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THIRTEENTH PARLIAMENT - SECOND SESSION

THE SENATE

PARLIAMENT
OF KENYA
LIBRARY

STANDING COMMITTEE ON FINANCE AND BUDGET

REPORT ON THE 2023 BUDGET POLICY STATEMENT

PAPERS LAID	
DATE	28/2/2023
TABLED BY	Chair Finance
COMMITTEE	Finance and Budget
CLERK AT THE TABLE	D. Chama

Approved
[Signature]
28/2/23

Rt. Hon. Speaker
You may approve
for tabling.
0000
28/02/23

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

February, 2023

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LIST OF ABBREVIATIONS/ACRONYMS

A-I-A	Appropriation in Aid
CoG	Council of County Governors
CRA	Commission on Revenue Allocation
CILOR	Contribution in Lieu of Rates
CoB	Controller of Budget
ECDE	Early Childhood Development Education
EPRA	Energy and Petroleum Regulatory Authority
EFAB	Equalization Fund Advisory Board
FLLoCA	Financing Locally-Led Climate Action
GDP	Gross Domestic Product
IBEC	Intergovernmental Budget and Economic Council
IBP-Kenya	International Budget Partnership-Kenya Chapter
ICPAK	Institute of Certified Accountants of Kenya
IEA	Institute of Economic Affairs
IGRTC	Intergovernmental Relations Technical Committee
IMF	International Monetary Fund
KRA	Kenya Revenue Authority
MDAs	Ministry, Departments and Agencies
MES	Medical Equipment Services
MOH	Ministry of Health
MSME	Micro, Small, and Medium Enterprise
NHIF	National Health Insurance Fund
NOFBI	Non Optical Fibre Network Backhaul Initiative
OSR	Own Source Revenue
PFM	Public Finance Management
PPP	Public Private Partnership
SAGAs	Semi-Autonomous Government Agencies.
SOEs	State Owned Enterprises
SRC	Salaries Remuneration Commission
TISA	The Institute for Social Accountability

TSC
UHC

Teachers Services Commission
Universal Health Coverage

PRELIMINARIES

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

Article 124 (1) of the Constitution of Kenya provides that each house of Parliament may establish committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

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

The Senate Standing Committee on Finance and Budget is established under Section 8(1) of the Public Finance Management (PFM) Act, 2012 and standing order 228 of the Senate Standing Orders and is mandated to-

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

MEMBERSHIP OF THE COMMITTEE

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

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

CHAIRPERSON'S FOREWORD

The National Treasury submitted to Parliament the 2023 Budget Policy Statement (BPS) on 14th February, 2023 pursuant to section 25 of the Public Finance Management Act 2012.

Subsequently, the 2023 BPS was tabled in the Senate at its sitting held on 15th February, 2023. Subsequently and pursuant to standing orders 186 (4), of the Senate Standing Orders, the 2023 Budget Policy Statement was committed to each Standing Committee to consider and submit its recommendations to the Standing Committee on Finance and Budget within seven days.

BPS is a government policy document that must be considered and approved by Parliament within 14 days after tabling. It sets out the broad strategic priorities and policy goals that guides the national and county governments in the preparation of budgets. It entails-

- a) an assessment of the current state of the economy and the financial outlook over the medium term, including the 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 the indicative transfers to the county governments;
- d) the fiscal responsibility principles and the financial objectives over the medium term including limits on total annual debt; and
- e) the proposed division of revenue, raised nationally, between the National Government and county governments including proposed conditional grants.

In compliance with the provisions of standing order 186 (6) of the Senate Standing Orders, the Committee proceeded to undertake consultative meetings on the 2023 Budget Policy Statement. The Committee sent invitations to key stakeholders inviting them to its meetings and further submitting their written comments on the 2023 BPS.

The Committee held meetings and received written submissions from the following seven (7) stakeholders-

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

With regard to the Macro-Fiscal Framework, the economy is expected to grow by 5.5 percent in 2022 and 6.1 percent in 2023. This growth will be supported by private sector growth, recovery in agriculture and implementation of the government's development agenda such as the Hustlers' Fund which is expected to increase access of the private sector to credit. From an expenditure perspective, private consumption is expected to support aggregate demand, ongoing labour market recovery, improved consumer confidence and resilient remittances.

The outlook of key macro variables has also been reviewed. Inflation is projected to average 5.8 percent in 2023/2024 supported by a tight monetary policy stance which is expected to anchor inflation expectations.

With regard to the exchange rate, the Kenya shilling has weakened significantly against the US dollar but remains stable; supported by increased remittances, adequate foreign exchange reserves and improved exports receipts. Indeed, it is reported that as at November 2022, exports grew by 12.4 percent driven by increased receipts from tea and manufactured goods even as receipts from horticulture declined. On the other hand, imports increased by 11.7 percent in the same period mainly due to increased imports of oil and other intermediate goods.

In terms of the fiscal framework, the National Treasury projects an ordinary revenue collection of Ksh.2.571.2 trillion against recurrent and development expenditure of

Ksh.2.459.3 trillion and Ksh.744.2 billion, respectively. To this extent, there is a projected fiscal deficit of Ksh.720.1 billion in FY 2023/2024 translating to 4.4% of GDP.

To meet this deficit, the National Treasury proposes to borrow Ksh.521.5 billion from the domestic market and net foreign financing of Ksh.198.6 billion in FY 2023/24. This additional foreign debt is expected to increase future statutory expenditures.

Committee Observations

The Committee has considered the 2023 BPS and made the following observations-

- a) The National Treasury commits to ensure that there is a complete transfer of county functions within six months. However, it has not provided a comprehensive list of county functions that are still being performed by the national government and the framework of transfer.
- b) The proposed equitable share allocation to county governments is based on the last audited accounts of 2019/2020 which have been audited and approved by the National Assembly. The Committee notes that the audited and approved amount for FY 2019/2020 is Ksh.1.730 trillion and not Ksh.1.573 billion as indicated in the BPS. Similarly, the allocation to the equalization fund is based on the last audited accounts of FY 2019/2020 whose amount is erroneously indicated.
- c) There is an inequitable sharing of revenue between the two levels of government given that the national government proposed allocation for the FY 2023/24 has increased by 23 percent while the County allocation has increased by only 4.2 percent.
- d) The BPS has not given any policy guidelines on measures to be taken to unlock arrears in allocation to the Equalization Fund for the previous financial years.
- e) The leasing of medical equipment continues to receive funding despite unclear reporting on the progress made in the programme and the fact that some contracts have expired. Indeed, at the time of execution of the contracts, the counties were not fully appraised on the contents of the contracts. The Medical Equipment Services (MES) programme was also not well aligned to county specific needs and some counties' requirements were not adequately met.

- f) County governments are accumulating pending bills at a fast rate and are not fully adhering to the measures put in place to clear them. It is noted that of the total outstanding Ksh.131.35 billion pending bills in county governments, Ksh.84.78 billion is owed by Nairobi City County.
- g) While the BPS 2023 proposes an unconditional allocation of Ksh.108.7 million to ten county governments as proceeds from court fines collected in the enforcement of county legislation, these funds are actually county revenue collected by the Judiciary on behalf of the respective counties and require a framework for their direct remittance to the respective county governments by the Judiciary.
- h) The inclusion of Ksh.425 million allocation to library services under the equitable share to counties presents a legal concern given that the equitable share allocation already has a predetermined formula for disbursement among counties which cannot be altered.
- i) Whereas the Hustlers Fund meets a critical gap in terms of private sector credit access, there are other existing funds such as the Biashara Fund, Uwezo Fund, Women Enterprise Fund and Youth Enterprise Fund which were established to meet similar objectives. There is need to streamline these funds to avoid duplication of effort and reduce operational costs.

Committee Recommendations

The Committee has considered the 2023 BPS, and recommends that the Senate proceeds to consider and pass the Policy with the following recommendations-

Policy Recommendations

- a) The Ksh.385.4 billion proposed equitable share includes Ksh.425 million earmarked for salaries of respective staff of the 55 libraries transferred to 33 counties. The funds should be transferred to the counties as a conditional allocation under the County Governments Additional Allocations Bill as opposed to being included in the county governments share of nationally raised revenue under the Division of Revenue Bill.

- b) The National Treasury should not transfer funds to the Medical Equipment Services (MES) project for the FY 2023/24 and should furnish the Senate with copies of the Intergovernmental Partnership Agreements that were executed between the Ministry of Health (MoH) and the County Governments and copies of the contractual agreements with the MES service providers by March, 2023.
- c) Drought has become cyclic in nature and given the intensity of the prevailing drought crisis, the National Treasury should fast-track the financing and implementation of projects related to drought mitigation.
- d) The National Treasury in collaboration with Kenya Roads Board should put in place necessary mechanisms to ensure the Road Maintenance Fuel Levy Fund is disbursed to counties as an additional allocation to counties.
- e) The National Treasury must comply with the constitutional requirements related to the Equalization Fund and submit to the Senate, within thirty days of approval of BPS 2023, a framework on how they intend to clear the arrears of monies due to the Fund.
- f) Fast-tracking of the development and enactment of a legal framework to enable the direct remittance to counties of court fines collected in the enforcement of county legislation.
- g) The computation for the total amount to be set aside for the Equalization Fund under Article 204(1) of the Constitution must be one half percent of all the revenue collected by the national government calculated on the basis of revenue received, as approved by the National Assembly.
- h) The growth in county equitable share should be at least 8.4% of the projected revenue growth from FY 2022/23 to 2023/24. This will take into account inflation and increased demand in investment in agriculture and water as a response to the drought situation.

Financial Recommendations

The Committee made the following financial recommendations-

- (1) The proposed allocation of shareable revenue to County Governments for FY 2023/24 should be **Ksh.407.0 Billion.**
- (2) The County Additional Allocations should be **Ksh.44.3 Billion of which-**

- (a) Supplement for Construction of County HQs- **Ksh. 454 million**
 - (b) Road Maintenance Levy Fund -**Ksh.10 billion**
 - (c) Transfer of Library Services - **Ksh.425 million**
 - (d) Aggregated industrial parks programme - **Ksh.4.7 billion**
 - (e) Allocation from Development Partners in the form of Loans and Grants-**Ksh.33.192 Billion**
- (3) That, the Fiscal Deficit (on commitment basis including grants) for the FY 2023/24 be binding at **Ksh.720.1 billion (4.4% of GDP)**.
- (4) The National Treasury should adopt the balanced domestic-external financing strategy as contained in the MTDS of 50% net domestic borrowing and 50% net external borrowing for FY 2023/24.
- (5) That the allocation to the Equalization Fund for FY 2023/2024 be set at **Ksh.8.65 billion** in line with the most recent audited accounts, approved by the National Assembly (Ksh.1.730 trillion, FY 2019/20)

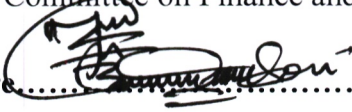
Acknowledgement

The Committee takes this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the 2023 BPS successful.

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

Lastly, I wish to thank the stakeholders who submitted written memoranda and who appeared before the Committee to present their comments on the 2023 BPS.

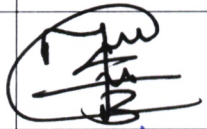

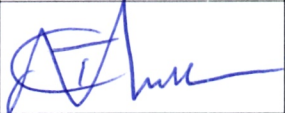

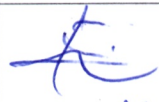

It is now my pleasant duty, pursuant to standing order 186 (5) of the Senate Standing Orders and section 25 (7) of the PFM Act, 2012 to present the 2023 BPS Report of the Standing Committee on Finance and Budget to the Senate.

Signature..........Date. 28/02/2023.....

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

**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON
FINANCE AND BUDGET ON THE 2023 BUDGET POLICY
STATEMENT**

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

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

CHAPTER ONE

BRIEF ON THE 2023 BUDGET POLICY STATEMENT

1.0 Policy priorities for FY 2023/2024 and the Medium Term

1. The BPS is anchored on 5 key pillars and 12 enablers that are broadly expected to contribute to the following six objectives: lowering the cost of living, creating employment opportunities, eradicating hunger, improving fiscal space, increased foreign exchange earnings, and inclusive growth. The key pillars are Agriculture, MSME Economy, Housing and Settlement, Healthcare, and Digital and Creative Economy. Additionally, there are enablers which are expected to facilitate the government to achieve the key pillars. These are as follows: Infrastructure; Manufacturing; Blue Economy; the Services Economy, Environment and Climate Change; Education and Training; Women Agenda; Social Protection; Sports, Culture and Arts; and Governance.
2. The government intends to implement the projects under the pillars and enablers through a sequencing criterion ranging from quick wins (up to six months), short-term (up to 18 months), medium-term (up to 36 months), and long-term (over 36 months).
3. Some policy interventions touch on county specific functions. These include the following-
 - a) recruitment of community health workers;
 - b) conditional grants to county governments for establishment of aggregated industrial parks;
 - c) conditional grants for expansion of the school feeding programme to primary and ECD schools;
 - d) provision of conditional grants to county governments on grassroots development programmes;
 - e) expansion of the national youth talent academy to include sports and devolve it to the county level including introduction of a county sports talent academy; and
 - f) establishment of a centralized system of human resource management for healthcare professionals similar to the Teachers Service Commission.

4. Additionally, the BPS has made commitments to-
 - (a) ensure the county equitable share is transferred to counties in a timely manner in accordance with the law;
 - (b) ensure that there is a complete transfer of all county functions to counties within six months;
 - (c) develop a framework to ensure state owned programmes that carry out devolved/shared functions adhere to the principles of good governance; and
 - (d) ensure that funding follows functions.

5. In order to mitigate the fiscal risks from State corporations, the national government proposes to restructure the State corporations through amendment to the State owned Enterprises (SoE) privatization Act 2005 aimed at reducing demand for government resources and facilitate privatization of SoEs. The government has established a High-Level Risk Committee (FRC) at the National Treasury to identify, evaluate and report and also propose strategies for mitigating the fiscal risks. The government also intends to strengthen corporate governance of State Corporations through the Mwongozo guidelines and subsequent training in governance. Further, the government will utilize the Government Information Management Information System (GIMIS) to oversight SoEs by ensuring the Government has comprehensive and consolidated data on SoEs to ensure timely identification, monitoring, mitigation and reporting of fiscal risks from SoEs.

1.1 The Macro-Fiscal Framework

5. The economy is expected to grow by 5.5 percent in 2022 and 6.1 percent in 2023. This growth will be supported by private sector growth, recovery in agriculture and implementation of the government's development agenda such as the Hustlers fund which is expected to increase access of the private sector to credit. From an expenditure perspective, private consumption is expected to support aggregate demand, ongoing labour market recovery, improved consumer confidence and resilient remittances.
6. The outlook of key macro variables has also been reviewed. Inflation is projected to average 5.8 percent in 2023/2024 supported by a tight monetary policy stance which is expected to anchor inflation expectations. With regard to the exchange rate, the Kenya shilling has weakened significantly against the US dollar but remains stable; supported

by increased remittances, adequate foreign exchange reserves and improved exports receipts. Indeed, it is reported that as at November 2022, exports grew by 12.4 percent driven by increased receipts from tea and manufactured goods even as receipts from horticulture declined. On the other hand, imports increased by 11.7 percent in the same period mainly due to increased imports of oil and other intermediate goods.

7. In terms of the fiscal framework, the National Treasury projects an ordinary revenue collection of Ksh.2, 571.2 billion against recurrent and development expenditure of Ksh.2, 459.3 billion and Ksh.744.2 billion respectively. To this extent, there is a projected fiscal deficit of **Ksh.720.1 billion** in FY 2023/2024 translating to 4.4% of GDP. To meet this deficit, the National Treasury proposes to borrow Ksh.521.5 billion from the domestic market and net foreign financing of Ksh.198.6 billion in FY 2023/24. This additional foreign debt is expected to increase future statutory expenditures.

1.2 Adherence of Counties to Fiscal Responsibility Principles

8. In terms of County financial management, many county governments have been unable to meet the fiscal responsibility principle of allocating a minimum 30 percent of their total budget towards development. It was noted that this could partly be attributed to delayed exchequer issues which prevent counties from fully implementing their development budget.
9. Many County governments have been unable to meet the fiscal responsibility principle of capping county government's expenditure on wages and benefits at 35 percent of the county government's total revenue. Indeed, majority of the counties are above the threshold with less than ten counties having met this threshold.

1.3 Own Source Revenue Collection in Counties

10. Counties have continually recorded low collection of own-source revenue (OSR) over the years. To this extent, the National Treasury has committed to assist counties to boost their own source revenue collection. This is to be achieved through the following: adoption of automatic and cashless payment systems; streamlining of taxation fees and structure; strengthening collaboration on data sharing between different organizations and departments; developing the National Rating Bill and the County Government (Revenue Raising Process) Bill; payments of Contribution in Lieu of Rates (CILOR)

due to counties and laying legal framework for claiming CILOR; and developing a model tariffs and pricing policy.

11. The National Treasury commits to develop an Integrated County Governments Revenue Management System: a uniform system that seals revenue leakages and provides value for money. This system will enable counties to migrate from the unintegrated revenue management system which has high administrative costs and revenue leakages.
12. The National government also commits to operationalize section 183(5) of the Mining Act 2016. The Act provides for sharing of revenues from mineral royalties. The law requires that the benefits be distributed as follows: seventy percent to the National Government; twenty percent to the County Government; and ten percent to the community where the mining operations occur.

1.4 Pending Bills in Counties

13. The BPS has provided a detailed list of pending bills in the counties, with a total outstanding amount of Ksh.131.35 billion. in order to control the accumulation of pending bills, counties are required to comply with the communication in Circular No.2/2022 dated 24th March 2022; to regularly report on pending bills in accordance with the financial reporting template by the Public Sector Accounting Standards Board (PSASB) and put in place monthly payment plans for outstanding pending bills.
14. County governments are also required to settle all eligible pending bills as a first charge in the FY 2023/24 in line with Regulation 41(2) of the Public Finance Management (County Governments) Regulations 2015 or risk sanctions from the National Treasury as provided in Article 225 of the Constitution and Section 96 of the PFM Act.

