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ELEVENTH PARLIAMENT – SECOND SESSION

REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE
CONSIDERATION OF
THE COUNTY ALLOCATION OF REVENUE BILL, 2014

PARLIAMENT BUILDINGS
NAIROBI

AUGUST, 2014

paper card
12/8/2014

Hon Bayo

PREFACE

Mr. Speaker Sir, on behalf of the Budget and Appropriation Committee and as required under Article 218 (2) of the Constitution, I hereby present to the House the Committee's report on the County Allocation of Revenue Bill, 2014.

Mr. Speaker Sir, the Budget and Appropriations Committee is mandated with among others the roles of Inquiring and reporting on all matters that relate to coordination, control and monitoring of the National Budget, examine Bills related to the National Budget.

Mr. Speaker Sir, the Budget and Appropriation Committee as currently constituted is comprised of the following Members:

1. **Hon. MutavaMusyimi M.P. -Chair**
2. **Hon. Mary Emaase M.P.- Vice Chair**
3. Hon. Abdikadir Omar Aden, M.P.
4. Hon. Benjamin AndolaAndayi, M.P.
5. Hon. Alfred Agoi, M.P.
6. Hon. Bitok S. Kirwa, M.P.
7. Hon. Charles Nyamai, M.P.
8. Hon. Daniel Nanok, M.P.
9. Hon. Dennis Kariuki, M.P.
10. Hon. DorcasKedogo, M.P.
11. Hon. Dr. ReginaldaWanyonyi, M.P.
12. Hon. Francis Njenga, M.P.
13. Hon. James Gakuya, M.P.
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17. Hon. Moses Lessonet, M.P.
18. Hon. MuriukiNjagagua , M.P.
19. Hon. MwashetaniKhatibAbdallah, M.P.
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21. Hon. Omondi George W. Mallan, M.P.
22. Hon. Priscilla Nyokabi, M.P.
23. Hon. SilverseLisamulaAnami, M.P.
24. Hon. Suleiman MurungaKasuti, M
25. Hon. Alfred Sambu, M.P.
26. Hon. Alice Ng'ang'a , M.P.
27. Hon. Abdulaziz Farah, M.P.
28. Hon. Clement Wambugu, M.P.

- 29.Hon. Ali, Fatuma Ibrahim, M.P.
- 30.Hon. BantichaJaldesa , M.P.
31. Hon. Benjamin Langat, M.P.
- 32.Hon. Dr. J.W. Nyikal, M.P.
- 33.Hon. George Muchai, M.P.
- 34.Hon. Jackson Kiptanui, M.P.
- 35.Hon. James Lusweti, M.P.
- 36.Hon. JamleckKamau, M.P.
- 37.Hon. IrshadSumra, M.P.
- 38.Hon. Isaac Mwaura, M.P.
- 39.Hon. KK Stephen Kinyanjui, M.P.
- 40.Hon. Jared O. Opiyo, M.P.
41. Hon. John Mbadi, M.P.
- 42.Hon. Joseph Limo, M.P.
- 43.Hon. Moses Ole Sakuda, M.P.
- 44.Hon. Omar Mwinyi, M.P.
- 45.Hon. Patrick Ole Ntutu, M.P.
- 46.Hon. Peter WeruKinyua, M.P.
- 47.Hon. TiyahGalgalo, M.P.
- 48.Hon. (Eng) Stephen Ngare, M.P.
- 49.Hon. Samuel Gichigi, M.P.
- 50.Hon. Shukran Hussein Gure, M.P.

Background information

Mr. Speaker Sir, the National Assembly passed the Division of Revenue Bill, 2014 on the 24th July, 2014vide the approval of the mediation Committee report in this House. This paved the way for the introduction of the County allocation of Revenue Bill. This Bill therefore provides the means to divide the revenue apportioned for counties in the Division of Revenue Bill, as well as for clearly enumerating any conditional grants due to Counties to enable the devolved units prepare their respective budgets with a measure of certainty of the resources due to them.

Mr. Speaker Sir, the Bill further provides for the allocation of resources to the eleven (11) level 5 facilities in the Counties arising from the mediation between the two Houses of Parliament. Arising from this process, the National Government provided **kshs.1.87** billion as a conditional allocation financing the level 5 facilities.

These resources are now provided in the third schedule to the Bill, and as a result, devolved level of government will receive an additional **kshs.1.87** on top of the **Kshs.226.66** billion allocated as equitable share of revenue.

In reviewing the message from the Senate, the Committee held 2 Sittings during which it deliberated and concurred with the message from the Senate on County Allocation Revenue Bill. The Committee observed that this Bill is especially significant in supporting devolution since it remains the only means of allocating resources to the County Governments to allow for seamless service delivery. As a result, the rejection of the Bill would be inconsistent with the Constitution and would derail the Budget process at the County level.

