For tabling

REPUBLIC OF KENYA

PARLIAMENT OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE REPORT OF

THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE COUNTY ALLOCATION OF REVENUE BILL, 2018 (SENATE BILL NO. 11 OF 2018)

JUNE, 2018

1.0. PREFACE

Mr. Speaker, the County Allocation of Revenue Bill (CARB) (Senate Bill No. 11 of 2018) was referred to the National Assembly through a message from the Senate that was read in the House on Wednesday, 6th June, 2018; seeking the concurrence of the National Assembly on the Bill in accordance with the provisions of Article 111 of the Constitution. The Bill was committed to the Select Committee on Budget and Appropriations pursuant to Standing Order 41 (6) (c) of the National Assembly.

Mr. Speaker, the Budget and Appropriations Committee held one meeting to consider the Bill. The Committee noted that the CARB, 2018 reflects the allocation of Ksh. 372.74 Billion as approved in the Division of Revenue Act, 2018, which was enacted on 10th April, 2018.

Mr. Speaker, the County Allocation of Revenue Bill, 2018, therefore provides for the allocation amongst county governments, of the Equitable Share of revenue raised nationally, 6 conditional allocations from national government revenue and 9 conditional allocations (loans and grants) from the development partners, for the financial year 2018/19. To this end, **Mr. Speaker**, the timely enactment of the County Allocation of Revenue Bill, 2018 is critical in guaranteeing county governments their respective share of the equitable share of revenue raised nationally as well as conditional allocations meant for better service delivery and seamless operations at county level.

Mandate of the Committee

Mr. Speaker, Standing Order 207 establishes the Budget and Appropriations Committee whose function shall be to:

i) Investigate, inquire into and report on all matters relating to coordination, control and monitoring of the national budget;
ii) Discuss and review the estimates and make recommendations to the House;
iii) Examine the Budget Policy Statement presented to the House;
iv) Examine bills related to the national budget including appropriation bills; and

v) Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.

Mr. Speaker, the Budget and Appropriations Committee as currently constituted comprises of the following Honourable Members:

1) **Hon. Kimani Ichung'wah, M.P- Chairman**
2) **Hon. Moses Lessonet, M.P- Vice Chairman**
3) Hon. CPA John Mbadi, CBS, M.P.
4) Hon. Richard Onyonka, M.P.
5) Hon. Samwel Moroto, M.P.
6) Hon. Millie Odhiambo, M.P.
7) Hon. Twalib Bady, M.P.
8) Hon. (Dr.) Gideon Ochanda, M.P.
9) Hon. James Mwangi Gakuya, M.P.
10) Hon. (Dr.) Makali Mulu Benson, M.P.
11) Hon. Moses Kiarie Kuria, M.P.
12) Hon. Benard Masaka Shinali, M.P.
13) Hon. John Muchiri Nyaga, M.P.
14) Hon. Jude Njomo, M.P.
15) Hon. (Dr.) Korei Ole Lemein, M.P.
16) Hon. Sarah Paulata Korere, M.P.
17) Hon. Naisula Lesuuda, M.P.
18) Hon. Christopher Wangaya Aseka, M.P.
19) Hon. Danson Mwashako, M.P.
20) Hon. Fatuma Gedi Ali, M.P.
21) Hon. Florence Chepng'etich Koskey, M.P.
22) Hon. James Gichuki Mugambi, M.P.
23) Hon. (Dr.) John K. Mutunga, M.P.
24) Hon. (Eng.) Mark Nyamita, M.P.
25) Hon. Paul Abuor, M.P.
26) Hon. Qalicha Gufu Wario, M.P.

27) Hon. Ruth W. Mwaniki, M.P.

Acknowledgement

Mr. Speaker, the Budget and Appropriations 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 support received during the consideration of this Bill.

Mr. Speaker, on behalf of the Members of the Budget and Appropriations Committee, and as required under Articles 218 of the Constitution, as well as Standing Orders 41 (6)(c) and 234; it is with great pleasure that I table this report and recommend that the House approves the County Allocation of Revenue Bill (Senate Bill No. 11 of 2018).

Signed

13/6/18

The Hon. Kimani Ichung'wah, M.P.

