PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 21st December 2021

Special Sitting

(Convened via Kenya Gazette Notice No.13791 of 16th December, 2021)

The House met at the Senate Chamber, Parliament Buildings, at 10.00 a.m.

[The Speaker (Hon. Lusaka) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING TO CONSIDER SPECIFIED BUSINESS

The Speaker (Hon. Lusaka): Order Honourable Senators! I welcome you to these Special Sittings of the Senate. As leaders, when duty calls, we answer. Nevertheless, I regret to interrupt this period of festivities, which you get to spend with family, friends and constituents.

Honorable Senators, on the request of the Senate Majority Leader and with the support of the requisite number of Senators, via letter Ref. No. SEN/SML/CORR, dated 16th December, 2021, I appointed today, Tuesday, 21st December, 2021 and tomorrow, Wednesday, 22nd December, 2021, as days for Special Sittings of the Senate, vide Gazette Notice No. 13791, of 17th December, 2021.

In the Gazette Notice, I indicated that the business to be transacted at the Special Sittings shall be: -

(a) The Budget Policy Statement for Financial Year 2022/2023.
(b) The Report of the Standing Committee on Labour and Social Welfare on the status of the New Dandora Stadium in Nairobi City County.
(c) The Cotton Industry Development Bill (Senate Bills No. 55 of 2021).
(d) The County Oversight and Accountability Bill (Senate Bills No. 17 of 2021).
(e) The County Governments Grants Bill (Senate Bills No. 35 of 2021).

(f) The Kenyan Sign Language Bill (Senate Bills No. 5 of 2021).
(g) The Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 7 of 2021).
(h) The County Hall of Fame Bill (Senate Bills No. 9 of 2021).
(i) The Heritage and Museums Bill (Senate Bills No. 22 of 2021).
(j) The County Governments (Amendment) Bill (Senate Bills No. 38 of 2021).
(k) The Law of Succession (Amendment) Bill (Senate Bills No. 15 of 2021).
(l) The Lifestyle Audit Bill (Senate Bills No. 36 of 2021).
(m) The Kenya Citizenship and Immigration (Amendment) Bill (Senate Bills No. 33 of 2021).
(n) The Intergovernmental Relations (Amendment) Bill (Senate Bills No. 37 of 2021).
(o) Any other business that may be transmitted to Senate by the National Assembly.

In accordance with Standing Order No. 30 (5), the business specified in the Gazette Notice, and as outlined in the Order Papers for the two days shall be the only business before the Senate during the Special Sittings, following which the Senate shall stand adjourned until Tuesday, 8th February, 2021, at 2:30 p.m. in accordance with the Senate Calendar.

I thank you.

Next Order.

MESSAGE FROM THE NATIONAL ASSEMBLY

PASSAGE OF THE COUNTY GOVERNMENTS GRANTS BILL (SENATE BILLS NO. 35 OF 2021)

The Speaker (Hon. Lusaka): Honourable Senators, I wish to report to the Senate that, pursuant to Standing Order 41 (3) and (5), I received the following Message from the Speaker of the National Assembly regarding the passage by the Assembly of the County Governments Grants Bill (Senate Bill No. 35 of 2021).

The Message which is dated Friday, 3rd December, 2021, was received on 7th December, 2021 while the Senate was on recess and was transmitted to all Senators on 8th December, 2021 pursuant to Standing Order No. 41 (5).

PURSUANT to the said Standing Order, I now report the Message.

Pursuant to the provisions of Standing Order 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

WHEREAS, the County Governments Grants Bill (Senate Bill No. 35 of 2021) was passed by the Senate on Wednesday, 15th September 2021- with amendments - and referred to the National Assembly for consideration.

AND WHEREAS, the National Assembly passed the said Bill on Thursday, 2nd December, 2021 with further amendments to the Title, Clause 1, 2, 3, 4, 8, 9, First Schedule and Second Schedule as attached herewith;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders 41(1) and 144(c) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.

Hon. Senators, in addition to forwarding the Message and the Schedule of Amendments to all Senators, pursuant to Standing Order 41(6)(c), I referred the Message to the Committee on Finance and Budget for consideration and reporting.

Hon. Senators, the Committee has concluded its consideration of the National Assembly amendments to the said Bill and has compiled a report which is listed in today's Order Paper for tabling.

Further, pursuant to Standing Order 159(1), a Motion seeking the approval of the Senate to consider National Assembly amendments to the Bill has been listed in Order No. 9 in today's Order Paper. If the Senate resolves to consider the said amendments, the amendments will be listed in the afternoon's Order Paper. However, if the Motion in Order No. 9 is defeated, the Bill will be referred to a Mediation Committee pursuant to Standing Order 159(4)(b) and Article 113 of the Constitution.

I thank you.

The Speaker (Hon. Lusaka): Next Order

PAPERS LAID

The Speaker (Hon. Lusaka): The Chairperson of the Standing Committee on Finance and Budget, please proceed.

Sen. Kibiru: Mr. Speaker Sir, I beg to lay the following Papers on the Table of the Senate today, 21st December, 2021.

REPORT ON THE 2022 BUDGET POLICY STATEMENT AND
THE MEDIUM TERM DEBT MANAGEMENT STRATEGY

The Report of Standing Committee on Finance and Budget on the 2022 Budget Policy Statement and the Medium Term Debt Management Strategy.

REPORT ON THE CONSIDERATION OF AMENDMENTS PASSED BY THE
NATIONAL ASSEMBLY TO THE COUNTY GOVERNMENTS GRANTS BILL
(SENATE BILL NO. 35 OF 2021)

The Report of Standing Committee on Finance and Budget on the Consideration of Amendment passed by the National Assembly to the County Governments Grants Bill (Senate Bill No. 35 of 2021)

(Sen. Kibiru laid the documents on the Table)

The Speaker (Hon. Lusaka): Next Order.

NOTICES OF MOTION

Sen. Kibiru: Mr. Speaker, Sir, I beg to give Notice of the following Motions: -

CONSIDERATION OF NATIONAL ASSEMBLY AMENDMENTS
TO THE COUNTY GOVERNMENTS GRANTS BILL
(SENATE BILLS NO. 35 OF 2021)

THAT, the amendments by the National Assembly to the County Governments Grants Bill (Senate Bill No. 35 of 2021) be now considered.

ADOPTION OF REPORT ON THE 2022 BPS AND THE
MEDIUM TERM DEBT MANAGEMENT STRATEGY

THAT, the Senate adopts the Report of the Standing Committee on Finance and budget on 2022 Budget Policy Statement and the Medium Term Debt Management Strategy laid on the Table of the Senate on Tuesday, 21st December, 2021, and pursuant to Section 25(7) of the Public Finance Management Act (PFM Act) and Standing Order 187 of the Senate approves the 2022 Budget Policy Statement.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Next Order.

BILL

First Reading

COTTON INDUSTRY DEVELOPMENT BILL,
(SENATE BILLS NO. 55 OF 2021)

(Order for First Reading read – Read the First Time and ordered to be referred to the relevant Departmental Committee)

The Speaker (Hon. Lusaka): Next Order.

MOTIONS

CONSIDERATION OF NATIONAL ASSEMBLY AMENDMENTS
TO THE COUNTY GOVERNMENTS GRANTS BILL
(SENATE BILLS NO. 35 OF 2021)

Sen. Kibiru: Mr. Speaker, Sir, I beg to move the following Motion:

THAT, the amendments by the National Assembly to the County Governments Grants Bill (Senate Bill No. 35 of 2021) be considered.

You will all recall that we did quite a considerable amount of work when coming up with this Bill. The County Governments Grants Bill (Senate Bill No. 35 of 2021) was sponsored by the Senate Standing Committee on Finance and Budget and was introduced to the Senate on 6th July, 2021. The introduction of the Bill was prompted by the judgement by the High Court Petition No.252 of 2016.

Mr. Speaker Sir, the Bill seeks to provide a framework for the transfer of additional allocations under Article 202(2) of the Constitution from the national Government's share of revenue and from the development partners to the county governments. After approval of the Bill by the Senate, the Bill was transmitted to the National Assembly for consideration and concurrence.

Mr. Speaker Sir, the High Court held *inter-alia* that conditional grants cannot be included in the division of revenue and therefore Division of Revenue Act. The High Court was of the position that as set out in Article 218 of the Constitution only matters of division nationally raised revenue between the national Government and the county governments are to be included in the Division of Revenue Bill.

The fact that the High Court indicated that conditional grants cannot be included in the Division of Revenue Bill and not precluded in the development, introduction and enactment of legislative instruments to provide for the manner in which, conditional grants will be distributed to the counties.

Mr. Speaker Sir, upon receipt of the judgement, the Committee had to reengineer a framework and mechanism through which conditional grants would be disbursed to the country governments without violating the principles of the PFM Act.

A legislative framework similar to the County Allocation of Revenue Act must be put in place to allow disbursement of funds to the counties. The Bill seeks out the information that was previously contained in the Second and Third Schedule of the County Allocation of Revenue Act.

It is important to note that, for the current financial year 2021, counties have not received any disbursements under the conditional grants since there is no framework or mechanism to do so.

Mr. Speaker Sir, on 8th December, 2021, the Standing Committee on Finance and Budget received communication from your office, communicating the passage of the Bill with amendments from the National Assembly. As requested via your communication, the Committee expeditiously considered the amendments on 14th December, 2021.

On consideration of the National Assembly amendments to the Bill, the Committee observed that:

1. The effects of such amendments defeats the principle object of the Bill which is to deal with the question of disbursement of conditional grants to the county governments from the national Government and development partners.

2. Changing the Long Title and Short Title of the Bill to refer to the additional allocation under Article 202(2) of the Constitution would leave out conditional allocations from the proceedings of loans and grants from development partners, which forms part of the transfers to the county governments.

Mr. Speaker Sir, the deletion of the First and Second Schedule to the Bill would amount to complete erosion of the substrum of the Bill and its objects. Inclusion of the issue of financing of transferred functions in the provisions of the Bill introduces an issue outside the scope of the Bill, which would be properly dealt with through a separate legislation.

