



Presentation by the Hon. Colm Imbert, Minister of Finance, M.P.

**at the 2nd Sitting of the Senate –
2nd Session of the 12th Republican Parliament**

on Tuesday 14th September, 2021

THE TRINIDAD AND TOBAGO REVENUE AUTHORITY BILL, 2021

Madam President, I beg to move:

That a Bill to establish the Trinidad and Tobago Revenue Authority and for related matters, be now read a second time.

Madam President, as I proceed to pilot the Trinidad and Tobago Revenue Authority Bill, 2021, permit me the opportunity to summarize the long and winding road that has led us, as a country, to this point.

1. The Road to the Trinidad and Tobago Revenue Authority Bill, 2021

Madam President, the first attempt to establish a Revenue Authority in Trinidad and Tobago commenced over a decade ago when the then sitting Government introduced the Trinidad and Tobago Revenue Authority Bill,

2010 before the Parliament on January 29, 2010. The Bill that was laid lapsed on April 8, 2010.

Madam President, a second Bill, the Trinidad and Tobago Revenue Authority Bill, 2018, was introduced in Parliament on May 25, 2018 and referred to a Joint Select Committee of Parliament on the same date.

The Joint Select Committee established to consider and report on the Trinidad and Tobago Revenue Authority Bill, 2018, chaired by the Minister of Finance, held thirteen (13) meetings over the course of the 3rd and 4th Sessions of the 11th Parliament. During the course of these meetings, the Joint Select Committee issued invitations to a wide cross-section of stakeholders.

Madam President, the Joint Select Committee received a healthy number of submissions for consideration from the following stakeholders:

1. The Inland Revenue Division, Ministry of Finance;
2. The Customs and Excise Division, Ministry of Finance;
3. The Central Bank of Trinidad and Tobago (CBTT);
4. The Financial Intelligence Unit of Trinidad and Tobago (FIUTT);

5. The Customs Clerks and Customs Brokers Association of Trinidad and Tobago;
6. The Institute of Chartered Accountants of Trinidad and Tobago (ICATT);
7. The National Union of Government and Federated Workers (NUGFW);
8. The Service Commissions Department;
9. The American Chamber of Commerce;
10. The Couva/Point Lisas Chamber of Commerce;
11. The Energy Chamber of Trinidad and Tobago;
12. The Tobago House of Assembly;
13. The University of the West Indies, Faculty of Social Sciences (Dr. Shelly-Ann Wilson); and
14. The Joint Trade Union Movement.

Madam President, the Report of the Joint Select Committee was laid in the House on May 13, 2019 and the Senate on May 15, 2019.

Madam President, as is well known, there was also a Minority Report by Members of the Opposition dated May 13, 2019, which disagreed with the views of the majority of the Committee.

Madam President, the Opposition did not support the Trinidad and Tobago Revenue Authority Bill, 2018, which resulted in the Bill being withdrawn on September 27, 2019, after the motion to adopt the Committee's Report was made before the House on July 3, 2019.

Madam President, a third Bill, the Trinidad and Tobago Revenue Authority Bill, 2019, was introduced in the Senate on November 26, 2019 and approved with amendments on May 1, 2019. However, that Bill lapsed on July 3, 2020.

Madam President, each of those past Bills required the support of a special majority of three-fifths of the members of each House of Parliament to be successfully passed in the Parliament. Essentially, they could not be passed without the support of the Opposition.

Madam President, the Opposition has, despite the well documented benefits that redound by way of establishing a revenue authority, resolved that they will not support a revenue authority in this country.

Madam President, as a result this Government proposes a solution to end this deadlock that is seamless, elegant and in keeping with the rule of law. I will address this important aspect of the Bill at a later stage in the proceedings.

2. Inefficiencies of the Current System

Madam President, despite the numerous debates that have forgone this one on the subject, the critical question as to why this country needs a revenue authority can be answered with relative ease. The benefits include vastly improved efficiencies of business for all, greater revenue collection and prudent management of the State's main revenue collecting agency.