Chairman, Budget & Appropriations Committee

June, 2018

2.0. EVALUATION OF THE COUNTY ALLOCATION OF REVENUE BILL, 2018

1. **Mr. Speaker**, Article 218 of the Constitution provides for the annual allocation of the equitable share of revenue raised nationally amongst county governments. The county allocation of revenue bill is prepared on the basis of a criteria determined pursuant to Article 217 of the Constitution. The enactment of the Bill will guarantee county governments their respective share of revenue raised nationally as well as conditional allocations meant for better service delivery and seamless operations at county level.

2. **Mr. Speaker,** the County Allocation of Revenue Bill, 2018, is a reflection of the overall provisions in the Division of Revenue Act (DORA). The DORA 2018 gives a total allocation of Ksh. 372.74 Billion to county governments. This comprises the Equitable Share of revenue, the conditional transfers to the county governments from national government revenue and conditional allocations in the form of proceeds from loans and grants from development partners. **Mr. Speaker**, this Bill therefore contains four schedules relating to the following: -

i) 1st Schedule: Equitable Share among County Governments for FY 2018/19- Ksh.314 Billion

3. **Mr. Speaker**, Article 217(7) provides for the approval by Parliament of the revenue sharing formula for the equitable share. For FY 2018/19, the second-generation formula is used, and it has six parameters- Population (45%), Land (8%), Poverty (18%), Equal Share (26%), Fiscal Responsibility (2%) and Development Factor (1%).

4. **Mr. Speaker**, the first schedule of CARB 2018 provides for the equitable share for FY 2018/19. It is allocated to each county using an allocation ratio, which is a combined index of the six parameters, as provided by the Commission of Revenue Allocation (CRA). Notably, the allocation ratio for FY 2018/19 varies from the one for FY 2017/18 and this is mainly attributed to variations of the fiscal responsibility factor for each county as assessed by CRA.

5. **Mr. Speaker**, according to CRA[1], 29 county governments do not have a score on the fiscal effort index which measures a county's increment in own source revenue per capita. This means that a county which does not increase its own source revenue collection is penalised by getting a zero percent fiscal effort index and which in turn translates to a zero allocation of the fiscal responsibility share of Ksh. 6.28 Billion for FY 2018/19. The indices used for the other five parameters (population, equal share, land, poverty and development factor) remained unchanged in FY 2018/19 for each of the counties.

ii) 2nd Schedule: Conditional Allocations to County Governments from the National Government Revenue for FY 2018/19- Ksh. 25.5 Billion

6. **Mr. Speaker**, the second schedule of the Bill relates to conditional allocations of Ksh. 25.5 Billion to county governments from the national government revenue during the financial year 2018/19. There are six conditional allocations to the county governments from the national government share of revenue. These are allocated using different criteria, as highlighted in the Bill. The six conditional allocations from the national government share are;
   a) Level-5 Hospitals (Ksh. 4.326 Billion) ;
   b) Supplement for Construction Of County Headquarters (Ksh. 605 Million);
   c) Compensation for user fees forgone (Ksh. 900 Million) ;
   d) Leasing of Medical Equipment (Ksh. 9.4 Billion) ;
   e) Road Fuel Levy Fund (Ksh. 8.269 Billion) and
   f) Rehabilitation of Village Polytechnics (Ksh. 2.0 Billion);

iii) 3rd Schedule: Conditional Allocations to County Governments as loans and grants from Development Partners for FY 2018/19- Ksh. 33.242 Billion

7. **Mr. Speaker**, the third schedule is with respect to conditional allocations of Ksh. 33.242 Billion to county governments from loans and grants from development partners, during the financial year 2018/19. The disbursement criteria of these additional conditional grants vary as it depends on the financing agreement between the development partners

[1] CRA Recommendation on the basis for equitable sharing of revenue between national and county governments for FY 2018/19

and the government. These agreements are under the purview of the National Treasury as a signatory and privy to the existing financing agreements with development partners. The following are the nine conditional grants-

i) ***Kenya Devolution Support Program (KDSP) County Capacity Building (Level 1) Grant of Ksh. 2.3 B:*** The purpose of the grant is to strengthen capacity of core national and county institutions to improve delivery of devolved services at the county level. It will be implemented through the State Department for Devolution and will benefit 47 counties.

