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Speaker
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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT

SECOND SESSION

Paper laid on the Table of the House by the Chairperson of the Budget and Appropriations Committee on Thursday 20th September 2018 (Special Sitting) (Morning)

THE BUDGET AND APPROPRIATIONS COMMITTEE REPORT ON THE SUPPLEMENTARY ESTIMATES FOR THE FINANCIAL YEAR 2018/2019

SEPTEMBER 2018

PREFACE

Mr. Speaker Sir, on behalf of the Members of the Budget and Appropriations Committee and pursuant to Article 223 of the Constitution, section 44 of the Public Finance Management Act, 2012, section 40 of the Public Finance Management Regulations, 2015 and Standing Orders 243; it is my pleasure to present to this House, the Committee's Report on the Supplementary Estimates for financial year 2018/2019.

Mandate of the Committee

Mr. Speaker, Article 221 (4 and 5) of the Constitution and the Public Finance Management Act, 2012 provide for the establishment of a Committee of the National Assembly whose main role is to take the lead in budgetary oversight by the National Assembly. Pursuant to this constitutional provision, Standing Order 207 establishes the Budget and Appropriations Committee with specific mandates among which is 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 bills related to the national budget including appropriation bills; and
iv. 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- Chairperson**
2. **Hon. Moses Lessonet, M.P- Vice Chairperson**
3. Hon. CPA John Mbadi, 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.

Examination of the Supplementary Estimates for Financial Year 2018/2019

Mr. Speaker, the Supplementary budget for financial year 2018/2019 was submitted to the National Assembly on 18th September 2018. In accordance with Standing Order 243(3), once the Supplementary budget was tabled, it was committed to the Budget and Appropriations Committee to review and make recommendations to the National Assembly within two days given the urgency of the matter. The Committee has examined and discussed the estimates and has made

recommendations, which are contained in this report. If approved by the House, these recommendations will form the basis for the passage of the supplementary appropriation act for financial year 2018/2019.

Mr. Speaker, in reviewing the Second Supplementary Estimates for 2018/19, the Committee held four (4) Sittings including one (1) Sitting with the National Treasury.

Acknowledgements

Mr. Speaker, the Committee would like to extend its gratitude to the Office of the Speaker of the National Assembly and the Office of the Clerk of the National Assembly for the support provided to ensure that the review of the Supplementary Estimates is finalized within such a short timeframe. The committee is also grateful to the Chairpersons of Departmental Committees for making time to attend the Budget Committee deliberations on the Budget Estimates and for their invaluable input; and to the National Treasury for being at hand for deliberations on the supplementary Estimates.

Lastly **Mr. Speaker,** the Committee is grateful to the Parliamentary Budget Office for the steadfast support received as it discharged its mandate of reviewing the Supplementary Estimates for financial year 2018/2019.

Mr. Speaker, it is therefore my humble duty and privilege, on behalf of the Budget and Appropriations Committee, to table the Report on the Supplementary Estimates for FY 2018/2019 and recommend it to the House for adoption.

Signed: .....

Hon. Kimani Ichung'wah, M.P.

Chairperson, the Budget and Appropriations Committee

Date: 19/9/2018

I. OVERVIEW OF THE SUPPLEMENTARY ESTIMATES FOR 2018/2019

Mr. Speaker, the Supplementary Estimates for 2018/19 comes at a time when the economy is experiencing significant fiscal pressures on account of huge budget expenditures and projected revenue shortfall. The approved estimates for financial year 2018/2019 were estimated at Ksh. 1,698.56 billion for the National Government, Ksh. 372.74 billion for the County governments and Ksh. 962.56 billion for the Consolidated Fund Services. This was to be financed through domestic tax and AIA amounting to Ksh. 1,923.34 billion, and grants amounting to Ksh. 47.037 billion. The fiscal deficit for 2018/19 is projected at Ksh.562.75 billion to be financed through domestic and foreign borrowing.

Mr. Speaker, on account of the expected revenue shortfalls amidst expenditure pressures, the supplementary budget proposes a reduction in the total budget estimates by **Ksh. 55.1 billion** of which **Ksh. 11.724** billion is from the recurrent budget and **Ksh. 34.327** billion is from the development budget. Under the new changes, the **recurrent budget constitutes 62.27%** of the ministerial expenditure and the **development budget comprises 37.72%** of ministerial expenditure.

Mr. Speaker, the financing of the supplementary budget comprises expenditure cuts in various votes and programmes in the light of projected lower revenues occasioned by the changes in the Finance Bill approved by the National Assembly, and the full revenue impact of the memorandum of the president on the Finance Bill 2018.

Mr. Speaker, there is also a proposal to reduce funding to county governments by Ksh. 9.04 billion. This will require a further legislative process in the form of amendments to the Division of Revenue Act and supplementary appropriation to effect such a change. At this juncture **Mr. Speaker,** I wish to point out that over the previous financial year, counties have been facing challenges with regard to delayed exchequer releases. This uncertainty of revenue flows from the national government has made it difficult for counties to adequately plan their budgets. **Mr. Speaker,** in budgeting, predictability is key. We need to ensure that counties are able to perform

the functions allocated to them and this can be achieved through adequacy and predictability of county resource allocations. I urge the National Treasury to endeavour to release funds to counties in a timely manner so as to enable them to plan adequately.

II. STATE OF THE ECONOMY UNDERPINNING THE SUPPLEMENTARY BUDGET

Mr. Speaker, the macroeconomic fundamentals remain stable but are facing significant downside risks. Inflation rate was low at 4.04 percent for the month of August 2018 but is anticipated to go higher on account of higher electricity prices following revision of electricity tariffs, dynamics in the oil market that may push crude oil prices upwards, subjecting Kerosene to higher excise duty as well as the anti–adulteration levy and the implementation of fuel VAT. The Exchange rate is also stable and appears likely to remain so but may come under pressure if there is a significant drawdown of forex reserves. **Mr. Speaker,** this situation is made more precarious by the lapsing of the IMF facility, which leaves forex reserves as the only buffer protecting the shilling. Furthermore **Mr. Speaker**, private sector credit growth remains at low levels though this may improve on account of the lowering of the CBR to 9 percent as well as the removal of the deposit floor allowing banks a wider margin to fix their lending rates.

Mr. Speaker, I wish to also point out that debt levels are estimated to be within manageable levels but further debt accumulation may result into a crisis. It should be noted that in the current financial year, there are several debts maturing and numerous interest payments which may require rollover or refinancing to avert a debt crisis. Should the shilling come under significant pressure and depreciate, it will also lead to an increase in value terms, of Kenya's stock of dollar denominated loans.

III. KEY PROPOSED CHANGES UNDER THE SUPPLEMENTARY ESTIMATES

Mr. Speaker, the recurrent budget has been reduced by **Ksh. 11.72 billion.** This reduction has been effected across many of the Ministries, Departments and Agencies at varying levels ranging

from 10 – 40 percent. The changes are mostly with regard to items such as domestic travel, foreign travel, printing and advertising, hospitality supplies and services, training expenses, purchase of vehicles, routine maintenance, purchase of specialized equipment, other operating expenses among others.

Mr. Speaker, I wish to point out that the Parliamentary Service Commission bore the brunt of the cuts with most of these cuts being effected at higher levels compared to the other MDAs. **Mr. Speaker,** while the need for expenditure cuts is understood and indeed upheld, there should be equity and fairness in distribution of the burden. It is not clear whether there has been any assessment to determine the impact of these cuts on the operations of the various spending agencies. I wish to urge the National Treasury to adopt a framework where each spending agency is considered on its own merit and the impact of any reduction or increment fully assessed so as not to hamper MDA operations.

Mr. Speaker, the development budget has been reduced by **Ksh. 34.327 billion**. The reductions are in the following areas:

- Reduction of National Government Constituency Development Fund by Ksh. 5.959 billion
- Reduction of University Education programme by Ksh. 229 million cutting across four university colleges as well as the commission for university education
- Reduction of Ksh. 3.8 billion from the Equalization Fund
- Reduction of Ksh. 8.7 billion from the critical emergency intervention for roads
- Reduction of Ksh. 400 million from the Konza Complex
- Reduction of Ksh. 5.5 billion from the digital literacy laptop programme
- Reduction of Ksh. 1 billion from the Last Mile Electricity Connectivity
- Reduction of Ksh. 1.5 billion from the LPG Distribution and infrastructure project
- Reduction of Ksh. 2 billion from the Affirmative Action Social Development Fund
- Reduction of Ksh. 600 million from the Parliamentary Service Commission for construction of the multi-storey office block and the installation of the Intergrated Security System

- Reduction of Ksh. 500 million from the street lighting project
- Reduction of Ksh. 500 million from the electrification of public facilities
- Reduction of Ksh. 600 million from the installation of transformers in constituencies
- Reduction of Ksh. 500 million from the Dairy Processing (powdered milk) project in the state department for cooperatives
- Reduction of Ksh. 130 million from the Nutrition Sensitive Project under the State Department for Crop Development

Mr. Speaker, the committee is concerned that the reduction of funds from the Mwananchi gas project may fuel the use of wood fuel and charcoal. This is because the LPG distribution and infrastructure project was expected to facilitate access of LPG by the low income households in order to minimize use of kerosene and wood fuels. Indeed, the proposed increase in Excise Duty on Kerosene as well as the anti-adulteration levy will lead to a significant increase in the price of fuel. As a result, low income households may face a challenge in terms of which fuel to use and may resort to wood fuel and charcoal as the only viable options.

Mr. Speaker, in addition to the statutory allocation of Ksh. 4.7 billion for the Equalization Fund in the 2018/2019 budget, there is a cumulative amount from the previous financial year allocations which has not been utilized and ideally, should be reflected in the Equalization Fund. However, this is not the case and the only amount reflected in the Equalization Fund is the 2018/2019 statutory amount. **Mr. Speaker,** despite the implementation challenges that have been facing the fund, the constitution clearly states that any unexpended money in the equalization fund should remain in that fund for use in subsequent years. The tendency to channel these funds to other uses therefore implies a lack of commitment to the purpose of the Equalization Fund. Indeed, **Mr. Speaker,** it is high time that the Estimates of revenue allocated to and expenditures projected from the Equalization Fund for 2018/2019 are submitted to Parliament as required under article 216(4) of the Constitution and section 39(b) (ii) of the Public Finance Management Act so that these Equalization fund are appropriated.

Mr. Speaker, the NGCDF as well as the Affirmative Action Social Development Fund have undergone significant cuts. These two funds have been instrumental in promoting economic and social development at the grassroots level and such a significant reduction in their resource allocation may impact negatively on livelihoods.

Mr. Speaker, the committee is also concerned that some expenditure reductions such as those affecting various projects under the University Education programme as well as the multi-storey office block of parliament may result in the accumulation of pending bills as well as accrual of penalties for works which had already been started.

Mr. Speaker, I also wish to highlight that even though the share of development spending to total ministerial expenditure is 38%, well above the 30% minimum threshold, the committee is concerned that a larger reduction of development spending is inconsistent with the need to reign on the less productive recurrent spending. Indeed, this House had recommended during the approval of the budget for 2018/2019 that no cuts should be effected on the development budget during the supplementary budget process. The reason for this resolution is that extensive reduction of development expenditure can adversely affect economic growth. I urge the National Treasury to minimize cuts in development spending and to promote efficiency in use of recurrent expenditure.

COMMITTEE RECOMMENDATIONS

Having considered the above matters, the committee recommends as follows:

Mr. Speaker, The Committee further recommends that this House resolves to approve:-

(i) A reduction of the total recurrent expenditure for Financial Year 2018/2019 by **Kshs. 9,063,228,418** in respect of the Votes as contained in the attached Schedule;

(ii) A reduction of the total capital expenditure for Financial Year 2018/2019 by **Kshs. 28,540,434,000** in respect of the Votes as contained in the attached Schedule;

(iii) an overall reduction in the total budget for Financial Year 2018/2019 by **Ksh. 37,603,662,418** in respect of the Votes as contained in the attached Schedule;

(iv) A reinstatement of Ksh. 1.5 billion to the Judiciary budget.

(v) That the attached Schedule forms the basis of the enactment of the Supplementary Appropriations Act 2018/2019.