Madam President, the inefficiencies of the current system, especially in relation to the Inland Revenue Division, is well documented and was addressed in this Parliament *ad nauseam* on prior occasions. In this regard, I intend to address the matter briefly and with reference to more recent data.

Madam President, in 2017, the Inland Revenue Division was assessed by the IMF, using the Tax Administration Diagnostic Tool (TADAT). This tool

allowed us to obtain an independent assessment which utilized a scientific approach on the performance of the current tax administration system. The TADAT Report highlighted that out of twenty-eight (28) high-level indicators, Trinidad and Tobago received the following ratings:

- 2 – “A” ratings;
- 1 – “B” rating;
- 7 – “C” ratings; and
- 18 – “D” ratings.

The Report also indicated five (5) strengths to build on and thirteen (13) weaknesses to be addressed.

Madam President, in 2019, the IMF conducted a post-TADAT Strategic Review whereby, the IMF mission, working with the Management and staff of the Inland Revenue Division, reviewed progress in addressing the thirteen (13) weaknesses, identified key priority areas, which if improved, can achieve maximum impact on revenues and brainstormed solutions for the prioritized areas. Implementation of agreed-upon solutions are ongoing but continue to be constrained by a lack of human resources, which is a matter for the Public Service Commission.

Madam President, the IMF in 2019, conducted a Value Added Tax (VAT) Gap Study for the period 2012-2017. The results indicated that there was a VAT gap of around 5 percent of GDP, which consisted of two main components: the compliance gap and policy gap. The findings also revealed that the compliance gap, which is the difference between the current potential VAT, the VAT that could have been collected if all taxpayers complied with the current policy framework, and net VAT accrued, appeared to be above average for an emergent market economy.

Madam President, more recently in an article entitled “New Tax Authority in Trinidad and Tobago to boost Compliance and Government Revenues” appearing in “The Report: Trinidad and Tobago 2020” by the Oxford Business Group, the following is further instructive and I quote:

*“The current system has been characterised by weaknesses in laws, regulations and human resource management. **The Caribbean Regional Technical Assistance Centre has referred to T&T’s current system as “highly inefficient”, and the country ranked 160 out of 190 in paying taxes in the World Bank’s 2020 ease of doing business index, scoring***

53.5 out of a possible 100, below the average in Latin America and the Caribbean of 60.5 and counterparts like Dominica (83), Jamaica (124), Grenada (143), and Antigua and Barbuda (145). The report noted T&T's total tax contribution rate as a percent of commercial profits was 40.5%, below the regional average of 47% but above that in OECD high-income countries (39.9%).

According to the World Bank, the average time necessary to file three major taxes is around 210 hours a year, and the score for the post-filing index, which takes into account the time needed for value-added tax (VAT) refunds to be processed and comply with a corporate income tax correction, was 19.5 out of 100. **As such, the overarching aim of the TTRA is to make the tax regime more efficient and enhance taxpayer compliance.**"

Madam President, it is estimated that collections due to the establishment of the Trinidad and Tobago Revenue Authority, as well as other tax efficiency gains, will result in increased collections over the medium term as follows:

- For FY 2022 – 1.0% of GDP – approximately \$1.5Bn
- For FY 2023 – 1.5% of GDP – approximately \$2.4 Bn; and
- For FY 2024 – 2.0% of GDP – approximately \$3.2Bn.

Madam President, in short, the advent of the Trinidad and Tobago Revenue Authority will ensure that **revenue collection in this country is approached as a world-class business rather than as a corollary to the strictures of the public service.**

3. The Enforcement Division of the Trinidad and Tobago Revenue Authority

Madam President, the Trinidad and Tobago Revenue Authority Bill, 2021, incorporates the amendments as recommended in the report of the Joint Select Committee of Parliament. Consequently, except for one policy change, it is virtually identical to the Trinidad and Tobago Revenue Authority Bill, 2019.

Madam President, let me repeat that, **except for one policy change, the Bill before you is virtually identical to the Trinidad and Tobago Revenue Authority Bill, 2019.** Bearing this in mind, it is expected that Members opposite will be fairly familiar with the Bill as it was passed in the Senate in 2019.