Mr. Speaker, Sir, from the foregoing, the Committee recommends that the Senate rejects all the amendments passed by the National Assembly to the County Governments Senate Grants Bill No.35 of 2021. We thought through this Bill, met a number of key stakeholders including the Council of Governors (CoG), the Commission of Revenue Authority (CRA), the Controller of Budget (COB), the Governor of the Central Bank of Kenya, the National Treasury and the Attorney General. We all thought through the Bill that we brought into this House and the House was kind enough to pass the Bill.

Without much ado, I request the Senate to reject all the amendments and ask Sen. Farhiya to second the Motion.

Sen. Farhiya: Thank you, Mr. Speaker, Sir. I second the Motion.

This Bill used to be part of the County Allocation of Revenue Bill which was a mandate of this House. There was a court judgment that decided that the grants and conditional grants should not be part of County Allocation of Revenue Bill. That forced the Senate to draft a grants Bill.

After deliberations, consultations with the stakeholders and all the work that this House did, there were rumours that the 'lower House' had said that this is a money Bill. If they considered it as a money Bill, then the County Allocation of Revenue Bill has been a money Bill all along. The same things we used to pass in that Bill are the same ones that are going in the grants Bill. The grants Bill takes care of conditional grants, donor grants and any other grants that is not part of the financing to the county and the share of revenue between the national Government and county governments. If the division of revenue cannot go through without the consent of the Senate, then it is solely the mandate of this House to initiate the grants Bill.

As alluded by my Chairperson, we had a lot of consultation with several stakeholders including the National Treasury who should have told us if that Bill was a money Bill or not. The amendments that were brought by our sister House had nothing. Instead, it completely changed the substance of this Bill and as a result, I wish to second and urge this House to reject, in totality, the amendments brought by our sister House. I thank you.

The Speaker (Hon. Lusaka): Order, Senators!

(Question proposed)

I do not see any interest.

(Question put and agreed to)

ADOPTION OF REPORT ON THE 2022 BPS AND THE MEDIUM TERM DEBT MANAGEMENT STRATEGY

Sen. Kibiru: Mr. Speaker, Sir, I beg to move the following Motion:

> THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the 2022 Budget Policy Statement and the Medium Term Debt Management Strategy, laid on the Table of the Senate on Tuesday, 21st December, 2021, and pursuant to Section 25 (7) of the Public Finance Management Act and Standing Order 180 (7) of the Senate approves the 2022 Budget Policy Statement.

Mr. Speaker, Sir, this one will take a bit of time. The Clerk and Sen. Poghisio reminded me that if it was in the earlier dispensation, I would be the Minister of Finance, so give me the latitude to bore the House for some time.

The 2022 Budget Policy Statement (BPS) and the Medium Term Debt Management Strategy (MTDMS) were tabled on Wednesday, 1st December, 2021 pursuant to the Senate Standing Order No. 184. The 2022 BPS and MTDMS were committed to the Standing Committee on Finance and Budget for consideration. The Committee was required to deliberate and table a report containing the recommendations on the BPS within 12 days and we did that.

Pursuant to Standing Order No. 180(5) of the Senate Standing Orders, the Committee invited the Cabinet Secretary, National Treasury and Planning, the Commission of Revenue Allocation (CRA) and the Council of Governors. Further, we invited the Senate Standing Committees, which oversight different departments, to consider respective sector proposals as provided for in the BPS and forward the observations and recommendations. Other interested parties such as the Institute of Certified Public Accountants of Kenya (ICPAK), the International Budget Partnership (IBP Kenya Chapter) and the Institute of Social Accountability (TISA) appeared before the Committee and submitted a memorandum.

The Committee made significant observations on the BPS proposal for the financial year 2021/2022 and the MTDMS and identified broad policy issues with great impact on counties and proposals on revenue allocation. The Committee also considered all the views submitted by the stakeholders in making the recommendations contained in its Report.

It is significant to mention that the purpose of the approval of this Report on the BPS is to communicate the Senate's position on the preparation of all subsequent budget documents for the next financial year. These documents include the Division of Revenue Bill, 2022, and the County Allocation of Revenue Bill, 2022.

It is also important to note that Section 25 of the Public Finance Management (PFM) Act, 2012, stipulates that the resolutions of Parliament on the BPS must inform the preparation of the annual estimates.

Mr. Speaker, Sir, pursuant to Section 25(2) of the PFM Act, 2012, the National Treasury submitted to Parliament the 2022 BPS and Medium-Term Debt Management Strategy (MTDMS) on Tuesday, 30th November, 2021, on account of the revised budget calendar for FY 2022/2023.

The revision is informed by the forthcoming general elections slotted for August 2022. The necessary legislative budget instruments must be put in place before Parliament proceeds to the final recess.

The theme for the BPS 2022 is "Accelerating Economic Recovery for Improved Livelihood." The policies in the BPS have also been anchored on the Medium-Term Plan III of the Vision 2030 as prioritized in the Big Four Agenda and the Third Economic Stimulus Programme (ESP).

The BPS is the most critical document in the budget process. This is because it is the basis upon which the Division of Revenue Bill, the County Allocation of Revenue Bill and the Budget Estimates for the subsequent year and over the medium term, are prepared. The BPS indicates that the total Budget is expected to grow from Kshs3.03 trillion in the current Financial Year 2021/2022 to Kshs3.309 trillion in the Financial Year 2022/2023, representing a growth of 9.2 per cent.

Concerning revenue allocation, the allocation the county governments is proposed to remain at Kshs370 billion and that is zero per cent growth. The allocation to the Consolidated Funds Service (CFS) is proposed to have the largest growth of 20.3 per cent.

It is important to note that this accounts to over 26 per cent of the total Budget and is slowly throwing out other expenditures. The national Government is expected to have a growth of 6.8 per cent.

On economic growth, it is indicated that the economy grew by 5.4 per cent in the first half of 2021 boosted by recovery in sectors such as education, transport, manufacturing, accommodation and restaurants or hospitality industry. However, this growth is partially attributed to the base effect. That was negative growth in 2020.

The National Treasury projects that Kenya's economy will grow by 6 per cent in 2021 and 5.8 per cent in 2022 strengthened by the ongoing implementation of the strategic priorities under the Big Four Agenda and initiatives under the Economic Recovery Strategy.

Ordinary revenue projection for Financial Year 2022/2023 is Kshs2.141 trillion. This is, however, based on the planned reforms in tax administration and revenue collection. The projected ordinary revenue for the ongoing financial year is Kshs1.8 trillion. This is 18.94 per cent growth rate.

Based on the projected ordinary revenue growth, the National Treasury is targeting to reduce the fiscal deficit, including grants, from 8.2 per cent in the Financial Year 2021/2022 to 6.0 per cent in the Financial Year 2022/2023 and 3.2 per cent in the medium term. However, it is noteworthy that without concrete policies aimed at enhancing revenue collection, the projected fiscal deficit over the medium-term may not be achieved.

Mr. Speaker, Sir, that was an observation of most of the stakeholders that we met.

The overall inflation rate has remained modest and within the target range increasing from 5.3 per cent in November, 2020, to 5.8 per cent in November, 2021.

Fuel inflation was on an upward trajectory in 2020 and stood at 11.1 per cent in March 2021. It declined to 3.8 per cent in November 2021 as a result of lower international crude oil prices and, partly, due to the Energy and Petroleum Regulatory Authority (EPRA) fuel subsidy.

Food inflation was at 9.9 per cent just short of 10 per cent in November 2021 owing to increase in the prices of various food commodities.

Mr. Speaker, Sir, regarding the interest rates and access to credit, the Central Bank of Kenya (CBK) rate has remained at 7.0 per cent since April 2020. Exports as a share of Gross Domestic Product (GDP) has steadily declined from around 12 per cent in 2011 to 6 per cent in the Financial Year 2020/2021.

The current account balance has remained steady at around 5 per cent since 2018, partly, due to declining imports as a share of the GDP. It is notable that exports of agricultural products and diaspora remittances continue to be the major source of foreign reserves.

The ESP which is in the third phase of response to the adverse effects of the COVID-19 pandemic is set to cost about Kshs26.2 billion. In this phase, the Government is expected to focus on key productive and service sectors that cover agriculture, health, education, drought response, infrastructure, financial inclusion, energy and environmental conservation.

Mr. Speaker, Sir, some proposed ceilings include-

(1) The proposed ceiling for agriculture, rural and urban development sector for the Financial Year 2022/2023 is Kshs63.9 billion, which represents a decrease of 15.6 per cent when compared to the allocation of the current financial year of Kshs75.7 billion.

(2) The proposed health sector allocation has increased from Kshs121.1 billion in the Financial Year 2021/2022 to Kshs129.4 billion representing an increase of 8.3 per cent.

(3) The proposed allocation for the social protection, culture and recreation sector for the Financial Year 2022/2023 is Kshs72.9 billion which represents a 1 per cent increase in allocation.

(4) The proposed ceiling for the environmental protection, water and natural resources sector is Kshs110.7 billion which represents a 10 per cent increase allocation from the current allocation of Kshs100.6 billion.

(5) The proposed ceiling for the transport, public works and housing sector is Kshs110.7 billion which represents a 10 per cent increase allocation from the current allocation of Kshs100.6 billion.

Mr. Speaker, Sir, the allocation to county governments in the Financial Year 2022/2023 is proposed to be Kshs370 billion out of the total projected shareable revenue of Kshs2.1416 trillion. This indicates zero growth from the allocations of the Financial Year 2021/2022 or the current financial year.

It is important to note that with this proposal, the county equitable share of revenue as a percentage of ordinary revenue would decrease from 22 per cent in the Financial Year 2017/2018 to 17 per cent. It is very important that we note the decrease.