1.5 Division of Revenue for FY 2023/2024

15. With regard to the Division of Revenue for FY 2023/2024, there is a proposed allocation of **Ksh.385.4 billion** to counties. The amount has increased by **Ksh.15 billion** from the baseline of Ksh.370 billion due to adjustment to revenue growth; and an allocation of **Ksh.425 million** towards transfer of library functions to the counties. It is indicated that the proposed equitable share allocation is 24.5 percent of the last

audited accounts (Ksh.1, 573.42 billion for FY 2019/20) and 15 percent of projected revenue in FY 2023/24.

16. The Ksh.425 million set aside from the county equitable share for library services will be shared among 33 county Governments which have library services. The funds will be administered through equitable share of allocation in three phases. In 2023/2024, only the 33 counties with library services will receive the allocation. In 2024/2025, 75% of the 425 million will be shared among the 33 counties whereas the remaining 25% will be allocated as equitable share. In 2025/2026, 25% of the allocation will be shared among the 33 counties and 75% will be disbursed as equitable share. In the fourth year, the entire Ksh.425 million (FY 2026/27) will be included in equitable share and the 33 counties with library services are expected to have integrated salaries of staff and operations of the library into their payroll systems.
17. To justify the proposed county equitable share allocation, the National Treasury argues that the national government continues to experience a high level of debt in the context of limited avenues to financing from domestic and international financial markets. Secondly, there are increased government expenditure needs relating to drought intervention, fertilizer subsidy and the Hustlers Fund among others which have to be met.
18. The BPS also indicates that in the medium term, sharing of resources will be pegged on the financing constraints and not on the budget. This is because the national government continues to solely bear shortfalls in revenue in any given financial year, hence effecting cuts in national government budgets.

1.6 Additional Allocation to counties

19. County Governments will receive additional allocations amounting to **Ksh.44.3 billion** in FY 2023/24. This comprises Ksh.11.1 billion From the National Government's share of revenue and Ksh.33.19 billion from proceeds of external loans and grants. Thus, the aggregate allocation to county governments in FY 2023/24 amounts to **Ksh.429.7 billion**.
20. Conditional grants from the National Government's share of revenue are towards the following: Ksh.5.86 billion for leasing of medical equipment; Ksh.4.7 billion for operationalization of the national government's programme on aggregated industrial

parks and Ksh.454 million for the construction of headquarters. There is also an unconditional allocation of Ksh.108.7 million as remittances from court fines generated from county legislation. This amount accrued from FY 2019/20, 2020/21 and 2021/22 from ten county governments.

1.7 Equalization Fund 2023/2024

21. The Equalization Fund has been allocated **Ksh.7.9 billion** in FY 2023/24. This is equivalent to 0.5 percent of last audited accounts (Ksh.1, 573.42 billion for FY 2019/20). It is noted that total Statutory entitlement to the Fund as per the Constitution is Kshs.55.3 billion but actual transfers amount to Ksh.12.4 billion, hence a shortfall of Kshs.42.9 billion as at FY 2022/23.

CHAPTER TWO

SUBMISSIONS BY STAKEHOLDERS

22. This Chapter entails a summary of stakeholders comments on the BPS as received from the following -
 - a) The National Treasury;
 - b) The Commission on Revenue Allocation;
 - c) The Council of Governors (CoG);
 - d) The Institute of Certified Public Accountants of Kenya(ICPAK);

- e) The International Budget Partnership, Kenya (IBP-K);
- f) The Institute of Social Accountability (TISA); and
- g) The Institute of Economic Affairs (IEA).

2.0 Submissions by The National Treasury

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

- 23. The 2023 BPS comes at a time when the Government is finalizing the preparation of the Fourth Medium Term Plan (2023-2027) of the Kenya Vision 2030 that will prioritize implementation of economic recovery strategies of the new Administration to reposition the economy on a steady, inclusive and sustainable growth trajectory.
- 24. The BPS is framed against a backdrop of global economic slowdown underpinned by the ongoing Russia-Ukraine conflict, elevated global inflation, the lingering effects of the COVID-19 pandemic, and persistent supply chain disruptions and the drought effects that have created urgency on food security and climate change effects. This calls for refocus investments on mitigation, adaptation and firm resilience

Theme and focus of the 2023 Budget Policy Statement

- 25. This is the first Policy statement under the Kenya Kwanza Government. It sets out the Administrations priority programs, policies and reforms for implementations in the medium-Term Expenditure Framework.
- 26. The 2023 BPS is based on the Bottom-Up Economic Transformation Agenda geared towards economic turnaround and inclusive growth. Special focus will be placed on increased employment, more equitable distribution of income, social security while also expanding the tax revenue base, and increased foreign exchange earnings.
- 27. The BPS focuses priority under two categories which are core pillars and the enablers which aim to create a conducive business environment for socio- economic transformation.
- 28. Under core pillars the Government seeks to increase investments in five sectors envisaged to have the biggest impact on the economy as well as on household welfare. These include: Agricultural Transformation; Micro, Small and Medium Enterprise

(MSME) Economy; Housing and Settlement; Healthcare; and Digital Superhighway and Creative Industry.

29. Strategic interventions under key enablers need to be made for the economy to work regressively these enablers include; Infrastructure; Manufacturing; Blue Economy; the Services Economy, Environment and Climate Change; Education and Training; Women Agenda; Youth Empowerment and Development Agenda; Social Protection; Sports, Culture and Arts; and Governance.

Implementation Framework

30. The policy priority areas in the Bottom Up Economic Transformation Agenda will be implemented through a framework anchored on three pillars which are; prioritization, sequencing and financing.
31. Prioritization is based on the largest impact on six objectives which are-
 - (a) Lowering the cost of living;
 - (b) Eradicating hunger;
 - (c) Expanding the tax base;
 - (d) Foreign exchange generation;
 - (e) Creating jobs; and
 - (f) Achieving inclusive growth.
32. Sequencing is based on four time-frames namely; quick wins, short term, medium term and long term.
33. Financing principles and Framework- Financial consolidation being a priority, the plan must be financed within a budget deficit of 3% by financial year 2026/27. To achieve this, we need to ensure that revenue projection will not exceed the average growth in preceding 3 years and expenditure growth capped at 75% of the revenue growth rate.

FY 2022/23 Budget Execution

34. The first half of Financial year 2022/23 budget execution recorded positive growth slowly below target performance. In the second half of the FY 2022/23 revenue performance is expected to improve.

35. Total revenue collected grew at 11.2% with all tax revenue categories recording positive growths, this is a clear indication on the recovery of revenue collection. However, this was below target by Ksh.11.2 billion on account of shortfalls in ordinary revenue of Ksh 43.2 billion as Ministerial A-i-A was above target by Ksh.32.0 billion.

Expenditure Performance

36. The total amount for expenditure for the period ending December 2022 was at Ksh.1.4 trillion which was above the projected amount of Ksh.1.4 trillion by Ksh.19.9 billion.
37. Recurrent expenditure was above projected target by Ksh.106.8 billion mainly because of expenditure on operations and maintenance. Development expenditure was below target by Ksh.28.4 billion.
38. By the end of December 2022 there was an overall deficit including grants of Ksh.219.3 billion against a projected deficit of Ksh.285.1 billion. This deficit was financed through net domestic borrowing of Ksh.124.1 billion.

Fiscal Policy for FY 2023/24

39. The fiscal Policy stance over the medium term supports the Bottom Up Economic Transformation Agenda. It shows a deliberate convergence path towards the fiscal targets under the EAC monetary Union Protocol which sets a ceiling of fiscal deficit including grants of 3% of GDP and deficit excluding grants of 6% of GDP.
40. The fiscal policy will target to grow tax revenues above 17.8 percent of GDP in the FY 2023/24 and above 18.0 percent of GDP over the medium term. The government has planned to scale up revenue collection efforts by KRA to Ksh.3 trillion in the FY 2023/24 and Ksh.4 trillion over the medium term.
41. There will be improvement on expenditures by: eliminating non priority expenditures, reducing tax exemptions and waivers, and scaling up the use of public private partnerships.
42. Total expenditures are expected to decline as a share of GDP from 23.4% (Ksh.3.4 trillion) in the FY 2022/23 to 22.5% (Ksh.3.7 trillion) in the FY 2023/24 and further to 21.8% (Ksh.4.5 trillion) in the FY 2025/26.

Budget for FY 2023/24

43. The total budget ceiling for FY 2023/24 is Ksh.3, 628.8 billion. The National Government will receive Ksh.2, 252.1 billion, county governments Ksh.385.4 billion and Ksh.991.3 billion for consolidated Funds.
44. The National Treasury requested the committee to adopt and support the proposed policy to push the economy to a recovery path.

2.1 Submissions by The Commission on Revenue Allocation (CRA)

The Commission on Revenue Allocation appeared before the committee and presented as follows. That-

45. The 2023 BPS purposes to provide support and capacity building to women through the hustler fund to help them evade the predatory interest rates charged by money lenders, the commission suggested that interest rates affect both men and women and a solution should be put in place in that both men and women will benefit from the hustler fund initiative-
 - a) the government should work on curbing duplication of funds since there are many types of funds that are available in the country that is, there is Biashara Fund that already exists and works;
 - b) equitable share allocation to the national government rises by Ksh.133.818 billion from Ksh.2.199,258 trillion and that to counties by Ksh.15.425 billion from Ksh.370.0 billion to Ksh.385.425 billion. CRA opined that adjusting the county allocation by only Ksh.15.4 billion amounts to inequitable sharing of revenue between the two levels of governments.
46. CRA recommended that county governments equitable share be increased by Ksh.37.4 billion from Ksh.370 billion to Ksh.407 billion in the financial year 2023/24.
47. BPS proposes to increase allocation on healthcare from Ksh.122.5 billion in FY 2022/23 to Ksh.154.2 billion in FY 2023/24. The Commission suggested that the resources given to the national government should be reallocated to the county government since Health care system is a devolved function and the counties should be left to perform their tasks.

48. Contribution in Lieu of Rates- before devolution defunct local authorities received CILOR from Central Bank of Kenya. Since devolution, only Laikipia county has received this money from the National Government, this has happened due to lack of legal framework to enable the roll out of this money.
 - a) Counties are unable to raise OSR due to the non-payments.
 - b) CRA recommended that Parliament should fast track the development of a legal framework to enable county governments to receive CILOR payments.
49. Pending Bills- The summary of pending bills by the county governments as at 21st December 2022 and as presented in the BPS is at Ksh.131.35 billion. The BPS did not present National Government Pending Bills which makes it difficult to assess financial management status in the national government.
50. Equalization Fund- BPS allocates for Ksh.7.9 billion to the fund, Article 204 (1) of the Constitution provides for allocation of one half of all the revenue by national government which is calculated on the basis of the most recent audited accounts of revenue received.
51. CRA stated that the BPS allocates the Kshs.7.9 billion based on the FY 2019/20 of Ksh.1.573 trillion whereas the last audited accounts for FY 2019/20 amounts to Ksh.1.7309 trillion.
52. There is missing data on the printed budget estimates for the FY 2022/23 and BPS ceilings of some MDAs. CRA recommended that the document should present complete data budget estimates and for FY 2022/23 and BPS ceilings for some MDAs.

2.2 Submissions by Council of Governors (CoG)

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

53. The Council did not agree on the allocation of Ksh.385 billion for the FY 2022/23 as equitable share of revenue- They noted that sharing of resources is shared according to financial constraints instead of a budget, this goes contrary to the constitution under Article 203 (1)(i).
54. They also suggested that there is need for adjustment on the revenue growth from Ksh.15 billion with county government allocations of Ksh.379 billion for FY 2023/244

to Ksh.55 billion which makes county governments allocations to be a minimum of Ksh.425 billion for FY 2023/24. It was suggested that The National Treasury should make adjustments considering the rate of inflation in the country, considering that equitable share for FY 2022/23 was maintained at Ksh.370 billion despite inflation which makes county governments unable to provide services efficiently.

55. The council also suggested restructuring expenditure priorities by the government to enable economic recovery and growth due to the Covid 19 Pandemic and inflation from the Russia vs Ukraine war.
56. The Council also shared that there is need for amendment for county governments expenditure to drought intervention, they further stated that the fertilizer subsidy program should be implemented by the county government given that Agriculture is a devolved function.
57. They also suggested that there is need to review allocation of various MDAs so that they exclude the allocations to perform functions that are devolved, the allocations should be made to county governments in the FY 2023//24. Counties should be able to perform the functions that have been assigned to them.

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

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

58. The government projects that the total expenditure will amount to about Ksh.3.64 trillion and total revenue will be approximately Ksh.2.89 trillion, ICPAK opined that the fiscal gap is likely to increase the current public debt because it would require debt financing to actualize the budget.
59. ICPAK further stated that due to the government preparing supplementary budgets there is an increase in expenditure and reduced revenues which has increased borrowing or reduced service delivery or both. They recommended that supplementary budgets should only be prepared and approved within the PFM regulations.
60. There is no inclusivity in dealing with the food security challenge- The government is to develop policy, legal and institutional reforms that provide for agriculture without

putting to account the food insecurity in the country, ICPAK recommended that the government should also prioritize agriculture by-

- (a) Enhancing the practice of large scale water harvesting;
- (b) Imported agricultural products that are available locally to be taxed highly;
- (c) The government is to establish Agricultural insurance through collaboration with stakeholders to protect farmers from economical and natural risks.
- (d) Incentivizing agriculture to be more lucrative by exploring the option of commodity exchange which will ensure all agricultural players have access to price information and reduce market intervention costs.

61. Reforms in the banking industry- ICPAK observed that there is need to consider reforms in the banking sector and they further recommended consideration of new technologies, this can be done by allowing Kenya to improve and retain its status as a financial tech hub which will encourage rapid adoption of the 4th revolution to diversify beyond mobile money.

62. Transformation of MSMEs- With MSMEs being vital to the growth of most economies, they face certain problems such as; rapid technological changes, low financial literacy, new laws and regulations, ICPAK suggested that there is a need to-

- (a) make payment of taxes easier by optimizing tax collections while minimizing the burden on taxpayers to comply with tax laws.
- (b) engage MSMEs and create a dedicated channel of communication to support tax compliance, KRA should consider having a desk dedicated to MSME related concerns, challenges and queries.
- (c) ensure that efforts to improve formality should be based on corresponding investments in value creation for MSEM s such as the provision of basic services, improved market areas, provision of funding.
- (d) introduce Hawkers identification cards and tax compliance certificates to enhance smooth operations and reduces criminal activities

63. ICPAK observed that the allocation for health care had stagnated at 9% despite signing of the Abuja declaration, which requires signatories to allocate 15% budgetary allocation for health. Most of this is absorbed as recurrent expenditure leaving little

room for the development of health facilities and the acquisition of medicine and equipment. ICPAK made the following recommendations-

- (a) There is need to increase budgetary allocation recommended for health to 15% of the total annual budget as recommended by the AU under the Abuja declaration. This will reduce the risks of strikes and brain drain among health workers by ensuring they are well paid and more workers are recruited
- (b) Ensuring accountability in the utilization of funds and resources that are allocated in the health sector.
- (c) Offering tax relief on medical facilities and inputs, this allows medical health facilities to be available thus avoiding people traveling overseas for treatment.

64. Pending Bills-As at 21st December the controller of Budget indicated that counties had settled Ksh.22.9 billion of the pending bills leaving a balance of Ksh.25.1 billion, it was further stated that the National Government released resources to counties to help with the pending bills payment. MDAs pending bills as at 30th September 2022 amounted to Ksh.82.35 billion which comprises Ksh.61.15 billion for recurrent expenditure and Ksh.21.2 billion for development expenditure.
65. The continued delay of payment makes delivery of goods and services in both levels of government difficult. The institute suggested that-
- (a) Need for a database of all dues owed to counties and MDAs to fast track the payment process.
 - (b) The National Treasury should consider accrual accounting as opposed to cash accounting which presents challenges in terms of monthly and annual reporting on pending bills and other liabilities.
 - (c) The National Treasury should follow up and ensure strict compliance to Circular AG.3/83/1/Vol.VII (22) dated 11th May 2022 to all CECMs for Finance on Year End Closing Procedures for Financial Year 2021/2022.
66. The Institute observed that Kenya is at a high risk of debt distress. As at 30th June 2022 gross public debt increased by Ksh.882.5 billion to Ksh.8.579.1 trillion compared to

Ksh.7.696 trillion at the end of June 2021. Total public debt is projected to reach Ksh.11.5 trillion by June, 2025.

67. Risks to the Economy-The rising inflation risks could impact the purchasing power of the population and impact domestic growth negatively. Further, there is a possible resurgence of new Covid-19 variants that may require broader policies on trade and exports between Kenya and other countries. The Institute therefore recommended the following-
- (a) the national government should maintain exchange rate flexibilities to deal with the capital outflows from the private sector that could hamper capital market access of the sovereign. This will in turn help the economy absorb potential shocks.
 - (b) the national government to reduce debt and substitute commercial loans with concessional debt that reduce deficit and expand fiscal space.

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

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

68. Revenue and Public Debt –The position of where the country stands in debt varies from one document to another, this means that there are transparency issues.
- (a) The debt distress has moved from low as at 2017 to high, the debt carrying capacity has also moved from Strong to medium.
 - (b) IBP also stated that there is a deficit in the BPS of Ksh.720 billion which is 4.4% of the GDP.
 - (c) It was noted that there is also mention of departing from commercial debt, however there is no clear indication of this in the BPS, in fact there is an increase from Ksh.110 billion to Ksh.270 billion in the current BPS.
69. Transfer of Functions- IBP observed that His Excellency the President acknowledged that certain functions have not yet been devolved as per the Fourth Schedule to the Constitution. IBP recommended that these functions be identified and a framework for their full transfer to counties be put in place.

