, and the fact that it is not entirely possible to fully account for all future risks, these projects should be handled with enhanced diligence in-line with long term fiscal sustainability goals 11 and applicable PPP laws.

State Department for Transport

34. The BPS indicates a proposed ceiling of KSh 11,175 million, a drastic decrease from the approved budget for FY 2020/21. The decline in allocation maybe partly be explained by the transfer of rail and port functions to the National Treasury.
35. The State Department implements the following three main programmes:
- i. **Marine Transport:** allocated a ceiling of KSh**1,468** million of which KSh 667 million is for recurrent expenditure and KSh 801 million for development expenditure. **Air Transport:** the programme has been allocated a ceiling of **KSh 8,979 million** against a requirement of **KSh 13,689 million** which is 66% of the requirements. The targets for 2021/22 include:
 - ii. 100 % completion of the runway rehabilitation in Moi International Airport
 - iii. 100% completion of cargo shed at Isiolo Airport
 - iv. 5 to be Aerodromes/strips rehabilitated

¹⁰ See Compendium of sector projects.

¹¹ Budget Options 2021/22, Parliamentary Budget Office.

35. However, the 5 aerodromes for rehabilitation are not listed in the 2021 BPS for scrutiny, noting that it is not in compliance with previous resolutions. Moreover, the distribution of airstrips should be informed by need and level of connectivity. For instance, the Ministry should accord priority to areas with poor road connectivity among other criteria such as equity considerations, promoting convenience based on current state of available mode of transport, access, among others.

Rail and Marine Transport -- The National Treasury

36. Following the reorganization of the Government through an executive order, the allocations for the two programmes, Rail and mandates (activities) under Marine Transport relating to port were transferred to the National Treasury.

Rail Transport: provision of ceiling amount of KSh 32,799 million against a requirement of KSh 40,450 million, translating to 81% funding. Key programme targets are:

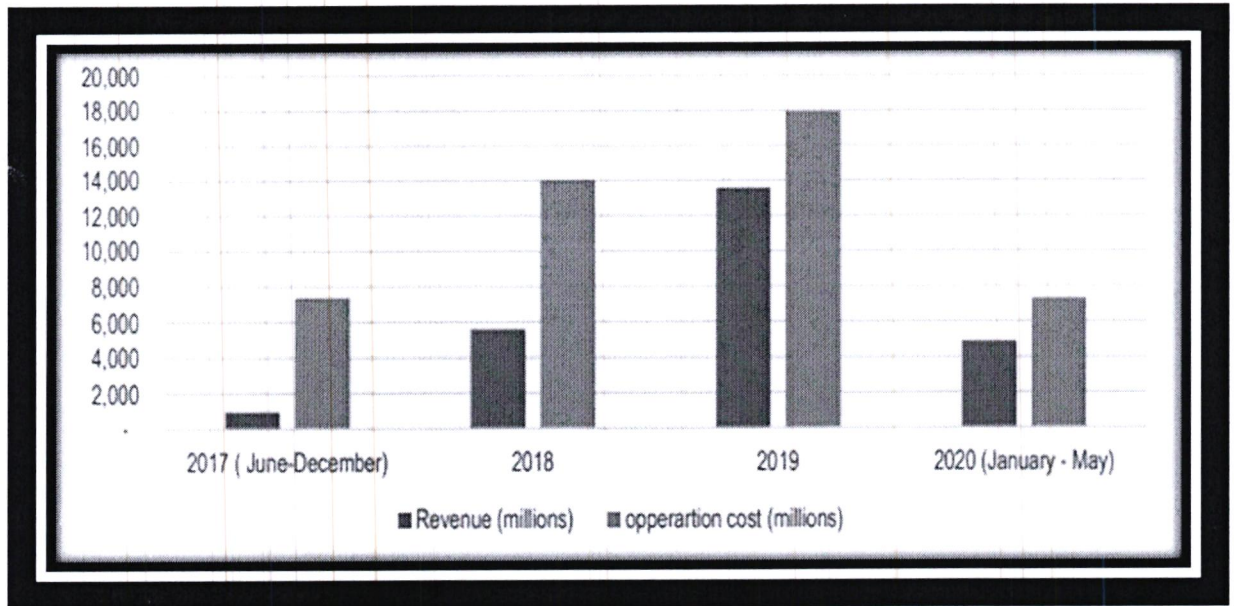
- i. Refurbish 20 passenger coaches,
- ii. 100% completion Naivasha ICD,
- iii. 100% completion of Nairobi – Nanyuki MGR line
- iv. 100% completion of Naivasha ICD – Longonot station (MGR)
- v. 100 % completion of Nakuru – Kisumu (MGR)