In the Financial Year 2022/2023, it will be a decrease if we go by the proposal. Further from the medium-term projections provided, it is projected to decrease to 13 per cent in the Financial Year 2024/2025. This defeats the purpose of why some of us were keen in supporting the Building Bridges Initiative (BBI).

Further, inflation currently stands at 5.8 per cent. If this is factored in the proposed Kshs370 billion, it follows that counties will be receiving far much less that what is allocated in Financial Year 2021/2022. This would affect the level of service delivery as the cost of goods continue to rise while resources allocated remain stagnant.

That is common sense. One would wonder why the people who recommended that did not see it.

Mr. Speaker, Sir, in the Financial Year 2022/2023, the National Treasury proposes an allocation of Kshs37 billion as conditional allocations from the national Government share of revenue raised nationally and proceeds of external loans and grants from development partners.

Following the High Court ruling on Petition No.252 of 2016, conditional or unconditional grants can be issued to the county level of government under Article 190 of the Constitution or through an agreement between the two levels of Government. This Article 190 is yet to be actualised. Regrettably, counties have not received their share under conditional grants for the Financial Year 2021/2022. That is why we were very keen on the County Governments Grants Bill.

Mr. Speaker, Sir, the ordinary revenue raised each year should be shared between debt repayment, recurrent expenditure and county allocations. It is notable that a larger percentage of ordinary revenue is taken up by debt repayment reducing the sharable revenue.

The interest payments as a percentage of ordinary revenue has increased from 24 per cent in the Financial Year 2017/2018 to 30 per cent in the proposed Financial Year 2022/2023. This means that any additional revenue raised by the Government goes to servicing debt.

Mr. Speaker, Sir, the issue of pending bills is another animal that if we do not slate, it will keep on hunting us for many years to come. Pending bills in the counties have been increasing over the years. For instance, in the Financial Year 2018/2019, the total pending bills reported was Kshs34.54 billion while in the Financial Year 2020/2021, the total reported pending bills was Kshs102.69 billion. You can see the growth.

The county that reported the highest outstanding pending bills is Nairobi City with total pending bills of Kshs78.7 billion in the Financial Year 2019/2020 and Kshs54.32 billion in the Financial Year 2020/2021.

Pending bills are key manifestation of weak internal control systems, over commitment of budgets, underperformance of Own Source Revenue (OSR), and failure to adhere to approved work plans. County executives must arise and address these challenges. We, as a Senate and a Committee, will be calling stakeholders to identify and see how we can address that.

Mr. Speaker, Sir, the 2022 Medium Term Debt Management Strategy (MTDMS) aims at minimizing costs and risks of public debt through a net financing mix of 32 per cent from external sources and 68 per cent from domestic markets. The nominal stock of public debts was Kshs.7.7 billion as at end of June 2021. This is equivalent to 68.1per cent of GDP and 86 per cent of the statutory debt ceiling of Kshs9 trillion.

Mr. Speaker, Sir, as at the end of June 2021, the outstanding guaranteed debts to State enterprises amounted to Kshs157.2 billion. These enterprises include the moribund Kenya Power Company which has an outstanding debt of Kshs11.779 billion, Kenya Electricity Generating Company (KENGEN) Kshs26.5billion, Kenya Ports Authority (KPA) Kshs37.9 billion and the pride of Africa, Kenya Airways (KQ) Kshs80.9 or 81billion

Mr. Speaker, Sir, on the external debt market, the strategy plan is to optimize concessional borrowing and reduce commercial borrowing. The MTDS of 2022 provides the strategy supports initiatives to develop the domestic debt market. This is a story we have heard over the year. You remember when we presented the debt stock report, we were unable to touch or feel some of the initiatives that the National Treasury has done in regard to that aspect.

Regarding Debt Sustainability Analysis (DSA), public debt sustainability is the ability of the country to service its debt obligations as they fall due without disrupting budget implementation. The risk of debt distress has increased from low in previous years to moderate in 2018 and 2019 and further rising to high in 2020 and 2021. The National Treasury should consider debt restructuring as well as promoting initiatives such as increased exports to lower debt vulnerability.

Mr. Speaker, Sir, this House passed the PPB Bill that should also be another initiative that National Treasury need to take on very seriously.

The Committee made several observations including-

(1) The ordinary revenue projection for the Financial Year 2022/2023 is Kshs2,141.6 billion. This is a growth of 19 per cent which is quite an overestimation. Unless there is a policy change, these projections may not be achieved. Many people think that it is a wish list, but it is also good to dream.

(2) That the fiscal deficit increases within the financial year when revenue targets are not achieved and this leads to increased borrowing outside the targets approved in the BPS. That has continued year in, year out.

(3) The proposed allocation to counties of Kshs370 billion, has not factored in inflation. Therefore, in real terms, the allocation is lower than the allocation for the Financial Year 2021/2022. The year we are talking about, the inflation is about 5.3 per cent. So, that has not been factored.

Mr. Speaker, Sir, the Committee recommends to the House that the 2022 BPS and MTDMS be approved with several policy and financial recommendations as contained in the report. These recommendations include-

(1) That the National Treasury should-

(a) Adjust for inflation on the county equitable share and further ensure that the allocations to counties are not less than 35 per cent of the most recent audited and approved accounts for the Financial Year 2017/2018 amounting to Kshs1,413.69 billion.

Mr. Speaker, Sir, like I mentioned earlier, we do not need a referendum to pass allocation to the counties. So, as a Committee, we are seeking the concurrence of the House to increase the revenue by about Kshs125 billion by just picking that aspect of 35 per cent of the last audited accounts.

It should not be a struggle. Assuming we passed the BBI, we will not be talking about anything less than 35 per cent because that was the target. So, I believe that we will be fighting for that as a Committee and as a Senate.

Mr. Speaker, Sir, the county equitable share should be Kshs495 billion. We are not shying from saying so, because we can justify.

We recommend the following;

(1) Adjust the proposed allocation of Kshs1,764.52 billion shareable revenues to the national Government for Financial Year 2022/2023 in the 2022 BPS by reducing it by only 7 per cent. We will be able to get our 125; and,

(2) Ensure that the budget deficit including grants does not exceed 6 per cent of GDP while the budget deficit excluding grants should be pegged at 6.4 per cent as projected in the coming year's BPS 2022. If we were to do that, then the counties will get the money we are talking about.

Like we presented last time, we noted that there is money that is being wasted by paying commitment fees for loans that we have taken and committed. We are not using, or they have not been dispersed. The last time I checked, we had lost about Kshs14.6 billion. Those are facts. Anybody can get the data and verify.

We pay commitment fees to loans that we have borrowed, but we are not using. If that money was to be saved and taken to the counties, then we will be supporting devolution and ensuring that the services get closer to the *Wananch*i or *Wanjiku*.

Mr. Speaker, Sir, The National Treasury should rationalize the national Government budgets for devolved functions such as health, agriculture (crop, livestock, and fisheries development), water, irrigation, sanitation, and regional development, and the funds transferred to the county governments.

It is an irony that the Ministries continue getting huge allocations when those functions have already been devolved to the counties. We request that should be reversed and money due to counties be given to them.

Mr. Speaker Sir, to enhance revenue mobilization as well as improve the predictability of the tax regime to attract investments, the National Treasury should prioritize type finalization of the National Tax Policy. It is an embarrassment that even after mentioning this last year and one year down the line, we have not seen the National Treasury rising to the occasion and finalizing the national tax policy. We are calling on them and telling them to wake up as it is a high time we get the National Tax Policy operationalized.

In conclusion, the Committee expresses gratitude to all the stakeholders who made contributions to the success of this exercise of consideration of these two key budget documents. The stakeholders include; the Standing Committees of the Senate, the National Treasury and Planning, the Commission on Revenue Allocation, International Business Partnerships Kenya Chapter, Institute of Certified Public Accountants of Kenya (ICPAK) and The Institute of Social Accountability (TISA).

The Committee is also grateful to the offices of the Speaker of the Senate, the Clerk of the Senate and the secretariat technical team attached for the support received in the course of discharging the mandate of examining the 2022 BPS and the MTDMS.

I appreciate all the Senators who participated in the meeting that was organized for the general briefing of the BPS and the MTDMS. Thank you all for the support that you offered in this process.

I also appreciate all members of the Committee for their patience, sacrifice and commitment to public service which enabled us to complete the assigned task within the stipulated time. We are proud that we have never missed a quorum as a Committee.

It is, therefore, my pleasant duty and privilege on behalf of the Standing Committee on Finance and Budget to present this report on the 2022 Budget Policy Statement and the Medium Term Debt Management Strategy and recommend it to the House for adoption.

I move and request the distinguished Senator and one of the Principals of One Kenya Alliance (OKA) and a standing Member of the Committee, one, Sen. Wetangula, to second the Motion.

Sen. Wetangula: Mr. Speaker, Sir, I wish to remind the distinguished Senator for Kirinyaga County that I am not 'one' Senator, I am 'the' Senator. I will give him a few tutorials on good English.

I beg to second this Motion that has been ably moved by my Chairman of the Committee on Finance and Budget. The BPS is a fundamental constitutional requirement in law. The National Treasury must tell the country through Parliament its intention to roll out a budget. A budget that is realistic and one that helps this country to achieve its growth targets.

Hon. Members must be very keen to ensure that the BPS that Parliament will eventually approve becomes the pillar from which budgets will grow. Any deviation and variation in substantial terms from the BPS becomes illegal and unconstitutional. It is a very important document that this House must be called upon to not only read and internalize, but to debate and approve from a point of reason not emotion.

As a House that is obligated to protect county governments, their interests and governments, this BPS falls short of our expectations. The Cabinet Secretary tells the country that the economy has grown by an admirable figure of 9.2 per cent. This is the budget he is bringing indicating that we have a 9.2 per cent growth. However, this House must be invited to ask questions why where there is a 9.2 per cent growth, the allocation to counties remains static? The Kshs370 billion that we allocated in the ending financial year is what is being proposed again.