70. Division of Revenue- IBP suggested that division of revenue requires to be a priority in this country. The government needs to emphasize on how revenue is shared with the counties.
- (a) Conversations on division of Revenue need to start in order to progressively influence the fourth generation formula.
 - (b) Revenue Growth Factor for County Equitable Share- the Institute gathered that there are no predictable basis on revenue growth factor for equitable share and advised the Senate that they should propose specific parameters that would be used when it comes to the proposed revenue growth.
 - (c) There was need for prioritization of the criteria to use depending on the economic position. IBP advised that they should consider revenue growth and economic growth as this will assist the government in performing its functions.
71. Equalization Fund- Even though the Equalization Fund is fully operational and the Board fully constituted IBP recommended that the BPS should clearly outline the total amount that is in the fund and that the Senate should ensure that the allocations are properly placed and implemented.
72. Supplement for construction of county headquarters- IBP noted that there has been a significant increase in the allocation of funds towards construction of County Headquarters even though there have been Governors who have served for two terms in the same office. IBP therefore recommends the submission of reports indicating which counties have benefited from the supplement on county headquarters, which counties are done with their constructions and to what extent the counties that are not done with the construction remain to be developed.
73. Leasing of Medical Equipment- This was initiated in 2015 to ensure counties have better healthcare, IBP noted that the cost of the program has been increasing even though some counties have the equipment but never make use of them or others have the equipment but still ask for more.
- (a) They also noted that health care needs vary in counties and it should not be assumed that all counties have the same healthcare needs.

- (b) The BPS is also unclear on whether the costs of leasing medical equipment includes the related costs which include: maintenance, training and insurance.
- (c) They recommended that the Senate requires to be critically involved in this matter considering that Ksh.5.86 billion has been set aside for the program in the BPS.

2.5 Submissions by The Institute for Social Accountability (TISA)

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

- 74. Public Participation- TISA observes that under Article 174 of the Constitution citizens should participate in areas that affect them directly including the budget making process.
 - (a) TISA acknowledges that there was a notice inviting members of the public to forward their submissions on the BPS, but they further state that the timelines are not adequate as per the principles of public participation.
 - (b) The timelines required to process the BPS do not allow citizens to internalize and provide comments and further even when they share comments they rarely get any feedback.
 - (c) TISA recommended that Parliament demands from National Treasury the issuance of proper notice for submission of memoranda on issues of high public interest. The National Treasury should issue a notice at least two weeks in order to get meaningful and extensive submissions.
- 75. Pending Bills-With the issue of pending bills being a critical problem in the country, the BPS proposes measures such as adherence to Circular No 2/2022 dated 24th March 2022, which was issued by the National Treasury to Governors and County Executive Committee Members for Finance to ensure that pending bills are paid as soon as possible as per PFM Act. Cognizant of the risks that pending bill pose to the economy, TISA made the following proposals-

- (a) The National Government should increase allocations to county governments thus helping in clearing of pending bills.
 - (b) Reforms made by the PFM reform secretariat need to be implemented, this ensures efficiency and accountability.
76. Own Source Revenue-The BPS outlines the need to increase county governments OSR, the revenue potential for all county governments is at Ksh.215.6 billion against the current OSR collections of KSh.35.9 billion as per a report submitted by the Commission on Revenue allocation in June 2022. To improve on OSR the report recommended that counties should adopt automatic and cashless payment systems.
77. With the government relying on tax as its main source of revenue TISA notes that the measures put in place on VAT have been regressive and have caused the price of basic commodities to rise. TISA therefore recommends a review and reduction of VAT on LPG and energy products. They further recommend a clarification on the assignment of revenue raising powers at the two levels of government.
78. TISA also reiterated the need for a legal framework, policies and guidelines on own source revenue in order to guide the operations of the counties in raising revenue.
79. Protection of Devolution- TISA recommended an increase in the percentage of allocations to counties to at least 30% of the most recent audited accounts of revenue received and approved by the National Assembly.

2.6 Submissions by The Institute of Economic Affairs (IEA)

Institute of Economic Affairs appeared before the Committee and submitted as follows-

80. Revenue collection and performance for FY 2022/23 - With the exception of FY 2021/22, there has been an underperformance of revenue in previous financial years. In the first half of the FY 2022/23 the revenue collected has fallen short by Ksh.11.1 billion. It was noted that revenue collection picks as from quarter 3 and 4 of every financial year and this confirms the BPS assertion of the anticipated improved revenue performance. IEA however noted that the second half of the financial year may face some challenges including rising cost of living, interest rates which may affect the revenue collected.

81. The Cash Disbursement Schedule is misaligned compared to revenues collected at the national level leading to delayed disbursement of funds to the county governments. The IEA advised the Senate to question the National Treasury to ensure realistic ration in the disbursement schedules. Further, the National Treasury should enhance its accuracy in the estimation of the ordinary revenue. IEA added that the first quarter being the most affected there is need for enhancement on the accuracy of revenue forecasting so as to inform predictability of funds, the accountability tool will also help the Senate track the National Treasury's adherence to the cash disbursement schedules.
82. Strengthening Devolution-The BPS highlights initiatives towards strengthening devolution, this includes transferring all functions to the counties within six months and ensuring that shareable revenue is transferred to counties. IEA cautions that the transfer of functions could negatively affect service delivery if revenue allocation does not match increased functions.

CHAPTER THREE

SUBMISSIONS BY STANDING COMMITTEES

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

3.1 STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION& TOURISM

83. The Committee noted that BPS 2023 did not clarify on the disbursement of aggregated industrial parks grant. The BPS 2023 also had adverse budget cuts for the construction

of Constituency Industrial Development Centers (CIDCs). The Committee recommended that the Ksh.4.7 billion grants to counties for their Aggregated Parks to include a provision that counties are to provide the land upon which the parks will be developed.

84. The Committee noted that there is a decrease in the percentage of allocation towards development expenditure. The Committee recommended reclassification of some expenditures that are categorized as recurrent expenditure to relieve the burden placed on recurrent expenditure for County Governments.
85. BPS indicates that the State Department for Cooperatives will have a reduction in allocation amounting to Ksh.2 billion, putting its allocation for FY 2023/24 at Ksh.6.38 billion. The Committee recommends fast-tracking of the enactment of the Cooperatives (Amendment) Bill, with a view to empowering counties to promote their oversight of SACCO's.
86. BPS 2023 shows that the State Department of Industry will also face a drastic cut in its allocations by Ksh.1.6 billion affecting both recurrent and development expenditure. The Committee recommends a downward review of developmental expenditure in the State Department for Industry to reallocate resources towards drought mitigation measures.
87. The State Department for Investment Promotion has been allocated Ksh.6.96 billion in the FY 2023/24. Therefore, the process of identification and gazettement of special economic zones should be fast tracked.
88. The State Department for Tourism has been allocated Ksh.8.43 billion, a decrease from the Ksh.9.02 billion allocated in FY 2022/23. While the sub-program for tourism and marketing gets an additional Ksh.153 million. The Committee recommends that the National Treasury should allocate more funds to the State Department for Tourism and review policies to allow Kenyan banks to directly receive monies generated from the sector as a way of strengthening the Kenyan shilling.

3.2 STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

89. BPS 2023 programs have not catered for all persons with disabilities. The Committee also noted that there is no accurate data on persons with disabilities' thereby affecting

their budgetary allocation. The Committee, further, observes that there are challenges in the implementation of laws passed by Parliament ensuring there is ease of accessibility to public services, education and inclusivity in Sports for PWDs. The Committee made the following recommendations-

- a) Additional budgetary allocations to be made to the National Council for Persons with Disabilities (NCPWD) to ensure they are able to conduct a special census for PWDs through Kenya National Bureau of statistics (KNBS);
 - b) Sufficient funding to ensure that all PWDs are enrolled in NHIF to facilitate their access to medical services;
 - c) Facilitate implementation of laws passed to ease the lives of PWDs; and
 - d) Review policies to ensure inclusivity of persons with disabilities in sports management as well targeted talent nurturing.
90. BPS 2023 has allocated less funds to the program targeting access to free sanitary towels for girls in Primary and Secondary Schools. The Committee recommends that the National Treasury should increase allocations to relevant authorities that deal with the allocation of the free sanitary towels to ensure all girls access them.
91. The Committee noted that the Government has policies in place that put much emphasis and focus on football only as compared to other games. The sports infrastructure such as stadiums also take a long time to be completed. On this, the committee recommends that;
- a) The State Department for Sports and Arts to come up with policies and strategies to ensure that Sports infrastructure are completed within the stipulated time;
 - b) The State Department for Sports to come up with adaptive policies and programs that support diverse types of sports; and
 - c) The National Treasury should allocate more funds to support the ‘Talanta Hela’ program to be able to incorporate as many youths as possible.

3.3 STANDING COMMITTEE ON LANDS, ENVIRONMENT AND NATURAL RESOURCES

92. BPS is not clear in budgeting for human-wildlife conflict compensations, compensating persons displaced through government projects, realization of the 30% forest cover by planting 15 billion trees, solid waste management, construction of dams, and

digitization of land registries as well as repossession of public land. The Committee proposes the following-

- a) Additional allocations to the State Department for Wildlife to ensure human-wildlife conflict compensation claims are paid;
 - b) Additional funds to cater for the target of 30% forest cover by planting 15 billion trees;
 - c) The Committee recommends a policy to zero-rate recycling machinery as a way of solid waste management;
 - d) Increase funds to the State Department for Water and Water Resource Management for the construction of dams and for compensation to persons affected by such projects; and
 - e) Allocation of additional funds to the state department of lands and physical planning for survey and repossession of public land and digitization of land registries.
93. The Committee noted that a taskforce to develop the regulations that will unlock the disbursement of revenue from mineral royalties to the communities and county governments as envisaged by the Mining Act, 2016 has been constituted. It therefore recommends fast-tracking of the finalization, submission to Parliament and approval.

3.4 STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

94. There is lack of a policy and legal framework that recognizes the functions and structures of the Council of Governors and the County Assemblies Forum. The Committee recommends the review of the Intergovernmental Relations Act, 2012 to anchor the Council of Governors and County Assemblies Forum in law, define their functions and enhance their budgetary allocations so as to adequately carry out their functions.
95. The National Government and state corporations are still holding onto functions and resources that should be devolved, and flagship Programs of the National Government largely touch on devolved functions. The Committee recommends that the Intergovernmental Relations Technical Committee (IGRTC) should fast-track the

- process of unbundling, delineation, costing and transfer of functions to County Governments and submit a report to the Senate by June, 2023.
96. BPS 2023 plans to extend the school feeding program to benefit 8 million pupils in both primary and Early Child Development (ECDs). The Committee, further, notes that the Education Sector Fund was retaining payments to be made in terms of remunerating ECD teachers. In line with this the Committee recommends that:
- a) The National Treasury should provide additional allocation for the FY 2023/24 to finance the school feeding program across the 47 counties; and
 - b) County Governments need to allocate sufficient funds to cater for the payment of the ECD teacher salaries.
97. The Committee observed that County Governments have not received monies in the last three months resulting in arrears with charged interests as a burden on County Governments. The Committee, therefore, recommends the following-
- a) Timely disbursement of funds from National Treasury; and
 - b) County Governments must deduct and submit the statutory remittances; counties which fail to transfer employees statutory deductions to relevant institutions should be subjected to a penalty.
98. BPS 2023 proposes transfer of Ksh.425 million as equitable share to Counties to cater for the salaries of the staff at the 55 libraries transferred to 33 Counties. The Committee recommends that IGRTC to cost this function, so that the 14 Counties that do not have libraries be allocated monies to build their libraries.
99. The framework for the identification, implementation and oversight of the additional allocations to Counties is inadequate leading to uneven distribution of resources and possible misappropriation of County revenues. The Committee recommends that the National Treasury should provide a list of the conditional allocations to counties since devolution, its allocations and outputs to the Senate by May 2023.
100. The Equalization Fund is set at Ksh.55.3 billion. However, total approved allocation amounted to Ksh.33 billion as per FY 2022/23. Subsequently, actual transfers to the Fund account amounted to Ksh.12.4 billion, resulting in a total shortfall of Ksh.42.9 billion as per FY 2022/23. The Committee recommends that the National Treasury

should comply with the Constitution on requirements around the Equalization Fund, and to allocate additional funds to the Equalization Fund for FY 2023/24 to reduce the arrears arising from FY 2022/2023.

101. The County Governments are not complying with the PFM Act of 2012 which requires them to allocate a minimum of 30 percent of each County Governments budget to development expenditure and county governments' wage bill not exceeding 35 percent of total revenue. The Committee recommends that the Controller of Budget should enforce budgetary ceilings as approved by Parliament

3.5 STANDING COMMITTEE ON EDUCATION

102. The ceiling for development expenditure in the State Department for Higher Education and research indicates a projected reduction in the resource allocation by Ksh.1.6 billion despite the existence of ongoing or stalled development projects. The sectors of focus for private capital through the Public Private Partnership mentioned in the BPS 2023, excludes university education. The PPP model may address the funding gap in the expenditure requirement for development at the Universities. The committee recommends that, The Ministry of Education in collaboration with the Directorate of Public Private Partnerships, National Treasury should develop a PPP framework for development projects at public universities to avoid overdependence on the exchequer.
103. Despite ECDE teacher recruitment being a devolved function, there has been concerns regarding their remuneration and career progression. The BPS needs to have included a policy on collaboration between counties, SRC and the TSC in regards to the policy on ECDE teacher's remuneration to ensure standardization across counties. On this, the Committee recommends that the Council of Governors in collaboration with the Teachers Service Commission and the Salaries and Remuneration Commission should hasten the development of a policy on the ECDE teacher's remuneration and career progression. The policy should standardize ECDE management across counties.
104. BPS 2023 plans to extend the school feeding program to benefit 8 million pupils in both Primary and Early Child Development (ECDs). The Committee recommends that the National Treasury include a conditional allocation for ECDE School feeding program in the County Governments Additional Allocations Bill, 2023.

105. The Committee noted that public universities have huge debts and recommended that the Government should write off part of the Ksh.56 billion pending bills owed by the public to ease the financial burden as the universities continue to implement reforms aimed at long-term financial sustainability.

3.6 STANDING COMMITTEE ON INFORMATION COMMUNICATION & TECHNOLOGY (ICT)

106. There is a huge funding gap estimated at Ksh.3.4 billion as reflected by the difference between the approved estimates for FY 2022/23 and the proposed ceilings, this therefore calls for reprioritization of programmes and projects to minimize missed opportunities in public service delivery. The committee recommends that Semi-Autonomous Government Agencies (SAGAs) are advised to submit their strategic plans to support the necessity for additional funding. This is following an observation that some SAGAs receive finances yet they have stalled projects. There is also a concern on whether there is need to continue with the said projects.

107. The Committee also noted that there is a proposed 100,000 km additional fibre for Non Optical Fibre Network Backhaul Initiative (NOFBI) connectivity which will be laid during the financial year 2023/24. The Committee also recommends that there is a need to improve collaboration between private sector investors and the government through ICT projects. The committee noted that there are some projects with low implementation even though they are continuously being funded by the government.

108. The Committee observed that allocations proposed for state departments catered for recurrent expenditure. Indicating that some of the corporations under the sector are operating under high wage bill and other pending bills. The Committee also noted that KBC has been leasing land and such funds may be used in revamping the corporation.

109. The Committee recommends budget cuts for projects with lower implementation such as connectivity to leather industrial park and special economic zones to pave way for other key projects. The committee also wants the National Treasury to clarify the ownership of TELKOM Kenya.

3.7 STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING

110. The Committee notes the underfunding of the various State Departments compared to overall resource requirements which is likely to affect the priority projects and policies in the roads, transport, housing and urban development, public works and shipping and maritime. For instance, the roads subsector has been allocated Kshs.220.28 billion while it has pending bills amounting Kshs.144 billion which pauses significant fiscal risks. The Committee proposes that the National Treasury should give priority to ongoing projects. The Senate should also be furnished with the state of compliance of ongoing projects regularly to check on the accumulation of pending bills.
111. The Road Maintenance Levy Fund (RMLF) is key in ensuring routine maintenance of various road assets. However, there is need for comprehensive legislation to amend existing laws to ensure effective use of the fund. The Committee recommends that the State Department for Roads submits to the Senate legislative proposals for effective management of the Road Maintenance Levy Fund.
112. The Committee noted that there is an increase in the number of road accidents in the country despite an increase in funds towards road safety activities. This raised concerns over poor road designs and poor enforcement of traffic laws. The Committee recommends that the State Department for Roads and Transport should ensure effective use of road accident statistics to design and redesign roads to minimize fatalities in the sub-sector.
113. The Committee noted that fast tracking of necessary laws, regulations and policies is key in delivery of the affordable housing agenda by closing the housing gap. Delivery of 250,000 houses per year through private sector involvement and increasing the number of mortgages from 30,000 to 1,000,000 by enabling low-cost mortgages of Ksh.10, 000 and below for uptake of housing units. State Department of Housing and Urban Development to submit to the Senate all necessary laws and regulations to support and facilitate the delivery of the targeted units.
114. Construction of 5 county headquarters is taking long periods despite continuous allocation of funds. This continues to affect service delivery as well as waste of public resources through renting of spaces for county staff. The Committee recommends that

the 5 County Governments should submit to the Senate the status and the reasons for delay in the completion of the County headquarters.

3.8 STANDING COMMITTEE ON HEALTH

115. The Constitution clearly distinguishes the function of both National and County Governments. Schedule 4 assigns health functions to both levels of government. The national government gives policy directions, capacity building and technical support.
116. The National Government is also in charge of National Referral Hospitals while the County Governments is in charge of health service delivery. However, the 2023 BPS allocated more resources to the Ministry of Health as compared to allocations to all the 47 counties combined. The Committee recommends that the National Treasury should appropriate conditional Grants for County Governments for the implementation of primary healthcare interventions through provisions of additional resources under County Government Additional Allocation Act. The Committee resolved to propose conversion of a total of Ksh.26 billion in proposed budgetary allocations to the MoH to conditional grants for the counties as follows-
- a) Leasing of Medical Equipment (MES Program);
 - b) Employment of 20,000 healthcare workers and Community Health Volunteers (CHVs); and
 - c) purchase of 25000 CHV kits.
117. The Committee further resolved to identify and isolate funding allocated to the MoH for the delivery of primary health interventions and transfer them to County governments.
118. On the proposal for the employment of 20,000 healthcare workers and CHWs by the National Government as contained in the BPS, the Committee noted that the implementation of similar programs in the past had left County Governments in the position of having to absorb the staff at the end of their contractual period with the National Government, without the transfer of requisite resources. For instance, whereas the BPS was making provision for the employment of additional health workers, the fate of 5500 health workers who were employed under the UHC program remained unclear. National treasury should allocate funds to counties for the employment of

Community Health Workers (CHWs) The Committee also resolved to develop a legal framework that would provide for the ring-fencing across the 47 counties through the establishment of Health Facility Boards, and the designation of Accounting Officers at health facility level, in accordance with Article 207(1) of the Constitution.