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
VOTE, PROGRAMME CODES & TITLE	**GROSS CURRENT ESTIMATES**	**GROSS CAPITAL ESTIMATES**	**GROSS TOTAL ESTIMATES**
1011 The Presidency	**(323,000,976)**	**-**	**(323,000,976)**
0702000 Cabinet Affairs	**(77,917,764)**	**-**	**(77,917,764)**
0703000 Government Advisory Services	**(13,028,641)**	**-**	**(13,028,641)**
0704000 State House Affairs	**(116,544,145)**	**-**	**(116,544,145)**
0734000 Deputy President Services	**(115,510,426)**	**-**	**(115,510,426)**
1021 State Department for Interior	**(376,922,019)**	**-**	**(376,922,019)**
0601000 Policing Services	**(257,146,319)**	**-**	**(257,146,319)**
0602000 Planning, Policy Coordination and Support Service	**(88,701,507)**	**-**	**(88,701,507)**
0603000 Government Printing Services	**(1,809,560)**	**-**	**(1,809,560)**
0605000 Population Management Services	**(23,289,695)**	**-**	**(23,289,695)**
0624000 Betting Control, Licensing and Regulation Services	**(5,974,938)**	**-**	**(5,974,938)**
1023 State Department for Correctional Services	**(255,312,396)**	**-**	**(255,312,396)**
0602000 Planning, Policy Coordination and Support Services	**(6,806,761)**	**-**	**(6,806,761)**
0604000 Correctional Services	**(220,094,443)**	**-**	**(220,094,443)**
0623000 General Administration, Planning and Support Services	**(28,411,192)**	**-**	**(28,411,192)**
1024 State Department for Immigration and Citizen Services	**(91,689,182)**	**-**	**(91,689,182)**
0605000 Population Management Services	**(91,689,182)**	**-**	**(91,689,182)**
1032 State Department for Devolution	**(96,072,285)**	**(2,472,434,000)**	**(2,568,506,285)**
0712000 Devolution Services	**(38,887,880)**	**(2,472,434,000)**	**(2,511,321,880)**

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
0732000 General Administration, Planning and Support Services	(16,628,095)	-	(16,628,095)
0713000 Special Initiatives	(40,556,310)	-	(40,556,310)
1035 State Department for Development of the ASAL	(47,421,981)	-	(47,421,981)
0733000 Accelerated ASAL Development	(47,421,981)	-	(47,421,981)
1041 Ministry of Defence	(42,980,205)	-	(42,980,205)
0801000 Defence	-	-	-
0802000 Civil Aid	-	-	-
0803000 General Administration, Planning and Support Services	(42,980,205)	-	(42,980,205)
0805000000 National Space Management	-	-	-
1052 Ministry of Foreign Affairs	(179,548,051)	-	(179,548,051)
0714000 General Administration Planning and Support Services	(34,505,843)	-	(34,505,843)
0715000 Foreign Relation and Diplomacy	(139,507,019)	-	(139,507,019)
0741000 Economic and Commercial Diplomacy	(3,879,167)	-	(3,879,167)
0742000 Foreign Policy Research, Capacity Development and Technical Cooperation	(1,656,022)	-	(1,656,022)
1064 State Department for Vocational and Technical Training	(1,328,458,809)	-	(1,328,458,809)
0505000 Technical Vocational Education and Training	(1,314,145,096)	-	(1,314,145,096)
0507000 Youth Training and Development	(2,951,207)	-	(2,951,207)
0508000 General Administration, Planning and Support Services	(11,362,506)	-	(11,362,506)

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
1066 State Department for Early Learning & Basic Education	**(487,319,184)**	**(600,000,000)**	**(1,087,319,184)**
0501000 Primary Education	**(320,493,397)**	-	**(320,493,397)**
0502000 Secondary Education	**(27,473,187)**	**(600,000,000)**	**(627,473,187)**
0503000 Quality Assurance and Standards	**(35,241,973)**	-	**(35,241,973)**
0508000 General Administration, Planning and Support Services	**(104,110,627)**	-	**(104,110,627)**
1067 State Department for Research & University Education	**(841,042,919)**	**(229,000,000)**	**(1,070,042,919)**
0504000 University Education	**(755,693,856)**	**(229,000,000)**	**(984,693,856)**
0506000 Research, Science, Technology and Innovation	**(50,298,916)**	-	**(50,298,916)**
0508000 General Administration, Planning and Support Services	**(35,050,147)**	-	**(35,050,147)**
1068 State Department for Post Training and Skills Development	-	-	-
0508000 General Administration, Planning and Support Services	-	-	-
1071 The National Treasury	**(565,719,788)**	**(6,009,000,000)**	**(6,574,719,788)**
0717000 General Administration Planning and Support Services	**(363,468,545)**	-	**(363,468,545)**
0718000 Public Financial Management	**(148,676,779)**	**(6,009,000,000)**	**(6,157,676,779)**
0719000 Economic and Financial Policy Formulation and Management	**(42,851,358)**	-	**(42,851,358)**
0720000 Market Competition	**(6,780,000)**	-	**(6,780,000)**
0740000 Government Clearing Services	**(3,943,106)**	-	**(3,943,106)**
1072 State Department for Planning	**(286,361,855)**	-	**(286,361,855)**

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
0703000 Government Advisory Services	(4,367,200)	-	(4,367,200)
0706000 Economic Policy and National Planning	(65,701,473)	-	(65,701,473)
0707000 National Statistical Information Services	(165,391,366)	-	(165,391,366)
0708000 Monitoring and Evaluation Services	(9,529,335)	-	(9,529,335)
0709000 General Administration Planning and Support Services	(41,372,481)	-	(41,372,481)
1081 Ministry of Health	(22,043,602)	-	(22,043,602)
0401000 Preventive, Promotive & RMNCAH	(23,955,757)	-	(23,955,757)
0402000 National Referral & Specialized Services	(2,295,675)	-	(2,295,675)
0403000 Health Research and Development	-	-	-
0404000 General Administration, Planning & Support Services	21,449,564	-	21,449,564
0405000 Health Policy, Standards and Regulations	(17,241,734)	-	(17,241,734)
1091 State Department of Infrastructure	(33,976,483)	(8,700,000,000)	(8,733,976,483)
0202000 Road Transport	(33,976,483)	(8,700,000,000)	(8,733,976,483)
1092 State Department of Transport	(26,753,152)	-	(26,753,152)
0201000 General Administration, Planning and Support Services	(7,776,332)	-	(7,776,332)
0203000 Rail Transport	-	-	-
0204000 Marine Transport	(7,725,558)	-	(7,725,558)
0205000 Air Transport	(2,082,031)	-	(2,082,031)
0216000 Road Safety	(9,169,231)	-	(9,169,231)
1093 State Department for Maritime Affairs	(18,082,641)	-	(18,082,641)
0220000 Shipping and Maritime Affairs	(18,082,641)	-	(18,082,641)

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
1096 State Department for Housing, Urban Development and Public Works	**(79,959,293)**	-	**(79,959,293)**
0102000 Housing Development and Human Settlement	**(15,160,381)**	-	**(15,160,381)**
0103000 Government Buildings	**(4,580,150)**	-	**(4,580,150)**
0104000 Coastline Infrastructure and Pedestrian Access	**(746,904)**	-	**(746,904)**
0105000 Urban and Metropolitan Development	**(7,899,686)**	-	**(7,899,686)**
0106000 General Administration Planning and Support Services	**(22,983,276)**	-	**(22,983,276)**
0218000 Regulation and Development of the Construction Industry	**(28,588,896)**	-	**(28,588,896)**
1107 Ministry of Water Services and Sanitation	**(73,763,466)**	-	**(73,763,466)**
1001000 General Administration, Planning and Support Services	**(15,388,195)**	-	**(15,388,195)**
1004000 Water Resources Management	**(17,283,125)**	-	**(17,283,125)**
1017000 Water and Sewerage Infrustracture Development	**(36,971,096)**	-	**(36,971,096)**
1014000 Irrigation and Land reclamation	**(2,322,300)**	-	**(2,322,300)**
1015000 Water Storage and Flood Control	**(1,798,750)**	-	**(1,798,750)**
1108 Ministry of Environment and Forestry	**(135,752,442)**	-	**(135,752,442)**
1002000 Environment Management and Protection	**(32,784,920)**	-	**(32,784,920)**
1010000 General Administration, Planning and Support Services	**(11,595,995)**	-	**(11,595,995)**
1012000 Meteorological Services	**(10,172,120)**	-	**(10,172,120)**

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
1018000 Forests and Water Towers Conservation	(79,373,867)	-	(79,373,867)
1008000 Resources Surveys and Remote Sensing	(1,825,540)	-	(1,825,540)
1112 Ministry of Lands and Physical Planning	(18,288,329)	-	(18,288,329)
0101000 Land Policy and Planning	(18,288,329)	-	(18,288,329)
1121 Ministry of Information Communications and Technology	(68,532,157)	(5,900,000,000)	(5,968,532,157)
0207000 General Administration Planning and Support Services	(11,315,616)		(11,315,616)
0210000 ICT Infrastructure Development	(42,470,959)	(5,900,000,000)	(5,942,470,959)
0217000 E-Government Services	(14,745,582)		(14,745,582)
1123 State Department for Broadcasting and Communication	(52,081,250)		(52,081,250)
0207000 General Administration Planning and Support Services	(12,715,200)		(12,715,200)
0208000 Information And Communication Services	(35,457,050)		(35,457,050)
0209000 Mass Media Skills Development	(3,909,000)		(3,909,000)
1132 State Department for Sports Development	(29,629,017)		(29,629,017)
0901000 Sports	(29,629,017)		(29,629,017)
1134 State Department for Heritage	-		-
0902000 Culture/ Heritage	-		-
0903000 The Arts	-		-
0904000 Library Services	-		-
0905000 General Administration, Planning and Support Services	-		-
1152 State Department for Energy	(32,640,000)	(2,600,000,000)	(2,632,640,000)

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
0211000 General Administration Planning and Support Services	-		-
0212000 Power Generation	(17,240,000)		(17,240,000)
0213000 Power Transmission and Distribution	(15,400,000)	(2,600,000,000)	(2,615,400,000)
0214000 Alternative Energy Technologies	-		-
1162 State Department for Livestock.	(27,759,716)		(27,759,716)
0112000 Livestock Resources Management and Development	(27,759,716)		(27,759,716)
1165 State Department for Crop Development	(63,720,089)	(130,000,000)	(193,720,089)
0107000 General Administration Planning and Support Services	(54,124,195)		(54,124,195)
0108000 Crop Development and Management	(7,783,183)	(130,000,000)	(137,783,183)
0109000 Agribusiness and Information Management	(1,812,711)		(1,812,711)
1164 State Department for Fisheries Aquaculture & the Blue Economy	(42,001,505)		(42,001,505)
0111000 Fisheries Development and Management	(11,667,534)		(11,667,534)
0117000 General Administration, Planning and Support Services	(13,541,346)		(13,541,346)
0118000 Development and Coordination of the Blue Economy	(16,792,625)		(16,792,625)
1167 State Department for Irrigation	(12,607,722)		(12,607,722)
1014000 Irrigation and Land Reclamation	(8,101,175)	-	(8,101,175)
1016000 General Administration, Planning and Support Services	(4,506,547)	-	(4,506,547)
1168 State Department for Agricultural Research	(105,636,856)	-	(105,636,856)

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
0120000 Agricultural Research & Development	**(105,636,856)**	-	**(105,636,856)**
1173 State Department for Cooperatives	**(24,934,565)**	**(500,000,000)**	**(524,934,565)**
0304000 Cooperative Development and Management	**(24,934,565)**	**(500,000,000)**	**(524,934,565)**
1174 State Department for Trade	**(88,079,793)**	-	**(88,079,793)**
0307000 Trade Development and Promotion	**(88,079,793)**	-	**(88,079,793)**
1175 State Department for Industrialization	**(56,965,435)**	-	**(56,965,435)**
0301000 General Administration Planning and Support Services	**(20,597,218)**	-	**(20,597,218)**
0302000 Industrial Development and Investments	**(15,946,641)**	-	**(15,946,641)**
0303000 Standards and Business Incubation	**(20,421,576)**	-	**(20,421,576)**
1184 State Department for Labour	-	-	-
0910000 General Administration Planning and Support Services	-	-	-
0906000 Promotion of the Best Labour Practice	-	-	-
0907000 Manpower Development, Employment and Productivity Management	-	-	-
1185 State Department for Social Protection	**(247,077,407)**	-	**(247,077,407)**
0908000 Social Development and Children Services	**(83,406,900)**	-	**(83,406,900)**
0909000 National Social Safety Net	**(127,371,185)**	-	**(127,371,185)**
0914000 General Administration, Planning and Support Services	**(36,299,322)**	-	**(36,299,322)**
1192 State Department for Mining	**(85,791,717)**	-	**(85,791,717)**

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
1007000 General Administration Planning and Support Services	(79,460,638)	-	(79,460,638)
1009000 Mineral Resources Management	(6,331,079)	-	(6,331,079)
1193 State Department for Petroleum	(15,069,956)	(1,500,000,000)	(1,515,069,956)
0215000 Exploration and Distribution of Oil and Gas	(15,069,956)	(1,500,000,000)	(1,515,069,956)
1204 Ministry of Tourism and Wildlife	(315,621,541)	(100,000,000)	(415,621,541)
0307000 Trade Development and Promotion	(2,802,800)	-	(2,802,800)
0306000 Tourism Development and Promotion	(153,131,590)	(100,000,000)	(253,131,590)
1019000 Wildlife Conservation and Management	(159,687,151)	-	(159,687,151)
1211 State Department for Public Service and Youth	(122,300,931)	-	(122,300,931)
0710000 Public Service Transformation	(55,643,760)	-	(55,643,760)
0709000 General Administration Planning and Support Services	(16,752,779)	-	(16,752,779)
0711000 Youth Empowerment	(49,904,392)	-	(49,904,392)
1212 State Department for Gender	(49,396,855)	(600,000,000)	(649,396,855)
0911000 Community Development	-	(600,000,000)	(600,000,000)
0912000 Gender Empowerment	(28,202,298)	-	(28,202,298)
0913000 General Administration, Planning and Support Services	(21,194,557)	-	(21,194,557)
1221 State Department for East Africa Community	-	-	-
0305000 East African Affairs and Regional Integration	-	-	-

