PAPER
By the Hon. Mos Chebo[illegible] on Tuesday, 22/3/
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT - FOURTH SESSION

22 MAR 2016

THE LIAISON COMMITTEE REPORT ON THE DIVISION OF REVENUE BILL, 2016

17th March, 2016

PREFACE

1. Mr. Speaker, following the tabling of the Division of Revenue Bill, 2016 in the National Assembly on 16th March,2016 and committal to the Liason Committee, I hereby present to the House the Liaison Committee Report to that effect. As members are already aware the Division of Revenue Bill provides for the vertical sharing of nationally raised revenue between the two levels of government as well as marking out specific resources to be provided to Counties as conditional grants and the Equalization Fund.

2. Mr. Speaker, the Bill is accompanied by an explanatory memorandum as required in Article 218(2) setting out the explanation of revenue allocation as proposed by the Bill along with the evaluation of the Bill in relation to the criteria mentioned in Article 203 of the Constitution and a summary of any significant deviation from the Commission on Revenue Allocation's recommendations.

3. Mr. Speaker, the Committee has done this pursuant to Article 95 of the Constitution, which provides that the National Assembly has the responsibility in the determination of the allocation of national revenue between the two levels of government. Specifically, Article 95 (4) provides the mandate by which this House examines the Division of Revenue Bill by stipulating that the National Assembly;

    a. Determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter 12;
    b. Appropriates funds for expenditure by the national government and other State organs; and
    c. Exercises oversight over national revenue and its expenditure.

4. Mr. Speaker, the Public Finance Management Act 2012 requires the National Treasury to submit the Budget Policy Statement (BPS) to Parliament, by 15th February in each year. In fulfilment of this requirement, the National Treasury submitted to Parliament the BPS, draft on Division of Revenue 2016, Medium Term Debt Management Strategy Paper, legislative proposal on County Allocation of Revenue, 2016 on 15th February 2016. These documents provide the basis for formulating the budget for financial year 2016/17 and the medium term and the proposed sharing of nationally raised revenue between the National and County governments.

5. Mr. Speaker, the Liaison Committee as currently constituted comprises the following Honourable Members:

    1. Hon. (Dr.) Joyce Laboso, M.P. - Deputy Speaker /Chairperson
    2. Hon. Moses Cheboi, M.P - Vice Chairperson
    3. Hon. Mustafa Idd, M.P.
    4. Hon. Adan Mohamed Nooru, M.P.
    5. Hon. Aden Keynan, M.P.

6. Hon. Alex Mwiru, M.P.
7. Hon. Amina Abdalla, M.P.
8. Hon. Asman Kamama, M.P.
9. Hon. Benjamin Langat, M.P.
10. Hon. David Were, M.P.
11. Hon. Dr. Rachel Nyamai, M.P.
12. Hon. Florence Kajuju, M.P.
13. Hon. Jamleck Kamau, M.P.
14. Hon. Janet Nangabo Wanyama, M.P.
15. Hon. Johnson Sakaja, M.P.
16. Hon. Maina Kamanda, M.P.
17. Hon. Moses Lessonet, M.P.
18. Hon. Ndungu Gethenji, M.P.
19. Hon. Nicolas Gumbo, M.P.
20. Hon. Njoroge Baiya, M.P.
21. Hon. Roselinda Soipan, M.P.
22. Hon. Sabina Chege, M.P.
23. Hon. Samuel Chepkong'a, M.P.
24. Hon. William Cheptumo, M.P.

6. **Mr. Speaker,** in considering the Division of Revenue Bill, the Committee held one sitting to consider and deliberate on its contents. The Committee notes that this particular legislation is very important as it will unlock county governments' access to the shareable revenue. The Committee's intention is timely execution to avoid previous situations that led to delays in passage of this critical Bill so that it can pave way for introduction of the County Allocation of Revenue Bill. 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 as provided under Article 95 of the Constitution.

7. **Honourable Members,** I would like to remind this House that ideally the enactment of the Division of Revenue Bill should swiftly follow the approval of the report on the Budget Policy Statement. This is in order allow commencement of the preparation of subsequent documents in the budget process which take the cue from the enactment of this Bill. I therefore urge this House to consider and approval the Bill expeditiously in sufficient time to allow the preparation before submission of the annual estimates that will be submitted by the 30th of April this year.