119. The Committee further observed that the proposed establishment of a Health Service Commission (HSC) is not recognized under Article 248 of the Constitution and may undermine the spirit of devolution.
120. The Committee further took note that, whereas the contractual period of the Managed Equipment Service (MES) program had lapsed in 2022, the BPS 2023 had allocated a budget of Ksh.5.8 billion (approx. Ksh.124.4 million/county) for its extension. The Committee recommends the following-
 - a) Submission of the Taskforce Report that recommended the extension of the MES Project to the Senate;
 - b) Submission of copies of the Intergovernmental Partnership Agreements that were executed between the MoH and the County Governments; and
 - c) Availing Copies of the contractual agreements with the MES service providers.

3.9 STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

121. The Committee noted that the Agriculture Sector has a total allocation of Ksh.75.6 billion, Ksh.85.6 billion and Ksh.91.6 billion for FY 2023/24, FY 2024/25 and FY 2025/26 respectively. This comprises Ksh.32.2 billion, Kshs.34.5 billion and Ksh.36.5 billion for recurrent expenditure and Ksh.43.4 billion, Ksh.51.1 billion and Ksh.55.0 billion for development expenditure for the same period.
122. The Committee also noted that counties benefit from additional allocations from the development partners in form of loans and grants to support agriculture, livestock and fisheries sector as conditional allocations. The Committee recommends that the National Treasury should provide additional funding to reduce the funding gap on the budget to the state departments. This is because the policies under the sector are direct drivers in the achievement of the Bottom- Up Transformation Agenda.

123. The Committee noted that the 2023 BPS has been prepared against a backdrop of global economic slowdown occasioned by a number of factors including; the ongoing Russia-Ukraine conflict, high global inflation, lingering effects of the COVID-19 pandemic, and drought. The Committee recommends that, arising from the worsening drought conditions, the national government should facilitate more food supply in Northern Kenya and other regions that are adversely affected by drought. The National government should have plans and strategies in place and well espoused in the budget policy statement with the objective of making the country food and nutrition secure.
124. The Committee noted that the Kenyan economy remains highly dependent on the agriculture sector, contributing on average 21.4 percent of the GDP directly, forming approximately 65 percent of Kenya's total exports and has the highest employment multiplier in the economy. The Committee recommends that the National Government should provide a conditional grant to county governments towards the extension services program to ensure farmers get appropriate production techniques.
125. The Committee noted that the agriculture sector is a devolved function as per Schedule 4 of the Constitution and counties are not allocating adequate resources to the sector yet it is the highest contributor to GDP. The Committee recommends that the County Governments should allocate resources in support of the National Government Policy of reducing post-harvest losses in the agriculture sector. The County Governments need to have a data bank of farmers to ensure the intended beneficiaries receive the support to avoid mismanagement of the subsidy. The Committee further recommends provision of water for irrigation in addition to the provision of subsidized inputs and extension services that can spur agricultural productivity.

3.10 STANDING COMMITTEE ON ENERGY

126. The Committee notes that there is a need for fuel subsidies/fuel prices stabilization fund. The Committee further notes that there is need for fast tracking of geothermal plants by GDC and addressing persistent high cost of electricity. The Committee recommends that the Ministry of Energy should develop policies and the legal framework for the establishment of the said Fund. There is also need to follow up and implement the recommendations of the Presidential Taskforce Report which was

envisaged to create a pathway for the reduction of electricity prices as well as fast track utilization of already developed geothermal steams.

127. The State Department of Petroleum has set a target of Distribution of 100,000 6kg LPG cylinders. The Committee notes that National Oil of Kenya piloted the same project under a project know us Mwanachi Gas Project. The Project was suspended after Consumer Federation of Kenya (COFEK) went to court citing that the cylinders procured were substandard. The Committee recommends that prior to the commencement of this new project, an audit is done on the Mwananchi Gas project.
128. The Committee notes that the PFM Act mandates the National Treasury to disclose in the annual BPS, the fiscal risks and contingent liabilities arising from PPPs including IPPS and terms of engagement. The Committee further observes that The State Department of petroleum needs to submit necessary laws and regulations to govern the emerging EV subsector to ensure proactive governance of the sector and also submit the status of the regulations under the Petroleum Act, 2019.
129. The proposed allocations to the State Department have reduced by 18%, relative to the allocations in the current budget (FY 2022/23) including a reduction of 13% in development allocations. The Committee recommends that the national treasury allocates additional funds to the State Department.
130. The Committee recommends that KETRACO should utilize the PPP process to build additional transmission lines to ensure power stability in the country.
131. EPRA as the regulator of the energy and Petroleum subsector to ensure compliance to the policy measure of publishing quarterly system, financial and operational performance reports beginning next month March, 2023. Further, a copy of a report on the status of the compliance be submitted to the Senate and the relevant committee of the Senate on bi-annual basis highlighting actions taken in compliance to above resolution.
132. That EPRA, prior to increasing the cost of electricity in the country, should have a consultative meeting with the Parliament, to get their input and guidance on mechanisms or solutions of lower costs rather than increasing cost.

133. The Committee noted that the government intends to pilot transmission lines through PPPs. According to the BPS, the specific projects to be undertaken in partnership with the private sector through a PPP framework are-
- a) 165km - Loosuk – Lessos Transmission Line, and
 - b) 72km – Kisumu-Musaga Transmission Line (and associated substations).

3.11 STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

134. The BPS 2023 has not indicated any policy thrust relating to security despite being identified as a key enabler in the strategic priorities areas.
135. Budget allocation to National Government representatives at the County is inadequate despite having huge responsibilities on matters of security. The Committee further noted that County Commissioners and Deputy County Commissioners face financial constraints in discharging their mandates; The Committee recommends that the national treasury should allocate additional funds in the FY 2023/24 to representatives of the national government in counties especially those serving counties and sub-counties with security challenges to enable them to discharge their mandates effectively.
136. The Committee noted the payroll management of Police is domiciled under the National Police Service. This hampers the constitutional mandate of the National Police Service Commission (NPSC) in acting on officers with disciplinary cases. On this, the Committee recommends that the payroll of the National Police Service should be transferred to the National Police Service Commission as the body in charge of recruitment and appointment within the National Police Service within six (6) months from the adoption of this report.
137. The Committee observed that many of gazetted police stations and sub-county headquarters are yet to operationalize; this is adversely affecting service delivery to the people. The Committee recommends that the National Treasury should allocate funds in the FY 2023/24 to ensure full operationalization of the newly gazetted police stations and sub-county headquarters.

3.12 STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS, AND HUMAN RIGHTS

- 138. The Committee observed that most Counties owe money to various pension funds, and these funds are not being reflected in their pending bills stock, hence posing a great risk that these liabilities may not be prioritized for payment. The Committee recommends that the County governments should fast-track on the unremitted pension deductions, and ensure that all the accumulated deductions are remitted to the respective pension schemes.**
- 139. The Committee notes that the proposed budget for the Office of the Registrar of Political Parties has been reduced by Ksh.26.9 million from Ksh.2.126 billion approved for FY 2022/23 which comprised Ksh.651 million for office operations and Ksh.1.475 billion for Political Parties Fund (which is shared amongst the political parties as per the provisions of Section 25 of the Political Parties Act). On this, the Committee recommends that; The proposed budget for the Registrar of Political Parties be increased so that the planned programs and activities are implemented accordingly. Additionally, this will facilitate the government's policy towards strengthening the Office of the Registrar of Political Parties (ORPP) by opening county offices as proposed in the Budget policy statement.**
- 140. The 2023 BPS also proposes a decrease in budgetary allocation for the ongoing development projects under the State law office and the Department of Justice and Ethics and Anti-Corruption Commission. This will adversely affect the ongoing refurbishment of regional offices in Machakos, Kisii, Kisumu and Malindi, Installation of Local Area Network – LAN at the Headquarters, and the Program for Legal Empowerment and Aid Delivery in Kenya (PLEAD) and refurbishment of EACC headquarters. This will adversely affect the implementation of the aforementioned projects. There is also a need for increased budgetary allocation for the affected development projects under the State Law office and the Department of Justice, and Ethics and Anti-Corruption Commission, to speed up their completion.**

141. The Committee observed that Counties do not adhere to the financial objective principles, thus facing fiscal risks such as high expenditure on personnel emoluments, high levels of pending bills, and low actual development expenditures. The Committee recommends that all County governments should adhere to the legal requirements on financial objectives to ensure prudent use of public resources so that citizens can realize value for money.
142. The Committee observed that the 2023 Budget Policy Statement recommends allocation of 108 million arising from court fines as result of contravention of county legislations in the FY 2019/20, 2020/21 and 2021/22. The amount is due to ten (10) counties and the proposed allocation is unconditional to boost the revenue amounts of the said counties (Kiambu, Nakuru, Nyeri, Laikipia, Nairobi, Mombasa, Machakos, Kitui, Kisumu and Migori). On this, the committee recommends that the revenues raised as a result of contravention of County legislations in the aforementioned financial years should be transferred to the respective county governments to boost their operations.
143. The following salient issues were also brought to the attention of the committee:
- a) Court Awards.

The Committee observed that according to the State of the Judiciary and Administration of Justice (SOJAR report) for FY 2021/2022, the court awards stood at Kshs.1.08 trillion and these bills continue to grow owing to interest accruing over the period they remain unpaid. The Committee resolved that Judiciary should give updates and the status of the Court Awards, how such court awards arose, particulars of the beneficiaries and Court rulings leading to the Awards.

b) Court Deposits

The Committee observed that Judiciary held court deposits and other funds held in trust for third parties amounting to Ksh.6.69 billion by June 2022, and Ksh.362 million was raised in the last four financial years (2019/20-2022/23) as interest from court deposits held in commercial banks. The Committee raised concerns on the low amount received

as interest and resolved that the Judiciary should provide an update on the interest rate charged and the expenditures associated with the amounts received.

3.13 STANDING COMMITTEE NATIONAL COHESION, EQUAL OPPORTUNITY AND REGIONAL INTEGRATION

144. The Committee observed the following in regard to the BPS 2023 and came up with the following-

- a) Review the role of the National Cohesion and Integration Commission with a view to repealing the NCIC Act.
- b) Legislate an affirmative action framework to implement Article 56 of the Constitution regarding minorities and marginalized groups- The Committee should be actively involved.
- c) The Government to work with County Governments to provide one-street trading premises for every 50 urban residents, with a view to increasing average daily income of informal traders by Ksh.200 in line with the Committee's objective of ensuring improvement of quality of life and status of all persons.
- d) Climate change management- Climate change management instrumental in management of conflicts. There are policies in the BPS in Environment sector that are in line with this.
- e) The issue of benefits because of hosting the UN-bodies in Nairobi and ways of promoting international relations.
- f) Operationalize the Public Benefits Organizations Act and expand space for Government-NGO partnerships and collaborations.

CHAPTER 4

COMMITTEE OBSERVATIONS AND FINDINGS

145. Following discussions with key stakeholders, the Committee made the following observations-

- j) Despite some policy interventions affecting devolved and concurrent functions such as in agriculture, health and water, the National Treasury has not provided a clear framework for collaboration with counties. A lack of clear framework of collaboration between the two levels of government in these areas contravenes the provisions of Article 6(2) of the Constitution and may adversely affect the ability of counties to efficiently plan for the efficient delivery of services in contravention of Article 175 of the Constitution.
- k) Counties are in the process of finalizing their County Integrated Development Plans yet the fourth Medium Term Plan is not yet in place. As a result, county government development plans risk not being anchored fully to the national development agenda.
- l) Implementation of conditional grants is not well structured as they are characterized by arbitrary introduction and do not have a clear monitoring and evaluation mechanism to determine whether the resources allocated through the conditional grants achieved the intended objectives.
- m) The National Treasury commits to ensure that there is a complete transfer of county functions within six months. However, it has not provided a comprehensive list of county functions that are still being performed by the national government and the framework of transfer.
- n) Despite the indication that the national government will provide a conditional grant to counties for purposes of expansion of the school feeding programme, the National Treasury has neither provided any resources for this grant nor indicated the framework of operation.
- o) The additional conditional allocation for construction of county headquarters has been in place since FY 2017/18 but continues to be allocated resources. The Committee is concerned that this project is taking too long to complete.

- p) The revenue projection is anchored on a high growth projection of 6.1 percent. There are many risks to this growth including internal shocks such as drought and high cost of living; and external shocks such as the rising global inflation, the Russia-Ukraine conflict and projected low global economic growth. The Committee notes, with concern, that if this growth is not achieved, the revenue projection will not be achieved which may lead to delayed release of funds to county governments thereby undermining service delivery.
- q) The proposed equitable share allocation to county governments is based on the last audited accounts of 2019/2020 which have been audited and approved by the National Assembly. The Committee notes that the audited and approved amount for FY 2019/2020 is Ksh.1.730 trillion and not Ksh.1.573 billion as indicated in the BPS. Similarly, the allocation to the equalization fund is based on the last audited accounts of FY 2019/2020 whose amount is erroneously indicated.
- r) There is an inequitable sharing of revenue between the two levels of government given that the national government proposed allocation for the FY 2023/24 has increased by 23 percent while the County allocation has increased by only 4.2 percent.
- s) The indication in the BPS that in the medium term the sharing of resources will be pegged on financing constraints and not on the budget may lead to counties routinely being denied resources especially given the tendency of the National Treasury to overestimate revenues which then underperform in the course of the year. Indeed, Article 219 of the Constitution provides that resources to counties should be released without delay and without deduction.
- t) The BPS has not given any policy guidelines on measures to be taken to unlock arrears in allocation to the Equalization Fund for the previous financial years.
- u) The leasing of medical equipment continues to receive funding despite unclear reporting on the progress made in the programme and the fact that some contracts have expired. Indeed, at the time of execution of the contracts, the counties were not fully appraised on the contents of the contracts. The MES programme was also not well aligned to county specific needs and some counties' requirements were not adequately met.

- v) The BPS has focused on pending bills to county governments but not much information is provided on pending bills under the national government and how these will be addressed.
- w) County governments are accumulating pending bills at a fast rate and are not fully adhering to the measures put in place to clear them. It is noted that of the total outstanding Ksh.131.35 billion pending bills in county governments, Ksh.84.78 billion is owed by Nairobi City County.
- x) With regard to the schedule provided indicating the proposed transfer of library services to counties, Lamu County has been allocated Ksh.20.2 million in FY 2023/24 for library services yet it does not have a library. On the other hand, Makueni county has not been allocated resources yet it has library services. This is as per information earlier provided to the committee by the National Treasury.
- y) The BPS has not clearly sequenced the specific programmes and projects in line with its implementation framework to determine which ones will be implemented within which timeframe.
- z) As of 14th January 2023, there is a balance of Ksh.53, 296,105,826.76 in the amount collected for Fuel subsidy. The Committee further notes that oil marketing companies are owed over Ksh.50 Billion in subsidies which has affected their operations significantly. The Committee is aware that the government is in the process minimizing the reliance of subsidies on fuel.
- aa) The State Department of Petroleum has set a target of Distribution of 100,000 6kg LPG cylinders. The National Oil Corporation of Kenya piloted a similar project under the Mwananchi gas project. The Project was suspended after Consumer Federation of Kenya (COFEK) went to court because the cylinders procured were substandard.
- bb) The Tullow Oil license for exploration has expired and they are currently awaiting the approval of the field development plan for South Lokichar. The field development plan submitted by Tullow was however declined.
- cc) The fiscal responsibility principle requiring counties not to use more than 35% of their total revenue on wages and salaries requires a critical review and streamlining of the county workforce to ensure this principle is met.

- dd) While the BPS 2023 proposes an unconditional allocation of ksh.108.7 million to ten county governments as proceeds from court fines collected in the enforcement of county legislation, these funds are actually county revenue collected by the Judiciary on behalf of the respective counties and require a framework for their direct remittance to the respective county governments by the Judiciary.
- ee) The inclusion of Ksh.425 million allocation to library services under the equitable share to counties presents a legal concern given that the equitable share allocation already has a predetermined formula for disbursement among counties which cannot be altered.
- ff) The finalization and submission to Parliament for approval of the “*framework for sharing of mineral royalties’ revenue among the national, county governments and communities*” under The Mining Act, 2016 is taking too long and this has led to a delay in the sharing of revenue from mineral royalties between the national government, the county governments and respective communities.
- gg) Some state corporations/state owned enterprises perform county/shared functions. The framework for privatization of these enterprises should be undertaken in a manner that does not disrupt service delivery to the citizens.
- hh) Whereas the Hustlers fund meets a critical gap in terms of private sector credit access, there are other existing funds such as the Biashara Fund, Uwezo Fund, Women Enterprise Fund and Youth Enterprise Fund which were established to meet similar objectives. There is need to streamline these funds to avoid duplication of effort and reduce operational costs.
- ii) In order to increase private sector credit access, the government should target to reduce domestic borrowing in order to enable commercial banks to lend to the private sector. This complementary effort will ensure that the provision of credit to the private sector is undertaken in a sustainable manner.

CHAPTER 5

COMMITTEE RECOMMENDATIONS

146. The Committee made the following policy recommendations-

Policy Recommendations

- i) With the flagship Programmes of the national government largely touching on devolved functions, the National Treasury should put in place intergovernmental agreements and collaborative frameworks which clearly state the role of the counties to avoid duplication and ensure that the national priority programmes are implemented without interfering with the operations of the county governments.
- j) The Intergovernmental Relations Technical Committee should fast-track the process of unbundling, delineation, costing and transfer of functions to County Governments and submit a report to the Senate by April, 2023.
- k) The National Treasury should strictly adhere to the cash disbursement schedule approved by the Senate to reduce the creation of pending bills and interest charged due to delay in contributions to the pension funds.
- l) The Kshs.385.4 billion proposed equitable share includes Ksh.425 million earmarked for salaries of respective staff of the 55 libraries transferred to 33 counties. The funds should be transferred to the counties as a conditional allocation under the County Governments Additional Allocations Bill as opposed to being included in the county governments share of nationally raised revenue under the Division of Revenue Bill.
- m) The National Treasury should provide a list of the conditional allocations to counties since devolution, its allocations and outputs to the Senate by May, 2023.
- n) In order to achieve the Universal Health Coverage, which is a priority programme for national government, the national government should fast track the adoption of a framework agreement on how the targeted 20,000 healthcare workers and Community Health Workers would be recruited, retained and the resources required to support this framework be availed.
- o) To accommodate the plans by the National Government to extend the school feeding programme in primary and Early Child Development (ECD), the National

Treasury should include a conditional allocation for ECDE School feeding programme in the County Additional Allocation Bill, 2023 as envisaged in the Budget Policy Statement.