Madam President, the Trinidad and Tobago Revenue Authority Bill, 2021, introduces the establishment of the Enforcement Division of the Trinidad and Tobago Revenue Authority.

Madam President, the purpose of the Enforcement Division of the Trinidad and Tobago Revenue Authority is to exercise those enforcement powers, **excepting the enforcement of revenue laws by way of civil proceedings**, found under the revenue laws by a cadre of public officers appointed by the Public Service Commission.

Madam President, I now propose to examine the relevant Clauses of the Bill that implement the Enforcement Division of the Trinidad and Tobago Revenue Authority.

Madam President, **Clause 13(1) of the Bill** establishes the position of the Deputy Director General – Enforcement, who is the head of the Enforcement Division and a public officer.

Madam President, **Clause 13(4) of the Bill** excludes the Deputy Director General – Enforcement from the limitation of holding office for more than five years at any one time.

Madam President, given the importance of the office of the Deputy Director General – Enforcement for the enforcement, other than by way of civil proceedings, of the Customs Laws, Excise Act and other revenue laws, **Clause 13(5) of the Bill** proposes to establish the office under the purview of the Salaries Review Commission for the purpose of determining relevant salary and allowances.

Madam President, **Clause 14(1)(b) of the Bill** reaffirms the role of the Director General with respect to the enforcement of the revenue laws by means of civil proceedings. This is an important point to highlight as it is meant to delineate the roles of traditional revenue collection, reserved for the Director General, with the more intrusive functions, especially those currently being exercised by the Customs and Excise Division and found under the various revenue laws being reserved for the Deputy Director General – Enforcement.

Madam President this dichotomy is further highlighted in **Clauses 40(1)(a)(i) and 40(1)(a)(ii) of the Bill.**

Madam President, this point is also further underscored in the definition of “enforcement” in **Clause 3 of the Bill**, which states that:

“enforcement”, in relation to the Customs laws, the Excise Act and other revenue laws, means the exercise of the powers, authorities and privileges conferred by those revenue laws;

Madam President, it is necessary to emphasize the inclusion of the words “powers, authorities and privileges”, which is a phrase found under the Customs Act and the Excise (General Provisions) Act. This is meant to ensure that there is only the exercise of existing powers and not the creation of any new powers.

Madam President, in this vein **Clause 3 of the Bill** now incorporates, by reference, the definitions of “Customs laws” (as found under the Customs Act) and “Excise Act” [as found under the Excise (General Provisions) Act]. This is meant to ensure that, with reference to enforcement, the framework established both Acts are covered.

Madam President, the definition of “revenue laws” has been unchanged since the Trinidad and Tobago Revenue Bill, 2019. However, the Schedule of laws has been expanded to include a reference to all laws that either the Customs and Excise Division and Inland Revenue Division have power to act under. This ensures a seamless transition to the Trinidad and Tobago Revenue Authority, which will now carry out those functions solely.

Madam President, **Clause 14(2) of the Bill** charges the Deputy Director General – Enforcement with the responsibilities of daily management and direction of the administration of the Enforcement Division together with the daily management and direction of the enforcement of the Customs Laws, Excise Act and other revenue laws. Additionally, this Clause establishes a relationship between the Director General and the Deputy Director General – Enforcement, whereby the latter is responsible for advising the former on matters that affect: (i) public policy, (ii) public finance, (iii) the effectiveness or efficiency of the administration of the Enforcement Division; and (iv) the effectiveness or efficiency of the administration of the enforcement of the Customs Laws, Excise Act and other revenue laws. This ensures that even though the Enforcement Division maintains its autonomy,

reporting lines are maintained with the Trinidad and Tobago Revenue Authority.

Madam President, **Clause 14(3) of the Bill** establishes the compliment of the Enforcement Division of the Trinidad and Tobago Revenue Authority. In this regard, it is again important to highlight that **Clause 14(3)(a) of the Bill** identifies the Deputy Director General – Enforcement, **a public officer**, and **other public officers** as those who may exercise the powers, authorities and privileges conferred by the Customs laws, Excise Act and other revenue laws listed in the Schedule.