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
1222 State Department for Regional Affairs and Regional Integration	-	-	-
0305000 East African Affairs and Regional Integration	-	-	-
1013000 Integrated Regional Development	-	-	-
1251 Office of the Attorney General and Department of Justice	**(161,723,492)**	**(100,000,000)**	**(261,723,492)**
0606000 Legal Services	**(85,114,152)**	-	**(85,114,152)**
0607000 Governance, Legal Training and Constitutional Affairs	**(33,557,291)**	**(100,000,000)**	**(133,557,291)**
0609000 General Administration, Planning and Support Services	**(43,052,049)**	-	**(43,052,049)**
1261 The Judiciary	-	**1,500,000,000**	**1,500,000,000**
0610000 Dispensation of Justice	-	**1,500,000,000**	**1,500,000,000**
1271 Ethics and Anti-Corruption Commission	-	-	-
0611000 Ethics and Anti-Corruption	-	-	-
1281 National Intelligence Service	-	-	-
0804000 National Security Intelligence	-	-	-
1291 Office of the Director of Public Prosecutions	-	-	-
0612000 Public Prosecution Services	-	-	-
1311 Office of the Registrar of Political Parties	**(25,238,157)**	-	**(25,238,157)**
0614000 Registration, Regulation and Funding of Political Parties	**(25,238,157)**	-	**(25,238,157)**
1321 Witness Protection Agency	**(9,677,250)**	-	**(9,677,250)**
0615000 Witness Protection	**(9,677,250)**	-	**(9,677,250)**

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
2011 Kenya National Commission on Human Rights	**(10,653,834)**	-	**(10,653,834)**
0616000 Protection and Promotion of Human Rights	**(10,653,834)**	-	**(10,653,834)**
2021 National Land Commission	**(50,355,386)**	-	**(50,355,386)**
0113000 Land Administration and Management	**(50,355,386)**	-	**(50,355,386)**
2031 Independent Electoral and Boundaries Commission	-	-	-
0617000 Management of Electoral Processes	**12,054,700**	-	**12,054,700**
0618000 Delimitation of Electoral Boundaries	**(12,054,700)**	-	**(12,054,700)**
2041 Parliamentary Service Commission	**(646,867,912)**	**(600,000,000)**	**(1,246,867,912)**
0722000 Senate Affairs	**(395,251,162)**	-	**(395,251,162)**
0723000 General Administration, Planning and Support Services	**(251,616,750)**	**(600,000,000)**	**(851,616,750)**
2042 National Assembly	**(1,092,161,045)**	-	**(1,092,161,045)**
0721000 National Legislation, Representation and Oversight	**(1,092,161,045)**	-	**(1,092,161,045)**
2051 Judicial Service Commission	-	-	-
0619000 General Administration, Planning and Support Services	-	-	-
2061 The Commission on Revenue Allocation	**(13,639,391)**	-	**(13,639,391)**
0724000 Inter-Governmental Revenue and Financial Matters	**(13,639,391)**	-	**(13,639,391)**
2071 Public Service Commission	**(34,138,295)**	-	**(34,138,295)**
0725000 General Administration, Planning and Support Services	**(13,911,190)**	-	**(13,911,190)**

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
0726000 Human Resource management and Development	(9,557,139)	-	(9,557,139)
0727000 Governance and National Values	(10,669,966)	-	(10,669,966)
2081 Salaries and Remuneration Commission	(14,273,363)	-	(14,273,363)
0728000 Salaries and Remuneration Management	(14,273,363)	-	(14,273,363)
2091 Teachers Service Commission	(67,728,145)	-	(67,728,145)
0509000 Teacher Resource Management	(5,885,140)	-	(5,885,140)
0510000 Governance and Standards	(3,455,105)	-	(3,455,105)
0511000 General Administration, Planning and Support Services	(58,387,900)	-	(58,387,900)
2101 National Police Service Commission	(2,111,428)	-	(2,111,428)
0620000 National Police Service Human Resource Management	(2,111,428)	-	(2,111,428)
2111 Auditor General	(110,008,375)	-	(110,008,375)
0729000 Audit Services	(110,008,375)	-	(110,008,375)
2121 Controller of Budget	(15,534,086)	-	(15,534,086)
0730000 Control and Management of Public finances	(15,534,086)	-	(15,534,086)
2131 The Commission on Administrative Justice	(7,342,863)	-	(7,342,863)
0731000 Promotion of Administrative Justice	(7,342,863)	-	(7,342,863)
2141 National Gender and Equality Commission	(11,050,356)	-	(11,050,356)
0621000 Promotion of Gender Equality and Freedom from Discrimination	(11,050,356)	-	(11,050,356)
2151 Independent Policing Oversight Authority	(20,409,470)	-	(20,409,470)

SCHEDULE 1			
MDAS PROGRAMMES	**ADJUSTMENTS TO THE 2018/19 ESTIMATES**		
0622000 Policing Oversight Services	**(20,409,470)**	-	**(20,409,470)**
Total	**(9,063,228,418)**	**(28,540,434,000)**	**(37,603,662,418)**

ADOPTION SCHEDULE

COMMITTEE MEMBERS ATTENDANCE LIST

Budget & Appropriations Committee: Date. 19/9/18 Time..... Sitting: .....

Name		Signature
1.	**Hon. Kimani Ichung'wah, M.P- Chairperson**	
2.	**Hon. Moses Lessonnet, M.P- Vice Chairperson**	
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, M.P.	
11.	Hon. Moses Kiarie Kuria, M.P.	

Name		Signature
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, OGW, 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 Chepngetich Koskey, M.P.	
22.	Hon. James Gichuki Mugambi, M.P.	
23.	Hon. (Dr.) John K. Mutunga, M.P.	
24.	Hon. Mark Nyamita, M.P.	

Name		Signature
25.	Hon. Paul Abuor, M.P.	
26.	Hon. Qalicha Gufu Wario, M.P.	
27.	Hon. Mwaniki Wangari, M.P.	

MINUTES OF THE 46TH MEETING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD ON 19TH SEPTEMBER, 2018, AT THE BOMA HOTEL - NAIROBI, KIFARU CONFERENCE ROOM, AT 9:40 AM

PRESENT:

1) **Hon. Kimani Ichung'wah, M.P. - Chairman**
2) **Hon. Moses Lessonet, M.P**
3) Hon. Millie Odhiambo, M.P
4) Hon. (CPA) John Mbadi, M.P.
5) Hon. Jude Njomo, M.P.
6) Hon. (Dr.) Korei Ole Lemein, M.P.
7) Hon. Fatuma Gedi Ali, M.P.
8) Hon. Florence Chepngetich Koskey, M.P.
9) Hon. Paul Abuor, M.P.
10) Hon. Qalicha Gufu Wario, M.P.
11) Hon. John Muchiri Nyaga, M.P
12) Hon. Richard Onyonka, M.P.
13) Hon. Danson Mwashako, M.P
14) Hon. (Dr.) John K. Mutunga, M.P.
15) Hon. Mark Nyamita, M.P.
16) Hon. Wangari Mwaniki, M.P.
17) Hon. Samwel Moroto, M.P.
18) Hon. (Dr.). Gideon Ochanda, M.P.
19) Hon. James Gichuki Mugambi, M.P.
20) Hon. Badi Twalib Badi, M.P.
21) Hon. Moses Kiarie Kuria, M.P
22) Hon. Naisula Lesuuda , M.P
23) Hon. Christopher Wangaya Aseka , M.P

ABSENT WITH APOLOGY

1) Hon. James Gakuya, M.P.
2) Hon. (Dr.) Makali Mulu, M.P.
3) Hon. Benard Masaka Shinali, M.P
4) Hon. Sarah Paulata Korere, M.P.

COMMITTEE CHAIRS PRESENT

1) Hon. Paul Koinange, MP – Chairperson Departmental committee on Administration & National Security

2) Hon. Adan Haji Ali, MP – Chairperson Departmental Committee on Agriculture & Livestock
3) Hon. (Dr.) Rachael Nyamai, MP – Chairperson Departmental Committee on Lands
4) Hon. Julius Melly, MP - Chairperson Departmental Committee on Education & Research
5) Hon. Mitalel Ole Kenya, MP– Chairperson committee on Implementation
6) Hon. Omar Mohamed, MP – Chairperson Constituency Development Committee
7) Hon. Wiliam Kisang, MP – Chairperson Communication, Information & Innovation committee
8) Hon. Ali Wario, MP – Chairperson committee on Labor and Social Welfare
9) Hon. Gikaria David, MP – Chairperson committee on Energy
10) Hon. William Cheptumo, MP – Vice Chairperson Justice, and Legal Affairs committee
11) Hon. Kareke Mbiuki MP – Chairperson Environment and Natural Resources committee
12) Hon. Gladys Boss Shollei, MP – Chairperson committee on Delegated Legislation
13) Hon. Emanuel Wangwe, MP – vice chair committee on Agriculture & Livestock
14) Hon. Stephene Mule, MP – representative of the committee on Health
15) Hon. Ahmed Ibrahim, MP – Vice Chairperson committee on Public Investment Committee
16) Hon. Kioni Jeremiah – Chairperson Constitution Implementation Oversight Committee

INVITED MEMBERS OF THE PARLIAMENTARY SERVICE COMMISSION AND SECRETARIAT

1) Hon. Adan Keynan, MP – Commissioner Parliamentary Service Commission
2) Sen. G. M. Khaniri – Commissioner Parliamentary Service Commission
3) Sen. Beth Mugo – Commissioner Parliamentary Service Commission
4) Michael Sialai – The Clerk National Assembly
5) M.A Mohamed – Senior Deputy Clerk – Senate
6) C. Nyandiere – Director General
7) DR. George Wakah – Director Finance
8) Anthony Njoroge – Director Legal Services
9) Sheda Faryd – Deputy Director Parliamentary Service Commission Secretariat
10) Osbon Obayo – Senior Clerk Assistant
11) Joash K Ngeno – FCA, Public Service Commission Secretariat

PARLIAMENTARY BUDGET OFFICE / COMMITTEE SECRETARIAT

1) Ms. Phyllis Makau (OGW) – Director Parliamentary Budget Office (PBO)
2) Mr. Martin Masinde – Senior Deputy Director (PBO)
3) Mr. Robert Nyaga – Deputy Director (PBO)
4) Ms. Lucy Makara - Chief Fiscal Analyst
5) Ms. Millicent Makina – Principal Fiscal Analyst
6) Mr. Edison Odhiambo – Fiscal Analyst III
7) Mr. James Chacha - Fiscal Analyst III
8) Mr. Joram Barasa - Support Staff (PBO)
9) Mr. Benard Omondi - Serjent-At-Arms
10) Mr. Elijah Ichwara - Audio Officer

AGENDA

1) Preliminary & Adoption of the Agenda
2) Confirmation of the previous minutes
3) Consideration of Reports from Departmental Committees
4) A.O.B & Adjournment

MIN. NO. BAC/46/2018/01: PRELIMINARY / ADOPTION OF THE AGENDA

The Chair welcomed the members into the meeting and called the meeting to order at 9:40 a.m. Thereafter, Hon. (Dr.) Hon. (Dr.) Korei Ole Lemein, M.P. led the committee with a word of prayer. In his introductory remarks, the Chairman welcomed the chairs from the liaison committee in attendance, to the meeting. He proceeded to indicate the exceptional circumstances that are facing the processing of the Supplementary I Estimates of 2018 and noted that these arose from the changes occasioned by changes in the Finance Bill, 2018.

This therefore resulted in changes in the budget across different sectors that would require the attention of the presence of chairs of the necessary committees, in order to develop a combined effort towards the processing of the Supplementary I Estimate, 2018, and provide a unified approach to the House on the final committee report. In concluding, the chair reiterated the need to observe fiscal discipline and the need to adhere to medium to long-term fiscal planning.

The chairperson proceeded to call upon Director Parliamentary Budget Office to make her introductory remarks and commence presentation by the office on the unpacking of the Supplementary I Estimates, 2018 to the committee.