8. **Mr. Speaker,** it is therefore my pleasant undertaking, on behalf of the Liaison Committee, to table this Report and recommend it to the House for adoption.

Signed

Hon. Moses Cheboi, M.P.
Vice-Chairperson, Liaison Committee
17th March, 2016

Contents of the tabled Division of Revenue Bill , 2016

9. **Mr. Speaker**, according to the 2016 BPS, the approximate total sharable revenue is estimated at Kshs 1,380 billion of which Kshs. 1,093 billion for National Government, Kshs.280 billion for County equitable share and Kshs. 6 Billion for equalization fund. This is as shown in table 1 below.

Table 1: Vertical sharing of revenue between the National and County Government

The Division of Revenue between the National and County Governments in Kshs in Millions		
Level / Type of Allocation	2015/16	2016/2017
National Government	991,892.00	1,093,899.00
Of Which		
Free Maternal Healthcare	4,298.00	4,121.03
Leasing of Medical Equipment	4,500.00	4,500.00
Compensation for User Fess Forgone	900.00	900.00
Level Five (5) Hospitals	3,600.48	4,000.00
Special Purpose Grants supporting access to Emergency Medical Services	-	200.00
Allocation from the Fuel Levy Fund (15%)	3,300.00	4,306.81
Conditional Allocations (Loans & Grants)	10,671.21	3,870.69
Equalization Fund	6,000.00	6,000.00
County Equitable Share	259,774.50	280,300.00
Total Sharable Revenue	1,251,666.50	1,380,199.00

10. **Mr. Speaker**, further and in accordance with the provisions of Article 202(2) of the Constitution, County governments may be given additional allocations from the national government's share of the revenue, either conditionally or unconditionally.

11. In this regard, Mr. Speaker, the DoRB, 2016 sets aside additional resources as conditional grants to the counties for specific national government interventions. During the FY 2016/17, the total conditional transfers to the county government's equivalent to Kshs 21.896 billion. The conditional grants comprise of the following;

    (i) Kshs 4.5 billion, to cater for the leasing of medical equipment to facilitate purchase of modern specialized medical equipment in at least two county health facilities. This is managed by the national government on behalf of the county governments in accordance with existing intergovernmental framework agreed on with county governments.
    (ii) Kshs 4.12 billion, to cater for provision of free maternal healthcare.
    (iii) Kshs 4 billion to cater for level five hospitals.
    (iv) Kshs 0.9 billion to cater for forgone user fees compensation to healthy facilities. This is to compensate county governments for

revenue forgone by not charging user fees in the county health facilities.

(v) Kshs. 0.2 billion to special purposes grant for supporting access to emergency medical services in Tana River and Lamu counties. The rationale of this grant is that their proximity to Somalia are more vulnerable to terror attacks, security threats and humanitarian crises.

(vi) Kshs 4.306 billion to cater for allocation from Fuel Levy fund. This is reserved the county governments to facilitate county governments to repair and maintain county roads under their jurisdiction. The amount is equivalent to 15% of the projected Road Maintenance Fuel Levy Fund (RMFLF) collection.

(vii) Kshs 3.87 billion to cater for as loans and grants for ongoing donor supported projects.

COMMITTEE RECOMMENDATIONS

12. **Mr. Speaker**, arising from the consideration and discussions on the Division of Revenue Bill, 2016, the Committee recommends that this House approves the Bill as it was tabled.

MINUTES OF THE 25TH SITTING OF THE LIAISON COMMITTEE HELD ON THURSDAY 17TH MARCH, 2016 IN ROOM 7, MAIN PARLIAMENT BUILDINGS AT 4:00 PM.

PRESENT

1. **Hon. Moses Cheboi, MP** - **Vice Chairperson/Member of the Speaker's Panel**
2. Hon. Asman Kamama, MP
3. Hon. Adan Nooru, MP
4. Hon. Jamleck Kamau, MP
5. Hon. Maina Kamanda, MP
6. Hon. Florence Kajuju, MP
7. Hon. Adan Keynan, MP
8. Hon. Benjamin Langat, MP
9. Hon. Samuel Chepkong'a, MP
10. Hon. Johnson Sakaja, MP
11. Hon. Alex Mwiru, MP
12. Hon. Nicolas Gumbo, MP
13. Hon. Njoroge Baiya, MP
14. Hon. Ndung'u Gethenji, MP