- p) Following concerns regarding the ECDE teachers' remuneration and career progression in the counties, the Council of Governors in collaboration with the Teachers Service Commission and the Salaries and Remuneration Commission should, within six months, develop a policy to standardize the remuneration and career progression of ECDE across counties.
- q) The National Treasury should not transfer funds to the Medical Equipment Services (MES) project for the FY 2023/24 and should furnish the Senate with copies of the Intergovernmental Partnership Agreements that were executed between the MoH and the County Governments and copies of the contractual agreements with the MES service providers by March, 2023.
- r) Drought has become cyclic in nature and given the intensity of the prevailing drought crisis, the National Treasury should fast-track the financing and implementation of projects related to drought mitigation.
- s) That, within six months after approval of the 2023 BPS by Parliament, the State Department for Roads should submit to the Senate legislative proposals, Regulations and Guidelines for the effective management and use of the Road Maintenance Levy Fund in compliance with the primary objectives of devolved functions towards roads and transportation. This will promote accountable and effective use of the Fund.
- t) The National Treasury in collaboration with Kenya Roads Board should put in place necessary mechanisms to ensure the Road Maintenance Fuel Levy fund is disbursed to counties as an additional allocation to counties.
- u) That the State Department for Public Works should submit to the Senate, within six months of the approval of the BPS 2023, a status report on the delayed construction of the 5 county headquarters highlighting the funding and implementation status as well as the cause of the delays in completion of the projects.

- v) The Committee recommends that while the government reduces subsidies on fuel, the State Department for Petroleum should come up with mechanisms which include reviving National Oil Corporation of Kenya (NOCK) for importing fuel for the Country. Additionally, the Committee recommends that Oil Marketing Companies should be paid what is owed in order to avoid a fuel crisis similar to the one that occurred.
- w) Prior to commencement of the distribution of the 6kg LPG gas cylinders which is a new project, an audit should be done on the Mwananchi Gas Project.
- x) The State Department for Petroleum has set a target of approving the Field Development Plan for South Lokichar, Tullow Oil should therefore submit the required field development plan by May, 2023 to enable Kenya to fulfill its goal of being an oil producing country.
- y) The National Treasury must comply with the constitutional requirements related to the Equalization Fund and submit to the Senate, within thirty days of approval of BPS 2023, a framework on how they intend to clear the arrears of monies due to the Fund.
- z) Fast-tracking of the development and enactment of a legal framework to enable the direct remittance to counties of court fines collected in the enforcement of county legislation.
- aa) The National Treasury should put in place mechanisms to sensitize members of the public on the benefits of the Hustler Fund. Further, the National Treasury should harmonize all Funds established to promote financial inclusion under the PFM Act in order to ensure the Funds achieve their purpose and avoid duplication.
- bb) The National Treasury to develop guidelines to enable county governments to benefit from the Contribution in Lieu of Rates (CILOR) payments.
- cc) The National Treasury should develop a policy detailing measures on stabilization of the price of common consumer goods.
- dd) The computation for the total amount to be set aside for the Equalization Fund under Article 204(1) of the Constitution must be one half percent of all the revenue collected by the national government calculated on the basis of revenue received, as approved by the National Assembly.

- ee) The growth in county equitable share should be at least 8.4% of the projected revenue growth from FY 2022/23 to 2023/24. This will take into account inflation and increased demand in investment in agriculture and water as a response to the drought situation.
- ff) The proposed programme under which the Ministry of Health in collaboration with counties intends to employ 20,000 healthcare workers should be supported through a conditional addition to counties.

Financial Recommendations

139. The Committee made the following financial recommendations-

- (6) The proposed allocation of shareable revenue to County Governments for FY 2023/24 should be **Ksh.407.0 Billion**.
- (7) The County Additional Allocations should be **Ksh.48.5 Billion of which-**
 - a) Supplement for Construction of County HQs- **Ksh.454 million**
 - b) Road Maintenance Levy Fund - **Ksh.10 billion**
 - c) Transfer of Library Services - **Ksh.425 million**
 - d) Aggregated industrial parks programme - **Ksh.4.7 billion**
 - e) Allocation from Development Partners in the form of Loans and Grants-**Ksh.33.192 Billion**
- (8) That, the Fiscal Deficit (on commitment basis including grants) for the FY 2023/24 be binding at **Ksh.720.1 billion (4.4% of GDP)**.
- (9) The National Treasury should adopt the balanced domestic-external financing strategy as contained in the MTDS of 50% net domestic borrowing and 50% net external borrowing for the FY 2023/24.
- (10) That the allocation to the Equalization Fund for FY 2023/2024 be set at **Ksh.8.65 billion** in line with the most recent audited accounts, approved by the National Assembly (Ksh.1.730 trillion, FY 2019/20)



MINUTES OF THE SEVENTEENTH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON MONDAY, 27TH FEBRUARY, 2023 AT FOUR POINTS BY SHERATON, ARIPORT IN RWENZORI CONFERENCE HALL FROM 9.00 A.M.

PRESENT

- | | |
|--|--------------------|
| 1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP- | Chairperson |
| 2. Sen. Maureen Tabitha Mutinda, MP | - Vice-Chairperson |
| 3. Sen. (Dr.) Boni Khalwale, CBS, MP | - Member |
| 4. Sen. Shakila Abdalla Mohamed, MP | - Member |
| 5. Sen. Tabitha Karanja Keroche, MP | - Member |
| 6. Sen. Eddy Gicheru Oketch, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|-------------------------------------|----------|
| 7. Sen. Joyce Chepkoech Korir, MP | - Member |
| 8. Sen. Mohamed Faki Mwinyihaji, MP | - Member |
| 9. Sen. Richard Momoima Onyonka, MP | - Member |

SECRETARIAT

- | | |
|----------------------------|-------------------------|
| 1. Mr. Boniface Lenairoshi | - Deputy Director, DSEC |
| 2. Mr. Christopher Gitonga | - Clerk Assistant |
| 3. Ms. Beverlyne Chivadika | - Clerk Assistant |
| 4. Ms. Lucy Makara | - Deputy Director, PBO |
| 5. Ms. Amran Mursal | - Fiscal Analyst |
| 6. Ms. Millicent Makina | - Fiscal Analyst |
| 7. Mr. Kioko Kiminza | - Fiscal Analyst |
| 8. Ms. Joan Mahinda | - Researcher |
| 9. Mr. Sekento Tonkei | - Researcher |
| 10. Mr. Abdallah Mbore | - Serjeant-at-Arms |
| 11. Ms. Elijah Ichwara | - Audio Officer |

MIN/SEN/SCF&B/84/2023

PRELIMINARIES

The Chairperson called the meeting to order at 9.30 a.m. This was followed by a word of prayer.

MIN/SEN/SCF&B/85/2023 **ADOPTION OF THE AGENDA**

The agenda was adopted after it was proposed by Sen. (Dr.) Boni Khalwale, CBS, MP and seconded by Sen. Tabitha Karanja Keroche, MP as listed below-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th and 16th sitting;
4. Matters arising from the Minutes of the previous sittings;
5. Consideration and adoption of the report on the 2023 Budget Policy Statement and the Medium-Term Debt Management Strategy (*Committee Paper No. 15*);
6. Any Other Business; and
7. Next Meeting and Adjournment.

MIN/SEN/SCF&B/86/2023 **CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS**

The Committee confirmed the minutes of the previous meetings as follows-

- a) The Minutes of the Seventh sitting held on Wednesday, 8th February, 2023 at 9.00 a.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. Maureen Tabitha Mutinda, MP, and seconded by Sen. Shakila Abdalla Mohamed, MP;
- b) The Minutes of the Eighth sitting held on Wednesday, 8th February, 2023 at 2.00 p.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. Shakila Abdalla Mohamed, MP, and seconded by Sen. Maureen Tabitha Mutinda, MP;
- c) The Minutes of the Ninth sitting held on Wednesday, 8th February, 2023 at 4.00 p.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. Shakila Abdalla Mohamed, MP, and seconded by Sen. Maureen Tabitha Mutinda, MP;
- d) The Minutes of the Twelfth sitting held on Wednesday, 15th February, 2023 at 10.00 a.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. (Dr.) Boni Khalwale, CBS, MP, and seconded by Sen. Shakila Abdalla Mohamed, MP;
- e) The Minutes of the Thirteenth sitting held on Tuesday, 21st February, 2023 at 8.00 a.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. Shakila Abdalla Mohamed, MP, and seconded by Sen. Maureen Tabitha Mutinda, MP;

- f) The Minutes of the Fourteenth sitting held on Wednesday, 22nd February, 2023 at 9.00 a.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. Tabitha Karanja Keroche, MP, and seconded by Sen. Maureen Tabitha Mutinda, MP;
- g) The Minutes of the Fifteenth sitting held on Thursday, 23rd February, 2023 at 9.00 a.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. (Dr.) Boni Khalwale, CBS, MP, and seconded by Sen. Shakila Abdalla Mohamed, MP;
- h) The Minutes of the Sixteenth sitting held on Friday, 24th February, 2023 at 10.00 a.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. Shakila Abdalla Mohamed, MP, and seconded by Sen. Maureen Tabitha Mutinda, MP; and
- i) Confirmation of minutes of 10th and 11th meeting was deferred.

MIN/SEN/SCF&B/87/2023

**CONSIDERATION OF THE DRAFT REPORT
ON THE 2023 BUDGET POLICY STATEMENT
(COMMITTEE PAPER NO. 15)**

The Committee was taken through Committee Paper No. 15. The Committee noted the contents of the Paper.

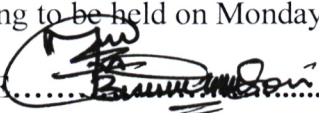
The Committee proceeded to consider the draft report on the 2023 Budget Policy Statement. The Committee was taken through the overview of the 2023 BPS and a summary of submissions from the following stakeholders-

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

MIN/SEN/SCF&B/88/2023

ADJOURNMENT

There being no other business for consideration, the meeting was adjourned at 13.35 p.m. The Next meeting to be held on Monday, 27th February, 2023 at 2: 30 p.m.

SIGNATURE..........DATE.....28/02/2023.....

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP.

(CHAIRPERSON)



MINUTES OF THE EIGHTEENTH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON MONDAY, 27TH FEBRUARY, 2023 AT FOUR POINTS BY SHERATON, ARIPORT IN RWENZORI CONFERENCE HALL FROM 2.30 P.M.

PRESENT

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

ABSENT WITH APOLOGY

9. Sen. Mohamed Faki Mwinyihaji, MP	-	Member
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SECRETARIAT

1. Mr. Boniface Lenairoshi	-	Deputy Director, DSEC
2. Mr. Christopher Gitonga	-	Clerk Assistant
3. Ms. Beverlyne Chivadika	-	Clerk Assistant
4. Ms. Lucy Makara	-	Deputy Director, PBO
5. Ms. Amran Mursal	-	Fiscal Analyst
6. Ms. Millicent Makina	-	Fiscal Analyst
7. Mr. Kioko Kiminza	-	Fiscal Analyst
8. Ms. Joan Mahinda	-	Researcher
9. Mr. Sekento Tonkei	-	Researcher
10. Mr. Abdallah Mbore	-	Serjeant-at-Arms
11. Ms. Elijah Ichwara	-	Audio Officer

MIN/SEN/SCF&B/89/2023

PRELIMINARIES

The Chairperson called the meeting to order at 3.30 p.m. This was followed by a word of prayer.

MIN/SEN/SCF&B/90/2023

ADOPTION OF THE AGENDA

The agenda was adopted after it was proposed by Sen. (Dr.) Boni Khalwale, CBS, MP and seconded by Sen. Maureen Tabitha Mutinda, MP as listed below-

1. Prayer;
2. Adoption of the Agenda;
3. Resumption of the consideration and adoption of the report on the 2023 Budget Policy Statement;
4. Any Other Business; and
5. Next Meeting and Adjournment.

MIN/SEN/SCF&B/91/2023

**RESUMPTION OF CONSIDERATION OF THE
DRAFT REPORT ON THE 2023 BUDGET
POLICY STATEMENT**

The Committee resumed consideration of the draft report on the 2023 BPS on submissions from other Senate Standing Committees, Committee observations, and recommendations.

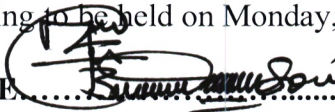
The Committee unanimously adopted the report having been proposed by Sen. Eddy Gicheru Oketch, MP, and seconded by Sen. Tabitha Karanja Keroche, MP, with among others, the following financial recommendations-

Financial Recommendation

- a) The proposed allocation of shareable revenue to County Governments for FY 2023/24 should be **Kshs. 407.0 Billion**.
- b) The County Additional Allocations should be **Kshs. 48.5 Billion of which-**
 - i. Supplement for Construction of County HQs- **Kshs. 454 million**
 - ii. Road Maintenance Levy Fund - **Kshs. 10 billion**
 - iii. Transfer of Library Services - **Kshs. 425 million**
 - iv. Aggregated industrial parks programme - **Kshs. 4.7 billion**
 - v. Allocation from Development Partners in the form of Loans and Grants-**Kshs. 33.192 Billion**
- c) That, the Fiscal Deficit (on commitment basis including grants) for the FY 2023/24 be binding at **Kshs. 720.1 billion (4.4% of GDP)**.
- d) The National Treasury should adopt the balanced domestic-external financing strategy as contained in the MTDS of 50% net domestic borrowing and 50% net external borrowing for the FY 2023/24.
- e) That the allocation to the Equalization Fund for FY 2023/2024 be set at **Kshs. 8.65 billion** in line with the most recent audited accounts, approved by the National Assembly (Ksh. 1.730 trillion, FY 2019/20)

MIN/SEN/SCF&B/92/2023 ADJOURNMENT

There being no other business for consideration, the meeting was adjourned at 5:30 p.m. The Next meeting to be held on Monday, 27th February, 2023 at 5:40 p.m.

SIGNATURE..........DATE 28/02/2023.....

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP.

(CHAIRPERSON)



**SUBMISSIONS BY THE INSTITUTE FOR SOCIAL ACCOUNTABILITY (TISA) ON
THE BUDGET POLICY STATEMENT AND THE MEDIUM TERM DEBT
STRATEGY PAPER 2023/24**

22ND FEBRUARY 2023

INTRODUCTION

Pursuant to the call for public participation and submissions by the National Treasury on 18th January 2023, the following are submissions by **The Institute for Social Accountability (TISA)** towards the draft 2023 Budget Policy Statement (BPS) for the MTEF 2023/2024 to 2025/26 budget. The submissions have been updated to respond to the call for public participation for the budget policy paper 2023 submitted to the parliament made on 15th February 2023. Budget preparation kicks off as the government rolls out the fourth medium terms plan for the country. The submission is based on the need for prudence, transparency, accountability, protection of a devolved system of governance and public participation in managing Kenya's public finance and fiscal priorities and policy goals.

TISA commends the tax measures and policy positions proposed in the BPS to shore up revenue collection efforts by the Kenya Revenue Authority (KRA) to Kshs.3 trillion in the financial year 2023/2024 and Kshs.4 trillion in the medium term. The improved revenue performance will lower the budget deficit, reducing the public debt required to meet the budget deficit. Acknowledging the government's need for friendly fiscal consolidation measures is also welcome. Still, it should be accompanied by demonstrating how it intends to improve transparency and accountability and the measures it will take to cushion the public against the harmful effects of fiscal consolidation. Additionally lauds the BPS for adhering to the rule of law, including the commitment to support independence and resourcing of independent institutions and offices and continued adherence to the constitutional budget procedure in dividing revenue between the national and county governments.

TISA seeks to provide general recommendations for improvement of the BPS around the following areas:

- A. Adherence to the public participation guidelines to enable effective stakeholder engagement as the budget-making process is a matter of national importance and create a mechanism for feedback to all actors who submit proposals.
- B. Respect for the rule of law and a commitment to the devolved system of government .
- C. Adoption of alternative revenue-raising measures like the wealth tax alluded to by the president as a way of raising more revenue and reducing inequality.

- D. Provision of robust frameworks around the accountability of the proposed public-private partnerships and feasibility assessment for the proposed irrigation projects to provide a value-for-money assessment before investing taxpayer's money.
- E. Increased social spending investment towards pro-poor sectors such as health, agriculture, and education, which have the most effect on the poor and vulnerable and address inequalities.
- F. Enhanced budget allocation to the Governance, Justice, and Law Organizations (GJLOs) discussed under the governance proviso in the BPS to enhance adherence to the rule of law and protection of the values and resources of the Kenyan people in line with the constitution of Kenya (2010)
- G. Striking an equitable balance between domestic resource mobilisation and addressing the high cost of living for all, especially those below the poverty line.
- H. Prudent debt acquisition, utilization, and analysis of the Medium Term Debt Strategy Paper.

PROPOSED AREAS OF IMPROVEMENT TO THE BPS

1. Public Participation

Public participation allows citizens to get involved in government issues that concern them, including the budget-making process, and it ensures that citizens are heard and can actively participate in decisions that impact their needs. It is one of the national principles and values of governance that allows citizens to get involved in government issues that concern them, per article 10 of the constitution. Additionally, it allows citizens to get involved in government issues that concern allows citizens to get involved in government issues that concern allows citizens to get involved in government issues that concern one of the key objectives of devolution to ensure that powers of self-governance are given to the people to enhance their participation in the exercise of the powers of the state and in making decisions affecting them as stated in Article 174c, Constitution of Kenya.