MIN. NO. BAC /46/2018/02: CONFIRMATION OF THE PREVIOUS MINUTES

No minutes were confirmed

MIN. NO. BAC/46/2018/03: PRESENTATION BY THE PARLIAMENTARY BUDGET OFFICE ON THE UNPACKING OF THE SUPPLEMENTARY I ESTIMATES, 2018

In the presentation by the Parliamentary Budget Office, the committee was informed that;

The estimates of revenue and expenditure for the financial year 2018/19, and those of Judiciary and Parliamentary Service Commission were submitted to the National Assembly by 30th April 2018 in line with Article 221 of the constitution. The revenue estimates, comprising of tax estimates, grants and loans, represented the projections for the resource envelope available to fully fund the proposed estimates of the National Government, the PSC and Judiciary and the county governments allocations as contained in the Division of Revenue Act 2018.

The procedure for review of the revenue and expenditure estimates of the National Government were followed, comprising the review by Departmental Committees, public participation, consideration of the report of the BAC on the estimates and finally the approval of the Appropriations Act 2018. The National Assembly made various changes to the budget comprising expenditure cuts and essential increases. The financing side comprised the estimates in the planned tax collections, Appropriations in Aid, new tax enhancing proposals in the Finance Bill, domestic and external loans, and grants. Any financing gap not covered through taxation would be financed through debt or through targeted austerity and prudency measures.

The approved estimates for the National government, consolidated fund services which includes debt payments and county government allocation are summarized as follows:

- Ksh. 1,698.558 billion for the National Government
- Ksh. 962.562 billion for the Consolidated Fund Services
- Ksh. 372.742 billion for County governments

It may be noted that the total estimates as submitted to the National Assembly by the National Treasury, the Parliamentary Service Commission and Judiciary amounted to Ksh. 1,736.316 billion broken down as Ksh. 1,676 billion for the national executive, Ksh. 17.768 billion for the Judiciary and Ksh. 42.548 billion for Parliament. Thus, given the values for the CFS and county allocation were not changed, then the variations by the National Assembly via the Appropriations Act were minimal.

The constitution grants the National Assembly the power to review the estimates of revenue and expenditure and may only be constrained by the financing or revenue estimates. The estimates of

revenue, grants and loans were equally approved by the National Assembly via the report of the BAC. It indicated that the Budget was to be financed by Ksh. 1,970 billion, comprising of:

- Domestic Tax and AIA amounting to Ksh. 1,923.34 billion and
- Grants amounting to Ksh. 47.037 billion.

Given the total approved expenditure was Ksh. 2,533.13 billion, then the fiscal deficit amounts to Ksh. 562.75 billion. This deficit will be financed through Ksh. 280.26 net domestic borrowing and Ksh. 282.49 net foreign borrowing which includes concessional and commercial loans.

To complete the financing element of the budget, the National Assembly approved the Finance Bill, 2018 with various measures which could affect estimated revenue collections. Notably, the House dropped the expected VAT on fuel (diesel, petrol and other related fuels). Similarly, the proposal to charge an affordable Housing levy on the salaries of workers and equivalent wage bill for employers was also dropped alongside the proposed plan to charge money transfers by banks for amounts exceeding Ksh. 500,000 a levy of 0.05%.

The preliminary estimates show that the VAT on fuel would have raised about Ksh. 43.55 billion, while the levy on housing would have raised about Ksh. 19.7 billion. A careful review of the estimates of revenue book shows that, the revenue estimates may have underestimated the full revenue impact of VAT and other revenue measures in the Finance Bill by at least Ksh. 20 billion. This means that if the estimates of revenue for VAT and other revenue measures in the Finance Bill had been taken into account, the total revenue estimates could have been higher than 1,923.34 billion.

On the overview of Supplementary I Estimates 2018/2019, the committee was informed that:

The Supplementary I Estimates proposes a reduction in the total budget estimates by Ksh. 55.1 billion (1.8 percent of the original budget); of which Ksh. 11.724 billion is from the recurrent budget (1.1% of the original budget) and Ksh. 34.327 billion is from the development budget (5.1% of the original budget). Under the new changes, the recurrent budget constitutes 62.27% of the ministerial

expenditure and the development budget comprises 37.72% of ministerial expenditure. A reduction of Ksh. 9.04 billion from the county allocation is also observed.

It should be noted that a review of the overall Judiciary Budget indicated there are no changes in the Supplementary I Estimates 2018 but reallocations. These reallocations include the reduction of domestic travel, foreign travel and training expenses by Ksh. 3.5 million, Ksh. 4.5 million and Ksh. 3.4 million respectively and an increase to specialized materials and supplies, refurbishment of buildings and purchase of vehicles and other transport equipment's by Ksh. 500,000, Ksh. 7.4 million and Ksh. 3.5 million. The increases and reductions cancel out hence no observed changes in the overall budget.

On the State of the Economy Underpinning the Supplementary I Estimates, 2018, the committee was informed that;

The Inflation rate is low but there are significant downside risks. Inflation rate was low at 4.04 percent for the month of September 2018 but is anticipated to go higher on account of higher electricity prices following revision of electricity tariffs, dynamics in the oil market that may push crude oil prices upwards, subjecting Kerosene to higher excise duty as well as the anti–adulteration levy and the implementation of fuel VAT.

The exchange rate is stable and appears likely to remain so but maybe vulnerable to balance of payment shocks. It was indicated that Kenya has done reasonably well in building its foreign exchange reserves which are currently estimated at 8,536 million USD (5.69 months of import cover). This is mostly attributed to diaspora remittances which have increased significantly. At the end of June 2018, diaspora remittances were estimated at 266 million US dollars up from 142.4 million US dollars in December, 2017.

The challenge however, will be in retaining the forex reserves at a high level. The lapsing of the IMF facility leaves forex reserves as the only buffer protecting the shilling. These forex reserves are subject to risks should export earnings tourism earnings decline given the country's narrow export base and the business as usual approach in the tourism sector. This situation is made more

precarious by a high import bill mostly on account of fuel importation, importation of machinery and other capital equipment for ongoing capital projects. It should be noted also that external loans falling due this year may require drawdown from forex reserves.

The recent statistics estimate the country's nominal debt at KSh. 5.04 trillion. This comprises Ksh. 2.56 trillion (51%) in external debt and Ksh. 2.48 trillion (49%) in domestic debt. At this new level, nominal debt will amount to 58 percent of GDP in 2018. In Net Present Value (NPV) terms, public debt is estimated at 49% against IMF threshold of 74%. It should be noted however, that the Kenyan Public Finance Management Framework sets an NPV of debt to GDP ratio limit of 50% indicating that current levels are one percentage point from breaching this threshold. Already, in the current financial year, interest payments are due on the following; New Loans (Ksh. 17.9 billion), China EXIM and Development Banks (Ksh. 26 billion), Debut International Sovereign Bond -USD 2.75 BN (Ksh. 19.4 billion), TDB Syndicated Loan (Ksh. 13.1 billion), CITI Bank Syndicated Loan (Ksh. 7.9 billion) and the 2018 International Sovereign Bond (Ksh. 15.5 billion). On the other hand, the following debts are maturing: Debut International Sovereign Bond (USD 2.75 BN) Ksh. 78.3 billion, the Standard Chartered Syndicated loan (Ksh. 78.7 billion), IDA (Ksh. 14.6 billion), China (Ksh. 8.4 billion), France (Ksh. 7.6 billion) and Japan (Ksh. 5.6 billion).

These, as it was indicated, will place a huge demand on the country's forex reserves and may require rollover or refinancing to avert a debt crisis, invariably lead to higher interest payments. Given the lackluster performance of most forex earning activities, a major drawdown may leave the shilling exposed to the elements. Balance of payments problems occur when a country is unable to pay for essential imports or service its external debt repayments. Should the shilling come under significant pressure and depreciate, it will also lead to an increase in value terms, of Kenya's stock of dollar denominated loans rendering the situation even more precarious.

The private sector credit growth remains at low levels. Under the current interest capping regime, the growth of private sector credit has averaged less than 4 percent with a peak witnessed in December 2017 at 3.9 percent. To increase credit availability, In March, 2018, the Central Bank Rate was lowered by 100 basis points to stand at 9.5 percent. However, growth in private sector credit is

still not within the desired range of above 10 percent· Banks are still not lending much to Small & Medium Enterprises (SMEs) due to the credit risks involved. The small and medium enterprises have borne the greatest impact of the interest rate capping law.

On the key proposed changes under the Supplementary I Estimates, the following was highlighted;

A. Under recurrent expenditure, the committee was informed that;

The Total changes in recurrent expenditure estimate amounts to a reduction of Ksh. 11.72 billion. The following changes have been effected across the board for all Ministries, Departments and Agencies. Notable reductions included the following:

a) Domestic Travel and Subsistence and other transportation costs - 16 – 30%
b) Foreign Travel and Subsistence and other transportation costs - 15 – 40%
c) Printing, Advertising and Information Supplies and Services - 15%
d) Hospitality Supplies and Services - 10 – 30%
e) Training Expenses - 10 – 40%
f) Other Operating Expenses - 10 – 30%
g) Purchase of specialized plant, equipment and machinery - 30%

As a result of the reductions, the committee was informed that the following issues are noted under the recurrent budget, that;

a) The changes in the recurrent budget have been effected across the board for all MDAs without any due regard or assessment on how this will affect the MDAs operations. Indeed, the cuts are being effected on the itemized budget as opposed to pursuing a program based approach which would have given clarity to the impact of each cut.
b) The Parliamentary Service Commission bore the brunt of the cuts with most of these being effected at the upper level.

c) The Judicial Service Commission is the only government organ with an increase in the recurrent budget for purchase of vehicles, refurbishment of buildings and specialized materials and supplies.

B. Under the development Expenditure, that;

The total change in development expenditure estimates is a reduction of **Ksh. 34.327 billion**. The reductions in areas such as;

a) The State Department for University Education will see a reduction worth Ksh. 229 million. Some of the affected institutions including; Technical University of Mombasa - development of a masterplan (Ksh. 20 Million), Kibabii University College - proposed Phase II of Education Tuition Block & Associated Works (Ksh. 83 Million) etc.
b) The National Treasury estimates will reduce by Ksh. 6 billion with affected sectors including the Equalization Fund (Ksh. 3.8 Billion) and Strategic Response to Public Initiatives (Ksh. 2.209 Billion)
c) State Department for Infrastructure will see a reduction of Ksh. 8.7 billion from the Critical Emergency Intervention Roads
d) State Department for Information, Communication, Technology and Innovation will reduce by 5.9 Billion from Konza complex and the Digital Literacy Program that will reduce by Ksh. 400 million and Ksh. 5.5 million, respectively
e) Parliamentary Service Commission will be reduced by Ksh 600 million i.e. Construction of Multi-Storey Office Block (Ksh. 400 Million) and Installation of Intergrated Security System (Ksh. 200 Million)
f) State Department for Petroleum will reduce by Ksh. 1.5 billion primarily affecting Exploration and Distribution of Oil and Gas - LPG Distribution and Infrastructure

As a result of the reductions, the committee was informed that the following issues are noted under the recurrent budget, that;

a) The LPG distribution and infrastructure project was expected to facilitate access of LPG by the low income households in order to minimize use of kerosene and wood fuels. Given the increase in Excise Duty on Kerosene and the proposed Kerosene adulteration levy, the reduction of Ksh. 1.5 billion from this project is likely to reduce accessibility of low income households to LPG gas cylinders leaving wood fuel and charcoal as the only viable options.

b) Additional funding of Ksh. 1 billion was added to the Last Mile Connectivity Program during the Committee Review of the proposed 2018/19 budget estimates due to indications that the project was underfunded. In July 2018, AfDB (one of the donors providing counterpart funding), pledged to double funding for the project during its second launch bringing the total funding from the AfDB by Ksh. 15 billion citing Government's commitment to the project. The reduction of Ksh. 1 billion from this project could possibly result in scaling back of donor funding.

c) Deducting money from the Equalization Fund has been a recurring matter of supplementary budgets. The amount currently provided in the budget excludes the cumulative amount due to the Equalization Fund that has not been utilized. Despite the implementation challenges that have been facing the fund, the constitution clearly states that any unexpended money in the equalization fund should remain in that fund for use in subsequent years.

d) The tendency to routinely reduce equalization funds implies a lack of commitment to its purpose and there are no indications that the unutilized funds from previous financial years will ever be reinstated in the fund. It should be noted that the Estimates of revenue allocated to and expenditures projected from the Equalization Fund for 2018/2019 were not submitted to Parliament as required under article 216(4) of the Constitution and section 39(b) (ii) of the Public Finance Management Act due to the marginalization policy lacuna.

e) The deduction of funds meant for critical needs identified by the public during public hearings on the budget may make it difficult for the Budget Committee to conduct subsequent public hearings as the public may not see value in the exercise.

f) Ksh. 8.7 billion allocated for infrastructure rehabilitation following the damage caused by floods has been deducted and there is no clear roadmap on how the damaged roads will be handled. Given reports that the October to December Short rains could be above normal, roads already damaged by floods may have an even worse outcome.

g) The CDF as well as the Affirmative Action Fund touch are tools of economic and social development and a reduction in their resource allocation may therefore impact negatively on livelihoods.

h) The reduction in funds under the University Education programme may result in the accumulation of pending bills for some of these projects

i) The reduction in funds for the laptop programme is also a recurring matter in the supplementary budget and implies that the project may never be fully implemented.

j) Konza complex was allocated Ksh. 400 million in the budget for finalization so that the Ministry moves to Konza. From the reduction, It is not clear whether the government still intends to pursue this outcome.

k) The reduction of Ksh. 400 million from the multi-storey office block of parliament and Ksh. 200 million from the installation of intergrated security system will derail completion of these projects.