Mr. Speaker Sir, the Committee is grateful to the Members of Parliament who participated in the process for their diligence and insightful input in making sure that Parliament fulfils its role provided under Article 95 of the Constitution.

Lastly, **Mr. Speaker Sir**, the Committee is grateful to the Office of the Speaker, the Office of the Clerk of the National Assembly and the Parliamentary Budget Office for the continuous and relentless support received as it discharged its mandate.

Mr. Speaker Sir,

It is therefore my pleasant undertaking, on behalf of the Budget and Appropriations Committee, to table this Report and recommend it to the House for adoption.

Signed,



HON. MUTAVA MUSYIMI, M.P

CHAIRPERSON, BUDGET AND APPROPRIATIONS COMMITTEE.

Date: 12th August 2014.

**Consideration of the Message from the Senate on the County allocation of Revenue Bill,
2014**

Mr. Speaker, Sir,

The Bill provides for the equitable allocation of revenue raised by the national government among the County Government for the 2014/15 financial year on the basis determined in accordance with the resolution in force under Article 217 of the Constitution for the financial year 2014/15. The enactment of the law will be in fulfillment of Parliament's and specifically the Senate's role as stipulated in Article 96 (3) of the Constitution.

Mr. Speaker, Sir,

There are three schedules to the Bill proposing to allocate resources to the Counties as follows:

1. The first Schedule divides Kshs.226.66 billion of sharable revenue using the formula approved by Parliament in accordance with Article 217 of the constitution.
2. The second Schedule divides Ksh.13.898 Billion as conditional allocations to County Governments from loans and grants received from development partners in accordance to Article 202(2) of the Constitution. The amount of Kshs.13.898 billion constitutes a grant of kshs.733.6 million from the Government of Denmark and will be disbursed directly to the County Governments to supplement financing for county health facilities. The balance of the conditional allocation amounting to Kshs.13.2 billion will not be transferred to County Governments in the financial year 2014/15 because existing financing agreements with development partners as well as ongoing contracts with suppliers do not permit such transfer. The amount will therefore be budgeted for and managed by the national government with full involvement of County Governments in the management of the funds through the Project Steering Committees and Project Implementation Units.
3. The third Schedule provides for the specific allocation per level 5 hospital which totals to kshs.1.87 billion and based on the approval of the Mediation Committee report on the Division of Revenue Bill, 2014.

Mr. Speaker, Sir,

The Committee held deliberations on the Bill and noted the following issues:

1. The Senate had amended the draft County Allocation of Revenue Bill, 2014 to correct a variance of the equitable amount for Bungoma and Busia counties as a result of variation in the 2009 population figures:
 - The initial population figures had included the population data for Teso North and Teso South as part of Bungoma County while these are actually in Busia County; and
 - The draft Bill provided Bungoma and Busia with allocations of **Kshs.7,351,740,390** and **Kshs.4,058,965,160** respectively and the Senate amended them to **Kshs.6,677,796,735** and **Kshs.4,732,935,819** respectively.
2. **Clause 5** of the County Allocation of Revenue Bill provides for the following conditional allocations to each County Government.
 - a. Conditional allocation of loans and grants is provided to supplement financing for county health facilities of which **Kshs.13.2 Billion** will be managed by the National Government with the full involvement of the County Governments. The Committee noted with concern that the Bill did not detail the following:
 - Enumeration of the criteria applied in determining allocation of the **Kshs.13.2 Billion** to each county; and
 - Information concerning existing financial agreements with development partners as well as ongoing contracts with suppliers which informed the allocation of the conditional allocations.
 - b. A conditional grant from the Government of Denmark of **Kshs.733.65 million** is provided to supplement financing for county health facilities. The amount will be disbursed directly to the County Governments and budgeting will be restricted to the objectives.

3. **Clause 9** provides for new reporting requirements on County governments. The clause requires that—

(a) the estimates of revenue of each county must reflect the total allocations from the National Government separately; and

(b) county treasuries report both quarterly and annually on actual transfers received by the county government from the national government up to the end of that particular quarter or year.

The Committee noted that this would provide more transparency and better oversight since such information would enable intervention in the event of low absorption of resources by Counties.

4. The Committee further noted that the Senate has proposed to amend the Public Finance Management Act, 2012 to provide a duty to the Commission of Revenue Authority to give recommendations to the Senate on recurrent expenditure of county governments. While such information would be crucial in the execution of Parliament's mandate, the Committee noted that this is the second year that an amendment to the Public Finance Management is being introduced in the County allocation of Revenue Bill. Indeed such amendments should instead be introduced in a separate bill to allow both Houses of Parliament to contribute to it effectively.

