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THIRTEENTH PARLIAMENT – THIRD SESSION

THE REPORT OF THE MEDIATION COMMITTEE ON THE DIVISION OF
REVENUE (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILLS NO.
38 OF 2024)

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 25 NOV 2024	DAY: MONDAY
TABLED BY:	Hon. Ndindi Nyoro, CBS MP – CO-Chairperson
CLERK-AT THE TABLE:	HAILE HUSSEIN

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NOVEMBER 2024



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1.0 Introduction

1.1 Establishment of the Mediation Committee

The Mediation Committee on the Division of Revenue (Amendment) Bill, 2024 (National Assembly Bills No. 38 of 2024) was constituted by Speaker of the National Assembly and Speaker of the Senate on 22nd October, 2024 and 30th October, 2024 respectively, pursuant to Standing Order 149 of the National Assembly Standing Orders and Standing Order 166 of the Senate Standing Orders.

The Committee membership was constituted as follows-

NO	NAME	DESIGNATION
1.	Hon. Ndindi Nyoro, CBS, MP	Co-Chairperson
2.	Sen. (Capt.) Ali Ibrahim Roba, EGH, MP	Co-Chairperson
3.	Sen. Edwin Sifuna, MP	Member
4.	Hon. Otucho, Mary Emaase, MP	Member
5.	Sen. Recha Julius Murgor, MP	Member
6.	Hon. John Chikati, PhD, MP	Member
7.	Sen. Mohamed Faki Mwinyihaji, CBS, MP	Member
8.	Hon. (Dr.) Mulu Makali, MP	Member
9.	Sen. Veronica Maina Nduati, MP	Member
10.	Hon. Ochieng, David Ouma, MP	Member
11.	Sen. Richard Momoima Onyonka, MP	Member
12.	Hon. David Kiplagat, MP	Member
13.	Sen. Wamatinga Wahome, MP	Member
14.	Hon. Otiende Amollo, PhD, SC, MP	Member
15.	Hon. Fatuma Jehow, MP	Member
16.	Hon. Ojiambo Oundo, PhD, MP	Member
17.	Sen. Mungatana Danson Buya, MP	Member
18.	Sen. Eddy Gicheru Oketch, MP	Member

1.2 Mandate of the Mediation Committee

The Mediation Committee mandate is derived from the provisions of Articles 112 and 113 of the Constitution, Standing Order 149 of the National Assembly Standing Orders and Standing Order 166 of the Senate Standing Orders which outlines the functions of the Committee as follows-

- i. To consider Bills where the Houses do not agree on all or any of the amendments made by either House;*
- ii. To consider Bills where either House rejects a Motion that a Bill which originated in the other House be read a Second or Third time; and,*
- iii. To attempt to develop a version of the Bill that both Houses will pass.*

The Committee was established to develop an agreed version of the Division of Revenue (Amendment) Bill, 2024 (National Assembly Bills No.38 of 2024) that both Houses should pass in accordance with Standing Order 150(1) of the National Assembly Standing Orders and Standing Order 167(1) of the Senate Standing Orders.

1.3 Committee Meetings and Methodology

The Committee held a total of four (4) sittings (*Minutes as Annex 1*) to deliberate on the Bill in accordance with the Constitution and relevant provisions of the Senate and the National Assembly Standing Orders.

During the first sitting, the Committee appointed Hon. Ndindi Nyoro, CBS, M.P. and Sen. (Capt.) Ali Ibrahim Roba, MP, as the co-chairs of the Committee pursuant to Standing Order 166 (4) of the Senate Standing Orders and Standing Order 149(4) of the National Assembly Standing Orders.

This report contains a version of the Bill developed by the Committee for consideration by both Houses- (*Annex 2*).

The Committee deliberated on the proposed allocations to national and county levels of Government and resolved that-

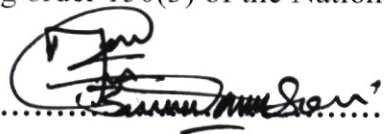
- a) The national level of Government be allocated Kshs. 2,235,993,000,000 for the Financial Year 2024/25; and
- b) The county level of government be allocated Kshs.387,425,000,000 for the Financial Year 2024/25.