On the financing of the Supplementary I Estimates, 2018

The committee was informed that;

To ensure that the budget is fully financed, the President, through a memorandum on the Finance Bill 2018, proposed a raft of measures for re-consideration by Parliament. These are as follows:

a) Reduction of VAT on petroleum products from the standard 16% to 8%.
b) re-introduction of excise duty on fees for banks and financial services at 20% from the current 10%
c) Telephone and data services at 15% from 10%
d) mobile money transfers services from 10% to 20%

e) Excise duty on fees charged by financial institutions from 10% to 20%
f) re-introduction of tax on sugar confectionary
g) re-introduction of tax on exportation of copper waste and scrap at 20%
h) contribution of 1.5% of basic pay each for employee and employer to be paid into the National Housing Development Fund
i) Reduction of gambling taxes from 35% to 15%
j) Introduction of anti-adulteration levy on the importation of illuminating kerosene

On provision of financial resources to County governments

The committee was informed, that;

a) As earlier indicated, there is a proposal to reduce funding to county governments by Ksh. 9.04 billion. In addition, it was indicated that counties have been facing delays in release of exchequer issues which contravenes Article 219 of the Constitution which provides that the county share of revenue raised by the national government shall be transferred to the county without undue delay and without deduction.
b) There is need to ensure that counties are able to perform the functions allocated to them and this can be achieved through adequacy and reliability/stability/predictability of county resource allocations. This is because counties are unable to adequately budget and plan as their revenue flows from the national government remain uncertain. In addition, there may be need for further legislative processes such as amendments to the Division of Revenue Act and supplementary appropriation which may derail the county budgeting process. In budgeting, predictability is key.

Emerging Issues

In concluding the presentation, the committee was informed that key emerging issues for its concern included;

a) The National Treasury stated that the amendments in the Finance Bill, 2018, led to the reduction in projected revenue, however, Bill, only constitutes a portion of expected revenue collection, or the measures to raise additional revenue and does not comprise the full tax kitty raising the question of whether the Finance Bill, 2018 measures were fully costed by the National Treasury and if those estimates were fully integrated in the revenue estimates submitted to National Assembly in April 2018. Further, the full revenue impact of amendments introduced by the National Assembly and now those co0ouh78ntained in the Presidential memorandum are uncertain. Thus, to keep the expenditure and financing framework at balance, then the expenditure estimates may require to be reduced to the extent of the estimated revenue impact.

b) The Supplementary I Estimates, 2018, propose a reduction of Ksh. 55.1 billion (reduction of 1.8% of total budget) comprising of Ksh. 9.04 billion removed from the shareable revenue allocated to counties through the Division of Revenue Act, 2018 and Ksh. 46.1 billion reductions from the National Government.

c) The Supplementary I Estimates,2018, propose to reduce recurrent expenditure by Ksh. 11.724 billion and the development by Ksh. 34.327 billion which implies that the Recurrent and development expenditures will decline by 1.1 % and 5.1%, respectively.

d) Even though the share of development spending to total ministerial expenditure is 38%, well above the 30% minimum threshold, a larger reduction of development spending is inconsistent with the need to reign on the less productive recurrent spending.

e) The expenditure cuts under the Supplementary I Estimates, 2018, are made at the item level which is inconsistent with the Program Based Budget approach, begging the question how the cuts at item level will be linked to the performance targets.

COMMITTEE DELIBERATIONS

During the committee deliberation the following issues arose;

1) The committee noted that any expenditure that is not financed by ordinary revenue will expand the budget deficit subsequently increasing public debt, therefore the increase in expenditure will

have to be addressed buy reduction from other sections for the fiscal deficit is to be kept within target and preserve the fiscal framework.

2) The reductions under the State Department for Information, Communication, Technology and Innovation, will affect completion of facilities at the Konza City while the reduction of allocations to the Digital Literacy Program by Ksh. 5.5 billion could result an unfair distribution of laptops in the country and affect quality of education in different regions.
3) The memorandum had linked the Finance Bill, 2018, to the approval of the Supplementary I Estimates, 2018, and therefore the approval of the supplementary appropriation bill will have positive implications on the Finance Measures for the FY 2018/19.
4) The law provides that the allocation to the National Government Constituency Development Fund should amount to 2.5% of sharable revenue it was therefore recommended be applied accordingly.
5) That the reductions under the state department for Agriculture, should be applied in manner that the Ksh. 130 million reduction from the Nutrition Sensitive Program is limited to 60 million and the balance derived as follows:
   - Strengthening mechanization, head 1037 – Ksh. 20 million
   - Mechanization of agriculture development project head1060 – Ksh. 50 million
6) On the KERRA, KENHA, and KURA have access to the Road Maintenance Levy Fund respective allocations and therefore the deduction of the Ksh. 8.7 billion meant from the maintenance of roads damaged by the long rains will be able to be catered for. It was also noted there were negotiations with the world bank towards providing necessary financing to the initiative.
7) It was noted that forex reserves are highly dependent of diaspora remittances, this therefore implies exposure to forex supplies primarily if there is a shock from areas of diaspora origin such as Europe and north America. This shock could be exacerbated if the IMF standby facility is not available, and there exists an unfunded and expanding budget deficit.

MIN BAC/46/2018/04: PRESENTATION BY THE PARLIAMENTARY SERVICE COMMISSION

During presentation on the overview, the committee was informed that;

In order to effectively discharge its financial operations under the Public Finance Management Act 2012 and its supporting regulations, parliament programs are funded though the following two Votes:

1. Parliamentary Service Commission Vote 2041. This Vote covers both the Senate and Parliamentary Joint Services; and
2. The National Assembly Service Vote 2042 to deal with financial matters of the National Assembly matters.

The Parliamentary Service Commission tabled its Budget Estimates for the Financial Year 2018/19 in the National Assembly on 26th April 2018 pursuant to Section 37 (3) of the Public Finance Management (PFM) Act 2012. In the tabled Budget Estimates. The Parliamentary Service Commission had made a budget request of KES 42.5 Billion.

On 13th June 2018, the National Assembly appropriated to the two Votes under the Parliamentary Service Commission KES 36.8 Billion to fund its three programs translating to 86.58% of the total of KES 42.5 Billion that had been sought to effectively fund its operations.

On 18th September 2018, the Supplementary I Estimates for the Financial Year 2018/19 was tabled in the National Assembly. The estimates were subsequently committed to the Budget and Appropriations Committee which subsequently invited the Commission to appear before it in order to engage on the overall implication of the proposed adjustment as indicated in Supplementary I Estimates, 2018, on Parliament's output.

On Deficit Financing, it was indicated that;

The Parliamentary Service Commission appeared before the Budget and Appropriation committee of the National Assembly on 30th May 2018 and presented its financial requirements totaling to KES 42.5 Billion. This included additional funding requirement of KES 10.3 Billion however the funding

deficit translating to Ksh. 5.62 Billion forced the Parliamentary Service Commission to rationalize its budget downwards to a total of Ksh. 36.8 Billion for all the three programs.

On the implications of the of Proposed Supplementary I Estimates, 2018, the committee was informed that;

The National Treasury has proposed a raft of measures to rationalize downwards the budget for the two Votes under Parliament. This is intended to lead to a total budget reduction of recurrent expenditure of KES 1.75 Billion under Vote 2041 and KES 2.65 Billion under Vote 2042. On the development budget, the proposed reduction is KES 600 million under Vote 2041 translating to 22.22% budget reduction.

Under the National Assembly Vote 2042, the proposed budget reduction in areas key to operations of the National Legislation, Representation and Oversight Program included reduction of domestic travel by Ksh. 892 million to Ksh. 2.65 billion, reduction of foreign travel allocations by Ksh. 726.8 million to Ksh. 1.09 billion, the reduction of allocations to the Constituency Office Operations by 611 Million to 1.43 billion.

On the presentation on the effects of supplementary reductions in the allocations to the National Legislation, Representation and Oversight Program, the committee was informed, that;

That Members of the National Assembly will definitely be affected in all their three core Constitutional Mandates. Some of the critical areas which will be affected include:

a) The proposed 25% reduction in domestic travel budget could imply that weekly mileage reimbursements for the Members of the National Assembly will have to be reduced by 25%. This implies that Members of the National Assembly will not have the capacity to travel to their respective Constituencies for a total of one quarter of a financial year thereby significantly affected Members ability to discharge their constitutional mandate of representation. The Salaries and Remuneration Commission had already provided for

mileage reimbursement for a period not exceeding 52 weeks for each Member of Parliament per financial year.

b) The work of the National Assembly involves a lot of domestic travel to carry out oversight as per constitutional requirement. A 25% reduction will imply reducing the oversight work by 25% of what was envisaged in the work plan. This will hamper the ability of the National Assembly to collect relevant data to support their legislation and oversight work, write reports within time allowed in the *Standing Orders* due to budget constraints;

c) As a response to Members' concern that they are unable to manage *Constituency Office* due to reduced allocation office operations, the Commission recently increased office allocations to Constituency Office operations. A 30% reduction therefore will have far reaching implications. Some of these will include the inability to finance the following:

   a. Reduction of KES 600,000 allocation for purchases of furniture and equipment in the Offices. The current computers used are old and less functional besides being unable to keep up with current technology. This will further affect Members ability to discharge their duties due to poor communication;

   b. Some landlords had already increased rent for the Constituency Offices.

d) Parliament has international obligations arising from membership to Key international bodies. These obligations are planned in advance. They are already in the work plan and commitments have been made in advance. A 40% cut will really not only embarrass Parliament but also affect commitments already done.

On the presentation on the effects of supplementary reductions in the allocations to the Senate Affairs program and General Administration, planning and Support program, the issues were highlighted;

1) The committee was informed that under the recurrent expenditure;

That proposed budget rationalization in areas critical to operations of the Senate Service and the General Administration, planning and Support programs indicate that the reductions that if effected, will significantly affect operations of the two programs. These include the reduction of the domestic

travel by Ksh. 402.8 million to Ksh. 939 million, reduction of the foreign travel by Ksh. 290.8 million to Ksh. 290.8 million. The proposed rationalization steps are expected to have significant negative impact in the implementation of the work plan in the two programs under Vote 2041. The Senate will also be affected in its operations.

That as a result some of the critical areas affected include the following:

a) There is a proposed 30% reduction in domestic travel in the Senate Affairs Programme. The immediate implication of this proposal is to reduce mileage reimbursement to Senators by 30% of the current voted provisions. This implies that Senators will not be able to travel to their respective Counties for a total of more than one quarter of a financial year thereby significantly affecting Senator's ability to discharge their constitutional mandate of representation;
b) The work of the Senate involves a lot of domestic travel to carry out oversight as per constitutional requirement. A 25% reduction will imply reducing the oversight work by 25% of what was envisaged in the work plan. This will hamper the ability of the Senate to collect relevant data to support their legislation and oversight work and write reports within time allowed in the *Standing Orders* due to budget constraints;
c) As a response to Members' concern that they are unable to manage *Constituency Office* due to reduced allocation office operations, the Commission recently increased office allocations to Constituency Office operations. A 30% reduction will therefore have far reaching implications. Some of these will include the inability to finance the following:
    i. Reduction of KES 600,000 allocation for purchases of furniture and equipment in the Offices. The current computers used are old and less functional besides being unable to keep up with current technology. This will further affect Members ability to discharge their duties due to poor communication;
    ii. Some landlords had already increased rent for the County Offices.
d) Parliament has international obligations arising from membership to key international bodies. These obligations are planned in advance. They are already in the work plan and commitments have been made in advance. A 40% cut will not only embarrass Parliament but also affect commitments already done.

2) The committee was informed that *Development expenditure budget;*

In the General Administration, planning and Support programme under Vote 2041, the Parliamentary Service Commission had sought KES 3.20 billion but was funded at KES 2.7 Billion resulting in KES 500 million reduction. The proposal now is to reduce the funding by KES 600 million. It is critical to note that the Commission has two major ongoing development projects namely the Multi Storey Office Block and the Integrated Security Management System (ISMS). These two projects are extremely critical to Parliament in the following ways:

a) The Multi Storey Office Block is meant to solve the perennial challenge of lack offices for Members of Parliament and Staff. The Commission currently pays colossal amounts to rent offices for some Members and staff. Completion of this project will ease the burden to tax payers and enhance effectiveness of Parliament to deliver on their constitutional mandate. The Commission recently advertised and has awarded the sub-contract for inter fit out works. A budget reduction at this point will be dangerous to completion of this project. Further, lack of honoring payment certificates as they fall due will lead to interest on delayed payments and foreign currency fluctuation risk due to contractual obligation. This will lead to a higher tax burden to the tax payer;

b) The ISMS project is critical given the ever present security threat to the House of Parliament and the possible resulting costs should Parliament experience any terrorism related attack. This is an on-going project that the Commission has been implementing since the financial year 2017/18. This is part of the wider master plan of having a Parliamentary Square in order to enhance security of Members and staff of Parliament. Rationalization of funding development projects will hamper completion of this project and make Parliament to continue being vulnerable to security attacks.