Although the government, through the treasury, issued a notice inviting members of the public to submit comments to the Budget Policy Statement, the notice only provided for a meagre period of four working days seeing as the notice was issued on 18th January 2023 with the submissions expected by 24th January 2023. The same trend appears to have recurred with a short notice issued by Senate on 18th February, with submission deadline capped at 22nd February 2023. The principles of public participation state that there should be provision of timely and relevant information and that the information should be accessible to all members of the public so that they are aware and can engage in decisions that affect them. The BPS is a critical yet complex document whose participation would require adequate time to engage most people in the language they understand. The principles also state that it should be a two-way process with feedback given to citizens on decisions, actions taken, and results achieved by the county government. Currently, the notice provided may lock out some citizens from sharing submissions given that the budget policy statement is technical and may require more time for members of the public to internalize and provide comments and proposals to inform the final budget 2023/24. In addition, citizens rarely get feedback on the number of adopted proposals

and justification for not adopting other proposals, as there is no feedback mechanism between the National Treasury and citizens.

Proposals

The short notice violates the meaningful public participation requirement by the constitution and a means of achieving a tokenistic approach to public participation. We propose that Parliament demands from national treasury issuance of proper notice for memoranda towards issues of high public interest, like the budget-making process, which determines priorities for budgetary allocations. The short notice given for proposal consolidation and submission from the public needs to be longer, given the sensitivity and severity of the issue and the social contract considered. National Treasury should issue enough notice of at least two weeks to allow for consultation among stakeholders to give meaningful submissions.

2. Pending Bills

Pending bills and delayed payments are now a critical problem in all government tenders. Research indicates that procurement entities should be more careful with the guidelines of the Public Procurement and Asset Disposal regulations on the need to pay for the supply of goods and services after thirty days. Currently, most counties do not prioritize the payment of debt, unlike the case of the national government, which performs better. This is largely a political issue that requires political accountability to resolve. The exchequer releases most of the time are irregular and make it difficult for county governments to meet their obligations. Comparatively, the National Government entities are prioritized in exchequer releases and would prioritize their payments. The county governments are adversely affected because of late disbursements of financing. At times the National Treasury is not able to raise enough money to pay for work done because the payments are only budgeted for after the completion of work

The budget policy statement notes the pending bills as one of the bottlenecks confronting the Kenyan economy and even proposes measures to address pending bills. These include a Circular No.2/2022 dated 24th March 2022, issued by the National Treasury informing all Governors and County Executive Committee Members (CECMs) for Finance to urgently ensure outstanding pending bills are paid as soon as possible to comply with the PFM act and, most importantly, avoid disrupting the operations and other financial obligations of the county government due to stoppage of monthly disbursements. Despite these measures, county governments continue to report many pending bills that still need to be paid, negatively impacting the business community and the economy. They also affect people who engage in business with the government. In particular, they have dealt a blow to the effectiveness of Access to Government Procurement Opportunities (AGPO) which seeks to foster the inclusion of marginalized groups like women, youth and persons with disability by delaying payment hence keeping most of them in debt and not able to raise money to continue engaging in business. This has pushed these marginalized deeper into poverty and debt.

Pending bills are a liability to counties and weaken general county economic activities since suppliers need to be paid to manage day-to-day operations. A report by the Controller of Budget (CoB) indicates that by 21st December 2022, Counties had settled Ksh. 22.9 billion (47.6% of the eligible pending bills), leaving an outstanding balance of Kshs. 25.1 billion and a total of

Ksh. 1.8 billion of the ineligible pending bills had been paid by the County Governments simultaneously, leaving a balance of Ksh. 106.2 billion. To this end, the President in June 2019 directed that county governments clear existing pending bills that had been approved for payment, reiterated by the National Treasury. Still, the level of compliance could be higher in most counties. The recent directive is that Counties should treat pending bill as a first charge on the County Revenue Fund and fast-track its clearance.

Although there are commitments to ensuring pending bills are prioritized in the budget policy statement 2023/24, implementation of the previous commitments to settle pending bills as a priority often has yet to be seen given the year in year out pending bills accumulation. As explained by counties, the problem is often linked to delayed disbursements by the treasury. This inevitably increases the cost of business with the government, where suppliers quote a high price to cover the inordinate delay.

Proposal

In ensuring pending bills are cleared, the National Government should increase allocations for County Governments to clear pending bills and peg future disbursement to counties based on evidence of paid-up pending bills as outlined in the County Government Payment Plans, which counties are to submit to the National Treasury and the Controller of Budget.

According to Section 94 (1) (a) of the PFM Act, 2012, failure to make any payments as and when due by a State organ or a public entity may indicate a serious material breach or a persistent material breach of measures established under the Act. In this context, Article 225 of the Constitution, together with Section 96 of the PFM Act, gives the Cabinet Secretary responsible for Finance powers to stop the transfer of funds to the concerned State organ. However, the same may not be viable to the cyclical nature of the problem. We propose that the public finance actors commit to implementing the reforms made by the public finance management reform secretariat and ensure efficiency in all stages of public finance from planning to implementing and discharging liability. We also recommend that a mechanism for holding all actors who breach their liabilities when it comes to pending bills is developed for national government and county governments bills to deter the accumulation of pending bills.

3. Own Source of Revenue

Under Devolution, the BPS outlines the need to increase County Governments' own source revenue. A report of the County Governments by the Commission on Revenue Allocation on Comprehensive Own Source Revenue Potential and Tax Gap published in June 2022 estimates the revenue potential of all 47 County Governments at Ksh. 215.6 billion against the current own source revenue collections of Kshs 35.9 billion in FY 2021/22. To improve their OSR (Own Source Revenue) collections, the report recommends adopting automatic and cashless payment systems and streamlining taxation and fees structure by the County Governments. In addition, the report recommends strengthening collaboration and data sharing between different organizations and departments within and outside the County Governments to enable the Counties to monitor their revenue base, evaluate their revenue-raising activities, and adopt an evidence-based approach to OSR policy decision-making.

3.2 Taxation Measures

In the wake of the current fiscal landscape, there is a need for effective and efficient domestic revenue mobilization. With tax being the main source of government revenue, it is laudable that the government has put in an array of tax measures and policy positions in a bid to shore up revenue collection efforts by the Kenya Revenue Authority to Kshs.3 trillion in the financial year 2023/2024 and Kshs.4 trillion in the medium term.

In the recent past, the measures put in place have been regressive and punitive, especially to ordinary citizens, as they have mostly targeted consumption taxes such as VAT that apply uniformly across the board. Consumers continue to decry the high cost of living as a result of the high cost of basic commodities which is directly linked to the high cost of production due to the high LPG and energy costs.

We take note of that the proposals made in the draft BPS are progressive as they involve bolstering efficiency in revenue collection by reducing taxation gaps as well as growing the tax base, targeting the informal sector. Most of the proposals align with the recommendations of the [fair tax monitor report](#) released in 2022 by Oxfam and Tax Justice Network Africa (TJNA).

Proposal

There is a need for the government to review and reduce VAT of LPG and Energy products that have a direct effect on the cost of production in order to bring down the overall cost of living.

Under own source revenue, there is the need to clarify the assignment of revenue-raising powers between the two levels of Government and among Counties: County Governments are entrusted with fiscal powers to raise revenue to finance their functions, but there are overlaps and duplications between the two levels of Government. Disputes have arisen between the two levels of Government and among the Counties regarding who should collect certain types of revenue (e.g., for outdoor advertising and cess) and how revenue should be shared, where a revenue base sits between two or more Counties.

Also, there is a need for a proper legal framework, policies, and guidelines on own-source revenue and the operationalization of the County Revenue Bills to guide this process. Finally, county governments should prioritize identifying opportunities for optimizing Counties' own source revenue and examining possibilities of increasing efficiency through a resource audit that will inform the expansion of the base for the imposition of assigned taxes, fees, and charges.

5. Protection of Devolution

Division of Revenue, which ensures division revenue raised by the national government among the national and county levels of government in accordance with the Constitution has been well captured in the BPS. Despite devolution being a key aspect of service delivery in Kenya, the allocations to county government have been declining. The provisions stand at 24.5 percent of the last audited accounts (1573.42 billion for FY2019/20) which is on the lower side.

The County governments have also in the recent past complained about disbursement delays and called on the national government to put in place mechanisms that will ensure swift

disbursement of funds to the devolved units. We join these calls in urging that Parliament supports counties in timely disbursement, which has previously affected county operations.

On the audited accounts to be used as the basis for the FY 2023/24 division of revenue allocation the BPS uses the accounts of FY 2019/20 as the basis. The question of whether audited accounts older than two financial years could be used to determine the revenue allocation still stands. The Court held that considering the 9-month audit timeline in Articles 229(4) and (8), “the most recent audited accounts of revenue received as approved by the National Assembly’ must be the audited accounts for the preceding year”.

The BPS commits to operationalizing the Equalization Fund, which was first operationalized using guidelines on its administration published in gazette notice No. 1711 of 13th March 2015. However, the High Court ruling on petition No. 272/2016 on 5th November 2019 quashed the guidelines. This, in effect, disbanded the Equalization Fund Advisory Board (EFAB) and stopped any further expenditures from the Equalization Fund.

The BPS proposes to focus on the agricultural, MSMES and health sectors as areas of focus for the current government and the same is evidenced in the BPS. We take note that health and agriculture are primarily devolved functions which would be implemented best by county governments.

Proposal

On the division of revenue, there is need to progressively increase the percentage of the allocation made to the counties. The allocation to the counties should be at least 30 percent of the audited accounts set aside for revenue allocation to counties. This will reflect the increased growth in demand for services at that level of governance. Allocation of more resources to the counties should be addressed so as to maintain the gains already made through devolution of public services. Revenue projections should be realistic since the ambitious nature of National Treasury’s revenue projections negatively affect revenue sharing between the national and county governments. The Commission on Revenue Allocation (CRA) for instance recommended that based on a revenue projection of Ksh. 2,142 billion for the financial year 2022/23, the national government be allocated Ksh. 1,765.2 billion, county government Ksh. 370 billion and Equalisation Fund Ksh. 6.8 billion. The Commission further recommends that the projected revenue increase of Ksh.366.4 billion above the financial year 2021/22 estimate of Ksh.1, 775.6 billion if realised, be used to reduce the national government’s fiscal deficit as a matter of national interest.

The audited accounts for FY2020/21 approved by the Parliament should be used as a basis for the 2023/24 FY revenue division. These are yet to be approved by parliament and it is imperative that parliament works to improve this and ensure that we comply in adhering to this legal requirement.

There is also need for legislative clarity on explicit timelines for the approval of the Division of Revenue Bill and County Allocation of Revenue Bill as they have been tabled in Parliament to address delays in release of funds to counties.

On the Equalization Fund, there is the need to expedite the operationalisation of the fund as the Board has been properly constituted to enable the marginalised counties to reap the benefits enshrined in the constitution. The implementation must, however ensure that roles by the board for devolved functions are defined and do not encroach on the role of the county governments.

We also call on the Senate to create a mechanism to ensure the intended inclusion of the marginalised groups is attained. In addition, the National Government needs to create awareness of the administration of the fund and ensure the participation of the marginalised communities in the identification, implementation, monitoring and evaluation of the projects to be implemented through the fund. We hope that the implementation can help with lessons of how best to ensure the participation of the people, including the most vulnerable and marginalised in government processes even after the equalisation fund is wound up by the sunset clause of 20 years.

On devolved functions, we note the steps proposed to cancel the contract to lease medical equipment, which was conducted against the principles of public finance and devolution of power. We urge that the senate takes measures to guard against the agriculture and health sectors which are largely devolved. The distribution of agricultural inputs like fertilizer seem to be residing with the

6. Debt Strategy

TISA takes note of the proposals made by the National Treasury to improve Kenya's debt status. We note that the strategy makes proposals for: reducing the overall fiscal deficit; increasing the national export capacity; strengthening the capacity for domestic and concessional borrowing; and establishing the sinking fund, among others. These proposals are in line with a TISA report released in 2022 titled, "*Transparency and Accountability in Public Debt Management: A focus on Kenya's Past Eurobonds*". The report is available [here](#).

Transparency & Accountability in Sovereign Bonds

The MTDSP (Medium Term Debt Strategy Paper) needs to include important commitments by the National Treasury on Transparency and accountability in sovereign bonds that will be floated in the medium term. We take note that Eurobond issuance has been a significant component of Kenya's national debt, with about four (4) Eurobonds so far issued between 2014 and 2021. However, there have been concerns with the manner in which the Kenyan government has handled these sovereign bonds, including limited information available that indicates that the funds were used to finance budget deficit, repay maturing loans, and finance infrastructure projects that don't have any immediate returns. Considering the maturity profile of Eurobonds, which is relatively short, it is clear that the manner in which the Eurobond proceeds have been used in Kenya means that the debt cannot repay itself hence may be unsustainable in the long term.

Due to the short maturity profile of Eurobonds, Kenya will be faced with a concentration of maturing Eurobond obligations between 2024 and 2028¹, which the MTDSP notes, but fails to provide detailed commitments on the mitigation risks that this will have on public service delivery. Coupled with this, is the observation (section 36), that the average time to maturity of debt reduced to 8.8 years compared to 9 years in 2021.

Given the current high debt levels, enhancement of debt transparency and accountability initiatives in line with the constitution in Article 201 is paramount. In line with this, the National Treasury ought to ensure that the public debt register is availed to Parliament with full quantification of Kenya's Public debt stock as defined under Article 214, which includes debt disbursed and debt commitments already entered.

¹ [Eurobond-Study-Report.pdf \(tisa.co.ke\)](#)

Analysis on Key Sections within the MTDSP

1. Section 40 - About 49% of Kenya's public debt is held in foreign currencies, which exposes the economy to high foreign exchange rate volatility risks. Major currencies include the US dollar at 68.1%, Euro at 19.8%, Chinese Yuan at 5.4%. The National Treasury could consider pursuing aggressive debt restructuring efforts both in the short and medium term to alleviate the ongoing interest rate hike on the dollar especially.
2. Section 43 - Kenya's Debt Carrying Capacity (DCC) was downgraded from Strong in 2019 to Medium in 2022, and Kenya is ranked as being in risk of debt distress. Linked to the BPS, concrete efforts to enhance Kenya's exports need to be seen, which are lacking in the BPS. Instead, the policy alludes in Section 51 that Kenya's public debt is at sustainable levels, which is not accurate.
3. Section 48 - The National Treasury commits to maintain debt at sustainable levels through minimizing non-priority expenditures, yet the Budget Policy Statement has had a marginal reduction in the fiscal deficit to 5.7% of GDP down from 6.2% in 2022. Additionally, the MTDS makes no mention of debt restructuring efforts focused on current expensive loans, whose fiscal risk is high.
4. Section 71 - The National Treasury has listed plans to float a syndicated loan domestically. We urge that this process follows the transparency and accountability mechanisms spelt out in the constitution, as well the PFM Act, which have previously been disregarded.
5. Section 77 - The National Treasury does not appear to give a deliberate commitment to have green and blue bonds as part of development financing going forward, yet commitments have previously been made on the needed reforestation, as part of climate change mitigation. The green bond market offers market offers opportunities for national and subnational government to invest in climate change related projects, while contributing towards climate resilience and sustainable development.
6. Section 113 - TISA welcomes the move by the National Treasury to replace the current debt ceiling with a debt anchor hinged on Gross Domestic Product as a desired level of public debt as a ratio of GDP, as this allows for more flexibility on the periodic impact of unforeseen shocks on debt and GDP.
7. Section 114 - We equally welcome the move by the National Treasury to develop guidelines for the operationalization of a sinking fund in conformity with Regulation 206(1) of PFM (National Government) Regulations of 2015. The sinking fund will help stem default in times of economic distress, such as the ongoing global financial crisis, as well as the current drought facing most Kenyan counties. The distress tends to affect most of the devolved functions and services. As this is developed, it must entrench the principles of devolved government.

Diana Gichengo
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Email: diana.gichengo@tisa.or.ke or info@tisa.or.ke

CC

- 1. Chair National Assembly Committee on Finance and National Planning**
- 2. Chair National Assembly Committee on Budget and Appropriations Committee**
- 3. Chair Senate Committee on Finance and Budget**



COMMENTS ON THE 2023 BUDGET POLICY STATEMENT

Promoting an Equitable Society

Para	Issue	Recommendation
Para 65, p 18	The 2023 BPS strategy regarding the women agenda proposes to provide financial and capacity building support for women through the Hustler Fund for women-led co-operative societies, <i>chamas</i> , merry-go rounds and table banking initiatives to protect them from predatory interest rates charged by unscrupulous money lenders.	<ol style="list-style-type: none"> 1. Predatory Interest rates affect both men and women. A strategy should be put in place to ensure for both men and women access the funding from the Hustler Fund equitably. 2. The Biashara Fund still exists. Parliament to align the Hustler Fund and <i>Biashara</i> Kenya Fund to avoid duplication, noting that <i>Biashara</i> Kenya Fund already has an existing framework
Para 171 (Table 3.1) p 47	The BPS adjusts upwards the equitable share allocation to national government by Ksh.133,818 million from Ksh.2,119,258.8 million to Ksh. 2,252,077.2 and that to county by 15,425 million Ksh.370,000 million to Ksh.385,425 million Table 4.3 on page 71 uses a base of Ksh.2141.6 billion for FY 2022/23 as the total shareable revenue while Annex Table 2 on Page 100 uses a different base of Ksh. 2192 billion	<ol style="list-style-type: none"> 1. The projected absolute ordinary revenue growth between FYs 2022/23 and 2023/24 is Ksh. 379.2 billion. Adjusting the county allocation by only Ksh. 15.4 billion amounts to inequitable sharing of revenues between the two levels of government. The five priorities of governments, namely; agricultural Transformation, Micro, Small and Medium Enterprise; Housing and Settlement; Healthcare and Digital Superhighway and Creative Industry are either county government functions and/ or concurrent functions. 2. Parliament to consider adopting the Commission's recommendation to increase the county governments' allocation by Ksh. 37.4 billion from Ksh 380 billion to Ksh. 407 billion in the financial year 2023/24.