In this regard, the Senate must take a very dim view of a body called Intergovernmental Budget and Economic Council (IBEC) in which governors go sit, compromise the interests of their counties and the view of the Senate thou they do not bind us. However, at the end of the day it is very difficult for you to wail louder than the bereaved.

The Controller of Budget (CoB) and his team and regrettably even the Commission on revenue Allocation (CRA) have been part of this connivance to go sit and agree that we have a 9.2 per cent growth which only benefits the national Government while the county governments remain where they were is not acceptable.

I urge the Members of this House to defend the interests of the counties they represent, whether you are elected or nominated you are part of a delegation from your county to ensure that the interest of your county is not about which Senator was elected, but about you the Senator in this House that represents those interests.

The Committee has recommended that we reject the figure of Kshs370 billion as my able Chairman has pointed out. We are recommending a figure that is commensurate with the growth that the National Treasury itself has told us.

That growth is not a figure from the Senate, but from the Cabinet Secretary for National Treasury and Planning. Based on that figure, the Committee recommends to this House that the allocation of revenue for the financial year that is now rolling out must move from Kshs370 billion to Kshs495 billion. That reflects the growth that the Treasury itself has told us. We should probably be asking for more, but we are only holding them to account on what they have brought to the Senate and my Chairman has said it clearly.

Our interest is to ensure that devolution works and that resources follow functions. The functions that are already with the county governments must be adequately resourced.

Mr. Speaker, Sir, equally important in our recommendation is the continuing holding on of resources for devolved functions. Huge sums of money are still held at the Ministry of Water and Sanitation, Ministry of Health, Ministry of Agriculture, Livestock, Fisheries and Irrigation for functions that have been devolved. Agricultural fertilizer subsidies are now dead because the money that would enable the counties do the subsidies is held at the headquarters.

We only need to inquire as the Senate which functions did we devolve according to the Constitution and the law to the counties? Which Ministries are, therefore, obligated under the Constitution to be responsible for policy formulation and not implementation of programmes and projects that are devolved? You will find that the Ministries of Health, Agriculture, Livestock, Fisheries and Irrigation and that of Water and Sanitation would be receiving most minimal budget allocations yet they get the lion's share.

Those that are devolved are not being budgeted for and resourced at county levels. Instead, the money is left at the national level. The Committee recommends that Senate must take and seriously deal with this issue.

Mr. Speaker, Sir, we have been told of the debts that are bedeviling, first, the country. I will come to that. Let me deal with the issue of debts owed by Kenya Electricity Generating Company (KenGen) and Kenya Power. Hon. Senators must be invited to ask themselves how a monopoly like Kenya Power or KenGen can be debt ridden. How can Kenya Power that controls the distribution and supply of energy and electricity to Kenyans and dismembers any supply when a citizen fails to pay for a single day, be heavily in debt to the extent where it is now getting the attention of the Treasury and everybody else? It is pure and simple mismanagement.

The reforms that have been put in place in re-organizing Kenya Power must go further and deeper, arrest the culprits, prosecute them and bring Kenya Power to where it was.

There is not a single Member in this House who has not fallen victim of not only the mismanagement but also the fraud being committed by Kenya Power on its consumers, where they just decide and inflate bills to recover money that they have misappropriated so that *wananchi* can foot and underwrite fraud. This is not acceptable and this House must again take a very serious view on this.

Mr. Speaker, Sir, Kenya Airways has a choking Kshs80 billion debt. Kenyans must start asking themselves, if this is what Kenya Airways is doing to our economy, do we still need an airline? If we need one, do we need to own an airline that cannot generate revenue, has degenerated from the pride of Africa to the shame of Africa? Do we really need this airline if this is what it is doing to the country?

I salute Parliament for the last two years that both Houses of Parliament resisted and rejected attempts to handover the Kenya Airports Authority to the airline that is bankrupt so that the airline can survive on a falsehood and quicksand of money that it does not generate.

We need to keep asking these serious questions. For how long will the Treasury be giving money to an airline whose only benefit to this country is unquantifiable pride and, that is all? There is nothing else we can talk about Kenya Airways. Today, the small airlines run by entrepreneurial Kenyans at Wilson Airport from here to Kisumu are charging Kshs4,000 one-way and Kshs8,900 return. Kenya Airways is charging between Kshs25,000 to Kshs30,000. You go to Mombasa and it is the same thing.

Why are they fleecing Kenyans and remaining in debts? Yet, the National Treasury is still projecting that this is one of the public operations that needs to be taken into account by public coffers? This is not acceptable, and this House should take a very serious view of this. This is because there are countries that do not have an airline and their citizens travel at will.

If it is not working, let us not bother about it. If it is working, let us hold on to it. As it is, Kenya Airways is no longer employing, paying or giving Kenyans service in the manner we expected. It is now time to urge the national Government to rethink. If you want an airline to bear Kenya's' name, give it. Condition whoever invested in it to call it Kenya Airways but let it not drain our resources that we need for other avenues of development.

Mr. Speaker, Sir, this country is suffering under very heavy public debt. This House may remember when CS, Ukur Yatani came to office. He appeared before this Committee and told us that he was going to bring - indeed, he brought - an escalation and expansion of the debt ceiling. We haggled on this Floor and raised the debt ceiling from Kshs7 trillion to Kshs9 trillion or thereabout. His promise was that he was going to borrow more money to retire expensive debts so that we have cheaper debts. To date, the National Treasury cannot tell this country if they have retired any single debt of even one Kenya Shilling. They have not.

This Committee has asked the Minister, if we could see the public debt register. We did not see it. Which are the expensive debts we saw when we appeared before our Committee? There are some debts from Europe including Germany, where we are paying 19 per cent. A country paying 19 per cent on a public debt is unheard of.

When you borrow, you always pay just about 1 or 2 per cent above liable. You are talking of 3 to 4 per cent. We have debts that Mr. Ukur Yattani, the Minister brought to us once and told us that he was going to retire. Sen. Mutula Kilonzo Jnr., the able Chairman and I in the Committee have repeatedly asked the Minister where the expensive debts he has retired are. He has continued borrowing from the World Bank, the International Monetary Fund (IMF), the Chinese, the Japanese and everybody. In fact, it is a borrowing spree. This borrowing spree must translate into tangible economic growth.

This economy will not grow - this House must appreciate it - if we do not grow and expand our manufacturing and export arm of the economy. This whole budget is about consumption. The Chairman has read to the House that the Budget is focusing on consumption in agriculture, education, drought response, infrastructure, financial inclusion, energy consumption, and environmental conservation. Where is the growth?

We must compete with other economies. The other day I was meeting the President of Korean community in Africa. He was telling me, "I am old enough to tell you that in the 1960's, you guys were better than us." This is a fact we know. How come today the Gross Domestic Product (GDP) of Korea is over USD45 million dollars yet we are still at less than USD1 million dollars.

Mr. Speaker, Sir, Kenyans must ask ourselves questions: Where did we take the wrong turn? President Uhuru Kenyatta's Government has done a lot about infrastructure, and we salute this, but at what cost? As a Committee, we should also start interrogating the cost of public projects in this country, because a good intention is being executed badly. We have very good high profile prestigious infrastructure projects but at what cost? These are questions we must ask ourselves.

Mr. Speaker, Sir, if we do not control our appetite for borrowing, this country is going to choke and run into problems. I am very sure that in rolling out this Budget, the National Treasury is still salivating for more and more borrowing from our benefactors, particularly the Chinese who are very cruel on recovering their money. You know what they have done to Sri Lanka and Zambia, and what they are likely to do to us if we are not careful.

We should not put ourselves in a lion as a country that has graduated from Heavily Indebted Poor Countries (HIPC) to a medium developing country to be blackmailed and eventually foreclosed because of reckless borrowing. Parliament, particularly the National Assembly has failed this country. This is because the Constitution is very clear that the national Government cannot borrow money from anywhere without the approval of Parliament, which is limited to the National Assembly. Nobody comes to the Senate to seek authority to borrow; the National Assembly gives authority.

When you go the National Assembly, their debates are jokes. Members there just speak for one minute, then they stand up and say; "I support". However, if you ask them what they are supporting, they cannot tell yet the country is busy borrowing and borrowing.

This House must distinguish itself and go in the annals of history, that even if constitutionally we are not obligated to control the borrowing like the National Assembly is, in future when constitutional change comes and this House is properly restored as an 'Upper House', people will read and say the Senator for Laikipia said this on this date that helped the country or the Senator for Marsabit stood firm and was counted and everybody else. Nobody will erase this history from you. We must stand firm on this.

Mr. Speaker, Sir, I want us as the Senate to ask ourselves questions; if indeed we are choked by public debt, why are we rolling out budgets that keep on ballooning? Why are we not cutting our suit according to the cloth available? This is the question. We have been told that we are now moving from a Kshs3.03 trillion Budget to a Kshs3.309 trillion Budget, yet we have also been told in the same statement that about 70 per cent of our revenue collected is going to debt service. The first charge on our public resources goes to debt service. We are left with only 30 per cent.

We have a restless workforce that wants a salary increment every day. From that 30 per cent we have got to deal with health issues; we have a pandemic in our midst. We have to redirect some budget allocations to deal with COVID-19. With that 30 per cent, we have got heavy recurrent expenditure in wasteful national Government and county governments.

Mr. Speaker, Sir, the Government must take the dragon of corruption and slay it. President Uhuru is on record as saying that we lose Kshs2 billion daily. That is not a Statement from this Senate or from the National Treasury; it is a statement from the Chief Executive of Kenya. As Senate, we have said we will give you Mr. President unqualified support to fight corruption, lock up the corrupt, seize assets of the corrupt, and restore them to the people of Kenya. As I have said before, taking from the corrupt is an act of heroic restoration of people's assets and money. We need to deal with this because if you look at this country, the wealthiest people are former or current public servants. Are they hardworking?

Mr. Speaker, Sir, I request for a few more minutes.

The Speaker (Hon. Lusaka): How many minutes?

Sen. Wetangula: Five to 10 minutes.

The Speaker (Hon. Lusaka): Ten minutes will do.

