

Republic of Nauru – 20th Parliament

Development Fund Bill 2011

SECOND READING SPEECH

Hon Dr Kieren Keke, MP

20th June 2011

Mr Speaker,

I have introduced to the House today a Bill for an Act to establish the Development Fund.

Mr Speaker, as we all know, under Article 58 of the Constitution all revenues and other moneys raised or received by Nauru, other than revenues or other moneys payable by law into another fund established for a specific purpose, must be paid into the Treasury Fund.

Withdrawals from the Treasury Fund are made in accordance with the annual appropriation law, which authorises the withdrawal for specified heads of expenditure. The annual appropriation law expires at the end of the financial year, which means money not withdrawn and spent in accordance with the law must be appropriated again for the next financial year.

A substantial amount of the money currently paid into the Treasury Fund and appropriated each year is received from development partners for specific development projects implemented by the Government of Nauru. These funds are in many ways very different from normal government revenues which make up the Treasury Fund, and unless specifically provided as general budget support, cannot be spent for any purpose other than the specific project and activities agreed to with the donor. Many of these projects are conducted over the course of more than one financial year, requiring repeated appropriation of the same funds. Sometimes the receipt of these amounts is not anticipated when the annual appropriation law is prepared, because a new development project is designed and commenced during the course of the financial year. In such cases, a supplementary appropriation law is required before the relevant project can commence.

In recent years, through the existing Appropriation process, we have made a distinction between our domestic revenue and expenditure and our donor revenue and expenditure. However, this has not been as comprehensive as we would like and it certainly has not always been easy to understand clearly what funds are committed to what projects, what funds are carry-over balances from previous years, how much are new funds and the status of implementation of each project. Given these shortcomings with the current system, we have sought a better way.

Article 58 of the Constitution provides for payment of money received by Nauru into either the Treasury Fund or another fund established for a specific purpose into which money is payable by law. If enacted, the Development Fund Act 2011 will establish such a fund, specify that amounts received for development projects are payable into that fund, and provide for withdrawals from that fund. Unlike annual appropriation laws, the Development Fund Act 2011 does not expire at the end of the financial year, so there is no need to authorise withdrawals each financial year. Once an amount has been paid into the fund, it can be withdrawn in accordance with the Act at any time. In not being constrained by the annual cycle, the Development Fund will facilitate the smooth implementation of projects. However, the requirements to report income and expenditure of the fund to Parliament will be even more stringent than those that apply to the Treasury Fund to ensure transparency is not compromised.

Mr Speaker, the use of all public money must be strictly controlled. To this end, the Bill includes three fundamental pillars of protection – control over the money that is paid into the Development Fund, control over withdrawals from the Fund, and reporting requirements.

The money that is paid into the Fund is controlled primarily by the restrictive definition of ‘development amount’. A development amount is an amount received by the Republic for the purpose of funding a development project. It does not include an amount received as revenue from fees, the sale of a product or a similar revenue-raising activity, and it does not include an amount received for the purpose of budget support or by way of loan. Only development amounts are payable directly into the Fund without first being paid into the Treasury Fund. This does not mean amounts cannot be appropriated from the Treasury Fund to be paid into the Development Fund via the usual appropriation process, which requires approval of Parliament of an appropriation law, but only if its purpose is to fund a specific development project. As an example, this might occur if the Republic is required, under an agreement with a development partner, to make a contribution to a project. Such amounts would need to be appropriated from the Treasury Fund.

The purpose of any withdrawal from the Fund must be approved by Cabinet. In addition, the withdrawal procedures prescribed by regulation must also be complied with. Cabinet does not need to approve every item of expenditure – in the same way as Parliament is not required to approve every payment voucher relating to the expenditure from the Treasury Fund, but is required to authorise the withdrawal for the purpose of broad government functions and in so doing, sets a limit to the amount that can be withdrawn for that purpose. The Development Fund Bill will require Cabinet to authorise withdrawal for the purpose of implementing a specified project, which will fix the limit on the amount of funds that can be withdrawn from the Development Fund for that project. Given the nature of the income for the Fund, this will primarily be determined by the amount received for that project.

Individual items of expenditure within that project will need to be undertaken in accordance with the financial procedures for withdrawal that will be prescribed by regulation. The crucial aspect of these controls is that failure to comply with either the requirement for Cabinet approval or the requirement to comply with prescribed procedures will be a criminal offence that carries a penalty of 7 years imprisonment.

The reporting requirements for the Fund are detailed and comprehensive. They are designed to ensure Parliament is able to scrutinise the income and expenditure of the Fund on a regular basis, not just at the end of the financial year. This constant scrutiny ensures the Government can be called to account for any irregularities soon after they occur and in fact represents a major improvement in accountability and transparency.

The reporting requirements are threefold. First, the Minister must table to Parliament the annual projections of the Fund for each financial year. The projections must be itemised by project, showing the source of each item of income.

Second, the Minister must table in Parliament quarterly reports of the year-to-date income and expenditure of the Fund at the end of the first, second and third quarters of each financial year. The report must show actual income and expenditure by project, showing the source of each item of income.

In addition, all reportable deviations that occurred during the quarter and that have not been reported in an earlier quarter must be reported. A reportable deviation is a deviation from the annual projections of the Fund that consists of an item of income or expenditure that is at least 10% or \$1000 over or under the amount in the projections, whichever is greater, or an entirely new item not specified in the projections.

A reportable deviation might occur if a project is not implemented as quickly as anticipated, which would mean the amount of expenditure would be less than projected, or if an additional amount is paid into the Fund for an existing project, in which case the income (and possibly the expenditure) for the project would be higher than projected. Also, if an amount is paid into the Fund for a new project that was not anticipated when the annual projections were prepared, the additional item of income and expenditure would be a reportable deviation.

Finally, the Minister must table to Parliament an annual report on the Fund at the end of each financial year. The report must show actual income and expenditure for the year, by project, showing the source of each item of income. All reportable deviations that occurred during the year must also be reported. A quarterly report is not required for the fourth quarter because the annual report serves both as a fourth quarter report and a report for the entire year.

In the annual report to Parliament, the Minister is also required to provide an update on project implementation and the actual activities undertaken during the year. This ensures

that outcomes, not just financial details are reported. Ultimately, what we want to know is that funds have been properly spent and that projects have been delivered and are benefiting our people.

In addition to these protections, the Development Fund will still be subject to audit not only by our Director of Audit, but as is often requested by various donors, the Fund can be audited by additional external auditors.

Mr Speaker,

The current system of differentiating between domestic and donor funds within the annual Appropriation Acts has its limitations, both in terms of providing adequate information and clarity, but also in terms of efficient project implementation.

The Constitution provides Parliament with the power to establish through law, Funds for a specific purpose. This Bill seeks to establish such a Fund, one specifically for development projects. The Development Fund Bill 2011 provides the appropriate mechanism for the efficient operation of development projects, without compromising transparency or accountability. In fact, the reporting requirements will enhance Parliament's scrutiny and provide the public with more information. I have outlined the strict protections that apply to the Development Fund to prevent misappropriation of public money.

The nature of donor funding as well as the activities and projects being funded, need a mechanism that enables more clarity in distinguishing the specific funds not only from our domestic Treasury funds, but amongst other donor funds, and that provides a secure, but smooth mechanism to ensure development projects can be implemented as soon as funds are received and over multiple years as required. The benefits in project administration that can be achieved with the establishment of the Fund will be felt by all Nauruans through improved development outcomes.

I commend the Bill to the House.

Thank-you, Mr Speaker.