The Parliamentary Service Commission requests the Budget and Appropriations Committee to note that Parliament had already ceded KES 600 million at the Budget Estimated stage. Any further deductions will affect Parliament in a severe way besides causing continued burden to the tax payer. Allowing these projects to continue will be the most prudent decision.

His Excellency the President had issued an *Executive Order* stopping new projects and directing completion of ongoing projects. This proposed reduction of the development projects is inconsistent to that *Executive Order.*

On the observations made by the Parliamentary Service Commission, the presentation indicated that;

a) Based on its original resource requirements, Parliament already had a funding deficit of 13.4% translating to KES 5.6 Billion as explained above. This funding deficit problem was further exacerbated by pending bills since they form a first charge on the budget.

b) Although verification of pending bills is still on-going, preliminary report indicates that pending bills as at 30th June 2018 totaled KES 126.5 Million under development expenditure and KES 272.7 Million for recurrent expenditure under Vote 2041. Further, pending bills total to KES 268.73 million under Vote 2042. These amounts will further constraint our budget under both foreign and domestic travel budget. If the National Assembly goes further to implement the proposed budget rationalization of KES 5 Billion, it means that Parliament will have a total budget constraint of KES 11.2 Billion from its original resource requirements translating to 26.4% reduction in the funding of what Parliament had originally requested.

c) There is a proposed reduction of 40% of the Budget for the Centre for Parliamentary Studies and Training (CPST). Given that the training is the core function of the CPST, if this proposal is carried, it will significantly interfere with the ability of the CPST to carry out its core mandate for more than half of the financial year based on its work plan. Further, CPST will not be able to implement its mandatory promotional courses recently approved by the Commission and in the long run interfere with staff promotions in future;

d) An analysis of the budget books for the Supplementary I Estimates for the Financial Year 2018/19 tabled in the National Assembly On 18th September 2018 indicates that there was lack of equality in rationalization of the budget across Ministries, Department and Agencies (MDAs). Parliament has the highest proposed reduction in its budget i.e. domestic travel for parliament was reduced between 25% to 30% while the reduction of MDAs 16%, or foreign travel that was reduced by parliament while that for MDAS was 15%.

COMMITTEE DELIBERATIONS

The chairpersons opened the meeting for plenary, the following issues were discussed:

That:

i. A comparison between parliamentary cuts under the supplementary estimates indicate that resource cuts to parliament are heavier than those of other Ministries and state departments. For example, domestic travel to parliament had been generally reduced by 25% while that for MDAs are reduced by 16%, or Foreign travel expenditure for parliament was reduced by 40% while the average reduction for the MDAs was 15%. This was noted that this could have heavy implications on the oversight role of parliament.

ii. There was no consultation on the preparation of the supplementary estimates that affect Parliament, this lead to low maintenance and as a result depreciation effects on parliamentary assets was beginning to affect parliamentary performance and image. The need to modernize parliament was also noted as a factor for consideration.

iii. It was noted that over Ksh. 180 million is utilized to fund members of parliament for rented offices. This had seen an increase since the enactment of the new constitution of which Ksh. 3 billion had been expended since the 11th parliament by the commission on rent on average. With the reduction on allocation towards completing the office block could result in Ksh. 500 million in rent charges in the future and miss out on the savings that could be taken advantage of. In addition, the reduction in resources could increase pending bills owed and therefore resultant charges.

iv. That the delay in payment for ISMS system leads to payment of extra interest while movement of exchange rate leads to increase the project costs. This therefore was noted that it will affect parliaments security facilities further having noted that parliament does not have a CCTV system and security satiation.

v. Given that the executive order required that ongoing projects be prioritized as opposed to new projects, as such parliament projects are all ongoing projects and should thus be prioritized for financing

vi. It was indicated that as the rationalization in the government is cross cutting and therefore parliament would have to rationalize its expenditure in order to facilitate fiscal planning and budget objectives.

vii. It was proposed that the new office building under construction several floors could be completed and occupied in order to save on rent

viii. There is need to dedicate finances to strengthen the budget monitoring role for parliament along the developed of the budget monitoring framework and therefore the need to strengthen the Budget Office to enhance the role of parliament effectively.

ix. Asset management was noted as a matter of concern i.e. damaged vehicles lying unattended within precincts of parliament as well as furniture is indicate wastage of resources and lack of maintenance. It was further proposed that furniture purchase and procurement should be sourced locally as opposed from foreign companies but following procurement laws.

- This it was indicated that there is lack of office space which will be elevated when the new building is completed however the committee indicated that they will embark on addressing the issues raised and a directive for action was issued to the Clerk, Director Finance and the Director Joint Services. The would further address other issues such as of status of personnel facilities such as washrooms etc.

x. The commission was challenged to organize quarterly meetings with Members of Parliament and engage them on the on the performance of the Parliamentary Service Commission.

MIN BAC/46/2018/5: ANY OTHER BUSINESS & ADJOURNMENT

There being no other business, the meeting was adjourned at 1:40 pm, till 2:40 pm.

SIGNED

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HON. KIMANI ICHUNG'WAH, M.P.

CHAIRMAN, BUDGET AND APPROPRIATIONS COMMITTEE

19/9/2018

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DATE

MINUTES OF THE 49TH MEETING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD ON 19TH SEPTEMBER, 2018, AT THE BOMA HOTEL - NAIROBI, KIFARU CONFERENCE ROOM, AT 9:30 PM

PRESENT

1) **Hon. Kimani Ichung'wah, M.P. - Chairman**
2) **Hon. Moses Lessonet, M.P**
3) Hon. Millie Odhiambo, M.P
4) Hon. Jude Njomo, M.P.
5) Hon. Samwel Moroto, M.P.
6) Hon. Moses Kiarie Kuria, M.P
7) Hon. Fatuma Gedi Ali, M.P.
8) Hon. Florence Chepngetich Koskey, M.P.
9) Hon. Paul Abuor, M.P.
10) Hon. Qalicha Gufu Wario, M.P.
11) Hon. John Muchiri Nyaga, M.P
12) Hon. Danson Mwashako, M.P
13) Hon. Mark Nyamita, M.P.
14) Hon. James Gichuki Mugambi, M.P.
15) Hon. Naisula Lesuuda , M.P

ABSENT WITH APOLOGY

1) Hon. (CPA) John Mbadi, M.P.
2) Hon. James Gakuya, M.P.
3) Hon. (Dr.) Makali Mulu, M.P.
4) Hon. Benard Masaka Shinali, M.P
5) Hon. Sarah Paulata Korere, M.P.
6) Hon. Richard Onyonka, MP.
7) Hon. Badi Twalib Badi, M.P.
8) Hon. (Dr.). Gideon Ochanda, M.P.
9) Hon. (Dr.) Korei Ole Lemein, M.P.
10) Hon. Christopher Wangaya Aseka , M.P
11) Hon. (Dr.) John K. Mutunga, M.P.
12) Hon. Wangari Mwaniki, M.P.

PARLIAMENTARY BUDGET OFFICE / COMMITTEE SECRETARIAT

1) Ms. Phyllis Makau (OGW) – Director Parliamentary Budget Office (PBO)
2) Mr. Martin Masinde – Senior Deputy Director (PBO)
3) Mr. Robert Nyaga – Deputy Director (PBO)

4) Ms. Lucy Makara - Chief Fiscal Analyst
5) Ms. Millicent Makina – Principal Fiscal Analyst
6) Mr. Edison Odhiambo – Fiscal Analyst III
7) Mr. James Chacha - Fiscal Analyst III
8) Mr. Joram Barasa - Support Staff (PBO)
9) Mr. Benard Omondi - Serjent-At-Arms
10) Mr. Elijah Ichwara - Audio Officer

AGENDA

1) Preliminary & Adoption of the Agenda
2) Confirmation of the previous minutes
3) Consideration of Reports from Departmental Committees
4) A.O.B & Adjournment

MIN BAC/49/2018/01: PRELIMINARY / ADOPTION OF THE AGENDA

The Chair welcomed the members into the meeting and called the meeting to order at 9:30 p.m. Thereafter, Hon. Hon. Naisula Lesuuda, M.P. led the committee with a word of prayer. In his introductory remarks, the Chairman thanked the committee members on their commitment to seeing the Supplementary I Estimate, 2018, review process, come to a successful end.

MIN BAC /49/2018/02: CONFIRMATION OF THE PREVIOUS MINUTES

i. 46th Sitting on 19th September, 2018, Morning Session was proposed by Hon. Moses Lessonet, M.P. and seconded as true reflection by Hon. John Muchiri Nyaga, M.P

ii. 47th Sitting on 19th September, 2018, Afternoon Session was proposed by Hon. Qalicha Gufu Wario, M.P. and seconded as true reflection by Hon. James Gichuki Mugambi, M.P.

iii. 48th Sitting on 19th September, 2018, Evening Session was proposed by Hon. Fatuma Gedi Ali, M.P. and seconded as true reflection by Hon. Jude Njomo, M.P.

MIN BAC/49/2018/03: ADOPTION OF THE COMMITTEE REPORT ON THE SUPPLEMENTARY I ESTIMATES, 2018

The committee adopted the Report on the Supplementary I Estimates, 2018/19, as follows;

I. OVERVIEW OF THE SUPPLEMENTARY ESTIMATES FOR 2018/2019

Mr. Speaker, the Supplementary Estimates for 2018/19 comes at a time when the economy is experiencing significant fiscal pressures on account of huge budget expenditures and projected revenue shortfall. The approved estimates for financial year 2018/2019 were estimated at Ksh. 1,698.56 billion for the National Government, Ksh. 372.74 billion for the County governments and Ksh. 962.56 billion for the Consolidated Fund Services. This was to be financed through domestic tax and AIA amounting to Ksh. 1,923.34 billion, and grants amounting to Ksh. 47.037 billion. The fiscal deficit for 2018/19 is projected at Ksh.562.75 billion to be financed through domestic and foreign borrowing.

Mr. Speaker, on account of the expected revenue shortfalls amidst expenditure pressures, the supplementary budget proposes a reduction in the total budget estimates by **Ksh. 55.1 billion** of which **Ksh. 11.724** billion is from the recurrent budget and **Ksh. 34.327** billion is from the development budget. Under the new changes, the **recurrent budget constitutes 62.27%** of the ministerial expenditure and the **development budget comprises 37.72%** of ministerial expenditure.

Mr. Speaker, the financing of the supplementary budget comprises expenditure cuts in various votes and programmes in the light of projected lower revenues occasioned by the changes in the Finance Bill approved by the National Assembly, and the full revenue impact of the memorandum of the president on the Finance Bill 2018.

Mr. Speaker, there is also a proposal to reduce funding to county governments by Ksh. 9.04 billion. This will require a further legislative process in the form of amendments to the Division of Revenue Act and supplementary appropriation to effect such a change. At this juncture **Mr. Speaker,** I wish to point out that over the previous financial year, counties have been facing challenges with regard to delayed exchequer releases. This uncertainty of revenue flows from the national government has

made it difficult for counties to adequately plan their budgets. **Mr. Speaker,** in budgeting, predictability is key. We need to ensure that counties are able to perform the functions allocated to them and this can be achieved through adequacy and predictability of county resource allocations. I urge the National Treasury to endeavour to release funds to counties in a timely manner so as to enable them to plan adequately.

II. STATE OF THE ECONOMY UNDERPINNING THE SUPPLEMENTARY BUDGET

Mr. Speaker, the macroeconomic fundamentals remain stable but are facing significant downside risks. Inflation rate was low at 4.04 percent for the month of August 2018 but is anticipated to go higher on account of higher electricity prices following revision of electricity tariffs, dynamics in the oil market that may push crude oil prices upwards, subjecting Kerosene to higher excise duty as well as the anti–adulteration levy and the implementation of fuel VAT. The Exchange rate is also stable and appears likely to remain so but may come under pressure if there is a significant drawdown of forex reserves. **Mr. Speaker,** this situation is made more precarious by the lapsing of the IMF facility, which leaves forex reserves as the only buffer protecting the shilling. Furthermore **Mr. Speaker**, private sector credit growth remains at low levels though this may improve on account of the lowering of the CBR to 9 percent as well as the removal of the deposit floor allowing banks a wider margin to fix their lending rates.

Mr. Speaker, I wish to also point out that debt levels are estimated to be within manageable levels but further debt accumulation may result into a crisis. It should be noted that in the current financial year, there are several debts maturing and numerous interest payments which may require rollover or refinancing to avert a debt crisis. Should the shilling come under significant pressure and depreciate, it will also lead to an increase in value terms, of Kenya's stock of dollar denominated loans.