Madam President, **Clause 14(3)(b) of the Bill** also assigns other employees of the Trinidad and Tobago Revenue Authority to the Enforcement Division. In this regard, I wish to state categorically that these employees **will not** exercise enforcement powers and therefore are meant to provide secretarial, administrative and other supplemental services necessary for the proper and efficient functioning of the Enforcement Division.

Madam President, the idea of the Public Service Commission appointing officers to a body corporate is not a new concept in this country. In this regard, **Clause 14(4) of the Bill** borrows from the language set out in *section 35 of the Municipal Corporations Act*, which establishes the role of:

1. the Public Service Commission with respect to the appointment, removal, transfer and exercise of disciplinary control over the public officers of the Enforcement Division of the Trinidad and Tobago Revenue Authority; and
2. The Board with respect to the appointment, removal, transfer and exercise of disciplinary control over the other employees of the Enforcement Division of the Trinidad and Tobago Revenue Authority

Madam President, it is also noteworthy to point out that the Municipal Corporations Act is an Act that was passed without being inconsistent with the Constitution though containing a police force and the exercise of police powers.

Madam President, the retention of the Public Service Commission under the Bill is a core feature that sets it apart from previous iterations of

the Trinidad and Tobago Revenue Authority. With this in mind, the Bill pays homage to the well-known passage of Lord Diplock in the celebrated case of Endell Thomas v. The Attorney General of Trinidad and Tobago, and I quote:

“The whole purpose of chapter VIII of the Constitution which bears the rubric “The Public Service” is to insulate members of the civil service, the teaching service and the police service in Trinidad and Tobago from political influence exercised directly upon them by the government of the day.”

Madam President, given that the Bill only envisages that public officers will exercise the powers, authorities and privileges conferred by the Customs laws, Excise Act and other revenue laws listed in the Schedule, **the Bill maintains the current status quo. Consequently, in relation to enforcement, there will be NO departure from what currently obtains.**

Madam President, this is indeed an elegant balance that this Government supports and which maintains the rule of law.

Madam President, the Attorney General will address this feature of the Bill further in his contribution.

Madam President, **Clauses 14(5)(c) and (d) of the Bill** set out between the Deputy Director General – Enforcement, through the Director General, and the Board and the Minister, the ability of the latter to communicate general directions and general policy directions, respectively.

Madam President, **Clause 15(1) of the Bill** excludes the Deputy Director General – Enforcement from provisions that are applicable to the resignation and removal of the Director General or Deputy Director General. This further maintains the office of the Deputy Director General – Enforcement under the sole purview of the Public Service Commission.

Madam President, **Clause 18(c) of the Bill** also establishes the role of the Public Service Commission in making appointments on transfer to a suitable public office in the Enforcement Division. The import of this Clause is to maintain the role of the Public Service Commission in relation to the Enforcement Division. Further, it empowers the Public Service Commission

to transfer existing officers of the Inland Revenue Division and Customs and Excise Division to the Enforcement Division.

Madam President, **Clause 23(4) of the Bill** guarantees the salaries and allowances payable to holders of public offices in the Enforcement Division by charging them to the Consolidated Fund. This is another feature of the Bill that is meant to guarantee the autonomy of those public officers who exercise the powers, authorities and privileges conferred by the Customs laws, Excise Act and other revenue laws.

Madam President, the inclusion of the Enforcement Division and role of the Deputy Director General – Enforcement and other public officers in the Bill will address a number of concerns raised by the naysayers, namely:

1. The issue relative to the “erosion of tenure of security granted under the Constitution to...employees located at Customs and Excise...and...Board of Inland Revenue...” (raised in the Opposition’s Minority Report);
2. The issue relative to the “...complete politicization of the Revenue Authority...” (raised in the Opposition’s Minority Report);

3. The issue relative to the statement that the Public Service Commission is being deliberately dismantled by the Executive (raised in the Opposition's Minority Report);
4. The issue relative to the statement that "The creation of state institutions must have the necessary safeguards from political abuse to ensure that there is public trust at all times" (raised in the Opposition's Minority Report)
5. The issue relative to the statement that "It should be reiterated that the tax and customs laws are the most intrusive powers of the State and hence the need for their insulation from direct political interference and/or control/influence" (raised in the Opposition's Minority Report);

4. Other Clauses of the Bill

Madam President, having addressed the establishment of the Enforcement Division in the Bill, I now move to consider the other Clauses of the Bill that I stress, again, are identical terms to that of the Trinidad and Tobago Revenue Authority Bill, 2019.