Sen. Wetangula: Thank you, Mr. Speaker, Sir. If you look at this country, the most opulent persons are former or current civil servants. Are they hardworking than the ordinary Kenyans sitting in front of me here? Do people go to public offices to work for the people of Kenya or to work for themselves? These are big questions we have to ask. Until and unless we instill respect for public property and public resources in this country, we will continue having these problems.

Mr. Speaker, Sir, you and I come from a county where we see this happening. A person who did not have a cent when he came to office now goes around displaying obscene wealth. Every funeral he attends he says: "When I finish talking to you as mourners, follow me and queue up for money". That is not his money and this is happening in full glare or full view of institutions of governance.

I want this country to empower the offices of the Directorate of Criminal Investigation (DCI), Directorate of Public Prosecution, (DPP), Judiciary, Ethics and Anti-Corruption Commission (EACC) so that we can be able to fight corruption. I am told that even some of these offices have been infiltrated completely. The Auditor-General rolls out reports every year, and every time you read and follow the stories of the Auditor-General, it is like a crime story. It is like an Agatha Christie novel where crime is there and every single individual has an opportunity and a motive to commit that crime. We know them but we do nothing.

If we want this country to grow--- We have said this; I am not saying anything new. The President has said it. We in the political arena have said it. These Senators here have said it and my Chairman here has been saying it, that it is not enough to engage in unhelpful rhetoric about the war against corruption. It is very important that we fight corruption.

Mr. Speaker, Sir, look at comparable jurisdictions. I like citing a country called Cuba. This country has done so much with so little. This is a country without resources. Cuba only produces sugar and they have some little oil wells that you cannot talk about or compare with Venezuela, the United Arab Emirates or Saudi Arabia. However, if you go to Cuba, they have got the best health care system in the world.

In Cuba, education is free and available to every Cuban child from pre unit to university including post-graduate degrees, which are available to them. Here we say we have free education but when children go to school they are asked to bring uniforms, books, a brick, a tortoise, *etcetera*. Nowadays they are bringing everything to school under the Competency-Based Curriculum (CBC) system of education. I saw some children in the village hunting for a tortoise to carry to school to meet the requirements of CBC.

(Laughter)

We have to change this. It is very sad that we are going the wrong way. I urge CS Prof. Magoha, a good friend of ours not to fall into this trap whereby everyone who becomes the CS of the Ministry of Education must appear to be reforming something. I asked them: You brought the 8-4-4 system, we accepted it, and it was working, why have we run away from it? Nobody is explaining to Kenyans. I thought when we wanted to move away from the 8-4-4 system, Kenya as the team leader in the East African Community was now going to move to primary education, Form One to Four, Form Five to Six, to university like Uganda, Tanzania, Rwanda and Burundi are doing so that we synchronize our education system with the region.

Now we have a mongrel that nobody understands. Even if you ask the CS to explain what is CBC he will fumble the same way I saw my good friend Alice Wahome fumbling when she was asked, what is this bottom-up economy you are talking about? She embarked on a misadventure that left her a laughing stock. She fumbled in her explanation until every Kenyan started laughing.

If you ask Prof. Magoha what CBC is, he cannot tell you. Why did he bring it? This is because as a CS, he must be seen to be reforming something. This is not helping our country and this Senate must speak to this. We need to be predictable and synchronized with the region. We need to work with our partners. Kenya is a material source of labor and manpower to our neighbors. If you went through the 8-4-4 system of education and then you went to Tanzania, they accepted and employed you as a manager.

Tomorrow somebody asks you: "What is your education system like?" You say CBC. "What is the CBC?", "I don't know, we are chasing tortoises to take to school and that is CBC". These things must change. You Senators, protect devolution. I want to urge you to agree with this Report that there is no way the economy can grow by 9 per cent and the allocation to the counties remains static. You must reject this. I want my friend, the moran from Narok County, to reject this. If we have grown, then we must all grow.

Mr. Speaker, Sir, I told the Chairperson of the Commission for Revenue Allocation (CRA) that she has been doing a good job but she is now suffering from diminishing returns. The CRA cannot have figures before them stating that the economy has grown by 9 per cent, then they append their signature stating that counties should get what they got last year without taking inflation into account.

They have not taken inflation and economic growth into account yet they are telling us that we have registered a growth of 9 per cent. The Senate should stop being a rubber stamp. We should rationalize issues, sit, talk, engage and convince the Government. Governments all over the world always hold on to money. They take your money but they will never give it back to you. It is not unique to Kenya.

Mr. Speaker, Sir, finally, the levels of taxation in this country must also be addressed. My Chairperson is one of the Mt. Kenya tycoons and I am sure he suffers from excessive tax payment. This country must reengineer its tax regime. If you earn Kshs100, Kshs30 out of Kshs100 goes to the Pay as you Earn, Kshs16 goes to VAT on everything you buy, then there are taxes on fuel and you pay it whether you own a car or not.

Every time you get into a public transport, your money goes towards fuel taxes. In this country, over Kshs69 of what you pay per litre of petrol that you buy goes into tax. How do you explain the fact that the fuel that comes from the Middle East through Mombasa, piped to Eldoret and collected by trucks to Rwanda and Congo is still cheaper there as compared to here?

How do you explain the fact that fuel is cheaper in Uganda? The Speaker and I live close to the border and when we have a minute, we can drive across. When you drive to see your relative in Mbale, you will see that a litre of petrol is Kshs10 cheaper than Kenya. How do you explain that? Why should we tax ourselves to death? For the economy to grow, we must loosen our tax hold on Kenyans for them to spend their money to grow the economy.

The Government should tax Kenyans less and when they do that, they will get more. They should broaden the tax base, and collect more taxes other than choking the taxpayer. Otherwise, they will end up milking the cow and when the milk is over, they will cut off the udder and after eating the udder, they will eat the cow itself. This is where we are headed.

Mr. Speaker, Sir, I beg to second this Motion. The Members should know that this is their final year this term. We fought hard to raise the figure from Kshs316 billion to Kshs370 billion. Our intention was not to have the Kshs370 billion locked in stone. It was supposed to be a growth trajectory and the Members must grow the economy.

Nigeria has the biggest economy today in Africa. Their economy is bigger than that of South Africa because of devolution. If devolution works, you will see miracles and if it does not work, we will keep having the problems that we keep having.

Thank you. I beg to support.

The Speaker (Hon. Lusaka): Okay.

(Question proposed)

Proceed, Sen. Olekina.

Sen. Ledama: Thank you, Mr. Speaker, Sir. From the onset, I want to go on record and indicate that this Senate should not and should never be a conveyer belt. I listened to the Chairperson of the Committee on Finance and Budget when he moved the Motion on the Report of the Budget Policy Statement for the year 2022 and urged us to support it. I have also keenly listened to Sen. Wetangula when he seconded this Motion.

Some of the key things that I want to reiterate, revolve around our role as Parliament in determining the amount of revenue that should go to our counties. I want to invite my colleagues to look at the way this BPS has been drafted. For me, I term it as utopian and completely unattainable.

We lament on a daily basis on the policies adapted by the Executive mostly from the National Treasury with regard to money going into our counties but we do little. I have heard my colleague, Sen. Wetangula, also lamenting and saying that Parliament has failed, which means we have failed. There is absolutely no reason as to why we should be here. He has also told us that this is our last year for this term. Therefore, we should be careful not to remain conveyer belts.

The silent issues on this Budge Policy Statement, which I want to reiterate, revolve around the economic growth which the National Treasury is suggesting that is going to grow by around 6 per cent, yet the money which is sent to county governments remains Kshs370 billion. The question is, why is this economy growing yet there is no money being sent to counties?

The other big salient issue, which should be a concern to every Kenyan and not just the Members of Parliament is borrowing locally. The Budget Policy Statement proposes that the National Treasury or Government will borrow about 4 per cent of the Kenyan GDP locally.

As a businessman the first question that comes to mind is; 'what will happen to the money which is normally available for local businesses to borrow locally if the Government is borrowing 4 percent of its GDP locally?' Does that mean that all Small and Medium Enterprise (SME) will just close shop and go home? That is very disturbing and it ought to change. If we are to borrow, we should always consider borrowing outside the country. Every financial institution will feel secure lending money to the national Government rather than small businessman in Narok who wants to improve his wheat farming activities. Unless we remain true to the Constitution and defend our counties, we will be reduced to voting machines and conveyer belts. We will not play any role in terms of developing the economy of this nation.

Mr. Speaker, Sir, in the Budget Policy Statement, there is the issue of Treasury releasing about Kshs38 billion to county governments yet there is a court ruling that conditional grants should be sent differently to the counties. It was clever for them to initially say that they are going to give the counties Kshs370 billion, which came after the long fight of over 11 votes so as to ensure that our counties do not lose money. When we got to that action, we developed a legislation that states how the conditional grants can be sent to the counties. The National Assembly came up with a different framework on how that money should be sent to counties. Until today conditional grants that are mostly supposed to help health functions, which are devolved, have never been disbursed to the counties.

Equalization Fund is another issue. That money has not benefited the people who were supposed to benefit. If we do not pay attention to the text in the BPS, what difference will we have with the Kenyan citizens out there who expect us to go through what is presented to us and protect their interests? I am concerned. I request my colleagues to take some time to read this BPS before voting for it.

We are talking about post-COVID-19 period. I do not know whether we should even call it post-COVID-19 since we still have it because Omicron variant is still there.

In developed nations and other countries in the world, after a recession – I do not know what else to call it because it is a recession – governments inject money to revive their economies. In this case, we will have the same amount of Kshs370billion, yet they are telling us that the economy has grown. They are also telling us that from today, they will borrow 4 per cent of the GDP locally.

Mr. Speaker, Sir, allow me to read this. It is stated that:

> "Going forward, the National Treasury is optimistic that the economy will turn around over the medium term with a projection growth of 6 per cent in 2021, supported by the continued reopening of the service sector, recovery in manufacturing and strong global demand."