ABSENT WITH APOLOGY

1. **Hon. (Dr.) Joyce Laboso, MP** - **Deputy Speaker/ Chairperson**
2. Hon. Moses Lessonet, MP
3. Hon. William Cheptumo, MP
4. Hon. Roselinda Soipan, MP
5. Hon. David Were, MP
6. Hon. (Dr.) Rachael Nyamai, MP
7. Hon. Sabina Chege, MP
8. Hon. Amina Abdalla, MP
9. Hon. Janet Nangabo Wanyama, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Phyllis Makau - Director, Parliamentary Budget Office
2. Mr. Peter Chemweno - Deputy Director, Committee Services
3. Mr. Dennis Mogare - Clerk Assistant III
4. Mr. Benjamin Ngimor - Fiscal Analyst
5. Mr. Joseph Ndirangu - Fiscal Analyst
6. Mr. Danson Kachumbo - Fiscal Analyst
7. Ms. Rehema Koech - Audio Recording Officer

8. Mr. Vitalis Ndambuki - Office Assistant

MIN. NO.29/2016 – PRELIMINARIES

The Chairperson called the meeting to order at 4.28 pm. A prayer was then said by Hon. Maina Kamanda, MP. The Chairperson then stated that the agenda of the meeting was a briefing on the Contents of the 2015/2016 Supplementary Estimates I. He then welcomed the Director, Parliamentary Budget Office to brief the Committee.

MIN. NO.30/2016 - BRIEFING ON THE CONTENTS OF THE 2015/2016 SUPPLEMENTARY ESTIMATES I.

The Director, Parliamentary Budget Office presented that:

1. The first Supplementary Budget for 2015/16 was tabled in the National Assembly on 15th March 2016. This supplementary budget proposes to increase the total gross ministerial estimates for 2015/16 by Ksh 26.4 billion (1.8% of the printed estimates).However, the overall change in the gross estimates is occasioned by an increase in Appropriation-in-Aid (AIA) of Ksh67.4 billion while the net estimates are set to reduce by Ksh 41 billion.
2. The gross ministerial recurrent estimates are set to increase by Ksh 20.1 billion while the gross capital expenditure is set to increase by Ksh 6.4 billion. Further, the Consolidated Funds Services (CFS) expenditure is set to increase by Ksh 24.2 billion. The interest repayment will increase by Ksh 9.9 billion; the allocation for pensions and other miscellaneous expenditures will increase by Ksh 4 billion and redemption of domestic debt will increase by Ksh 10.2 billion.
3. The legal requirements underpinning the preparation and approval of the Supplementary Budget is provided for in Article 223 of the Constitution; Sections 43(2) and 44 of the PFM Act 2012 and Section 40 of the PFM Regulations.
4. An evaluation of the legal compliance of this Supplementary Budget shows that it adhered to most of the provisions; the document achieved a compliance rate at 60.71%. Some of the provisionsthat were not adhered to include the following:

    a. Details on whether any additional funds sought for in the supplementary budget is for expenditure that is either yet to be incurred or has been incurred within the last two months.

    b. Some of the programmes have been amended by more than ten percent of their approved estimates for 2015/16. (A list of these programmes is provided in Annex 2)

    c. The National Treasury has acknowledged that the revised allocation for the wage bill of national government is above the 35% threshold provided for in the regulations.

d. Details of how the increments in external financing for the supplementary budget will impact on the public debt.
e. Information on the impact of the supplementary budget on the financial objectives underpinning the 2015/16 budget as envisaged in the BPS 2015.
f. The current budget performance for 2015/16 including the actual expenditure and the outstanding liabilities or commitments.
g. Information of changes in revenues and financing.
h. Some programmes with expenditure changes do not have reciprocating changes in outputs and Performance Targets.
i. Introduction of a new programme 'Youth Training and Development' under the State Department of Science and Technology.

5. On Economic Growth, during the approval of the 2015/16 budget estimates, the National Treasury was projecting that the economy will grow by 7 percent in 2015/16 despite lower projections by several institutions. However, towards the end of the first half of the year, the economic growth was revised downwards to 5.8 percent in the Budget Policy Statement (BPS) 2016. Consequently, it has necessitated the revision of both the revenue projections and the overall expenditures through the supplementary budget.