III. KEY PROPOSED CHANGES UNDER THE SUPPLEMENTARY ESTIMATES

Mr. Speaker, the recurrent budget has been reduced by **Ksh. 11.72 billion.** This reduction has been effected across many of the Ministries, Departments and Agencies at varying levels ranging from 10 – 40 percent. The changes are mostly with regard to items such as domestic travel, foreign travel, printing and advertising, hospitality supplies and services, training expenses, purchase of vehicles, routine maintenance, purchase of specialized equipment, other operating expenses among others.

Mr. Speaker, I wish to point out that the Parliamentary Service Commission bore the brunt of the cuts with most of these cuts being effected at higher levels compared to the other MDAs. **Mr. Speaker,** while the need for expenditure cuts is understood and indeed upheld, there should be equity and fairness in distribution of the burden. It is not clear whether there has been any assessment to determine the impact of these cuts on the operations of the various spending agencies. I wish to urge the National Treasury to adopt a framework where each spending agency is considered on its own merit and the impact of any reduction or increment fully assessed so as not to hamper MDA operations.

Mr. Speaker, the development budget has been reduced by **Ksh. 34.327 billion**. The reductions are in the following areas:

- Reduction of National Government Constituency Development Fund by Ksh. 5.959 billion
- Reduction of University Education programme by Ksh. 229 million cutting across four university colleges as well as the commission for university education
- Reduction of Ksh. 3.8 billion from the Equalization Fund
- Reduction of Ksh. 8.7 billion from the critical emergency intervention for roads
- Reduction of Ksh. 400 million from the Konza Complex
- Reduction of Ksh. 5.5 billion from the digital literacy laptop programme
- Reduction of Ksh. 1 billion from the Last Mile Electricity Connectivity
- Reduction of Ksh. 1.5 billion from the LPG Distribution and infrastructure project
- Reduction of Ksh. 2 billion from the Affirmative Action Social Development Fund

- Reduction of Ksh. 600 million from the Parliamentary Service Commission for construction of the multi-storey office block and the installation of the Intergrated Security System
- Reduction of Ksh. 500 million from the street lighting project
- Reduction of Ksh. 500 million from the electrification of public facilities
- Reduction of Ksh. 600 million from the installation of transformers in constituencies
- Reduction of Ksh. 500 million from the Dairy Processing (powdered milk) project in the state department for cooperatives
- Reduction of Ksh. 130 million from the Nutrition Sensitive Project under the State Department for Crop Development

Mr. Speaker, the committee is concerned that the reduction of funds from the Mwananchi gas project may fuel the use of wood fuel and charcoal. This is because the LPG distribution and infrastructure project was expected to facilitate access of LPG by the low income households in order to minimize use of kerosene and wood fuels. Indeed, the proposed increase in Excise Duty on Kerosene as well as the anti-adulteration levy will lead to a significant increase in the price of fuel. As a result, low income households may face a challenge in terms of which fuel to use and may resort to wood fuel and charcoal as the only viable options.

Mr. Speaker, in addition to the statutory allocation of Ksh. 4.7 billion for the Equalization Fund in the 2018/2019 budget, there is a cumulative amount from the previous financial year allocations which has not been utilized and ideally, should be reflected in the Equalization Fund. However, this is not the case and the only amount reflected in the Equalization Fund is the 2018/2019 statutory amount. **Mr. Speaker,** despite the implementation challenges that have been facing the fund, the constitution clearly states that any unexpended money in the equalization fund should remain in that fund for use in subsequent years. The tendency to channel these funds to other uses therefore implies a lack of commitment to the purpose of the Equalization Fund. Indeed, **Mr. Speaker,** it is high time that the Estimates of revenue allocated to and expenditures projected from the Equalization Fund for 2018/2019 are submitted to Parliament as required under article 216(4) of the Constitution and

section 39(b) (ii) of the Public Finance Management Act so that these Equalization fund are appropriated.

Mr. Speaker, the NGCDF as well as the Affirmative Action Social Development Fund have undergone significant cuts. These two funds have been instrumental in promoting economic and social development at the grassroots level and such a significant reduction in their resource allocation may impact negatively on livelihoods.

Mr. Speaker, the committee is also concerned that some expenditure reductions such as those affecting various projects under the University Education programme as well as the multi-storey office block of parliament may result in the accumulation of pending bills as well as accrual of penalties for works which had already been started.

Mr. Speaker, I also wish to highlight that even though the share of development spending to total ministerial expenditure is 38%, well above the 30% minimum threshold, the committee is concerned that a larger reduction of development spending is inconsistent with the need to reign on the less productive recurrent spending. Indeed, this House had recommended during the approval of the budget for 2018/2019 that no cuts should be effected on the development budget during the supplementary budget process. The reason for this resolution is that extensive reduction of development expenditure can adversely affect economic growth. I urge the National Treasury to minimize cuts in development spending and to promote efficiency in use of recurrent expenditure.

COMMITTEE RECOMMENDATIONS

Having considered the above matters, the committee recommends as follows:

Mr. Speaker, The Committee further recommends that this House resolves to approve:-

(i) A reduction of the total recurrent expenditure for Financial Year 2018/2019 by **Kshs. 9,063,228,418** in respect of the Votes as contained in the attached Schedule;

(ii) A reduction of the total capital expenditure for Financial Year 2018/2019 by **Kshs. 28,540,434,000** in respect of the Votes as contained in the attached Schedule;

(iii) an overall reduction in the total budget for Financial Year 2018/2019 by **Ksh. 36,973,090,993** in respect of the Votes as contained in the attached Schedule;

(iv) A reinstatement of Ksh. 1.5 billion to the Judiciary budget.

(v) That the attached Schedule forms the basis of the enactment of the Supplementary Appropriations Act 2018/2019.

MIN BAC/49/2018/4: ANY OTHER BUSINESS & ADJOURNMENT

There being no other business, the meeting was adjourned till 10:00 pm.

SIGNED

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

19/9/2018.

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DATE

MINUTES OF THE 48TH MEETING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD ON 19TH SEPTEMBER, 2018, AT THE BOMA HOTEL - NAIROBI, KIFARU CONFERENCE ROOM, AT 4:30 PM

PRESENT

1) **Hon. Kimani Ichung'wah, M.P. - Chairman**
2) **Hon. Moses Lessonet, M.P**
3) Hon. Millie Odhiambo, M.P
4) Hon. (CPA) John Mbadi, M.P.
5) Hon. Jude Njomo, M.P.
6) Hon. Samwel Moroto, M.P.
7) Hon. Richard Onyonka, MP.
8) Hon. (Dr.) Korei Ole Lemein, M.P.
9) Hon. Moses Kiarie Kuria, M.P
10) Hon. Fatuma Gedi Ali, M.P.
11) Hon. Florence Chepngetich Koskey, M.P.
12) Hon. Paul Abuor, M.P.
13) Hon. Qalicha Gufu Wario, M.P.
14) Hon. John Muchiri Nyaga, M.P
15) Hon. Danson Mwashako, M.P
16) Hon. (Dr.) John K. Mutunga, M.P.
17) Hon. Mark Nyamita, M.P.
18) Hon. Wangari Mwaniki, M.P.
19) Hon. (Dr.). Gideon Ochanda, M.P.
20) Hon. James Gichuki Mugambi, M.P.
21) Hon. Badi Twalib Badi, M.P.
22) Hon. Naisula Lesuuda , M.P
23) Hon. Christopher Wangaya Aseka , M.P

ABSENT WITH APOLOGY

1) Hon. James Gakuya, M.P.
2) Hon. (Dr.) Makali Mulu, M.P.
3) Hon. Benard Masaka Shinali, M.P
4) Hon. Sarah Paulata Korere, M.P.

COMMITTEE CHAIRS PRESENT

1) Hon. Stephene Mule, MP – representative of the committee on Health
2) Hon. Ahmed Ibrahim, MP – Vice Chairperson committee on Public Investment Committee
3) Hon. Kioni Jeremiah – Chairperson Constitution Implementation Oversight Committee
4) Hon. Correly Serem, MP. Vice chairperson the committee of Trade, Industry & cooperatives

INVITED ATTENDEES FROM THE NATIONAL TREASURY

1. Mr. Henry Rotich – Cabinet Secretary of the National Treasury
2. Dr. Kamau Thuge – Principal Secretary of the National Treasury
3. Francis Anyona – Director of Budget
4. Miriam Musyoki – Principal Budget Officer
5. John Njera – Deputy Chief Economist
6. Kennedy Ondieki – Director Investments

PARLIAMENTARY BUDGET OFFICE / COMMITTEE SECRETARIAT

1) Ms. Phyllis Makau (OGW) – Director Parliamentary Budget Office (PBO)
2) Mr. Martin Masinde – Senior Deputy Director (PBO)
3) Mr. Robert Nyaga – Deputy Director (PBO)
4) Ms. Lucy Makara - Chief Fiscal Analyst
5) Ms. Millicent Makina – Principal Fiscal Analyst
6) Mr. Edison Odhiambo – Fiscal Analyst III
7) Mr. James Chacha - Fiscal Analyst III
8) Mr. Joram Barasa - Support Staff (PBO)
9) Mr. Benard Omondi - Serjent-At-Arms
10) Mr. Elijah Ichwara - Audio Officer

AGENDA

1) Preliminary & Adoption of the Agenda
2) Confirmation of the previous minutes
3) Consideration of Reports from Departmental Committees
4) A.O.B & Adjournment

MIN BAC/48/2018/01: PRELIMINARY / ADOPTION OF THE AGENDA

The Chair welcomed the members into the meeting and called the meeting to order at 4:30 p.m. Thereafter, Hon. Hon. Naisula Lesuuda, M.P. led the committee with a word of prayer. After introductions, in his introductory remarks, the Chairman welcomed the Cabinet Secretary for the National Treasury and his team, and invited them to make their submissions to the committee on the intentions and the impact of the Supplementary I Estimates, 2018.

MIN BAC /48/2018/02: CONFIRMATION OF THE PREVIOUS MINUTES

No minutes were confirmed

MIN BAC/48/2018/03: PRESENTATION BY THE NATIONAL TREASURY, SUPPLEMENTARY I ESTIMATES 2018

In his introductory remarks, the Cabinet Secretary indicated that the due to the amendments to the Finance Bill 2018 which had effects on some tax measures, the Supplementary I Estimates, 2018, were necessitated in order to rationalize the expenditures to the extent of revenue shortfall.

It was indicated that adjustment, occasioned by the Supplementary I Estimates, 2018, to the original budget approved by the National Assembly amounted to a reduction of Ksh. 55.1 Billion or 1.8 percent variation.

It was further indicated that substantial of these cuts were from the national government budget which will reduce by Ksh. 46.1 billion i.e. reductions of Ksh. 34.2 billion and Ksh. 11.7 billion for development and recurrent expenditures, respectively. There are no changes occasioned under the consolidated fund services and the judiciary, while allocations to county governments and parliament will see a reduction of Ksh. 9 billion and Ksh. 5 billion, respectively.

On borrowing, it was noted that over the medium term, government borrowing shall be used for only development purposes and not for recurrent expenditure. Fiscal risks will be managed prudently by improving macroeconomic forecasts and regularly reviewing impact of macroeconomic projections and their implications on the budget.

The committee was informed that Inflation rate has remained low and the exchange rate has been stable and strong. These are the indications of macroeconomic stability that has been maintained but could be at a risk due to excessive borrowing. This therefore highlighted the importance of borrowing domestically in a sustainable manner, and maintaining access to international capital markets without putting pressure on domestic resources, with the overall aim of a fiscal framework that is credible enough to keep yields low and limit rise in taxes.