ii) ***Kenya Devolution Support Program (KDSP) performance (Level 2) Grant (Ksh. 4.0 B):*** This grant will be implemented through the State Department for Devolution and it is an incentive to the county governments to build their capacity in the following five key areas:

- Public financial management (PFM) systems;
- County human resource management;
- County planning and monitoring & evaluation systems;
- Civic Education and Public Participation; and,
- Intergovernmental relations.

iii) ***Transforming Health Systems for Universal Care Project (Ksh. 3.64 B):*** The purpose of the grant is to improve delivery, utilization and quality of primary health care services. The focus is on Reproductive, Maternal, Newborn, Child and Adolescent Health (RMNCAH) at the county level. It will be implemented through the Ministry of Health and will benefit 47 Counties.

iv) ***DANIDA-Universal Healthcare for Devolved System Program (Ksh. 1.01 B):*** The purpose of the grant is to improve utilization and quality of primary health care services. The focus is on Reproductive, Maternal, Newborn, Child and Adolescent Health (RMNCAH) services at the county level. It will be implemented through Ministry of Health and will benefit 47 counties.

v) *National Agricultural & Rural Inclusive Growth Project (NARIGP) (Ksh. 2.95B):* The conditional grant to the county governments is implemented through the Ministry of Agriculture. The main purpose of the grant is increasing agricultural productivity and profitability of targeted rural communities in selected counties; and to provide immediate and effective response in case of crisis or emergency. It will be implemented by the State Department for Agriculture and will benefit 21 counties.

vi) ***EU-Instruments for Devolution Advice and Support (IDEAS) of Ksh. 1.04 B:*** The purpose of the grant is to support National and County governments' capacities for the management of the devolution process, and the transfer and use of resources for the achievement of local economic development at the county level. It will be implemented through the State Department for Devolution and will benefit 15 counties.

vii) ***Kenya Climate Smart Agriculture Project (World Bank) (KCSAP) of Ksh. 3.04B***: This conditional grant to 24 counties will be implemented through the State Department for Agriculture. The purpose of the grant is to increase agricultural productivity and build resilience to climate change risks in targeted smallholder farming and pastoral communities.

viii) ***Kenya Urban Support Program (KUSP) World Bank of Ksh. 11.46 B:*** The purpose of the grant is to establish and strengthen urban institutions to deliver improved infrastructure and services in 45 participating county governments (excluding Nairobi and Mombasa). It will be implemented through the Ministry of Transport, Infrastructure, Housing & Urban Development particularly the State Department of Housing and Urban Development.

ix) ***IDA- Water and Sanitation Development Project (WSDP) of Ksh. 3.8 Billion***: The purpose of the grant is to implement water and sanitation activities in 5 selected counties through the State Department for Water and Sanitation.

iv) **4th Schedule: Budget ceilings on recurrent expenditure of County Executives and County Assemblies for FY 2018/19**

8. **Mr. Speaker,** the fourth schedule is in relation to county governments' budget ceilings on recurrent expenditure between the county executive and the county assemblies during the financial year 2018/19. This is for purposes of enforcing principles of fiscal responsibility in accordance with the Public Finance Management (PFM) Act, 2012 and the PFM Regulations. This is intended to rationalize spending across the county governments and to safeguard frugality.

COMMITTEE OBSERVATIONS

9. **Mr. Speaker,** the Committee observes that-
   i) The criteria used to allocate resources based on the fiscal responsibility parameter focuses only on the revenue effort by counties. Indeed, out of the fiscal responsibility share of Ksh. 6.28 Billion for FY 2018/19, 29 counties have not received any resources since they have a zero score on the fiscal effort index which measures a county's increment in own source revenue per capita. The Committee is concerned that the criteria used only focuses on revenue collection and not financial propriety that includes the prudent use of revenue. In future, this allocation should encompass own source revenue collection and as well efficiency in county government expenditures.
   ii) There have been proposed amendments to the County Allocation of Revenue Act occasioned by in-year introduction of new conditional allocations as loans and grants from the development partners. While the Committee appreciates the need for these allocations in support for devolution, the National Treasury should ensure that the timing of the loan agreements must be in line with our budget cycle. This will ensure there is linkage of the DORA, CARA and donor funds. Preferably, the timing should be before the approval of the Budget Policy Statement and the County Fiscal Strategy Paper.
   iii) The criteria for the allocation of the conditional allocations is not transparent enough, there is need for the development of a framework for determination of the criteria to