RECOMMENDATION

Mr. Speaker Sir, having considered the above matters, and to provide guidelines to the relevant spending units in the budgeting for their respective functions, the Committee recommends that this House concurs with the message from the Senate on the County Allocation of Revenue Bill, 2014.

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MINUTES OF THE 47TH SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE (BAC) HELD ON TUESDAY, 12TH AUGUST, 2014 AT 10:00 AM AT NATIONAL ASSEMBLY CHAMBERS

PRESENT

1. **Hon. MutavaMusyimi M.P. -Chair**
2. **Hon. Mary Emaase M.P.- Vice Chair**
3. Hon. Abdikadir Omar Aden, M.P.
4. Hon. Charles Nyamai, M.P.
5. Hon. Dennis Kariuki, M.P.
6. Hon. Dorcas Kedogo, M.P.
7. Hon. Dr. Reginalda Wanyonyi, M.P.
8. Hon. James Gakuya, M.P.
9. Hon. Jonathan Lati Lelelit, M.P.
10. Hon. Makali Mulu Benson, M.P.
11. Hon. Moses Lessonet, M.P.
12. Hon. Muriuki Njagagua , M.P.
13. Hon. Mwashetani Khatib Abdallah, M.P.
14. Hon. Omondi George W. Mallan, M.P.
15. Hon. Priscilla Nyokabi, M.P.
16. Hon. KK Stephen Kinyanjui, M.P.
17. Hon. Patrick Ole Ntutu, M.P.
18. Hon. Joseph Limo, M.P.
19. Hon. Abdulaziz Farah, M.P.
20. Hon. Samuel Gichigi, M.P.
21. Hon. Dr. J.W. Nyikal, M.P.
22. Hon. Benjamin Langat, M.P.
23. Hon. Clement Wambugu, M.P.
24. Hon. Jackson Kiptanui, M.P.
25. Hon. James Lusweti, M.P.
26. Hon. Irshad Sumra, M.P.
27. Hon. Jared O. Opiyo, M.P.
28. Hon. John Mbadi, M.P.
29. Hon. Moses Ole Sakuda, M.P.
30. Hon. Peter Weru Kinyua, M.P.
31. Hon. George Muchai, M.P.
32. Hon. Tiyah Galgalo, M.P.

ABSENT

1. Hon. Alfred Sambu, M.P.
2. Hon. Alice Ng'ang'a , M.P.
3. Hon. Ali, Fatuma Ibrahim, M.P.
4. Hon. Banticha Jaldesa , M.P.

5. Hon. Nelson Gaichuhie, M.P
6. Hon. Jamleck Kamau, M.P.
7. Hon. Isaac Mwaura, M.P.
8. Hon. Omar Mwinyi, M.P.
9. Hon. (Eng) Stephen Ngare, M.P.
10. Hon. Shukran Hussein Gure, M.P.
11. Hon. Silverse Lisamula Anami, M.P.
12. Hon. Suleiman Murunga Kasuti, M.P.
13. Hon. Mohamed Shidiye, M.P
14. Hon. Francis Njenga, M.P.
15. Hon. Benjamin Andola Andayi, M.P.
16. Hon. Alfred Agoi, M.P.
17. Hon. Bitok S. Kirwa, M.P.
18. Hon. Daniel Nanok, M.P.

IN ATTENDANCE

1. Mrs. Phyllis Makau
2. Mr. Martin Masinde
3. Mr. Frederick Muthengi
4. Mr. Gichohi Mwaniki
5. Mr. Joseph Ndirangu
6. Mr. Josphat Mutonu
7. Mr. Danson Kachumbo
8. Ms Amran Yunis
9. Mr. Chacha Machage

COMMITTEES SECRETARIAT

- Director-PBO
- Senior Deputy Director- PBO
- Principal Fiscal Analyst/Clerk
- Senior Fiscal Analyst
- Fiscal Analyst
- Fiscal Analyst
- Fiscal Analyst
- Fiscal Analyst
- Fiscal Analyst

AGENDA

1. Preliminaries / Confirmation of Agenda
2. Confirmation of the Minutes of the Previous Meetings.
3. Matters arising
4. Agendas:
 - (a) Consideration of the draft report on County Allocation of Revenue (CARB) Bill, 2014
 - (b) Briefing and discussion on the Legislative Proposals referred to the Committee
 - (i) Compulsory Acquisition of Land for Miraa Farmers (Motion).
5. Any Other Business

MIN 204/2014: Preliminaries and Confirmation of Agenda

The Chair meeting was called to order at 10:30a.m. He led members with a word of prayer. He informed members that the committee was expected to deliberate on County allocation of Revenue Bill draft report and resolutions on the CDF

amendment bill. The Committee decided to postpone the discussion on legislative proposals referred to it.