PART I - PRELIMINARY

Madam President, **Part I of the Bill** sets out the short title of the Bill and contains the definitions as is customary.

Madam President, **Part I of the Bill** also contains the commencement Clause, which is important for the transition from the Customs and Excise Division and Inland Revenue Division to the Trinidad and Tobago Revenue Authority.

PART II – ESTABLISHMENT OF THE AUTHORITY

Madam President, **Clause 5 of the Bill** establishes the Trinidad and Tobago Revenue Authority as a body corporate and provides that it will be an agent of the State.

Madam President, **Clause 6 of the Bill** outlines the functions of the Authority. These functions include, among others, the assessment and collection of taxes under the revenue laws, the enforcement of border control measures and represent a combination of the functions currently held by the Inland Revenue Division and the Customs and Excise Division.

PART III – ESTABLISHMENT OF THE BOARD

Madam President, **Part III of the Bill** consists of six (6) Clauses, namely **Clauses 7 to 12** and it establishes the Board of Management of the Trinidad and Tobago Revenue Authority.

Madam President, **Clause 7 of the Bill** establishes the Board and provides that the Board will comprise nine (9) Members appointed by the Minister. These members shall comprise of public officers as well as professional individuals having expertise in the subject areas of tax, customs administration, corporate management, accounting, law, economics and business.

Madam President, the Members of the Board will consist of:

1. a Chairman;
2. a Vice-Chairman;
3. a Permanent Secretary of the Ministry of Finance;
4. the Director General of the Authority (who shall be an ex officio member of the Board);
5. a person nominated by the Tobago House of Assembly;
6. an Attorney-at-law;

7. a chartered or certified accountant; and
8. two (2) other persons.

Madam President, **Clause 7 of the Bill** also provides the criteria for the selection and disqualification of the members of the Board.

Madam President, **Clause 8 of the Bill** sets out the responsibilities of the Board which includes formulating, approving and ensuring the implementation of management policies related to, *inter alia*, the:

1. monitoring of the performance of the Trinidad and Tobago Revenue Authority in carrying out its functions;
2. the finances, real property and other assets and resources, of the Authority, the securing of contracts, the procurement of goods and services and other administrative activities;
3. human resources matters of the Trinidad and Tobago Revenue Authority (excepting those relative to public officers);
4. internal audit of the Trinidad and Tobago Authority; and
5. mandate for collective bargaining and approving collective agreements in relation to the terms and conditions of employment of persons employed by the Authority

Madam President, it is imperative to note that the Board will not be responsible for the enforcement of revenue laws. This would reside within the jurisdiction of the Authority as set out in **Clause 6 of the Bill** and further circumscribed by the establishment of the Enforcement Division and office of the Deputy Director General – Enforcement.

Madam President, **Clause 8 (2) of the Bill** also prohibits the Board from providing specific instructions to the Director General or any other officer of the Trinidad and Tobago Revenue Authority as it relates to functions of the Authority. In addition, the Board is also not permitted access to information resident within the Authority that relate to any individual or person as well as any documentation that relates to legal actions by or against the Authority in relation to the administration or enforcement of revenue laws.

Madam President, **Clause 8 (3) of the Bill** empowers the Minister to give general policy directives to the Board.

Madam President, **Clause 9 of the Bill** addresses the disclosure of interests by Members of the Board. In this regard, Members are mandated

to disclose any direct or indirect interests in any matter to be considered by the Board and are to recuse themselves from any deliberations in which he may have an interest.

Madam President, **Clause 10 of the Bill** provides for the tenure of all Members of the Board. Bearing this in mind, tenure of office for the period five (5) years is established for the Chairman and Vice Chairman. All other Members, excepting the Permanent Secretary and Director General, maintain tenure of office for a period of three (3) years. Such appointments, exclusive of the Permanent Secretary and Director General, are subject to terms and conditions determined by the Minister.