be used, the reporting mechanism and monitoring and evaluation of these conditional allocations. This is especially on the conditional allocations from the national government revenues, such as the leasing of medical equipment that was allocated Ksh. 4.5 Billion in DORA and CARA 2017, however, during the financial year the allocation increased to Ksh. 6.1 Billion without an amendment to both DORA and CARA 2017.

iv) Chapter 12 of the Constitution ushered a new public financial management architecture complete with principles of public finance and institutional responsibilities. Article 203 of the Constitution provides criteria to be taken into account when sharing resources for the county governments. The Committee reiterates the need to follow the following key principles when coming up with the 3rd generation formula for allocation of revenue among counties:

   i. Principle of Allocative efficiency;
   ii. Principle of Developmental needs and ability to respond to emergencies;
   iii. Principle of Resources follow functions; and
   iv. Principal of subsidiarity.

v) The Committee expects that the revenue allocation to each county government should be used for programs and projects that are in line with the County Integrated Development Plan (CIDP), County Fiscal Strategy Paper (CFSP) and the budgets, underpinned by the national strategic objectives under the Big Four Plan.

COMMITTEE RECOMMENDATION

10. **Mr. Speaker**, the Committee makes the following recommendations-

a) Policy Recommendations

i) That, the Intergovernmental Budget and Economic Council (IBEC) /Intergovernmental Technical Relations Committee (IGTRC) develop a framework for a clear linkage of the County Integrated Development Plans (CIDPs), County Fiscal Strategy Papers (CFSPs) and the county budgets to the Vision 2030's Medium Term Plan 3 that will actualize the Big Four Plan.

ii) Further, that the period for consideration for approval of the BPS and CFSP be increased from 2 weeks to one month through amendments of the PFM Act, to provide adequate time for scrutiny of both documents.

iii) That, the Commission on Revenue Allocation (CRA) recommends to Parliament a framework on conditional allocations to county governments that focuses on the allocation criteria, reporting mechanism, monitoring and evaluation of these conditional allocations.

b) Financial Recommendations

i) That, the House approves the County Allocation of Revenue Bill, 2018 (Senate Bill No. 11 of 2018).

MINUTES OF 31st SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD ON TUESDAY, 12th JUNE 2018, IN MEMBERS LOUNGE, NEW WING, MAIN PARLIAMENT BUILDINGS AT 11.00 A.M.

PRESENT

1. **Hon. Kimani Ichung'wah, M.P- Chairperson**
2. **Hon. Moses Lessonet, M.P- Vice Chairperson**
3. Hon. CPA. John Mbadi, CBS, M.P
4. Hon. Samwel Moroto, M.P.
5. Hon. James Mwangi Gakuya, M.P.
6. Hon. (Dr.) Makali Mulu, M.P.
7. Hon. (Dr.) Korei Ole Lemein, M.P.
8. Hon. Jude Njomo, M.P
9. Hon. Sarah Paulata Korere, M.P.
10. Hon. Benard Masaka Shinali, M.P.
11. Hon. (Dr.) Gideon Ochanda, M.P.
12. Hon. Naisula Lesuuda, OGW M.P.
13. Hon. James Gichuki Mugambi, M.P.
14. Hon. Paul Abuor, M.P.
15. Hon. (Dr.) John K. Mutunga, M.P.
16. Hon. Christopher Wangaya Aseka, M.P
17. Hon. Qalicha Gufu Wario, M.P.
18. Hon. Wangari Mwaniki, M.P.