6. The overall inflation for the first 8 months of 2015/16 was higher at 6.9 percent compared to that in the same period in 2014/15 at 6.5 percent. It was noted that the inflation rate gradually increased from August 2015 to peak in December 2015 at 8.01 percent compared to a decrease from August 2014 to a low of 6.04 percent inDecember 2014. The decrease in inflation rate in 2014 was largely due to a drastic decline in global oil prices while the higher inflation in 2015was as a result of increases in food prices.Despite the slump in oil prices being sustained into 2015, the depreciation of the shilling wiped out the benefits of lower oil prices.
7. On Interest Rates, since the beginning of FY 2015/16, the Central Bank Rate and the Kenya Banks' Reference Rate (KBRR) had remained constant at 11.5 percent and 9.87 percent respectively. However, the lending rates had gradually increased from 15.8 percent in July 2015 to a high of 18.3 percent as at February 2016. The deposit rates have also increased from 6.3 percent in July 2015 to 8 percent in February 2016. This indicates that the unchanged monetary policy stance has had little effect especially on the lending rates. The high lending rates impact negatively on the private sector growth.
8. On the Exchange Rate, In 2015, the shilling depreciated against all major international currencies but it was able to remain resilient at the beginning of 2016. The shilling was exchanging with the US dollar at Ksh 101.2 in July 2015 but gradually weakened to a low of Ksh 105.3 in September 2015 before it started gaining. As of January 2016 the Kenyan Shilling traded at Ksh 102.3 against the US Dollar and has since stabilized. Since October 2015, the Shilling had been appreciating against the Sterling Pound to stand at Ksh 147.5 and Ksh 111.1 to the Euro as of January 2016.

9. The major changes in Programme Based Budget are as shown in the following table;

Programmes with major allocation changes (Ksh millions)

Vote Details	Key Programme	Printed Estimates	Adjustment Increase/ Decrease	Revised Estimates	% Change
1051 Foreign Affairs and international trade	international trade and investments promotion	688	925	1,613	134%
1061 State Department of Education	primary education	35,803	(13,183)	22,620	-37%
1062 State Department of Science and technology	general administration planning and support services	1,379	1,138	2,517	82%
1092 State Department for Transport	air transport	6,966	4,562	11,528	65%
1121 Ministry of ICT	ICT infrastructure development	6,556	6,144	12,700	94%
1151 ministry of Energy and Petroleum	power transmission and distribution	62,879	28,363	91,242	45%
1161 State Department of Agriculture	agribusiness and information management	3,544	1,975	5519	56%
	crop development and management	12,802	(2,682)	10,120	-21%
1191 Ministry of Mining	resource surveys and remote sensing	924	(600)	324	-65%

10. The Votes with the highest increases and reductions in recurrent expenditure are as shown in the table below:

Major adjustments in recurrent expenditure (Ksh millions)

Vote	Details	Printed Estimates	Additions	Reductions	Revised Estimates
1011	The Presidency	5,950	1,241	-	7,191
1021	State Department for Interior	88,028	5,198	-	93,26
1051	Ministry of Foreign Affairs and International Trade	13,135	2,469	-	15,604
1131	Ministry of Sports , Culture and the Arts	2,947.3	1,502.0	-	4,449
1071	The National Treasury	43,216	-	(9,467)	33,749
1161	State Department of Agriculture	8,313	-	(2,232)	6,081
1022	State Department for Coordination of National Government	16,967	616		17,584
1091	State Department for Infrastructure	29,953	11,673		41,627
1101	Ministry of Environment,Natural Resources and Regional Development	12,783	646		13,42.6
1261	The Judiciary	12,624		(1,017)	11,607
1271	EACC	2,312	775		3,087
1291	Office of DPP	1,964	704		2,669

2031	IEBC	4,198	690		4,889
2091	TSC	181,302	6,807		188,018

11. The major increases and reductions of development budget and the Spending Agencies affected was as tabulated below:

Table 5: Major Adjustments in Development Expenditure (Ksh millions)