37. Regarding rail transport, on-going and further planned refurbishment/rehabilitation of network is likely to improve and extend rail networks to further support transportation and other economic activities. The SGR continues to account for substantial component of hauling cargo and passengers between the coast and Nairobi and extending cargo to Naivasha¹². However, key challenges include untimely settlement of operational cost, further exacerbated by impact of Covid 19 on transport activities (See trends in Figure 1). Untimely settlement of such costs contributes to accumulation of pending bills, often paid through mid-year budgetary reviews¹³. These trends, if not mitigated and properly accounted, will continue to negatively impact the financial health (of SGR operations) on account of revenue shortfalls and other budget related fiscal risks.

Figure 1: Revenue versus Operation Cost for SGR, Kshs. millions

¹² 2021 BPS, National Treasury

¹³ 2021/22 Budget Options, PBO and Ministerial submissions.



Source: Budget Options for 2021/2022 and the Medium Term, Parliamentary Budget Office

38. Moreover, focus is on rehabilitation of the metre gauge rail in view of the planned performance indicators, and this may require further submission on the construction status of the remaining phases of SGR (2b and 2c) and underlining commitment/implications on policy and subsequent budgets.

a) **Marine Transport:** A propose ceiling KSh 24,278 million to achieve the following targets:

- 90% completion of the second container terminal phase 2
- 95% completion of the first 3 berths of the Lamu port
- 90% completion of the Kipevu Oil Terminal (KOT)
- 70% completion of Kisumu Port Phase II
- 40% completion of First Berth of Dongo Kundu Special Economic Zone

State Department for Shipping and Maritime

39. The state Department for shipping and Maritime is proposed to be allocated KSh 2,986 million against a resource requirement of KSh 4,608 million, representing 65% funding proposals. The State Department implements only one programme (shipping and Maritime Affairs). The programme targets the following interventions;

- ❖ 20 % completion of ship yard construction in Kisumu
- ❖ 2000 Seafarers employed
- ❖ 50% completion of equipping Seafarers Examination Centre
- ❖ 1000 students supported financially under Maritime Education and Training (MET) support Programme and financial support to MET Institutions (KSh75 million)
- ❖ 100% completion Digital Ship-waste discharge reporting System

40. However, funding towards completion of Kenya Maritime Authority (KMA) Headquarters building is not provided for the period under consideration. Giving its impact on institutional strengthening and service delivery, it is important National Treasury/Ministry to provide status of the KMA headquarters under construction.

State Department for Housing and Urban Development

41. The state department for Housing and Urban development reflects a ceiling provision of KSh 13, 188 million against a resource requirement of KSh 88,571million (5% of the budgetary requirement). The Department is mandated with the delivery of 500,000 housing units by 2022 under the affordable Housing component of the Big 4 Agenda. However, to-date only 1,370 units have been completed, albeit government commitment to the overall target.

42. The State Department implements the following programmes:

- i. **Housing Development and Human Settlement:** the Programme is allocated a ceiling of KSh 8, 840 million against a requirement of KSh 80,976 million translating to 11% of the resource requirement. Under this programme, 25, 965 affordable housing units are planned including in Starehe (3,336), Shauri Moyo (4, 470), Kibera Zone B (4,435) and Mukuru (137,700) and others including for civil service among others, and using other innovative financing measures to deliver the overall goal
- ii. **Urban and metropolitan development:** Key programme targets for the financial year 2021//22 include:
 - 10 BRT stations constructed,
 - 42% of 76.2 Km of BRT lanes constructed,
 - completion of 17 ESP markets

The state Department for Public works

43. The State has been allocated a ceiling of KSh **4,239** million against a resource requirement of KSh**9, 404** million translating to 45% resource requirements. The State Department implements the following programmes;