ABSENT WITH APOLOGIES

1. Hon. Moses Kiarie Kuria, M.P.
2. Hon. Millie Odhiambo, M.P.
3. Hon. Twalib Bady, M.P.
4. Hon. Richard Onyonka, M.P.
5. Hon. Fatuma Gedi Ali, M.P.
6. Hon. Danson Mwashako, M.P.
7. Hon. Florence Chepngetich Koskey, M.P.
8. Hon. John Muchiri Nyaga, M.P.

9. Hon. (Eng.) Mark Nyamita, M.P.

MEMBERS OF PARLIAMENT PRESENT

1. Hon. Florence Mutua, M.P.
2. Hon. Antony Oluoch, M.P.
3. Hon. Beatrice Nyagah, M.P.

PARLIAMENTARY BUDGET OFFICE

1.	Ms. Phyllis Makau	Director, PBO
2.	Mr. Martin Masinde	Senior Deputy Director, PBO

SECRETARIAT

1.	Mr. Joseph Ndirangu	Clerk/ Fiscal Analyst III
2.	Mr. Danson Kachumbo	Fiscal Analyst III
3.	Mr. James Chacha	Fiscal Analyst III
4.	Mr. Elijah Ichwara	Hansard
5.	Mr. Joram Baraza	Office Attendant

AGENDA

1. Preliminaries
2. Confirmation of Agenda
3. Confirmation of the previous minutes
4. Matters Arising
5. Agenda:
    i. *Consideration of proposed amendments to the BAC Report on the Budget Estimates for FY 2018/19*
    ii. *Adoption of the Budget and Appropriations Committee on the County Allocation of Revenue Bill (senate bill no. 11 of 2018)*
6. Any Other Business

MIN BAC /31 /2018/01: PRELIMINARIES/CONFIRMATION OF AGENDA

The chairman called the meeting to order at 11.30 a.m. and welcomed members of the committee to the meeting. Thereafter, Hon. Paul Abuor, M.P. led the committee with a word of prayer. In his introductory remarks, the Chairman read the agenda of the meeting. Thereafter, he called upon Parliamentary Budget Office to brief members on the draft report of the Budget and Appropriations Committee on the County Allocation of Revenue Bill (Senate Bill No. 11 Of 2018)

MIN BAC/31/2018/02: CONFIRMATION OF PREVIOUS MINUTES/ MATTERS ARISING

No minutes were confirmed.

MIN BAC /30/2018/03: ADOPTION OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILL NO. 11 OF 2018)

The Parliamentary Budget office took members through the draft report and after deliberations the report was proposed by Hon. CPA. John Mbadi, CBS, M.P and seconded by Hon. Qalicha Gufu Wario, M.P. with the following observations and recommendations:

COMMITTEE OBSERVATIONS

1. **Mr. Speaker**, the Committee observes that-
   i) The criteria used to allocate resources based on the fiscal responsibility parameter focuses only on the revenue effort by counties. Indeed, out of the fiscal responsibility share of Ksh. 6.28 Billion for FY 2018/19, 29 counties have not received any resources since they have a zero score on the fiscal effort index which measures a county's increment in own source revenue per capita. The Committee is concerned that the criteria used only focuses on revenue collection and not financial propriety that includes the prudent use of revenue. In future, this allocation should encompass own source revenue collection and as well efficiency in county government expenditures.
   ii) There have been proposed amendments to the County Allocation of Revenue Act occasioned by in-year introduction of new conditional allocations as loans and

grants from the development partners. While the Committee appreciates the need for these allocations in support for devolution, the National Treasury should ensure that the timing of the loan agreements must be in line with our budget cycle. This will ensure there is linkage of the DORA, CARA and donor funds. Preferably, the timing should be before the approval of the Budget Policy Statement and the County Fiscal Strategy Paper.

iii) The criteria for the allocation of the conditional allocations is not transparent enough, there is need for the development of a framework for determination of the criteria to be used, the reporting mechanism and monitoring and evaluation of these conditional allocations. This is especially on the conditional allocations from the national government revenues, such as the leasing of medical equipment that was allocated Ksh. 4.5 Billion in DORA and CARA 2017, however, during the financial year the allocation increased to Ksh. 6.1 Billion without an amendment to both DORA and CARA 2017.