1.4 Acknowledgements

The Mediation Committee appreciates the offices of the Speakers and the Clerks of both Houses of Parliament for the support extended in the execution of its mandate.

The Co-Chairpersons in particular, extend their appreciation to all the Members of the Committee for their patience, sacrifice, endurance and commitment to completing the assignment under tight schedule.


Finally, it is now my pleasant duty and privilege, on behalf of the Mediation Committee to table the report on the mediated version of Division of Revenue (Amendment) Bill, 2024 (National Assembly Bills No.38 of 2024). The Mediation Committee recommends the approval of the agreed version of the Bill by both Houses, pursuant to Article 113(2) of the Constitution and Standing Order 167(3) of the Senate Standing Orders, and standing order 150(3) of the National Assembly Standing Orders.

Signed.....
 Sen. (Capt.) Ali Ibrahim Roba, EGH, MP
 Co-Chairperson

Signed.....
 Hon. Ndindi Nyoro, CBS, MP
 Co- Chairperson


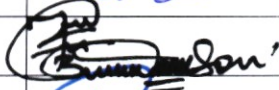





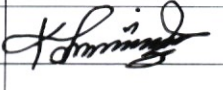
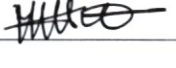

Date.....20.11.2024.....

Date.....20.11.2024.....

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 25 NOV 2024	DAY: MONDAY
TABLED BY:	HON. NDINDI NYORO CBS, MP - CO-CHAIRPERSON
CLERK-AT THE-TABLE:	

**ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON
DIVISION OF REVENUE (AMENDMENT) BILL, 2024 (NATIONAL
ASSEMBLY BILLS NO. 38 OF 2024)**

Pursuant to Standing Order 223(2) of the Senate Standing Orders, and Standing Order 199(4) of the National Assembly Standing Orders, the Members of the Committee hereby affix their signatures to the Report to affirm adoption the Report-

NO	NAME	DESIGNATION	SIGNATURE
1.	Hon. Ndindi Nyoro, CBS, MP	Co-Chairperson	
2.	Sen. (Capt.) Ali Ibrahim Roba, EGH, MP	Co-Chairperson	
3.	Sen. Edwin Sifuna, MP	Member	
4.	Hon. Otucho, Mary Emaase, MP	Member	
5.	Sen. Recha Julius Murgor, MP	Member	
6.	Hon. John Chikati, PhD, MP	Member	
7.	Sen. Mohamed Faki, CBS, MP	Member	
8.	Hon. (Dr.) Mulu Makali, MP	Member	
9.	Sen. Veronica Maina Nduati, MP	Member	
10.	Hon. Ochieng, David Ouma, MP	Member	
11.	Sen. Richard Momoima Onyonka, MP	Member	
12.	Hon. David Kiplagat, MP	Member	
13.	Sen. Wamatinga Wahome, MP	Member	
14.	Hon. Otiende Amollo, PhD, SC, MP	Member	
15.	Hon. Fatuma Jehow, MP	Member	
16.	Hon. Ojiambo Oundo, PhD, MP	Member	
17.	Sen. Mungatana Danson Buya, MP	Member	
18.	Sen. Eddy Gicheru Oketch, MP	Member	

2.0 Background and Overview of the Bill

1. The Division of Revenue Act, 2024 was assented to on 10th June 2024, and provides for the sharing of revenue raised nationally between the national and county governments for the Financial Year 2024/25 as per Articles 202, 203(2) and 218 of the Constitution. It contains a projected shareable revenue of Kshs. 2,948,123,505,582, out of which: -
 - a) The National Government Kshs. 2,540,153,902,710;
 - b) The County Equitable Share Kshs.400,116,788,147; and
 - c) Equalization Fund Kshs.7,852,814,725.

2. However, following the withdrawal of the Finance Bill, 2024 resulted to a shortfall in projected revenue collection of Kshs. 346 billion. Consequently, the President on 26th June, 2024 referred the Finance Bill, 2024 for reconsideration by the National Assembly as per Article 115 of the Constitution. The President recommended the deletion of all clauses in the Bill. This necessitated the reorganization and rationalization of the Government expenditure for the FY 2024/25.