Madam President, **Clause 11 of the Bill** provides for the resignation and removal of Board members, other than the Permanent Secretary and the Director General. It also makes provision for the filling of vacancies in the membership of the Board and the making of acting appointments to the Board.

Madam President, **Clause 12 of the Bill** addresses meetings of the Board and prescribes that the Board should meet at least once per month.

The Clause also establishes that a quorum of the Board would be five (5) members and that each member is entitled to vote on any matter before the Board.

Madam President, provision is also made for the appointment of an employee of the Authority as the Board's secretary. Additionally, the validity of any act or decision of the Board shall not be invalidated by reason only of the existence of a vacancy or defect in membership.

PART IV- STAFF OF THE AUTHORITY

Madam President, **Part IV of the Bill** contains **Clauses 13 to 22** and deals primarily with the staff of the Authority.

Madam President, as I have already addressed the Enforcement Division, I will proceed on that basis.

Madam President, **Clause 13 of the Bill** addresses the appointment and reappointment by the Minister of the Director General and the Deputy Director General for up to five years by notification subject to the affirmative resolution of Parliament. The Minister may appoint as many Deputy Director

Generals as may be required. These appointments will be on terms and conditions determined by the Board. In addition, it sets out that the Director General and the Deputy Director General must be persons who have demonstrated skills and experience in tax, customs administration, corporate management, accounting, economics, law, business or other relevant field and have the capacity to manage and direct large complex organizations and provides the criteria by which such persons may be disqualified from appointment.

Madam President, **Clause 14 of the Bill** speaks to the functions of the Director General, who has responsibility for the daily management of the administration and operations of the Authority, the administration and enforcement of the revenue laws and the giving of advice to the Minister in respect of the administration and enforcement of the revenue laws. The Clause also provides that the Director General is subject to the general directions of the Board and the general policy directions of the Minister of Finance.

Madam President, **Clause 15 of the Bill** deals with the resignation and removal of the Director General and the Deputy Director General. In this

regard, the Minister may remove the Director General and/or the Deputy Director General from office in certain specific situations subject to the affirmative resolution of Parliament. Upon the resignation or removal of the Director General or the Deputy Director General, the Clause makes provision for a replacement or for an acting appoint of another person for the unexpired term or for a new term. A person appointed to act shall not act for more than six months and such appointment may be terminated by the Minister at any time.

Madam President, **Clause 16 of the Bill** authorizes the Board to employ the staff of the Trinidad and Tobago Authority on such terms and conditions as it may determine.

Madam President, **Clause 17 of the Bill** permits the Board to enter into contracts for services required for the performance of its functions and powers, on such terms and conditions as agreed upon between the Trinidad and Tobago Revenue Authority and the person.

Madam President, **Clause 18 of the Bill** establishes various options available to public officers, which were approved by the Privy Council in the

case of *Martha Perch and Ors v. Attorney General of Trinidad and Tobago* concerning postal workers. Public officers who hold permanent appointments or temporary appointments of at least two continuous years may within three months of the coming into force of this Act, or such extended period as the Minister may allow, subject to the negative resolution of Parliament may:

1. Voluntarily retire;
2. Transfer to the Authority;
3. Be appointed on transfer by the Public Service Commission to a suitable public office in the Enforcement Division; or
4. Remain in the Public Service.

Madam President, **Clauses 19 through 22 of the Bill** consider accrual and payment of superannuation benefits for persons who opt to work under the Trinidad and Tobago Authority.

Madam President, **Clause 19 of the Bill** allows for the preservation and accrual of superannuation benefits to persons who transfer to the Trinidad and Tobago Authority. Such superannuation benefits are preserved under the Pensions Act from the date of employment by the Trinidad and Tobago

Authority to the date on which the Authority establishes its own pension plan. The superannuation benefits payable to such persons will be based on the salary that those persons held prior to employment with the Trinidad and Tobago Authority.