- i. **Government Buildings:** with earmarked allocation of KSh **1,130** million against a requirement of KSh **3,709** million (or 30% of the request). Key output indicators for FY 2021/22 include
 - 80% completion of the stalled Voi Pool Housing and Mathare Nyayo Hospital
 - 60 Government buildings designed, documented and Supervised
 - 50 existing Government buildings re-designed, documented and Supervised for rehabilitation
 - 2 ESP District Headquarters completed
 - 75% completion of 5 County Government Headquarters
 - 80% completion of MoW Sports Club
- ii. **Coast line infrastructure and Pedestrian access:** With proposed allocation of KSh 321 million against a requirement of KSh 1,688 million, some of the major targets for the programme include;
 - 100 % completion of Mokowe Jetty
 - 1(one) footbridges constructed
- iii. **Regulation and Development of Construction Industry:** proposed allocation amounts to KSh 2,485 out of the KSh 2,969 million requirement for the financial year 2021/22 (84% of its resource requirement). Key expected targets include:
 - 7,250 contractors to be registered
 - 24,200 skilled construction workers and site supervisors to be accredited
 - 3,200 Projects to be registered
 - 15,000 Contractors trained/Sensitized
 - 3,000 buildings inspected and audited

44. Table 4 presents a summary analysis of the proposed ceilings measures vis a vis resource requirements for each Department as well as respective programmes (See also attached annex II)

Table 4: Allocations and requirements by Vote and Programme, KSh Millions							
Vote/Programme	Approved				Resource requirement	2021 BPS ceiling	Proposed ceiling as a % of Resource Requirement
	2017/18	2018/19	2019/20	2020/21	2021/22	2021/22	
State Dept. of Infrastructure	149,444	171,349	193,815	189,523	420,593	191,976	46%
Road Transport	149,444	171,349	193,815	189,523	420,593	191,976	46%
Transport	112,450	100,729	123,188	47,555	-	11,175	-
General Admin., Planning & Support Services	1,137	1,415	951	361	747	351	47%
Marine Transport	7,260	13,041	22,102	15,234	-	1,468	-
Air Transport	9,846	9,280	9,991	8,706	13,689	8,979	66%
Road Safety & transport services	746	2,237	17	304	384	357	93%
State Dept. for Shipping & Maritime	260	1,668	2,335	2,517	4,608	2,986	65%

Shipping & Maritime Affairs	260	1,668	2,335	2,517	4,608	2,986	65%
State Dept. for Housing & Urban Development	18410	27,897	31,969	17,057	88,571	13,188	15%
Housing Development & Human Settlement	7002	8,021	13,616	3,610	80,976	8,840	11%
Urban & Metropolitan Development	10,312	19,652	18,104	13,128	7,293	4,088	56%
General Admin. Planning & Support Services	187	224	249	318	302	260	86%
State Dept. for Public Works	1,530	4,346	5,972	3,499	9,404	4,239	45%
Government Buildings	982	2,043	3,482	1,150	3,709	1,130	30%
Coastline Infrastructure & Pedestrian Access	165	489	505	470	1,688	321	19%
General Admin. Planning & Support Services	383	391	399	311	1038	303	29%
Regulation & Development of the Construction industry	-	1,423	1,586	1,567	2,969	2,485	84%
National Treasury							

Rail Transport					40,450	32,799	81%
Marine Transport					-	24,278	

Source: 2020 Sector reports and 2021 BPS AND Estimate Books, National Treasury

SUMMARY OF KEY ISSUES AND POLICY OPTIONS

- a. **Resource short fall-** Given the trend in the resource requirements versus the ceilings measures provided in the 2021 BPS, all the State Departments are under resourced. This requires priority allocation to be undertaken by respective state departments. Moreover, and in view of the complexity of the funding arrangement for projects under the sector, there is need for adequate disclosure and project based assessment for potential fiscal risks that may arise on account of the underfunding. This may promote prudent and priority allocation. The Committee may task the Public Investment Management Unit to undertake semi-annual review of infrastructure and transport projects and subsequently submit its findings.