Para	Issue	Recommendation
Table 3.2, p 49	The BPS proposes to increase the allocation to the health sector from Ksh. 122.5 billion in FY 2022/23 to Ksh. 154.2 billion in FY 2023/24. Indeed, the allocation to the health sector at the national level has consistently increased from Ksh. 30 billion at the beginning of devolution in FY 2013/14.	1. Healthcare provision is largely a devolved function. Preventive and promotive healthcare is the mandate of county governments. The national government seeks to ensure Universal Health Coverage through recruitment of community health workers who will form part of primary health care system. Resources should therefore be reallocated from the national health sector to county governments to perform the function
Para 251, p 66	Prior to devolution, the defunct local authorities received Contribution in Lieu of Rates (CILOR) from the Central Government for public land within their jurisdictions. Since devolution, only one county (Laikipia) has received CILOR from the National Government. This is mainly due to inadequate legal framework for claiming CILOR, widespread lack of up-to-date valuation rolls to support imposition of property rates and counties being unfamiliar with payment of CILOR procedures.	1. The nonpayment of CILOR by the National Treasury over the years has compromised county governments ability to raise OSR. Parliament should fast-track the development of a legal framework to enable county governments to benefit from the CILOR payments
Table 4.1, p 68	Pending bills: A summary of the outstanding pending bills by the county governments is presented as at 21 st December 2022.	1. The BPS did not present a similar table of outstanding pending bills for the national government which makes it difficult to assess the national government's adherence to prudent financial management
259, p 69	The BPS allocates Ksh. 7.9 billion to Equalisation Fund in the financial year 2023/24	<p>1. Art. 204 (1) provides for an allocation of one half of all the revenue collected by the national government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the national Assembly</p> <p>2. The BPS, however, allocates Ksh. 7.9 billion to Equalisation Fund based on the last audited accounts for FY 2019/20 of Ksh. 1,573.4 billion</p>

Para	Issue	Recommendation
		3. The Commission notes that the last audited accounts for FY 2019/20 amounts to Ksh. 1,730.9 billion
Annex1, Table 1 on p 79	<p>The BPS has over time misreported the proportion of development expenditure to the total national government budget.</p> <ul style="list-style-type: none"> • Section 15(2) (a) and Section 15(5) of the Public Finance Management (PFM) Act, 2012, and the PFM (National Government) Regulations, 2015 provides that the over the medium term a minimum of thirty percent of the national governments budget shall be allocated to the development expenditure. • The BPS has, however, rendered the interpretation of Section 15(2) (a) and Section 15(5) of the PFMA, 2012 to mean total national government development expenditure (ministries, Parliament, Judiciary) as a proportion of the ministerial national government expenditures. 	<ol style="list-style-type: none"> 1. The use of a lower denominator in deriving the proportion of the development expenditure to the national government budget has continued to over report the proportion of development expenditures of the national government. 2. Parliament to ensure the adherence by the National Treasury on Section 15(2) (a) and Section 15(5) of the PFMA, 2012
Annex Table 4a	<ul style="list-style-type: none"> • The BPS presents Annex Table 4a with missing data on the printed budget estimates for the FY 2022/23 and BPS ceilings for some MDAs. 	1. The BPS should present complete data on printed budget estimates and for the FY 2022/23 and BPS ceilings for some MDAs

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ON

THE DRAFT BUDGET POLICY STATEMENT 2023

JANUARY 2023

1.0 INTRODUCTION

Institute of Certified Public Accountants of Kenya (ICPAK) is a statutory body of accountants with the mandate to develop and regulate accountancy profession in Kenya. The Institute is further mandated under Sec 8 of the Accountants' Act of 2008 to advise the Cabinet Secretary for Finance on matters relating to governance and accountability in all sectors of the economy. The Institute is dedicated to enhancing its contribution and that of its members to the national economic growth and development agenda. It has been instrumental in making contributions that shape the public financial management in Kenya. This submission is therefore in tandem with the Institute's overarching advisory mandate in the realms of financial management.

The FY 2023/24 budget will be implemented in a new regime and against the backdrop of sustained economic recovery from Covid 19 and other existent shocks within the micro and macroeconomic environment. Indeed, the current state of affairs has been occasioned by the ongoing Russia-Ukraine conflict- disruption on global supply chain likely to affect incomes from exporters, higher-than expected inflation worldwide triggered by higher global oil and food prices; climate change that has produced a severe crisis- food insecurity, poverty, inequality and socio-conflicts; limited access to foreign finance; global tightening of monetary policy and uncertainty on dissipation of COVID-19 if the recent upsurge in China is anything to go by.

These projections are attributed to elevated commodity prices as activity continues to rebound in the region's main trading partners (China, the Euro area, and the United States), albeit at a slower pace than last year. The outlook is also predicated on a gradual recovery in tourism. However, these projections could be hindered by higher food prices, supply disruptions and extreme weather conditions as well as constraints on financing and pressures to improve debt sustainability,

The main goal of the government is to revitalize performance in all economic sectors in order to foster growth, employment creation, poverty reduction and ultimately improve livelihood of the economically disadvantaged group. Although Kenya's economy has in the past remained resilient, could lead to loss of the gains that have been accumulated over the past years.

The Institute has reviewed the Draft Budget Policy Statement 2023 and has developed the following set of submissions for National Treasury's consideration.

2.0 SUMMARY OF ICPAK SUBMISSION ON BPS 2023

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
1.	Budget for FY 2023/24 and the Medium-Term	<p>In the FY 2023/24, the Government projects that the total Government expenditure will amount to about Ksh. 3.64 trillion while total revenue will be approximately Ksh. 2.89 trillion leaving a fiscal gap of about Ksh. 695 billion. The Institute is concerned that:</p> <ul style="list-style-type: none"> This fiscal gap is likely to increase the current public debt because it would require debt financing to actualize the budget. The Government has in the past prepared supplementary budgets which have increased expenditures and reduced revenues. The implication is compromised services being delivered or increased borrowing, or both. 	<ol style="list-style-type: none"> Ensure adherence to fiscal responsibility principles on planning and budgeting. Supplementary budgets should only be prepared and approved within the precincts of the Public Finance Management Act and Regulations which are: in case of; <ol style="list-style-type: none"> Unforeseen and unavoidable; in circumstances where no budget provision was made; or Unavoidable, in circumstances where there is an existing budgetary provision which, however, is inadequate. <p>This will ensure quality delivery of services, maintain public debt within sustainable level and align with Constitutional and PFM Act requirement of ensuring public participation is observed in public finance management</p>
2.	Paragraph 9 and 10: Agricultural Transformation and Inclusive Growth	<p>Over the medium term, the Government will develop policy, legal and institutional reforms to provide an enabling environment for agricultural productivity. However, this section is not all inclusive to deal with the perennial challenge of food insecurity.</p>	<p>In addition to the proposed policy interventions, the Government should prioritize and implement the following in the Agricultural sector:</p> <ol style="list-style-type: none"> To incentivize the sector and make the practice of agriculture more lucrative, there is need to explore the option of commodity exchange which will ensure symmetric access of price information to all agriculture value-chain players and reduce the costly market intervention. Increase funding levels especially to the

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
			<p>sectors that contribute to food security such as Agriculture and manufacturing. Exchequer releases should be within the prescribed timeline to facilitate implementation of development programs. Agriculture should be at least 10% of the total National Budget as per Maputo Declaration.</p> <ol style="list-style-type: none"> 3. Build and improve rural infrastructure to open space for movement of goods and services. Also, revisiting policies on Trade Agreements to boost export of some agricultural products will boost direct foreign investment. 4. Improve access to financial services and credit in agriculture and rural development and reduce taxes on agriculture that might impede the growth of the agriculture sector. 5. Encourage growth of agribusiness and improve regulatory services to ensure quality inputs and products and conducive environment for small business holders. 6. Invest in locally More Agricultural research institutions. 7. Enhance Practice of large-scale Water Harvesting. 8. Tax highly Imported Agricultural products, which can be available locally. Such as maize, beans, eggs, fish, potatoes, tea, coffee and sugar. 9. Government should establish Agricultural insurance through collaboration with willing

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
			Stakeholders to mitigate and protect farmers from Natural and Economical Risks. i.e. Droughts, floods, fire, inflation etc
3.	Banking Sector	Consider the following reforms in the Banking industry	<ol style="list-style-type: none"> 1. <i>New Technologies Adoption</i> : Enable Kenya to retain and accelerate its status as a financial and tech hub. It is an important policy direction and tax/non-tax incentives is essential to encourage rapid adoption of the 4th INDUSTRIAL REVOLUTION (4IR) TECHNOLOGIES to diversify beyond mobile money computing Kenya is renowned for globally. 2. <i>New Business Model Adoption</i>: Regulatory reforms and budgetary policy alignments are critical to enable banking and financial services institutions adoption of advanced DIGITAL PLATFORM BUSINESS MODELS key to positioning Kenya's financial sector globally. 3. <i>Key Anchor Institutions Reforms For Digital Financial Services</i> (Kenya's Silicon Savannah Innovation Hub & International Financial Centre). Acceleration of full roll out of the Konza Technopolis, Nairobi International Financial Centre Authority (NIFCTA) core mandates and competencies 4. <i>Export Of Banking and Financial Service</i>: Deliberate efforts for promotion/facilitation of exports of banking and financial services to Sub-Saharan Africa e.g., Ethiopia via government-to-government (G2G)

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
			<p>engagements for entry of Kenyan banks and insurance companies into ETHIOPIA and vice versa.</p> <p>5. <i>Credit Reference Bureau</i>: Reforms to deepen private sector credit % of GDP by deepening the level of CRB (Credit Reference Bureau) coverage to the level of South Africa, Malaysia etc. is key to enhance access to finance for households and MSMEs. Widening the net to include more sectors of the economy (Saccos; Telco's, Water Utilities, Electricity utilities, Real Estate rentals etc) provision of CRBs data will reduce information asymmetries (adverse selection and moral hazard) to spur growth of credit to MSMEs and households.</p>

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
6.	<p>Paragraph 10-13: Transforming the Micro, Small and Medium Enterprise (MSME) Economy</p>	<ul style="list-style-type: none"> • Micro, Small and Medium Enterprises popularly known as MSMEs are engines of growth, vital to most economies and have been recognized by multilateral organizations, development agencies and governments across the world as a key enabler of economic growth and development. • A Survey by KNBS on MSME indicates that approximately 400,000 micro, small and medium enterprises do not celebrate their second birthday. In addition, the pilot training by ICPAK for Laikipia County Government gave a glimpse of the challenges MSMEs face including but not limited to: <ul style="list-style-type: none"> a) Capacity gaps in managerial training: small and medium enterprises establish managerial strategies through trial-and-error mechanism. b) Low financial literacy levels among MSMEs on areas such as basic record-keeping, cash management, managing customer and supplier payments, tax, insurance and other regulatory requirements impedes their success. c) Rapid technology changes: Technology change poses a big challenge to the growth of small and medium enterprises. Most of these enterprises are not able to adopt new technology due to its high initial and installation costs. d) New laws and regulations: Every day, the government and other stakeholders continue to introduce new regulations for industries and enterprises in Kenya. <p>It is therefore important that MSMEs are supported for sustainability and growth</p>	<p>Consider the following proposals:</p> <ol style="list-style-type: none"> 1. Need Predictable Tax Regime for MSMEs through an overarching tax policy: Reform the tax policy to help in the formalization of the informal sector for sustained revenue collection. This can be achieved through: <ul style="list-style-type: none"> - harmonization of taxes- reduce multiplicity of taxes both at National and subnational levels - Tax education for taxpayers, to understand why they pay - simplification of taxes- for instance, uptake of turnover tax still low - Link taxation to elector's cards- integrate the registration systems – taxation, identification and election. 2. Continuous Taxpayer engagement: There's need to engage SMEs and create a dedicated channel of communication to support tax compliance. KRA should consider establishing a dedicated desk for purposes of handling SME-related concerns, challenges and queries. 3. Make it easier to pay taxes. Enhance iTax system to optimize tax collections while minimizing the burden on taxpayers to comply with tax laws. 4. Efforts to improve formality should be based on corresponding investments in value creation for MSEs such as the provision of basic services, improved market

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
			<p>areas, provision of funding.</p> <p>5. Alternative forms of collateral. Need for collaborative efforts between financial market participants and Government agencies towards the identification, deployment and maintenance of appropriate technologies that will promote the eligibility of a wider range of assets as loan collateral e.g social security contributions.</p> <p>6. Digital portal. Create a simplified and responsive digital portal that enables MSME owners to access market information that will enhance their growth. This will be especially useful in light of the AfCFTA agreement.</p> <p>7. Reorganizing not criminalizing Hawkers through introduction of Hawkers identification cards and tax compliance certificate to enhance smooth operations. This will help to deal away with criminal activities in the hawking sector and enhance government to collect tax easily</p> <p>8. Partner with Professional Bodies such as ICPAK to capacity build and support in financial literacy initiatives.</p>

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
9.	<p data-bbox="315 252 472 280">Healthcare</p> <p data-bbox="315 316 533 376">Paragraph 16-19</p>	<p data-bbox="562 252 757 280">Key concerns</p> <ul style="list-style-type: none"> <li data-bbox="562 316 1525 552">▪ According to the Ministry of Health (MoH Kenya) (2019), only 11% of Kenyans are covered by the NHIF insurance program leaving most of the population (89%) without the government-subsidized health plan. With over 70% of the Kenyan workforce working in the informal sector, most of them are either not eligible or cannot be able to afford the premiums set by the government to maintain health insurance provision. <li data-bbox="562 584 1525 887">▪ Financing management of communicable and non-communicable diseases such as Malaria, TB, and HIV/AIDS in Kenya is largely dependent on donor funds from international organizations, non-governmental entities, and contributions from other countries. This has led to under-investment of the health sector, weakening health systems and structures, and raising concern as to whether the public health infrastructure can withstand a potential overburden in the wake of the COVID-19 pandemic with the majority of Kenyans facing uncertainty due to lack of health coverage. <p data-bbox="607 919 1525 1078">Kenya's budgetary allocation to health has averagely stood at 9% despite signing the Abuja declaration, which requires signatories to allocate 15% budgetary allocation for health. Most of this is absorbed as recurrent expenditure leaving little room for the development of health facilities and the acquisition of medicine and equipment</p>	<ol style="list-style-type: none"> <li data-bbox="1592 252 2197 839">1. Ensuring that at least 70% of NHIF disbursements go to public health institutions and service providers; with 30% going to the private sector. This will help build capacity of public health institutions as opposed to utilizing public funds to support private entities. According to the Health Financing Reforms Expert Panel (HEFREP) Report, private hospitals received KES 22 billion from NHIF while government and mission hospitals received KES 7 Billion and KES 8 Billion respectively out of the KES 37.7 billion expenditure in FY 2018/19. This implies that government health facilities received only 18.6% allocation of NHIF disbursement in that year. <li data-bbox="1592 839 2197 1302">2. There is need to increase the health budgetary allocation to the recommended 15% of the total annual budget as recommended by the AU under the auspices of Abuja declaration. This will go a long way in increasing recruitment and welfare of health personnel to enable efficiency in the health sector. It will also solve the problem of periodic strikes and brain drain that has become a new normal in the health sector by ensuring health workers are well paid, offered proper protective gear that they need to work in a safe environment. <li data-bbox="1592 1302 2197 1337">3. Strengthen accountability in the utilization

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
			<p>of funds and resources that are allocated in the health sector. The perpetrators of mismanagement of healthcare provision funds should be brought to book and such funds recovered.</p> <ol style="list-style-type: none"> 4. Invest in Medical Research: Counties should support medical research such as Cancer research and studies in NCDs. 5. The Government should invest in established KEMRI county units in all counties to help in combating any tropical Disease Outbreaks. This will enable to control/contain any outbreak that may spread easily to other counties hence affects the economy stability. 6. Offer tax relief on Medical facilities and inputs- To allow medical health facilities to be available to avoid people traveling overseas for treatment. For instance, collaborating with India to establish Cancer Centre/Hospital in Kenya, given that over 10,000 Kenyans travel annually to India for specialized treatment.
10.	<p>Electricity Paragraph 28</p>	<p>Electricity is a vital economic and social good critical for production of consumer goods and provision of essential services such as health and security. The increasing cost of energy may hamper realization of some of the government's growth priorities including manufacturing.</p>	<p>By end of 2021, the government had embarked on a pathway for reduction of the cost of electricity by 30%.</p> <ol style="list-style-type: none"> 1. Therefore, the government should consider reducing the cost of electricity to spur the manufacturing sector and other important sectors of the economy.