Of importance is that the BPS has been prepared since the introduction of the Big Four Agenda and the universal healthcare is one of the Big Four Agenda of the Government. How will you ensure that we attain the universal healthcare, yet you are not increasing money that is supposed to go to the county governments? How will you ensure that we obtain the universal healthcare when you come up with a system that tends to claw back devolved functions from the devolved governments to the national Government?

Mr. Speaker, Sir, in this BPS, we are told that they will build about 50 healthcare facilities, but we are not told who will build them. Is it the national Government? What business does the national Government have to carry out a function that is devolved?

We saw the President opening clinics in Nairobi at night. How were they built and who paid for them? Were they built by the county governments? Was that money allocated by the Parliament for them to do that? We need to stop this business of being a conveyer belt and look at the issues which are brought here critically because we will be judged harshly by history.

To me, this BPS is utopian and completely unattainable. We need to change. We should not allow the National Treasury to borrow locally. If we pass this BPS the way it is today, we will be killing Small and Medium Enterprises (SMEs). We will be telling them to go to other countries and borrow money because they cannot be given any money locally.

We looked at this. I am an active Member of the Committee on Health. Among the recommendations we made was to ensure that we protect the devolved functions.

The Fourth Schedule of the Constitution is quite clear on what is devolved and health is a devolved function. We always talk about the principle of form following function, yet we do not go by it. When we devolve a function, it should be followed by money.

Some of the key recommendations that we came up with, which I want to reiterate, and I hope my colleagues will look at them, is that the Government should look into the issue of borrowing externally and not locally. We are not going to stop you from borrowing because we have no control over what you do, but I wish we did. I believe we do, but since nowadays Parliament is just a conveyer belt, we should tell you so if we are able to stop you from doing it. Do not borrow locally but externally, so that we save our economies.

Secondly, the National Treasury and the Ministry of Health should develop a framework to allow for pending bills to be cleared as a first charge of accounts. That is the principle in accounting and I am sure the Majority Whip will tell you the same.

If you have a pending bill, it should form the first charge on your accounts. Our pending bills have grown tremendously. I think to a figure of about Kshs120 billion. How are we going to clear that? We are killing businesses. When we come up with a budget, let us not just build the English. We should demystify what it means for us to have a budget that can help our economies grow.

The other important thing is that the Ministry of Health and county governments should ensure that a framework is developed to take care of the 5,500 health workers who are employed on contract under the Universal Health Coverage (UHC) programme because this BPS is silent on that. It does not tell us what will happen.

You are telling us you want to achieve the universal healthcare and ensure that, eventually, you provide healthcare to every citizen in this country. However, you are not telling us how you are going to protect the 5,500 workers who were employed on contract.

We know what happened this year in the health sector. For example, there are the Kenya Medical Supplies Authority (KEMSA) workers who were on contract. When their contracts expired, they were not renewed. Even though the law is presumptive in the sense that if a contract is not renewed, you become permanent and pensionable, those people were sent home. What country are we living in? It is time we asked ourselves tough questions.

We talked about the issue of concurrence of Bills. Today, I am aware that there is a Huduma Bill in the National Assembly, but I am not sure whether the National Assembly sought concurrence.

Even the Court of Appeal overruled the decision of the former Supreme Court, still, the National Assembly can just come up with legislations, pass them and send to the President for assent. We should not allow the Huduma Bill to be sent to the President for assent when it literally renders the immigration services as another department.

We need to be pragmatic and progressive. With such kind of BPS that seeks to claw back devolution, there is no progression at all. It is like we are telling Kenyans that they do not know anything because we can do anything we want. It is like the national Government is the Alpha and the Omega, yet we talk about devolution. That is something that ought to come to an end.

There are also special funds, which should be allocated to the establishment of cancer centres in Meru and Kakamega counties as proposed is the BPS. We need to look at the entire country. Even though we cannot have equality, there is some form of equity that can help us.

[The Speaker (Hon. Lusaka) left the Chair]

[The Temporary Speaker (Sen. Kinyua) in the Chair]

Mr. Temporary Speaker, Sir, in conclusion, I will not support this BPS because of the reasons that I have given, which I want to summarize. First, I cannot support a BPS that seeks to kill SMEs. It is proposing borrowing 4 per cent of the Kenya's GDP locally. They should borrow elsewhere.

Secondly, the issue of concurrence of Bills is very important. During the budget-making process, which is where we are now--- I want to borrow the words of my colleague, Sen. Wetangula, that all 47 elected Senators, including the ones who were not elected, who form part of the delegations, should actually be here to go through the budget-making process. We should pay attention to what is brought to this House, so that we save our people.

I want to ensure that the people of Narok County get services they need in healthcare in terms of the hospitals, which are build there. However, the County Government of Narok should also play a role and not just be a bystander.

A lot of money has not been sent to county governments, but we are sitting here happy waiting to pass the BPS, yet we cannot ask questions. What will happen with the conditional grants that have not been sent to the counties? The fight between the National Assembly and the Senate should end.

When we came up with a Bill on conditional grants, the National Assembly came up with a framework. What does that tell us? Two elephants are fighting; who will suffer? It is the grass. The people in the counties who are supposed to be benefitting from the conditional grants will not benefit from them unless we end this thing. We are going into the next financial year, yet services that are supposed to be rendered in the last financial year have not been rendered.

This is why on an annual basis; the National Assembly will come up with a supplementary budget at any given time. We have come of age as a nation with intelligent and educated leaders. We can develop budgets that do not require supplementary at every given time to fit interest.

Thirdly, I want to reiterate the issue of concurrence. I am glad that at least, as a Senate, we have an opportunity to go through this Budget Policy Statement. However, in terms of concurrence of Bills--- I always support the Judiciary, but in this case, the decision that was rendered by the Court of Appeal, overruling the decision of the Supreme Court in terms of concurrence will kill this Parliament.

I am aware that there is a Huduma Bill, which is dangerous. It will convert all immigration officers into National Integrated Identity Management Systems (NIMS). How dare you say that a passport is a primary document? It is not. The primary document is the national identification and the birth certificate. When you come in and add a passport, then it means that although it is a primary document, it is okay for it to keep on changing the number.

Mr. Temporary Speaker, Sir, I know in your time of travelling and you have travelled all over the world--- You have probably exhausted about three or four passports. You have not maintained the same number. We need to go to the time when we can look at everything. The reason I am raising the issue of the Huduma Bill is because it will affect the budget. It will be part of this budget and it is a lot of money there. With all this money that the National Treasury is saying it will raise, it will be a lot of money to pay debts, but kill counties.

I am here to defend devolution and that is why I will not be supporting this Budget Policy Statement. I cannot support a policy that will kill small businesses. We want to be progressive and not a situation where everything in this country is about the Benjamins and bourgeoisies. What about the small people that we talk about?

The only time we will attain universal healthcare is if we are open enough to ensure that when we are building hospitals, it is not controlled by the Ministry of Health, but the function is devolved back to the county governments. Allow the county governments to build hospitals. I want the Chairperson of the Committee on Finance to tell National Treasury to find a framework to release the conditional grants, which they are holding even if Parliament has been unable to come up with a Bill. The court's decision was for Parliament to come up with a process of disbursing the money.

Let us follow the law. It was designed to help us remain in the course. No one is above the law in this country.

With those few remarks, I reject it completely.

The Temporary Speaker (Sen. Kinyua): Thank you. Sen. Farhiya, proceed.

Sen. Farhiya: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I beg to support the Budget Policy Statement, but I have a couple of concerns and some recommendations as well.

In terms of revenue targets, in this House, we have dealt with five budgets. In all the five budget cycles, we have never met the revenue targets. Why do we always get it wrong?

Where I worked before, I did a lot of budgets. The history informs the future of budgets. You stretch a little so that you are not lazy in terms of achieving your targets. At the same time, you should not always get it wrong. When you are budgeting for the same revenue, you should have some conservatives that take care of the excesses that you always project. The problem I have with having excessive budget projection is that revenues are matched with expenditure. Therefore, when you have over-projected revenue, it means you will have over-projected expenditure. This is partly the reason debt increases.

Mr. Temporary Speaker, Sir, as we budget, we need to be sensitive about that. From this Statement, I see that agriculture and source of diaspora funds have continued funding our economy. When you realise that some of the sectors are the ones that increase your output, the revenue and Gross Domestic Product (GDP) of the country, then we need more investment in those sectors. Some of the sectors got less money this time, while there has been a decrease. If you check the proposed ceiling for agriculture, rural and urban development sectors, have decreased by 15.6 per cent. My only hope is that the decrease from the national Government has gone to counties. If not, it means that the sector that generates more revenue gets less allocation in terms of the budget. We are likely to generate less and not meet our target for revenue generation. We need to be careful how we handle that.

As you realise, we are living in hard times because of the COVID-19 related problems. With the Omicron variant and other problems, I hope we will not lock down the economy. From what I have seen, we have locked the whole world for almost 18 months, but diseases keep on increasing from one country to another. I urge Kenyans to be vaccinated because it will enable us to have a healthier nation that is more productive and supports the growth of the economy.

In terms of county allocation as per the Budget Policy Statement, proportion increase to the allocation of revenue to the counties has decreased from 22 per cent in the Financial Year 2017/2018 to 17 per cent in the Financial Year 2022/2023. Due to the handshake agreement, when the revenue stalemate came, there was an increase of Kshs500 billion to the counties. Despite this, we are underperforming by 5 per cent. This is not acceptable. If we were able to generate more money, then counties should get more money.

Pending bills have increased to Kshs102.69 billion. I always speak about pending bills because they have significant impact on how our economy, GDP and businesses grow. If counties and the national Government owe money to people, the ability to invest is impacted and they cannot finance their debt, which will result in many Small and Medium-term Enterprises (SMEs) to fall.

When business falls, the more we have unemployment. The more revenue shortfalls, the more we will have investors not interested in investing in this country. We will become more uncompetitive compared to our counterparts in this region.