During the Committee deliberations, the following were raised, that;

i. The deficit for 2017/18 was 7 percent, and the target for FY 2018/19 was 5.7% adjusted to 6% after the estimates were passed.
ii. The National Treasury will have to acquire additional debt in the international market to refinance the maturing syndicated loans and elevate pressure on the domestic market.
iii. It was indicated that macroeconomic stability has been maintained due to the setting of a fiscal consolidation path which is credible to both domestic and external investors who look at the macroeconomic picture to facilitate decision making
iv. It was noted that given the amendments of the Finance Bill, 2018, the increase in expenditure will result in expanded deficit which will increase national debt. However it was noted that tax

reforms are taking hold and improving revenue collection, and an example was given of the Custom Tax Department whose performance has responded strongly due to reforms to that seal revenue leakages. These positive projections, it was indicated, are inbuilt into the projections in order to bring down the deficit, and to also keep taxation in line with how the economy was structured.

v. On Appropriation in Aid collection and utilization, it was noted that the AIA collected by institutions such as the Kenya Ports Authority (KPA), the Kenya Airports Authority (KAA) and the Kenya Civil Aviation (KCA) are amounts collected and included in the revenue projections of the budget and at times commitments have already been entered to expand facilities for these institutions. None the less it was noted that instructions had been issued indicating that any surpluses will have to remitted to treasury and to some extent pay applicable taxes for failure to do so.

vi. It was noted that the new revenue projections will be approximately Ksh. 1.313 billion and the allocations to the National Government CDF (worth Ksh. 5.9 billion), should be amended to limit the reduction in the proposed supplementary estimates to the mandated 2.5% of the national government shareable revenue of the financial year.

vii. It was indicated that County sharable revenue reduction of Ksh. 9 billion will require an amendment of Division of Revenue Act, 2018, but this will be initiated by the Budget and Appropriations Committee Report on the Supplementary I Estimates, 2018.

viii. It was noted that the Police uniform expenditure will not affect the overall resource allocation because the amounts for uniform purchases are already provided for in the budget and therefore the resource requirement will be low.

ix. It was indicated that there are governance issues surrounding the housing fund that emanate from the Housing Act and that the coming regulations are designed to address the governance issues i.e. provided by cash or what has been contributed, the amount is capped 1.5% contribution by employer and employees further capped at Ksh. 5,000. These new regulations at the Attorney General and will therefore operationalize the housing fund, with government being the largest contributor.

x. It was indicated that the contribution to the housing fund is a mandatory contribution not a tax. In addition, it was indicated that the private sector will play a key role as the national government to provide land to the private sector to construct affordable housing and putting together the fund with the Kenya mortgage refinancing. Those who will benefit, it was indicated, will be those who contribute or convert to pension upon retirement

xi. On the Equalization Fund, it was noted that any amount not utilized under the fund should remain within the fund in order to ensure marginalized areas are developed. The committee noted that the Supplementary I Estimates, 2018, will affect marginalized areas negatively and there is need to scrutinize the 12 billion already allocated. Therefore, it was noted that the issues under the

equalization were deep and that the necessary committee of parliament should follow up on the matter with the national treasury.

xii. It was noted that every single element introduced to the budget estimates by the Budget and Appropriators Committee, during the approval process of the budget estimates 2018/19 had been removed in order to bringing the estimates back to positions during the budget estimates

xiii. The judiciary Ksh. 1.5 billion is a World Bank Fund and could be reinstated in the budget and could be introduced due to exceptional circumstances

xiv. That the judicial fund will require necessary regulations to be prepared in line with the PFM Act, 2012, and therefore the National Treasury to work with the Judicial Service Commission to determine operationalization specifics of the fund. But it was noted that this could make budgeting rigid and affect budgeting process

xv. The response to public participation was noted that this could be financed upon availability of funds in the course of the financial year.

xvi. The roads affected by floods are to be financed by necessary donors, this therefore resulted a review of the World Bank program to secure financing from the World Bank (of whom the national treasury is in consultation with for finances depending on the sustainable consolidation path) but in the meantime the road maintenance levy fund will be available. However, it was noted that a definitive amount will need to be indicated to justify the indicated cuts.

xvii. That the allocations to the National Government Affirmative Action Fund is to be reinstated back to the amounts allocated in FY 2017/18 budget

xviii. It was noted that there was is a disproportionate application of austerity measures i.e. austerity measures need to be fair and equal across the board. As such the budget cuts to the Parliamentary Service Commission should be balanced by cuts implicated in other sections of the budget and applying off-balance-sheet-financing measures.

MIN BAC/48/2018/4: ANY OTHER BUSINESS & ADJOURNMENT

There being no other business, the meeting was adjourned till 7:00 pm.

SIGNED

..... 19/9/18

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

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DATE

MINUTES OF THE 47TH MEETING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD ON 19TH SEPTEMBER, 2018, AT THE BOMA HOTEL - NAIROBI, KIFARU CONFERENCE ROOM, AT 3:00 PM

PRESENT

1) **Hon. Kimani Ichung'wah, M.P. - Chairman**
2) **Hon. Moses Lessonet, M.P**
3) Hon. Millie Odhiambo, M.P
4) Hon. (CPA) John Mbadi, M.P.
5) Hon. Jude Njomo, M.P.
6) Hon. Samwel Moroto, M.P.
7) Hon. Richard Onyonka, MP.
8) Hon. (Dr.) Korei Ole Lemein, M.P.
9) Hon. Moses Kiarie Kuria, M.P
10) Hon. Fatuma Gedi Ali, M.P.
11) Hon. Florence Chepngetich Koskey, M.P.
12) Hon. Paul Abuor, M.P.
13) Hon. Qalicha Gufu Wario, M.P.
14) Hon. John Muchiri Nyaga, M.P
15) Hon. Danson Mwashako, M.P
16) Hon. (Dr.) John K. Mutunga, M.P.
17) Hon. Mark Nyamita, M.P.
18) Hon. Wangari Mwaniki, M.P.
19) Hon. (Dr.). Gideon Ochanda, M.P.
20) Hon. James Gichuki Mugambi, M.P.
21) Hon. Badi Twalib Badi, M.P.
22) Hon. Naisula Lesuuda , M.P
23) Hon. Christopher Wangaya Aseka , M.P

ABSENT WITH APOLOGY

1) Hon. James Gakuya, M.P.
2) Hon. (Dr.) Makali Mulu, M.P.
3) Hon. Benard Masaka Shinali, M.P
4) Hon. Sarah Paulata Korere, M.P.

COMMITTEE CHAIRS PRESENT

1) Hon. Stephene Mule, MP – representative of the committee on Health
2) Hon. Ahmed Ibrahim, MP – Vice Chairperson committee on Public Investment Committee
3) Hon. Kioni Jeremiah – Chairperson Constitution Implementation Oversight Committee
4) Hon. Correly Serem, MP. Vice chairperson the committee of Trade, Industry & cooperatives

INVITED ATTENDEES FROM THE JUDICIAL SERVICE COMMISSION

1. Hon. Justice David kenani Maraga – Chief Justice & President of the Supreme Court
2. Hon. Mercy Deche – Vice chairperson, Judicial Service Commission
3. Hon. Justice Aggrey. O Muchelule – Commissioner / Judge Court of Appeal
4. Hon. Emily Ominde – Commissioner / Chief Magistrate
5. Hon. Faridah Mokaya – Registrar Judicial Service Commission
6. Paul Ndemo – Deputy Chief Registrar of the Judiciary
7. Hon. Benard Momanyi – Deputy Registrar Judicial Service Commission
8. Fredrick Momanyi – Assistant Registrar Judicial Service Commission
9. Beatrice Kamau – Ag. Director Finance
10. Conrad Bosire – Chief of Staff
11. Emmah A. Orua – Director
12. Sydney Ombura – Finance Officer

PARLIAMENTARY BUDGET OFFICE / COMMITTEE SECRETARIAT

1) Ms. Phyllis Makau (OGW) – Director Parliamentary Budget Office (PBO)
2) Mr. Martin Masinde – Senior Deputy Director (PBO)
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9) Mr. Benard Omondi - Serjent-At-Arms
10) Mr. Elijah Ichwara - Audio Officer

AGENDA

1) Preliminary & Adoption of the Agenda
2) Confirmation of the previous minutes
3) Consideration of Reports from Departmental Committees
4) A.O.B & Adjournment

MIN BAC/47/2018/01: PRELIMINARY / ADOPTION OF THE AGENDA

The Chair welcomed the members into the meeting and called the meeting to order at 3:00 p.m. Thereafter, Hon. Hon. Naisula Lesuuda, M.P. led the committee with a word of prayer. After a round of introductions by the committee members and the invited attendees, the Chairman welcomed the Chief Justice and his team and invited them to make submissions to the committee on the impact of the Supplementary I Estimates, 2018, on judicial activities.

MIN BAC /47/2018/02: CONFIRMATION OF THE PREVIOUS MINUTES

No minutes were confirmed

MIN BAC/47/2018/03: PRESENTATION BY THE JUDICIAL SERVICE COMMISSION ON THE IMPACT OF SUPPLEMENTARY I ESTIMATES, 2018

In his introductory remarks by the Chief Justice informed the committee, that;

It was indicated that the Judicial Service Commission has a very wide mandate including handling discipline matters, as well as handling all other administration matters of the judiciary. These responsibilities have existed even while experiencing substantial budget cuts have been occasioned on financial resources in the past and it was indicated that reinstating the amounts deducted under Budget Estimates FY 2018/19, would facilitate judiciary to run effectively.

The judiciary plays a critical part in supporting economic growth such as its role in mediation on investment matters have resulted in the improvement of the ease of doing business by 12 points and facilitated foreign direct investment.

Finances from JP donor funding are available but not released on time for projects that are at 90% stages of completion across the entire economy. It was noted that constant and adequate release of such resources would facilitate access to justice, e.g. high court in Garissa facilitates the region but required to serve up to areas such as Mandera and Marsabit has only one court. Therefore, additional resources are required to facilitate provision of justice fairly across the country. These therefore should be financed to futility in line with the executive directive of completing ongoing projects first.

It was noted that judicial ongoing projects were contracts worth of Ksh. 3.1 billion, with Ksh. 1.2 billion certified as of June, 2018, and therefore Ksh. 1.882 billion required. If the requested amount is not provided, Ksh. 500 million worth of interest rates are expected to accrue. Due to last year's budget cuts, pending bill are now worth Ksh. 32 million due to pending certificates that have not been loaded in the onto the IFMIS.

Other government arms are treating the judiciary as a minor department, despite the judiciary requesting a budget outlay less than the ministries of health or education. This is despite this institution being a very critical arm of government which maintains the security balance in the country and therefore requires financial resources to remain independent. The judiciary hence needs to be elevated to the correct position as referred to in the Constitution and facilitated to play its critical role through set targets i.e. clearing cases within the 5 years if finances are available.

Committee Deliberations

During the deliberations the following were raised, that;

i. There are only 150 judges, 450 magistrates, 50 Kadhis against a population of 40 million. This cannot be compared to countries such as Canada that have about a similar population but over 3000 magistrates and judges. It was therefore indicated that the request for more resources by the judiciary will result in employment of a reasonable number of judges would also require facilities which are currently none existent. For example, to deal with corruption cases currently referred to Nairobi, it would require 20 magistrates to deal with these cases referred in Nairobi.

ii. It was noted that the judiciary is grappling with a deficit of Ksh. 3.45 billion. In order to provide a compromise, it was indicated that out of the Ksh. 3.4 billion requested, the following expenditures could be given priority; Ksh. 100 million for anti-corruption cases, Ksh. 100 milion for service weeks (Backlog reduction), Ksh. 315 million for purchase of motor vehicles for 10 judges without vehicles (However, it was noted that the indicated vehicles are very expensive) and replacement for 25 others (It was noted that some vehicles are breaking down necessitating judges to be rescue by other judges becoming a security issue), and a further request of Ksh. 1 billion for outstanding certificates for capital projects.

iii. Ksh. 11 billion under the JP donor financing that has been allocated to the judiciary over 7 years. However, this was still reduced as a result of low absorption capacity which is as a result of national government inconsistent release of financial resources over the financial years.

iv. The judiciary fund was noted could provide a solution and therefore is a matter of priority in order to support the funding platform of the judiciary. This would require the activation of the of the fund which will see finances retained within the fund at the end of the year, to be assessed and additional tops provided when required.

v. It was noted that enough resources are not provided to arms of government and offices such as the DPP and the judiciary despite requiring them to carry express functions such as fighting corruption.

vi. It was proposed that the judiciary could carry out consultation with parliament on how to optimize the use of financial resources i.e. huge amounts are allocated to construction of courts but fewer units are achieved. There is need to rationalize financial resources efficiently in order to achieve development projects at rates achieved by the National Government Constituency Development Fund (NGCDF) which even and constrained resources, achieves better quality buildings and facilities.

   - It was proposed that small courts of Ksh. 5 to Ksh. 10 million could pass through the NGCDF while the large projects are mandated to the Judicial Service Commission
   - It was proposed that there could be a way to truncate and prioritize some works in order to be within the fiscal framework of the year.

vii. Legal assistance programs for people who don't have access to legal representation is no longer effective leading to people languishing in jails. It's was noted that this fund is currently situated at the Attorney Generals' office implying that this fund/scheme is wrongly placed because these cases require pauper briefs that are paid to lawyers to represent persons such as those involved in murder cases. Since this financial burden currently falls upon the judiciary, it was suggested that this could be transferred to the judiciary.

viii. It was recommended that the vote of the Judicial Service Commission should come under the purview of the Budget and Appropriations Committee on future budget matters, in order to ensure that the budget requirements for this arm of government are captured adequately.

ix. It was noted that facilities for the courts are depreciating and an approach of establishing a Government square could be considered i.e. in most countries this is done to ensure that government services are efficiently provided and funded in a unified manner all government offices are located within one area.

x. The regional distribution of courts was noted as improving and thus enhancing judicial services leading to cohesion in the country. In this regard, an assurance was given that before the end of November, the petitions will have been cleared.

MIN BAC/47/2018/5: ANY OTHER BUSINESS & ADJOURNMENT

There being no other business, the meeting was adjourned till 5:00 pm.

SIGNED

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

19/9/18

.....

DATE