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS								
11.	Governance Paragraph 57	<p>The Judiciary notes as one of its achievements that 34 judges of the COA, ELRC and ELC were appointed in the FY 2021/22. This increased the numbers to 173 judges against an approved establishment of 347 judges.</p> <p>According to the European Judicial systems The European Commission for the Efficiency of Justice (CEPEJ) Evaluation Report - 2020, Europe had an average of 21.4 professional judges per 100,000 inhabitants implying one judge serving a population of about 5,000 inhabitants. With a population of 48M Kenyans, In Kenya, if one judge would serve 100,000 inhabitants, we will require an establishment of 480 Judges for enhanced access to justice.</p> <p>The USA and India have an average of 21 judges per 1,000,000 people indicating service of 48,000 citizens per judge; in Germany, one judge serves about 4,000 citizens. Case clearance rate of 72% in Kenya and the attendant backlogs indicate a strained judiciary.</p> <p>In the period between FY 2019/20 – 2022/23, the Judiciary has been receiving less than 1% of the total budget, with the other two arms (Executive and Parliament) receiving the larger share. In addition, this proportion has been declining.</p> <p>This has resulted in resource constraints in the Judiciary operations.</p> <table border="1"> <thead> <tr> <th>FY</th> <th>Total National Budget (Ksh in trillion)</th> <th>Judiciary Budget (Ksh in trillion)</th> <th>(Judiciary/Total)%</th> </tr> </thead> <tbody> <tr> <td>2022/23</td> <td>3.3</td> <td>0.0189</td> <td>0.57%</td> </tr> </tbody> </table>	FY	Total National Budget (Ksh in trillion)	Judiciary Budget (Ksh in trillion)	(Judiciary/Total)%	2022/23	3.3	0.0189	0.57%	<p>To ensure financial autonomy for the Judiciary as envisaged in the Constitution and sufficient Judicial officers to administer justice, consider:</p> <ol style="list-style-type: none"> 1. revising the establishment to 480 Judges to enhance access to justice and prompt delivery of cases. 2. Upscale budget allocation to the Judiciary to support the operationalization of the Judiciary Fund. The government should allocate at least 1.5% to 2.5% of the total budget to the Judiciary.
FY	Total National Budget (Ksh in trillion)	Judiciary Budget (Ksh in trillion)	(Judiciary/Total)%								
2022/23	3.3	0.0189	0.57%								

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN				ICPAK RECOMMENDATIONS															
		2021/22	3.1	0.0185	0.60%																
		2020/21	2.8	0.0171	0.61%																
		2019/20	2.6	0.0169	0.65%																
		<p>Source: BPS</p> <p>Allocation to Judiciary:</p> <p>The Institute notes that the Allocation for Parliament has increased by Kshs 12,337 million from Kshs 37,883 in FY2021/22 to Kshs50,220 in 2022/23 while the Allocation for Judiciary has only increased by Kshs 380 Million from Kshs 17,918 Million in FY2021/22 to Kshs 18,297 Million in 2022/23</p> <table border="1" data-bbox="443 778 1413 965"> <thead> <tr> <th>Body</th> <th>FY2018/19</th> <th>FY2019/20</th> <th>FY2020/21</th> <th>FY2021/22</th> </tr> </thead> <tbody> <tr> <td>Parliament</td> <td>34,490</td> <td>36,240</td> <td>36,222</td> <td>37,883</td> </tr> <tr> <td>Judiciary</td> <td>13,458</td> <td>14,437</td> <td>14,150</td> <td>17,918</td> </tr> </tbody> </table> <p>Source: Division of Revenue Bill,2022</p> <p>According to the State of the Judiciary and PMMU reports, the Judiciary is operating at about 60% of its optimal staffing levels. In addition to this, it faces crippling financial challenges that seriously curtail its ability to invest in the infrastructure and activities that will enhance its efficiency and expedite the delivery of justice.</p>				Body	FY2018/19	FY2019/20	FY2020/21	FY2021/22	Parliament	34,490	36,240	36,222	37,883	Judiciary	13,458	14,437	14,150	17,918	
Body	FY2018/19	FY2019/20	FY2020/21	FY2021/22																	
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12.	Pending bills Paragraph 146-149	A report by the Controller of Budget (CoB) indicates that by 21st December 2022, Counties had settled Ksh. 22.9 billion (47.6% of the eligible pending bills)				1. The National Treasury should consider accrual accounting as opposed to cash															

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
		<p>leaving an outstanding balance of Kshs. 25.1 billion. During this period, the National Government released to the Counties significant resources to enable them to clear their pending bills.</p> <p>The total outstanding MDAs' pending bills as of 30th September 2022, amounted to Kshs.82.35 billion, comprising Kshs.61.15 billion (74.3 per cent) for recurrent expenditure and Kshs.21.2 billion (25.7 per cent) for development expenditure.</p> <p>Continued delays in payment of pending bills to entities that provide goods and services to both National and County Governments have affected liquidity and operations of these entities. In a number of cases, this has led to closure of businesses, affecting many livelihoods.</p> <p>Though some progress was noted in settlement of these bills by the National and County Governments, there are still challenges where a number of suppliers are owed large amounts of money. The outstanding issue of pending Bills has negative effects on the economy:</p> <ul style="list-style-type: none"> ▪ <i>Effect on Investment-</i> investor confidence is eroded. ▪ Entities risk losing reliable suppliers. ▪ <i>Private Sector Credit:</i> Credit to SME's is stifled since banks cut lending to government suppliers due to high defaults attributed to late payments by national and county governments. ▪ Non-payment of suppliers and contractors adversely affects other sectors of the economy like the financial sector by increasing non-performing loans. ▪ <i>Cashflow problems:</i> Businesses face huge cashflow problems and are unable to pay their workers, suppliers, pay rent, and other expenses. 	<p>accounting which presents challenges in terms of monthly and annual financial reporting on pending bills and other liabilities.</p> <ol style="list-style-type: none"> 2. There is need to develop a database of all owed dues to counties and MDAs and assess the multiplier effect/impact to the economy. 3. Closure on payments of existing pending bills and fast-tracked implementation of the Prompt Payment Bill, 2021 is necessary to avert death of MSMEs engaged in public sector supplies. 4. The National Treasury should follow up and ensure strict compliance to Circular AG.3/83/1/Vol.VII (22) dated 11th May 2022 to all CECMs for Finance on Year End Closing Procedures for Financial Year 2021/2022.
13.	Paragraph 87 Private Sector Credit	Adequate credit to the private sector plays an important role in economic growth by ensuring that there is efficient allocation of resources for investment.	In order to improve private sector credit, the Institute recommends as follows; 1. Implementation of the Credit Guarantee

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
		<p>In Kenya, the major constituents of the private sector lending include commercial banks, capital markets, Saccos, microfinance institutions, finance and leasing companies, pension funds, as well as insurance corporations.</p> <p>Accessibility of credit has been a challenge especially to the SMEs, largely attributable to high-risk perception by banks, and the high cost of credit charged on the current available credit options.</p> <p>Private sector credit improved to a growth of 12.5 percent in the 12 months to December 2022 compared to a growth of 8.6 percent in the year to December 2021. The Institute commends the government for these efforts. However, more measures need to be put in place to continue in the same growth path.</p>	<p>Scheme (CGS) Regulation 2020 to enhance credit access to MSMEs.</p> <ol style="list-style-type: none"> 2. Alternative sources of borrowing - The Kenyan Government should focus more on the concessional borrowing such as soft loans that are cheaper as compared to commercial loans such as the Eurobonds. By implementing alternative borrowing, the government domestic credit from commercial banks will reduce, and as a result, increase the ease of credit access to the private sector. 3. Implementing Public-Private Partnerships (PPP) initiatives in different sectors such as infrastructure and housing projects to reduce its borrowing costs and promote fiscal consolidation efforts. The move helps in minimizing the crowding out of the private sector, 4. Lowering the cash reserve requirement ratio – The CBK reviewed the cash reserve ratio in March 2022 to 4.25% from the preceding 5.25% releasing Kshs 35.2 bn additional liquidity to commercial banks. The increased liquidity improved credit access within the economy, and consequently to the private sector, 5. Deepening financial inclusion through digital integration – Banks are increasing their presence and accessibility to the private sector through digital avenues such as apps and USSD in promoting credit uptake. Banks

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
			<p>such as KCB and NCBA partnered with Safaricom to offer the overdraft credit facility of Fuliza in increasing credit lending to SMEs.</p> <p>6. Adoption of risk-based pricing - 22 out of the 38 commercial banks have adopted risk-based pricing as a measure of tailoring loans to a customer's financial profile while helping banks and other lenders to manage their risk exposure. The initiative will increase credit accessibility to the private sector based on an individual financial profile in terms of borrowing and repayment history.</p>
14.	Paragraph 88 Hustler Fund	<p>The Hustler Fund was also launched as an intervention to correct market failure problems that led to predatory lending. It aims to lift those at the bottom of the pyramid through structured products in personnel finance that includes savings, credit, insurance and investment.</p> <p>It targets those who are seen as having entrepreneurial potential but remain poor and excluded in the face of mushrooming unemployment, marginalization, high poverty rates and the high cost of living.</p>	<p>Hustler Fund is a good intervention but needs training and coaching of entrepreneurs as well as conscious government effort to address emerging regulatory/policy bottlenecks.</p> <ol style="list-style-type: none"> 1. The government should also ensure that the Regulations governing the Fund are strictly adhered to in tandem with the requirements of the Public Finance Management Act to serve the intended purpose. 2. There is need to ensure that the Hustler Fund does not join the long list of financial digital platforms that instead of pulling people out of poverty, disenfranchises and mortgages their future into more debt thereby worsening their lives. 3. The Institute recommends that the government focuses more on providing universal and guaranteed public services such as affordable healthcare, education, basics of life and housing.

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
			<p>4. Enhance oversight on the fund initiatives to promote transparency - The government needs to come up with measures that will oversee the running of the Hustler Fund and other Funds in terms of timely publication of updates on amounts disbursed, disclosure of beneficiaries already covered and requirement regulations. This will enhance public confidence since the Fund draws from the Exchequer.</p>
15.	<p>Paragraph 97 Fiscal Performance</p>	<p>Revenue Performance</p> <ul style="list-style-type: none"> • Revenue collection to November 2022 grew by 10.6 percent compared to a growth of 29.5 percent in November 2021. This decline in rate of growth is attributed to the fact that the previous FY's growth was anchored on a lower base— a contraction recorded in the FY 2019/20 which had the effects of COVID-19 pandemic. • As at end November 2022, the cumulative total revenue inclusive of Ministerial Appropriation in Aid (A-i-A) was Ksh 893.8 billion against a target of Ksh 912.9 billion. This performance was Ksh 19.1 billion below the set target. • Ordinary revenue to November 2022 recorded a growth of 9.5 percent compared to a growth of 27.2 percent in November 2021. • In nominal terms, ordinary revenue collection to November 2022 was Ksh 786.5 billion against a target of Ksh 818.7 billion. This performance was Ksh 32.2 billion below the target. • According to the 2023 BPS, the Government will scale up revenue collection efforts by the Kenya Revenue Authority (KRA) to Ksh 3.0 trillion in the FY 2023/24 and Ksh 4.0 trillion over the medium term. In order to achieve this, the Government will undertake a combination of both tax administrative and tax policy reforms. • KRA will reduce the Value Added Tax (VAT) gap from 38.9 percent to 	<p>For enhanced revenue performance, the following measures could be adopted;</p> <ol style="list-style-type: none"> 1. How Government will balance revenue mobilization; expenditure rationalization; public debt management and other externalities will be key in achieving the economic growth projected. 2. The government should also seek new ways of increasing revenue –predictability in tax system, tax base expansion, simplification of the tax process among others. 3. The Government should find ways to reduce recurrent expenditure as it could become unsustainable in the long term. 4. Leadership and accountability is called for. Effective public debt management measures should be adopted. 5. Concessionary loans and grants should be preferred to commercial loans. <p>Benchmarked with Ghana's revenue mobilization policies, Kenya could adopt the following.</p>

S/NO	KEY BUDGET IMPERATIVES	DISCUSSION & ISSUE OF CONCERN	ICPAK RECOMMENDATIONS
		<p>19.8 percent of the potential by fully rolling out electronic Tax Invoice Management System (eTIMS); reduction of Corporate Income Tax (CIT) gap from 32.2 percent to 30.0 percent of the potential as envisaged in the KRA Corporate Plan.</p>	<ol style="list-style-type: none"> Aggressively mobilize domestic revenue. Streamline and rationalize expenditures. Boost local productive capacity. Promote and diversify exports. Protect the poor and vulnerable. Expand digital and climate-responsive physical infrastructure; and Implement structural and public sector reforms.
16.		<p>Expenditure performance</p> <ul style="list-style-type: none"> Total expenditure and net lending for the period ending November 2022 was Ksh 1,096.6 billion which was below the projected amount of Ksh 1,183.7 billion by Ksh 87.1 billion. Recurrent spending amounted to Ksh 825.6 billion; Development expenditure was Ksh 149.0 billion while Transfer to County Governments was Ksh 122.1 billion The fiscal policy will target to grow tax revenues above 17.8 percent of GDP in the FY 2023/24 and above 18.0 percent of GDP over the medium term. Further statistics show that public expenditure also fell slightly as a share of GDP in 2019/20, followed by a real gradual increase in 2020/21. While GDP contracted in calendar year 2020, in fiscal year terms growth was still positive in 2019/20 (2.3%) and 2020/21 (3.6%). This means that while expenditure as a share of GDP fell in 2019/20, real expenditure almost maintained its value. Overall, this still represents a small net fiscal stimulus (because the fiscal deficit was larger than originally planned, driven mostly on the revenue side). In addition to the government's intended Kshs 300 billion expenditures cut, the austerity measures also come at a time when the cost of debt service may increase, thus squeezing discretionary spending more than is currently anticipated. In the PS National Treasury Speech 	<ol style="list-style-type: none"> Consider scaling down rather than absolute suspension of some of these "non-priority" expenditures such as training since there is need for the Government to continuously capacity strengthen its new and existing officials. There's need for a robust debate and policy direction on implementation of subsidies. For instance, the new administration has given a policy direction to substitute consumption subsidies with production subsidies, for instance, subsidies that touch on fuel have been removed. This has led to increase in the cost of production among other negative consequences.

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		<p>while officially launching the pre-budget hearing, it was indicated that the Government will suspend expenditures in some recurrent areas such as domestic and foreign travels, communication, printing, training, hospitality, fuel, purchase of furniture, purchase of motor vehicles, refurbishments and routine maintenance.</p> <ul style="list-style-type: none"> • Suspending these activities, may ground government and private sector, local tourism and auxiliary sectors dependant on government leading to unemployment. 	
17.	<p>Paragraph 111</p> <p>National Tax Policy Framework</p>	<p>The Government will implement various tax policy measures to further boost revenue collection. In addition, to further strengthen revenue mobilization efforts, the Government will finalize the development of the National Tax Policy and the Medium-Term Revenue Strategy (MTRS) for the period FY 2023/24 - 2026/27.</p> <p>The Government also intends to raise ordinary revenue to GDP from 15.0 percent in the FY 2021/22 to 25 percent by 2030 and increase tax compliance rate from 70 percent in the FY 2021/22 to 90 percent by 2030. These tax reforms are timely and intended to enhance tax revenues.</p>	<p>1. The National Treasury and Parliament should expedite the finalization and enactment of the National Tax Policy that will help catalyze tax revenues in this country.</p>
18.	<p>Public Debt</p>	<ul style="list-style-type: none"> • Kenya's debt remains sustainable but categorized as facing high risk of debt distress (IMF Country Report No. 22/383). • The Present Value (PV) of external debt-to-export and Public and Publicly Guaranteed (PPG) of debt-service-to-exports indicators remain above the thresholds over the medium-term projection period. • As the economy recover from global shocks and fiscal consolidation continues, Kenya's debt indicators are expected to improve. • The gross public debt as at 30th June, 2022 increased by KSh. 882.5 billion to KSh. 8,579.1 billion compared to KSh. 7,696.6 billion as at end of June 2021. The gross public debt comprised of 50 percent external debt and 50 percent domestic debt. • Public Debt Servicing expenditures (interest payments and 	<ol style="list-style-type: none"> 1. Given that the CFS expenditures are a first charge to the consolidated fund, their management is critical for cash management and creation of fiscal space to successfully implement other budgetary activities 2. The National Treasury should consider renegotiating the terms of current external loans, especially those acquired from commercial creditors. 3. Going forward, the National treasury should conduct a thorough cost-benefit analysis of new loans to determine the best alternative to contract that would yield maximum benefit

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		<p>redemptions), required to finance the repayment of Kshs. 8.2 trillion¹³ public stock of debt, will constitute the largest share of CFS expenditures - at 89%. The total public debt is projected to reach Kshs. 11.5 trillion¹⁴ by June 2025 on account of expanding fiscal deficit.</p> <ul style="list-style-type: none"> The stock of gross domestic debt increased by KSh. 591.2 billion from KSh. 3,697.1 billion in June 2021 to KSh. 4,288.3 billion in June 2022. The net domestic debt was KSh. 3,870.2 billion by end of the period under review. <p>In dollar terms, external public debt stock declined by US\$. 670.41 million from US\$. 37,084.3 million by end of June 2021 to US\$. 36,413.89 million by the end of June, 2022.</p>	<p>and minimum cost for both current and future generations.</p> <p>4. The National treasury should provide training and capacity strengthening sessions to personnel in the public debt Management Directorate and continuously appraise them on emerging trends in the global markets. The National Treasury should consider the option of public-private-partnership (PPP) in financing future development projects to reduce over-reliance on loans.</p>
19.	<p>Paragraph 120</p> <p>Risks to the Economic Outlook</p>	<p>Potential risks and uncertainties arising from both domestic and external sources such as;</p> <ul style="list-style-type: none"> Possible resurgence of new COVID-19 variants that may require broader policies on trade and exports between Kenya and other trading partners like China could lead to renewed disruptions to trade and tourism. Lower agricultural output due to potential adverse weather conditions and continued desert locust infestation in the northern region of the country, which could potentially reduce production of food crops and animal feeds. Increased public expenditure pressures, particularly wage and other recurrent expenditures, would put a strain to the fiscal space. The Russia- Ukraine War could result to potential higher oil prices in the international market would result in worsened terms of trade. This could impact on domestic growth as well. On positive note, faster than projected rebound in economic activities that would result in higher Government revenues providing fiscal space that would support faster reduction in fiscal deficit and debt accumulation. 	<ol style="list-style-type: none"> Reprioritize spending to support the vulnerable Maintain exchange rate flexibilities to deal with the capital outflows from the private sector that could hamper capital market access of the sovereign. This will in turn help the economy absorb potential shocks. Liability management – reduce expensive debt and substitute with concessional debt that reduce deficit and expand fiscal space

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		<ul style="list-style-type: none"> • Rising inflation could impact the purchasing power of the population and impact domestic growth negatively. • Global monetary policy tightening, especially in the United States, could increase volatility in the financial markets. 	
20.		<p>Consider Other Macroeconomic Stabilization Measures as follows:</p> <ol style="list-style-type: none"> 1. EXCHANGE RATE - Halting Kenya shilling forex depreciation against a resurgent strong dollar and other global currencies. Whereas Exporters have benefited, Kenya is a net importer and importers have generally passed on the imported inflation to Mwananchi. Policy interventions to deepen and diversify Kenya's exports base remains paramount to enhance Kenya's Forex earning capability. 2. INFLATION - Inflation is high/persistent and increasingly entrenching – it is important to slow it within the CBK range of 5%+-2.5% to control the current damaging and painful erosion of Wananchi purchasing power and ensure investments have positive inflation adjusted returns. Control of inflation is key to reducing cost of borrowing for all economic actors (Government, Households, MSMEs & Corporates). 3. This can be pursued by instituting policy to embrace Electric Cars to reduce on fuel inflation and capital flight (Maximizing on the country's capability to generate power – Geo, Wind, Solar & Hydro) 4. SOVERIGN RATING - Urgent policy interventions to quickly restore Kenya government (and by association global credit ratings of all Kenyan MSMES/ Corporates) Credit Rating by Moodys/Fitch/ Standard and Póors is paramount as the cost of borrowing in international financial markets for Government, Banks and MSMEs remains high as does domestic FCY borrowing by MSMEs. 	