Mr. Temporary Speaker, Sir, the BPS is proposing that counties should be given Kshs370 billion. If we do not factor in inflation, that means the money that the counties are disposed to spend, will be less than what they had last year by the percentage of inflation.

Mr. Temporary Speaker, Sir, this House should not accept the same amount now nor in the future. Inflation always affects our ability to spend. I am glad that I am also a Member of the Committee on Finance. I am happy that we are proposing 35 per cent of the revenue of the last audited accounts.

Mr. Temporary Speaker, Sir, we always have the issue of the commitment fees in terms of money borrowed but not utilized. If you have no target for that money, why borrow? Borrowing is costly.

There are two things. One is the commitment fee charge. Secondly, there is a lost opportunity for the sector that could have used that money because it was not given that money. Therefore, there will be a lost opportunity in the sector that would have grown with that increment. Instead of generating more revenue, they were not given money. There is not only the cost of commitment fee, but also what we call opportunity costs.

Mr. Temporary Speaker, Sir, the other issue that I always talk about is the national tax policy. I am glad that my Chairman also mentioned it. When you have a national tax policy, it encourages compliance of the businesses that exist. There is some stability in the economy because people are able to predict what the next increment is. Not only that; it covers a wider spectrum of issues that we can cover, so that we generate more revenue for the Government.

Mr. Temporary Speaker, Sir, there is also the predictability of the taxes. This increases the number of people who are interested in investing in our country because they know exactly what to expect. However, as it stands right now, even the compliance level of our business people might be lower and they might be charged by the KRA for reasons that are not their fault. This is because they do not know what to expect.

These taxes keep on changing with every budget. Therefore, tracking the taxes becomes very hard. One might not be able to pay taxes not because they did not want to pay, but because there is no predictability in how the taxes should be raised. It becomes much harder for the taxman to monitor a like for like comparison. Right now, it is a little haphazard. I think that needs to be corrected.

Mr. Temporary Speaker, Sir, I agree with what many Senators have alluded to about when there is a depression. You reduce taxes because when you reduce them, you increase the disposable income for businesses and individuals. That encourages investment. Once the investors invest in new ventures and innovations, more funds are likely to be generated out of that. As a result of more investment, there will be more employment and money available for investment.

Mr. Temporary Speaker, Sir, the other thing that I want to reiterate is the fact that this House, specifically the Committee on Finance, always makes very good recommendations in all the BPSs that we have handled from the inception of this House to the current year.

For the last five years, the Committee on Finance and this House have made very good recommendations that would have enhanced the revenue that we were able to generate for this country. However, because our recommendations have never been taken into consideration, those opportunities have been lost.

Mr. Temporary Speaker, Sir, there is no point in wasting our time coming here making very good recommendations that nobody implements. I, therefore, urge our House, the Speaker and the Chairperson to ensure that these recommendations have been included in the BPS this time.

I also wish to join my Chairperson in thanking the Secretariat of the Committee on Finance. We have very knowledgeable staff. They have been doing a great job. I also wish to thank all the other support that we get from the Office of the Clerk of the Senate without whom we would have never been able to do all this great work we have done.

Mr. Speaker, Sir, I thank you.

The Temporary Speaker (Sen. Kinyua): Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to comment on this Report. I want to thank the Committee for coming up with it. It has done an in-depth Report that needs to be analyzed in a very sober manner.

I thank the Committee because it engaged the key stakeholders. It has not just given a report from the Committee itself. Key stakeholders like the National Treasury, the Commission on Revenue Allocation (CRA) and the Institute of Certified Public Accountants (ICPAK) came on board with the Senate Committee. This is a Report that is engaging.

Mr. Temporary Speaker, Sir, concerning the observations of the Committee, it has come out rightly that there is projection for the amount of money that should be allocated for the Financial Year 2022/2023. It has also rightly observed that the projections need to be achievable and projectable.

This is because those projections will inform how the county governments will plan their activities. They are going to also inform how the county governments will plan development and ensuring that Article 43 of the Constitution concerning the rights of every Kenyan are achieved.

Mr. Temporary Speaker, Sir, when we talk about development, we consider schools, infrastructure, health centres *et cetera*. At the end of the day, we do not have people from *mashinani* trafficking to cities to look for job opportunities.

The county governments are supposed to entice the youth to ensure that they do not move out of their counties to seek opportunities. Counties must avail employment opportunities and good health to our people.

Mr. Temporary Speaker, Sir, when we talk about allocation of revenues to counties, we make sure that we allocate adequate resources to them. We should not be so rigid when allocating resources to counties because calamities may befall them, which are not budgeted for. For example, when a school is on fire, the county government has to repair buildings.

Mr. Temporary Speaker, Sir, in terms of drought, the money that the county governments have is supposed to support people. We must remember that as a Senate, we represent people in the counties. Our core mandate is to ensure that money goes to *mashinani.* I agree that money must go to *mashinani* and the amount of money proposed in this Report should go as it is.

I remember we had a strong debate about 35 per cent of monies going to the counties. This is one of the issues that was in the Building Bridges Initiative (BBI). Recently, I remember the President articulating that this is one of the things that must happen from the BBI; that 35 per cent of revenue needs to go to the counties. However, this amount of money is not enshrined in the law. There is need for this money to be enshrined in the law so that services reach *wananchi.* As a Senate, we will not rest on our laurels if reasonable money is not reaching *wananchi* because we are here to serve *wananchi*.

(Loud consultations)

The Temporary Speaker (Sen. Kinyua): Order, Members. Consult in low tones.

Sen. (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir. Kenyans must know and be alive to the fact that the Senate is here to defend Kenyans and county governments. Money must go to *mashinani.* The amount of money going to *mashinani* needs to be reasonable.

Concerning the issue of borrowing, everyone has loans. To come up with any form of development, you must look for strategies, capital and ways of making investments that will generate money. When it comes to borrowing, it is not a big issue that the Government borrows. This borrowing should be with wisdom so that it does not cause suffering to Kenyans. Even the amount of money that the Government borrows, let it eventually generate money. Money is good when it is borrowed, but if it can generate to you more money, that is wisdom in borrowing.

Mr. Temporary Speaker, Sir, I support this report. As the Senate, we have a mandate to ensure that we defend and support counties because that is where Kenyans are. We must defend *Wanjiku.* Even as we talk about this, I want to articulate something that I am seeing in Lugari where I come from. Some schools are in a deplorable state. You will find that some schools are constructed using mud. In this time and era, we should not have such schools. Kenya is developed. When you compare Kenya to other countries, you will find that the development that Kenya has is far above that.

I paid a courtesy call to a district hospital in Lumakanda where I come from and I was perturbed to find that the beds were in a deplorable state. Even the nurses and doctors there did not have quarters to live in. When you are talking about health, it is a devolved function and money needs to go to counties. When money goes to the counties, the county governors and executives must use the money prudently. They must use the money to ensure that *wananchi* get services. It is painful to go to a district hospital and find that there are no drugs and even the masks or gloves are not there. We need to ensure that the money that goes to the counties is a good amount, which should be used in a prudent way so that Kenyans can have value for their money. Kenyans have a right to a share of the cake of this country.

Mr. Temporary Speaker, Sir, there is need for county governments to ensure that they are developing schools, especially Early Childhood Development and Education (ECDE) centres. There are schools that have been neglected in many county governments. In Lugari, I was pained because I found that there are some schools without ECDE centres. Even those with ECDE centres, some of them do not have abolition blocks. Some of them have children with special needs, but they are just caged in a room and there is no infrastructure for them. We must be alive to the fact that every Kenyan matters whether you are a Person with Disability (PwD) or you come from a marginalised community or a poor family; you must get your basic rights as enshrined in Article 43 of our Constitution.

We are talking about matters water. I want to be candid on the Floor of this House that some rural places do not have water. Imagine the importance of water. Without water you cannot live. You cannot wash your clothes or prepare food for the children. Water is life, but it is unfortunate and painful that there are some counties that do not have water. Even in Lugari where I come from, boreholes have not been sunk. It is the onus of this Senate to ensure that boreholes are sank in every county. It is a socioeconomic right that is enshrined in Article 43 of the Constitution.

Mr. Temporary Speaker, Sir, it is also a right that all Kenyans must have the highest attainable standards of health. It is unfortunate that sometimes women go to give birth and there is no one to help them. The facilities are not there. County governments must ensure that when it comes to health, they train trainers of trainers who will go to *mashinani* and support the women. The life of women and children in *mashinani* matters. We will not rest until services reach *wananchi*. We will also not play the ostrich. When something goes wrong in *mashinani,* we should bring it on the Floor of this House. However, if we just bring issues on the Floor of this House and we do not act, then we are just toothless bulldogs, which should not be the case because we are an "Upper House".

I support that there is need for more money to be taken to *mashinani*. Even the 35 per cent the President mentioned in his Address should be enshrined in law. He was not joking. He was very serious that there are three issues that need to be factored in; the issue of gender, the 35 per cent, and ensuring that everyone enjoys the national cake.

Mr. Temporary Speaker, Sir, this is our country and we have no other one to go to. We must ensure that we safeguard our rights, *wananchi* and deliver to Kenyans. That is why we are paid. I do not want to see a situation where I am paid and not delivering services to Kenyans. The people of Lugari must know that Sen. (Dr.) Musuruve is here to represent them. I will not rest. We must defend this Report so that more money is taken to *mashinani* because that is what we are mandated to do.

Thank you for this opportunity. I support.

The Temporary Speaker (Sen. Kinyua): Thank you. Sen. Seneta, proceed.

Sen. Seneta: Mr. Temporary Speaker, Sir, thank you for giving me a chance to add my voice to this Motion on the adoption of the Report of the Committee on Finance and Budget on the Budget Policy Statement (BPS).