Madam President, suffice it to say that those persons appointed on transfer by the Public Service Commission will in no way be prejudiced.

Madam President, **Clause 20 of the Bill** considers payment of superannuation benefits prior to the establishment of the pension fund plan. The superannuation benefits of persons who transfer to the Trinidad and Tobago Authority under **Clauses 18(2)(b) of the Bill**, but die or retire before the Authority establishes its own pension plan, and were in receipt of a higher salary, will receive superannuation benefits payable and based on that higher salary. The difference between the benefits payable on the higher salary and the benefits payable under the Pensions Act will be paid by the Authority.

Madam President, **Clause 21 of the Bill** addresses the payment of superannuation benefits to employees who retire or die after becoming

members of the pension fund plan. These employees must be paid, by the pension fund plan, superannuation benefits equal to 100% of what the transferred officers are entitled to and which are equivalent to cumulative benefits earned in the Public Service and in the employment of the Trinidad and Tobago Revenue Authority.

Madam President, **Clause 22 of the Bill** provides for the establishment of a pension fund, within two years of the coming into force of this Act, for the benefit of all officers and employees of the Trinidad and Tobago Authority. The Clause also gives the Trinidad and Tobago Authority the power to extend the time for the establishment of the pension fund, subject to the negative resolution of Parliament.

PART V- FIANANCIAL PROVISIONS

Madam President, **Part V of the Bill** addresses a critical component regarding the establishment of any statutory body – funding.

Madam President, **Clause 23 of the Bill** sets out three categories of funding for the Trinidad and Tobago Revenue Authority:

1. moneys as may be appropriated by Parliament;

2. moneys paid to the Authority, with the approval of the Minister, by way of fees, fines, grants, rent, interest and other income derived from the investment of the Authority's funds or the disposal of its property; and
3. moneys borrowed by the Authority under the Act.

Madam President, **Clause 23(2) of the Bill** mandates that funds of the Trinidad and Tobago Revenue Authority shall be kept in such financial institutions as the Minister may approve. **Clause 23(3) of the Bill**, in turn, sets out an exhaustive list of expenditure that the funds of the Authority shall be used to defray.

Madam President, **Clause 24 of the Bill** empowers the Trinidad and Tobago Revenue Authority, with the approval of the Minister, to borrow sums required for it to meet any of its obligations as set out in the Bill.

Madam President, **Clause 25 of the Bill** empowers the Authority to invest monies not immediately required to be expended in meeting any obligation or discharging any function of the Authority in securities approved by the Minister.

Madam President, **Clause 26 of the Bill** makes provision for all public moneys collected by the Director General under the revenue laws to be paid into the Exchequer Account at such times and in such manner as the Minister may direct.

Madam President, **Clause 27 of the Bill** sets-out that the Exchequer and Audit Act shall apply to the Authority and that the Director General will be a Receiver of Revenue for the purposes of that Act.

Madam President, **Clause 28 of the Bill** provides for the Trinidad and Tobago Authority, in pursuance of its functions, to be exempt from the provisions of the Central Tenders Board Act. This exemption, however, operates only where the Board, as required under **Clause 28(2) of the Bill**, makes rules relative to the award of tenders and contracts and related matters with the approval of the Minister.

Madam President, where the Board has not yet made rules for the award of tenders and contracts, it shall, in accordance with **Clause 28(3) of the Bill**, follow the procedures detailed in the Central Tenders Board Act.

Madam President, provision has also been made, pursuant to **Clause 29 of the Bill**, for the Trinidad and Tobago Revenue Authority, its assets, property, income and its operations and transactions authorized under any Act, to be exempt from taxation of every kind and description.

Madam President, **Clause 30 of the Bill** requires the Board to prepare strategic and operational plans for the Trinidad and Tobago Revenue Authority for submission to the Minister who, within three (3) months of receiving same, shall cause them to be laid in Parliament.

Madam President, **Clause 31 of the Bill** requires the Board to submit to the Minister, no later than three (3) months before the commencement of the financial year, estimates of the Authority's expected income and expected expenditure.