CONSIDERATION OF THE DIVISION OF REVENUE (AMENDMENT) BILL, 2024

2.1 Consideration by the National Assembly

3. Upon referral of the Division of Revenue Act, 2024 by the President, the National Assembly published The Division of Revenue (Amendment) Bill, 2024 (National Assembly Bill No.38 of 2024) on 17th July, 2024. Its purpose is to amend the Division of Revenue Act, 2024 to provide for the equitable sharing of the shortfall in revenue raised nationally, occasioned by downward revision of projected ordinary revenue for FY 2024/25, between the two levels of government.

4. The Division of Revenue (Amendment) Bill, 2024 (National Assembly Bill No.38 of 2024) proposed the following two amendments to DORA, 2024-

- a) Deletion and replacement of the Schedule to the Act: The new Schedule reduces the county governments equitable allocation from Kshs. 400.12 billion to Kshs. 380 billion, whereas that of the National Government from Kshs. 2,540.15 billion to Kshs. 2,214.27 billion.
- b) Amendment of Section 5 of the Division of Revenue Act, 2024 No. 5 of 2024. The Bill proposed an amendment to provide for sharing of any shortfall in revenue in the course of the FY 2024/25, equitably between the national and county governments. The clause also provided for capping of the proportion of revenue shortfall to be borne by county governments, which shall not be more than 15 percent of the shortfall.

5. The National Assembly considered the republished Bill on 7th August, 2024 and passed it with the following Schedule-

The Revised Allocation of Revenue Raised Nationally Between the National Government and County Governments for the 2024/25 Financial Year.

Type/Level of allocation	Amount in Kshs.	Percentage (%) of FY 2020/21 audited and approved Revenue i.e. Kshs. 1,570,562,945,014
A. Total Sharable Revenue	2,602,123,505,582	
B. National Government	2,214,270,690,857	
C. Equalization Fund	7,852,814,725	0.50%
D. County equitable share	380,000,000,000	24.20%

6. In line with the provisions of the National Assembly Standing Orders 233 (4) and 142 (Concurrence of the other House), the Bill was referred to the Senate for concurrence on 7th August, 2024.

2.2 The Senate Consideration of the Division of Revenue (Amendment) Bill, 2024

7. The Division of Revenue (Amendment) Bill, 2024 (National Assembly Bill No.38 of 2024) was passed by the Senate with the following amendments on 3rd October, 2024.
8. During the consideration of the Bill by the Senate Standing Committee on Finance and Budget, the National Treasury and Economic Planning submitted that there were new fiscal developments that warranted the adjustment of the anticipated revenue shortfall from Ksh.346 billion (as contained in the Bill) to a shortfall of Ksh.316.72 billion. This means the revised ordinary revenue for FY 2024/25 was set at Ksh.2,631.2 billion instead of Ksh.2,602.1 billion. This necessitated the Committee/Senate to adjust the total sharable revenue to reflect the same.
9. The Senate considered and approved the Bill with amendments by deleting the proposed Schedule and substituting therefor with a further new schedule-

Type/Level of allocation	Amount in Kshs.	Percentage (%) of FY 2020/21 audited and approved Revenue i.e. Kshs. 1,570,562,945,014
A. Total Sharable Revenue	2,631,418,000,000	
B. National Government	2,223,301,211,853	
C. Equalization Fund	8,000,000,000	
<i>Of which: a). 0.5 Per Centum</i>	7,852,814,725	0.50%
<i>b). Arrears</i>	147,185,275	
D. County equitable share	400,116,788,147	25.48%

10. The Bill was then referred back to the National Assembly on 4th October 2024 for concurrence on the Senate Amendments as per the provisions of Article 112(1)(b)

of the Constitution. The National Assembly on 16th October 2024 rejected the proposed amendments to the Bill by the Senate

11. In accordance with the provisions of Article 112(1) of the Constitution, the Division of Revenue (Amendment) Bill, 2024 (National Assembly Bills No. 38 of 2024) was therefore referred to the Mediation Committee for consideration and development of a mediated version of the Bill.