I wish to note the following issues on the BPS. Being a Member of the Committee on Health, I noticed that there is no budget that has been allocated for the implementation of the National Hospital Insurance Fund (NHIF) Bill that we have just passed as a House. This Bill was to bring smiles on the faces of Kenyans in terms of healthcare services. However, without a budget for the implementation of these reforms, then the National Treasury is just taking Kenyans back to where we were. This is because there are no health facilities that will be built in our counties. There is no budget for recruitment of more healthcare service providers. We know it has been a big problem. There is no budget for expansion of the capacity of the Kenya Medical Training College (KMTC) to train middle level healthcare workers. Therefore, the implementation of this important NHIF reforms will just be there in black and white, but there is no budget for its implementation.

Another issue the Committee on Health saw is that there is no information on the 50 new Level 3 Hospitals that will be built across the counties. This seems to marginalize our counties more. Most of the counties do not have Level 3 health facilities or hospitals. With indication that there is budget allocation for new Level 3 Hospitals, which is not specifically targeted to go to marginalized counties, this BPS seems to create more marginalization to those counties that do not have these facilities.

Mr. Temporary Speaker, Sir, on the issue of the Ministry of Education, there is little budget in terms of recruitment of more teachers. We know that at the moment because of the 100 percent transition rate, our schools are densely populated. Without teachers to handle these numbers in our public primary and secondary schools, it means that parents will pay more for the employment of Parents Teachers Association (PTA) teachers. Parents will also have to chip in more for construction of classrooms, laboratories, ablution blocks and dining halls for the students. This means that saying ‘education is free’ will not be the case because parents shall be paying more fees in secondary and primary schools.

Mr. Temporary Speaker, Sir, there is also no clarity in the BPS in terms of capitation for our universities. Most of our universities are not in a position to pay statutory deductions and salaries for their employees. There is no money in the BPS going to higher education institutions.

On the issue of expansion of our research institutions, we are already affected by the Covid-19 pandemic and we need to help our research institutions to grow to a level where they can also study trends on the pandemic, so that they can help Kenyans in addressing this situation.

Mr. Temporary Speaker, Sir, there is the issue of pending bills. Today, many businessmen and women, including our youth, are owed a lot of money for services they delivered to counties. I wish the National Treasury and Planning could have stated how they will allocate money for pending bills, both for the national and county governments. The issue of pending bills is killing our business sector in terms of capital. Our business people are not able to provide services again because of those pending bills.

We also have the issue of increasing the budget to our county governments in terms of agriculture and livestock. If this country is to be secure, we have to invest in food. Food security is one of our Big Four agendas. Without a budget for agricultural inputs and support for our farmers and livestock keepers in terms of incentives such as subsidies and inputs they need, then it means the Ministry of Agriculture will not improve food production in this country. This will leave Kenyans to import food, which will lead to an increase in food prices.

Mr. Temporary Speaker, Sir, there is also the issue of water. There is no much increment in terms of the budget going to counties for development of water infrastructure. Many upcoming urban-growing areas in this country lack water, sanitation and sewerage services. The allocation for these facilities is not much. The House needs to note these concerns. The Committee has done good work in highlighting our concerns as a House. However, the House should stand firm on these issues that affect most of our counties.

Mr. Temporary Speaker, Sir, I also agree with other speakers before me that when we support the growth of counties, we shall have supported the growth of the whole country. Therefore, I am reluctant in supporting this Motion.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Kinyua): Thank you, Sen. Seneta. Sen. Aaron Cheruiyot.

Sen. Cheruiyot: Thank you, Mr. Temporary Speaker, Sir, for this chance. I join the rest of my colleagues in giving my views on the 2022/2023 Budget Policy Statement Report by the Committee on Budget and Finance. I am proud to be member of this Committee. This Committee plays a crucial role in terms of securing our position as the Senate, in fulfilling our key objectives and reason for existence as a House.

Mr. Temporary Speaker, Sir, this year, unlike the previous years, we have considered this report quite early, and for obvious reasons. Next year is an election year and, therefore, unlike in previous years where we normally do this around February, we were forced to cut short our Christmas break.

Ideally, many of us, especially the young people like Sen. Olekina and I, should be spending this time with our young children. However, duty calls and here we are. Looking through the list of business that we are supposed to transact as a House, I believe this is the only one that is worth breaking a Christmas holiday for. It is an important national duty and it gives direction.

The importance of the BPS, as was mentioned by colleagues who spoke ahead of me, is that it lays the strategic vision for the country in terms of budgeting and lays the walls upon which all the rest of the expenditures and income are supposed to fall within. If you do not pass a proper BPS, then you cannot have a budget. It is upon the implementation of what has been set out in the reports of both Houses of Parliament that the National Treasury prepares a budget and submits it to the National Assembly for approval.

It is worth noting that over the years, the report of the Senate Committee on Finance and Budget has continuously been ignored by the National Treasury. This has been happening since the inception of this House in 2013. We give salient recommendations and they are ignored yet we are leaders just like our colleagues in the National Assembly. Most of us have a global view. When you interact with the Members of the National Assembly, you will realise that their views are tilted towards appreciation of the work done by the national Government with little appreciation of the role that devolution plays in our country. There is always a clash of vision, purpose and planning in terms of the direction that the country needs to take.

This report has made serious recommendations. Over the years, we have become intelligent on how we handle our work just as the bird that Chinua Achebe talked about which said; 'since men have learned to shoot without missing, he has learned to fly without perching.' That is what our Chairperson, Sen. Kibiru, is leading us to do. The National Treasury continues to ignore the recommendations of the Senate thus we may as well not agree with them from the onset. We are actually varying their recommendations on the amount of money that they want to give to the counties.

They want to give the counties Kshs370 billion and that is a stagnation of what was done the previous year. We were all in this House and remember the battle and the tears that were shed for us to get the county allocation to Kshs370 billion. Their proposal is an insult to the intelligence of this House, the purpose of our deliberations and the more than 10 weeks that we spent haggling to push that figure to Kshs370 billion. We should make a commitment not to turn back once we pass this report even if it means that we stick our necks out until the next administration in August. In any case, we passed the 2018/2019 Financial Year County Allocation of Revenue Bill in August or was it September. Therefore, there will be no emergency. We must stick to our guns and maintain the position on this BPS.

The fair figure that should be given to our counties is in excess of Kshs500 billion. If this budget is growing by 9.2 per cent then the budget of the counties should also grow by an equal figure. This is not a figure that the Committee on Finance and Budget plucked out of the blues, it was empirically achieved. We did an extrapolation and took inflation, growth of revenue and the growth of the overall size of the budget into consideration. Our duty under Article 96 of the Constitution of Kenya is to protect the interests of counties and their governments. How can we protect the interests of the counties if we are not sticking firm and picking out obvious errors such as what is being proposed in this BPS?

When the Cabinet Secretary for the National Treasury and Planning, Mr. Ukur Yatani, appeared before us, the position of the Committee on Finance and Budget was straight and clear. We told him that we could not accept what he had presented to us. We told him that if the size of the national overall budget is growing, then the size of funds and resources that go to the counties must equally grow. Anything short of that was completely unacceptable to us. We mentioned this to the Cabinet Secretary for the National Treasury and Planning. We pointed out in our report that the only reason that we would have maintained a figure of Kshs370 billion going to counties is if in the follow up to our recommendation and report as a House on our debt management strategy as a country, is if we had cut down on our fiscal deficit. However, they are not willing to listen.

If you read through this budget, the fiscal deficit moves by a whooping Kshs891billion. It takes us close to the debt ceiling that we proposed before this House. There is reason to strongly believe that many keen followers of the budget making process in this country are asking us not to pass this BPS. If we pass this BPS in its current form and state, we will be raising the debt ceiling without making it clear to the citizens of this country.

We need to be cautious about the work that we are doing. We speak with a lot of concern because there is generally an agreed thinking across the breath and space of the Republic of Kenya that things have gone wrong in this country yet, unfortunately, we are so obsessed with all the things that do not matter such as our politics, who will be the next president and can we shortchange the other person. We are not focusing on the things that matter.

Mr. Temporary Speaker, Sir, many of us have returned from the just concluded East African Legislative Assembly (EALA) Inter-Parliamentary Games. While travelling to Tanzania, something struck my curiosity at the Namanga Border and I asked one of the revenue officers about it. The revenue officer informed me that we the leaders of this country need to make changes on how things are run at our borders. If you are coming into Kenya from the Tanzania side, you will find hundreds of trucks that bring in goods into the Republic of Kenya yet there are absolutely no trucks exporting goods from Kenya into Tanzania.

The revenue officer informed me that there is only one scanner at the border post; the scanner that belongs to the Government of Kenya meant to inspect goods that are coming into the country from Tanzania. There is nothing on the Tanzanian side because the trucks that go to Tanzania from Kenya go there empty. We might be priding ourselves as the super power of the region and that our economy is bigger from the data sent by the World Bank. We may be priding ourselves on our $100billion worth of GDP while the closest to us in the region is Tanzania whose GDP is at about $60 billion worth of GDP. We are still a super power in the region, but until when?

All evidence indicates that the rest of the EAC countries are catching up with us. They are doing the trade balance. For the last two years, trade between us and Tanzania has tilted in favour of Tanzania. For the first time since Independence, Tanzanians are selling more goods to us than we are selling to them. That points out that there is something fundamentally wrong with how we manage our economy. If you read through this BPS, you can clearly see that this is a rigged document that is pointing out to a budget that is meant to benefit a few well-placed sharks and not the ordinary citizens. I will give you a practical example.

If you look at this Statement, you will realize that it does not benefit the local citizens of this country. This House had unconcluded business on the leased medical equipment while we continue to pay billions of shillings to suppliers for facilities that are lying idle. This is an indictment to each and every one of us; the 67 Members who are in this House.

The Temporary Speaker (Sen. Kinyua): Order, Sen. Cheruiyot. You will have 11 more minutes of debate when the Motion comes up next for debate.

ADJOURNMENT

The Temporary Speaker (Sen. Kinyua): Hon. Senators, it is now 12.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until today, Tuesday, 21st December, 2021 at 2.30 p.m.

The Senate rose at 12.30 p.m.