MIN 205/2014: Confirmation of the minutes of the previous meeting

The committee decided to confirm minutes of the previous meeting in the next meeting.

MIN 206/2014: Consideration and Adoption of the report of the County Allocation of Revenue Bill, 2014

The Chair took members through the draft report of the County Allocation of Revenue Bill, 2014. Members noted that the Senate had amended the PFM Act by adding up clause 13 in the bill. This raised concerns of the regular and frequent manner in which the Senate is introducing amendments to the Public Finance Management Act, 2012.

Members stated that Commission of Revenue Allocation has no legal authority to determine the ceilings to counties as that would undermine the role of the County Assemblies in Budget making process.

Members were also concerned with information been disseminated to the members of public that they said was distorted and not factual on the issue of allocation of funds to counties.

After long deliberations the committee agreed to support the report.

MIN 207/2014: Adjournment

There being no other business the Chairman, Budget and Appropriations Committee adjourned the meeting at 12.05a.m. Next meeting will be held on Thursday in County Hall, Mini-Chambers.

SIGNED



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CHAIRPERSON

12.8.2014

.....
DATE

**MINUTES OF THE 46TH SITTING OF THE BUDGET AND
APPROPRIATIONS COMMITTEE (BAC) HELD ON TUESDAY, 7TH
AUGUST, 2014 AT 10.00 AM AT COUNTY HALL, MINI
CHAMBERS**

PRESENT

1. **Hon. MutavaMusyimi M.P. -Chair**
2. **Hon. Mary Emaase M.P.- Vice Chair**
3. Hon. Abdikadir Omar Aden, M.P.
4. Hon. Benjamin AndolaAndayi, M.P.
5. Hon. Alfred Agoi, M.P.
6. Hon. Bitok S. Kirwa, M.P.
7. Hon. Charles Nyamai, M.P.
8. Hon. Daniel Nanok, M.P.
9. Hon. Dennis Kariuki, M.P.
- 10.Hon. Dorcas Kedogo, M.P.
- 11.Hon. Dr. Reginalda Wanyonyi, M.P.
- 12.Hon. Francis Njenga, M.P.
- 13.Hon. James Gakuya, M.P.
- 14.Hon. Jonathan Lati Lelelit, M.P.
- 15.Hon. Makali Mulu Benson, M.P.
- 16.Hon. Mohamed Shidiye, M.P.
- 17.Hon. Moses Lessonet, M.P.
- 18.Hon. Muriuki Njagagua , M.P.
- 19.Hon. Mwashetani Khatib Abdallah, M.P.
- 20.Hon. Nelson Gaichuhie, M.P.
- 21.Hon. Omondi George W. Mallan, M.P.
- 22.Hon. Priscilla Nyokabi, M.P.
- 23.Hon. Silverse Lisamula Anami, M.P.
- 24.Hon. Suleiman Murunga Kasuti, M.P.
- 25.Hon. KK Stephen Kinyanjui, M.P.
- 26.Hon. Patrick Ole Ntutu, M.P.
- 27.Hon. Joseph Limo, M.P.
- 28.Hon. Abdulaziz Farah, M.P.

ABSENT

1. Hon. Alfred Sambu, M.P.
2. Hon. Alice Ng'ang'a , M.P.
3. Hon. Clement Wambugu, M.P.
4. Hon. Ali, Fatuma Ibrahim, M.P.
5. Hon. Banticha Jaldesa , M.P.
6. Hon. Benjamin Langat, M.P.

7. Hon. George Muchai, M.P.
8. Hon. Jackson Kiptanui, M.P.
9. Hon. James Lusweti, M.P.
10. Hon. Jamleck Kamau, M.P.
11. Hon. Irshad Sumra, M.P.
12. Hon. Isaac Mwaura, M.P.
13. Hon. Jared O. Opiyo, M.P.
14. Hon. John Mbadi, M.P.
15. Hon. Moses Ole Sakuda, M.P.
16. Hon. Omar Mwinyi, M.P.
17. Hon. Peter Weru Kinyua, M.P.
18. Hon. Tiyah Galgalo, M.P.
19. Hon. (Eng) Stephen Ngare, M.P.
20. Hon. Shukran Hussein Gure, M.P.
21. Hon. Samuel Gichigi, M.P.
22. Hon. Dr. J.W. Nyikal, M.P.