Vote	Details	Printed Estimates	Increases	Reductions	Revised Estimates
1021	State Department for Interior	14,296	963		15,259
1092	State Department of Transport	158,455	5,096		163,551
1101	Ministry of Environment, Natural Resources and Regional Development Authorities	8,286	1,448		9,734
1102	Ministry of Water and Irrigation	35,448	12,552		48,000
1121	Ministry of Information Communication and Technology	8,943	5,579		14,522
1071	The National Treasury	49,770	13,918		63,688
1151	Ministry of Energy and Petroleum	92,412	23,596		116,009
1081	Ministry of Health	30,664		(1,025)	29,639
1011	The Presidency	1,846		(806)	1,040
1031	State Department for Planning	61,713		(7,108)	54,605
1061	State Department for Education	22,408		(14,007)	8,401
1062	State Department for Science and Technology	14,047		(941)	13,107
1091	State Department of Infrastructure	104,013		(1,777)	102,236
1111	Ministry of Land Housing and Urban Development	28,119		(3,539)	24,579
1131	Ministry of Sports and Culture	3,641		(1,381)	2,260
1141	Ministry of Labor Social Security and Services	15,580		(782)	14,798
1161	State Department for Agriculture	26,153		(15,233)	10,920
1162	State Department for Livestock	5,171		(647)	4,523
1171	Ministry of Industrialization and Enterprise Development	6,265		(630)	5,635
1191	Ministry of Mining	1,496		(882)	614
1261	The Judiciary	4,064		(1,006)	3,058
2041	Parliamentary Service Commission	3,200		(1,100)	2,100

12. In terms of financing the budget:
    i) The overall change in the net estimates is a reduction of Ksh 41 billion with the recurrent net estimates increasing by Ksh 8.2 billion and the capital net estimates reducing by Ksh 49.1 billion. This indicates that all increments in the net estimates was met by reductions in other ministries.
    ii) Increase in the Appropriations in Aid amounts to Ksh 67.4 billion with the recurrent AIA increasing by Ksh 11.9 billion and the capital AIA increasing by

Ksh 55.5 billion. The increment in recurrent AIA is largely under the State Department for Infrastructure while that of the capital estimates were donor funds.

MEMBERS' OBSERVATIONS/CONCERNS

Members observed that:

1. Departmental commtttess should have handled the 2015/2016 Supplementary Estimates I before deliberation of their findings at the Liaison Committee level since they deal directly with line ministries and other agencies under their oversight purview and have a detaied understanding of the issues at hand.
2. Some of the funds in the supplementary estimates had been spent while others had not and it was not easy to distinguish which had or hadn't been spent.
3. There was no limitation in terms of time the 2015/2016 Supplementary Estimates I could be in the national assembly. Such estimates were not part of the calender of the house and were submitted by the National Treasury on a need basis.
4. The reduction in the state department of agriculture by 15.233 Billion did not adhere to the 10% limitation in adjustments in suppplemntary appropriation. Equaly, only 12.552 Billion of the sum is transferred the Ministry of Water and Irrigation, the rest is not reflected.
5. The Ministry of Energy and Petroleum gets an additional funding of 23.596 Billion which was huge considering the remaining period to the end of the financial year. It was however clarified that this was donor funding which was a common feature in the sector. However, this still reflected poor planning.
6. The National Treasury gets an additional funding of 13.918 Billion which was to a large extent meant to bail out Kenya Airways. It was noted that Kenya Airways did not deserve such bailout.
7. Some adjustments were major and deserve to be reflected in the next financial year's budget not in a supplementary budget.
8. The Parliamentary Service Commission had a reduction of funding by 1.1 Billion in its development vote yet the same was not balanced by an increase by the same amount in the commission's recurrent vote. Such action would hamper operations in parliament especially local and foregin travel for oversight purposes.

MIN. NO.31/2016 - RESOLUTIONS

The meeting resolved that:

1. The 2015/2016 Supplementary Estimates I shoud be refered to departmental committees for consideration and an extension of timelines for reporting to the house be sought from the speaker on Tuesday 22nd March, 2016.
2. The Liaison Committee shall receive reports from departmental committees on the morning of 22nd March, 2016 and thereafter engage the Cabinet Secretary, National

Treasury on the Supplementary Estimates in the afternoon. The resultant report shall be tabled in the house on Thursday 24th March, 2016.

MIN. NO.32/2016 - CONSIDERATION AND ADOPTION OF A COMMITTEE REPORT ON THE DIVISION OF REVENUE BILL, 2016

The Committee considered and adopted its report on the Division of Revenue Bill, 2016 after it was proposed and seconded by Hon. Alex Mwiru, MP and Hon. Nicolas Gumbo, MP respectively.

MIN. NO.33/2016 - ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 6:25 pm.

Sign ....
(Chairperson)

Date .....22/03/2016.....