- b. **Proposed Criteria to apportioning allocation to capital budget -** In view of data on budget execution and trends in revised budgets, adherence to the outlined criteria (particularly prioritizing of allocation to on-going projects and providing counterpart funding) remains a major challenge, and continues to pose substantial downside risk to on-going road construction or initiated but have been delayed projects. A legislative resolution to extend compliance by counties to these criteria may enhance budget credibility, speed up completion of pending infrastructure works (county roads and transport related infrastructure) and curtail initiating new projects during budget execution.

- ✓ **Conversion of Conditional Grants to be part of equitable share (RMLF)-** To mitigate against possible negative expenditure shift due to this policy change, there is need for enhanced in-year oversight and regular disclosure to sustain objective allocation linked to county government approved annual road construction and maintenance work plans.

- ✓ **Delays in Delivery of Conditional Grant Objectives -** Whereas Senate approves conditional grants towards the construction of county headquarters, completion of projects have been delayed beyond the expected timelines. These continues to create substantial opportunity costs and free up resources currently used for refurbishment/construction of short term structure etc.

- ✓ **Expected Output and Targets :** The 2021 BPS targets rehabilitation of 5 Airstrips, however, the list of the airstrips and locations are not provided. The

State Department for Transport to provide adequate disclosure on the list of the airstrips including the rationale for the planned interventions.

- ✓ Following the reorganization of government, rail transport and all activities relating to the port development under Marine Transport programme were transferred to the National Treasury. Given the negative operating costs for SGR, the committee may seek additional disclosure on the status and drivers of such cost as well as mechanism for settling such costs.
- ✓ **Budget Credibility and Realism** - The State department for Housing and Urban development is mandated with the delivery of 500,000 housing units by 2022 under the affordable Housing programme theme in the Big four agenda. However, the BPS indicates completion of 1,370 units. in addition , there are plans to construct and finalize approximately 26,000 in the period under consideration. There is need for specific details such as costed plans/units and implementation framework towards achieving this targets under the affordable housing plan.
- ✓ **Managing risks under Public Private Partnerships:** large projects should be reviewed regularly and subjected to parliamentary approval/review. This is likely to promote transparency and provide clear framework to manage contingent risks often embedded in such long-term projects.

Table 1: Summarized Fiscal Framework KSh Millions			Share of GDP	
	2020/21 Revised Budget	2021/22 BPS projections	2020/21 Revised Budget	2021/22 BPS projections
Total Revenue	1,849,213	2,033,930	16.6%	16.4%
<i>of which</i> : Ordinary revenue	1,594,009	1,775,624	14.3%	14.3%
Ministerial AIA	255,204	258,305	2.3%	2.1%
Total Expenditure	2,864,529	3,010,035	25.6%	24.3%
<i>of which:</i> Recurrent	1,838,005	1,986,040	16.5%	16.0%
Development	638,520	609,146	5.7%	4.9%
County Transfer	383,004	409,849	3.4%	3.3%
Contingency	5,000	5,000	0.0%	0.0%

Deficit Exclusive of grants	(1,015,316)	(976,105)	-9.1%	-7.9%
Grants	48,737	46,057	0.4%	0.4%
Deficit inclusive Grants	(966,579)	(930,048)	-8.7%	-7.5%
Deficit Financing				
Net Foreign Financing	426,491	267,276	3.8%	2.2%
Net Domestic financing	540,008	662,773	4.8%	5.3%
Nominal GDP (Fiscal Year)	11,168,511	12,393,063		

Table 2 : Analysis of ceiling by Vote and by Programme, KSh Millions

Programme/vote	Approved 2020/21			Bps Ceiling for 2021/22		
	Curent	capital	total	current	capital	Total
State Dept. for Public Works	2,314	1,185	3,499	3,111	1,128	4,239
Government Buildings	531	619	1,150	534	596	1,130
Coastline Infrastructure & Pedestrian Access	159	311	470	160	161	321
General Admin. Planning & Support Services	294	17	311	289	14	303
Regulation & Development of the Construction industry	1,329	238	1,567	2,128	357	2,485
National Treasury						

Rail Transport					-	32,799	32,799
Marine Transport					-	24,278	24,278