IN ATTENDANCE

1. Hon. Sabina Chege, M.P- Chair, Departmental Committee on Education, Science and Technology.
2. Hon. Robert Pukose, M.P- Vice Chair, Health Committee.
3. Hon. Michael Kisoi, M.P
4. Hon Rose Rwamba Mitaru, M.P

IN ATTENDANCE

1. Ms. Lucy Makara
2. Mr. Gichohi Mwaniki
3. Mr. Joseph Motonu
4. Mr. Joseph Ndirangu
5. Ms. Catherine Gati Burure
6. Mr. Abdirahim D. Omar
7. Mr. Danson Kachumbo

BUDGET COMMITTEE SECRETARIAT

- Ag. Chief Fiscal Analyst
- Senior Fiscal Analyst
- Fiscal Analyst
- Fiscal Analyst
- Fiscal Analyst
- Fiscal Analyst
- Fiscal Analyst

AGENDA

1. Preliminaries / Confirmation of Agenda
2. Confirmation of the Minutes of the Previous Meeting.
3. Matters arising
4. Agendas:

a) *Briefing and discussion of the Legislative Proposals referred to the committee.*

- (i) Basic Education (Amendment) Bill, 2014
- (ii) Compulsory Acquisition of Land for Miraa Farmers (Motion)
- (iii) The Pharmacy and Practitioners Bill, 2014

b) Briefing and discussion on the message from the senate on the County Allocation of Revenue (CARB) Bill, 2014

5. Any Other Business

MIN198/2014: Preliminaries

The Chairman called the meeting to order at 11.53 a.m. and led the members with a word of prayer.

MIN 199/ 2014: Confirmation of the Minutes of the Previous Meeting

It was agreed that the minutes of the previous meeting and matters arising shall be discussed in the forth coming meeting. The Chairperson called upon the Parliamentary Budget office to make a presentation on analysis of the Basic Education (amendment) Bill.

MIN 200/2014: Discussion of the Legislative proposal - Basic Education (Amendment) Bill, 2014.

The committee was informed that the Basic Education Act had several piecemeal amendments and there was need to overhaul the principal act.

Concerns by Members:

The Bill is in contravention of the Fourth Schedule of the Constitution of Kenya, 2010 on the devolved functions of County Governments.

It was noted that the Bill was however in tandem with the provisions of Article 237 on the roles of Teachers Service Commission.

The members agreed that there was need for the socio-economic audit of the Constitution of Kenya, 2010.

The Chair Departmental Committee on Education stated the amendment was seeking to have a Member of Parliament included in each County Education Boards as ex-officio members. She explained that the role of recruiting teachers falls under the purview of the TSC. She further explained that the major intent of the amendment was to have a harmonisation in the education sector at the Pre-Primary schools.

MIN 201/2014: Discussion of the Legislative Proposal-The Pharmacy and Practioners Bill, 2014.

The Committee was taken through the analysis.

Members were informed that the Board was existent with a different name as a Pharmacy and Poisons Board. In addition, it was brought to the attention of the committee that there were no additional monies that were expected to be allocated to the Board.

Concerns:

The Members agreed that there was need to withdraw the Pharmacy and Poisons Act, Cap 2014 that had already gone the 1st reading in the House in early 2014.

There was need to enhance standardization of products and materials of medical supplies.

It was brought to the attention of the committee that the Board should be remitting the excess funds they collect if form of levies and fees.

MIN 202/2014: Briefing and Discussion on the message from the Senate on the Senate on the County Allocation of Revenue (CARB) Bill, 2014

Members were taken through the analysis of the message from senate on County Allocation of Revenue Bill by Parliamentary Budget Office. .

Members were informed that there is need to fast track the passage of the bill since it is the one that will be used to allocate funds to each county

Concerns of members

There was need to identify and differentiate the roles of the Commission for Revenue Allocation and the County Assembly on who is supposed to set the county budget ceilings since the ceilings should be set by the County Assembly through the County Fiscal Strategy Paper as per the Pubic Finance Management Act

Members wanted to know whether the provision in the County Allocation Bill was amending the Public Finance Management Act.

Resolutions:

The members agreed to pass the Bill as published and the Chair directed that a draft report be presented to the committee on the next meeting.

MIN 203/2014: Any Other Business

The chair informed the Committee that the decision on the Constituency Development Fund (Amendment) Bill, 2014 will be made in the next meeting.

Being no any other business, the meeting was adjourned at 1.30p.m.

The committee resolved to meet on Tuesday, 12th August 2014. Venue to be communicated.

SIGNED



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CHAIRPERSON

12.8.2014

.....
DATE