Madam President, **Clause 32 of the Bill** mandates the Board to keep proper accounts including ensuring that all payments made by the Authority are correctly made and properly authorized and adequate control is maintained over the management of assets and the incurring of liabilities.

Madam President, **Clause 33 of the Bill** makes provision for the Auditor General to audit, on an annual basis, the accounts of the Trinidad and Tobago Revenue Authority and submit the report detailing the results to the Minister as well as to the Board.

Madam President, importantly, the Auditor General is required, under **Clause 33(4) of the Bill, to immediately draw to the attention of the Minister and the Board, on completing any audit, any irregularity disclosed by the audit which, in the opinion of the Auditor General, is of sufficient importance to justify doing so.**

Madam President, **Clause 34 of the Bill** requires the Director General to submit to the Board and to the Minister a monthly report in respect of the revenue collected.

Madam President, **Clause 35 of the Bill**, requires the Board, within sixty (60) days after the submission of the Auditor General's report, to submit an annual report to the Minister in respect of the Authority. The Minister shall then lay the annual report in Parliament within 3 months of receipt of the report. This provision is meant to ensure proper Parliamentary scrutiny over the Trinidad and Tobago Revenue Authority.

PART VI – MISCELLANEOUS

Madam President, I will now take the opportunity to deal with **Part VI of the Bill**, which will implement certain administrative matters that are necessary for the smooth and effective operation of the Trinidad and Tobago Revenue Authority.

Madam President, **Clause 36 of the Bill** mandates that Members of the Board, prior to commencing any duties in relation to the Authority, shall take an oath or make an affirmation of secrecy before a Justice of the Peace in relation to two very important matters:

1. That he will faithfully and impartially exercise the functions of his office; and
2. That he will not, except in accordance with the provision of the Integrity in Public Life Act, disclose any information received by him as a member.

Madam President, a breach of the oath or affirmation attracts criminal sanctions as a necessary deterrent to prevent the unauthorized disclosure of information.

Madam President, **Clause 37 of the Bill** addresses the vesting of property in the Trinidad and Tobago Revenue Authority.

Madam President, the Ministry of Finance will supervise the transfer of assets from the Government to the Authority to ensure equity and fairness in this process.

Madam President, in order to instill a culture of professionalism, honesty and efficiency in the Authority, **Clause 38 of the Bill** places upon both Members of the Board and other employees of the Trinidad and Tobago Authority a fiduciary duty to “*act honestly and in good faith, with a view to the best interests of the Authority.*” The duty of care, set-out in **Clause 38 of the Bill**, is well-established and borrows from *section 99(1) of the Companies Act*.

Madam President, the purpose of **Clause 39 of the Bill** is meant to legally maintain and preserve rights during the transition from Divisions to the Trinidad and Tobago Revenue Authority.

Further, any power, duty or function vested in the Chairman of the Board of Inland Revenue or the Comptroller of Customs and Excise, shall be transferred to the Authority. Similarly, any action, suit or other legal proceeding by or against the Board of Inland Revenue or the Comptroller of Customs and Excise (immediately before the commencement of the Trinidad and Tobago Revenue Authority Act) shall be continued by or against the Director General.

Madam President, **Clause 40 of the Bill** is straight forward and intended as a legislative house-keeping measure. This clause causes a reference, in any written law, of the Director General of the Trinidad and Tobago Revenue Authority to be made where the Chairman of the Board of Inland Revenue or the Comptroller of Customs and Excise exists **EXCEPTING in respect of the role of the Deputy Director General – Enforcement which I mentioned previously.**

Madam President, **Clause 40(2) of the Bill** abolishes the Board of Inland Revenue.

Madam President, **Clause 41 of the Bill** gives the Minister of Finance the power to make regulations under the Trinidad and Tobago Revenue Authority Act, which, if made, are subject to the affirmative resolution of Parliament.

Madam President, finally, **Clause 42 of the Bill** permits the Minister of Finance to assign any relevant piece of legislation as part of the “revenue laws” through an amendment of the Schedule by Order, which is subject to the negative resolution of Parliament. This provision simply ensures that the Authority has the jurisdiction to act under the various “revenue laws”.

Madam President, and I beg to move.