iv) Chapter 12 of the Constitution ushered a new public financial management architecture complete with principles of public finance and institutional responsibilities. Article 203 of the Constitution provides criteria to be taken into account when sharing resources for the county governments. The Committee reiterates the need to follow the following key principles when coming up with the 3rd generation formula for allocation of revenue among counties:

  i. Principle of Allocative efficiency;
  ii. Principle of Developmental needs and ability to respond to emergencies:
  iii. Principle of Resources follow functions; and
  iv. Principal of subsidiarity.

v) The Committee expects that the revenue allocation to each county government should be used for programs and projects that are in line with the County Integrated Development Plan (CIDP), County Fiscal Strategy Paper (CFSP) and the budgets, underpinned by the national strategic objectives under the Big Four Plan.

COMMITTEE RECOMMENDATION

2. **Mr. Speaker**, the Committee makes the following recommendations-

a) Policy Recommendations

i) That, the Intergovernmental Budget and Economic Council (IBEC) /Intergovernmental Technical Relations Committee (IGTRC) develop a framework for a clear linkage of the County Integrated Development Plans (CIDPs), County Fiscal Strategy Papers (CFSPs) and the county budgets to the Vision 2030's Medium Term Plan 3 that will actualize the Big Four Plan.

ii) Further, that the period for consideration for approval of the BPS and CFSP be increased from 2 weeks to one month through amendments of the PFM Act, to provide adequate time for scrutiny of both documents.

iii) That, the Commission on Revenue Allocation (CRA) recommends to Parliament a framework on conditional allocations to county governments that focuses on the allocation criteria, reporting mechanism, monitoring and evaluation of these conditional allocations.

b) Financial Recommendations

i) That, the House approves the County Allocation of Revenue Bill (Senate Bill No. 11 of 2018).

MIN BAC /31/2018/04: CONSIDERATION OF PROPOSED AMENDMENTS TO THE BAC REPORT ON THE BUDGET ESTIMATES FOR FY 2018/19

The Chairman informed members on the various amendments that the committee received. After deliberations, the Committee adopted the following amendments:

Vote 1032 State Department for Devolution:

1013000 Integrated Regional Development-

That the proposed allocation under the Programme in respect of Development Estimates, Ksh. 6,936,950,000 be deleted and substituted thereof with the figure **Ksh. 12,636,950,000.**

Vote 1212 State Department for Gender:

0911000 Community Development-

That the proposed allocation under the Programme in respect of Development Estimates, Ksh. 2,375,000,000 be deleted and substituted thereof with the figure **Ksh. 2,675,000,000.**

Vote 1011 The Presidency:

1. **0702000 Cabinet Affairs**

That the proposed allocation under the Programme in respect of Recurrent Estimates, Kshs. 1,395,913,982 be deleted and substituted thereof with the figure **Ksh. 1,524,913,982**

2. **0704000 State House Affairs**

That the proposed allocation under the Programme in respect of Recurrent Estimates, Kshs. 3,215,934,363 be deleted and substituted thereof with the figure **Ksh. 3,250,934,363**

Vote 1021 State Department for Interior:

0605000 Population Management Services -

That the proposed allocation under the Programme in respect of Development Estimates, Ksh. 1,070,000,000 be deleted and substituted thereof with the figure **Ksh. 3,070,000,000.**

Vote 1024 State Department for Immigration and Citizen Services:

0605000 Population Management Services -

That the proposed allocation under the Programme in respect of Development Estimates, Ksh. 2,690,000,000 be deleted and substituted thereof with the figure **Ksh. 690,000,000.**

Vote 1204 Ministry of Tourism and Wildlife

0306000 Tourism Development and Promotion -

That the proposed allocation under the Programme in respect of Development Estimates, Ksh. 2,194,000,000 be deleted and substituted thereof with the figure **Ksh. 2,520,000,000.**

MIN BAC /31 /2018/05: ANY OTHER BUSINESS

There being no other business the meeting was adjourned at 1.00 p.m.

SIGNED

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HON. KIMANI ICHUNG'WAH, M.P.
CHAIRMAN, BUDGET AND APPROPRIATIONS COMMITTEE

12. 06. 2018

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DATE