3.0 The Mediation Committee Consideration of the Division of Revenue (Amendment) Bill, 2024 (National Assembly Bills No. 38 of 2024)

12. The Committee Considered the Bill and made the following observations-

- a) Whereas the Kshs.380 billion as proposed in the Bill meets the Constitutional threshold of 15%, the proposed amount is less than the previous FY 2023/24 allocation by Kshs.5.4 billion.
- b) Devolution has played a critical part in development of various regions in the country. The reduction of county equitable share by Kshs.20 billion, from Kshs.400.12 billion to Kshs.380 billion would be comparable to reducing funding to counties, thus limiting the counties abilities to offer seamless services.
- c) That the withdrawal of the Finance Bill, 2024 was an unprecedented event and has implications on government finances. This occasioned a shortfall in projected revenue collection of Kshs.346 billion in FY 2024/25. This necessitated reorganizing and rationalizing the Government's financial arrangements for FY 2024/25, and therefore it would be prudent to approve a reasonable amount as an allocation to county governments to avoid failure by National Treasury to disburse the approved amount to counties.
- d) The additional funding sought by the Counties partly has been occasioned by policies of the national government including Contributions to Housing Levy, NSSF contributions, counterpart funding for Community Health Promoters, and County Aggregation and Industrial Parks among others.

- e) During the consideration of the Bill by the Senate, the National Treasury submitted that there were new fiscal developments that warranted the adjustment of the anticipated revenue shortfall from Ksh.346 billion (as contained in the Bill) to a shortfall of Ksh.316.72 billion. This means the revised ordinary revenue for FY 2024/25 was therefore set at Ksh.2,631.42 billion as opposed to Ksh.2,602.12 billion.
- f) County Governments ought to establish strategies and mechanisms to improve the collection of Own-Source Revenue in order to reduce overreliance on equitable share as the main source of funding.

4.0 Committee Recommendation

13 Having considered the possible options the Committee resolved THAT-

- a) The National Government Equitable share for the Financial Year 2024/25 be **Kshs.2,235,993,000,000**; and
- b) The County Equitable share for the Financial Year 2024/25 be **Kshs.387,425,000,000**.
- c) Equalization Fund be **Kshs.8 billion**, of which **Kshs.7,852,814,725** is the constitutional 0.5% and **Kshs.147,185,275** is the contribution of arrears to the Fund.
- d) Clause 3 of the Bill be deleted in its entirety. This implies that the section where revenue shortfall within the FY 2024/25 was to be shared between the two levels of government and the capping of what to be borne by the County Governments at 15% was dropped. Consequently, the provisions of Section 5 of the DoRA, 2024 remain, and that in case of revenue shortfall, it shall be borne by the National Government. Similarly, in case of excess revenue collection, it shall accrue to the National Government, and may be used to reduce deficit or defray public debt.

Annex1: Minutes of the Committee

Annex 2: Agreed version of the Bill



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS
(*Bill No. 38 of 2024*)

THE DIVISION OF REVENUE (AMENDMENT) BILL, 2024

(A version of the Division of Revenue (Amendment) Bill, 2024 (National Assembly Bills No. 38 of 2024) as agreed on 20th November, 2024, by a mediation committee appointed pursuant to Article 113 of the Constitution)

N.A. /B/No. 38/2024

A handwritten signature in black ink, appearing to read 'James O. Ombija'.

Handwritten initials in blue ink, appearing to be 'MS'.

**THE DIVISION OF REVENUE (AMENDMENT)
BILL, 2024**

A Bill for

**AN ACT of Parliament to amend the Division of Revenue
Act**

ENACTED by Parliament of Kenya, as follows—

1. This Act may be cited as the Division of Revenue
(Amendment) Act, 2024.

Short title.

2. The Division of Revenue Act, 2024 is amended by
deleting the Schedule and substituting therefor the following
new Schedule —

Deletion and
replacement of
the Schedule to
No.5 of 2024.

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SCHEDULE (s.2)

ALLOCATION OF REVENUE RAISED NATIONALLY BETWEEN THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS FOR THE 2024/25 FINANCIAL YEAR

Type/level of allocation	Amount in Kshs.	Percentage (%) of 2020/21 audited and approved Revenue i.e. Kshs. 1,570,562,945,014
A. Total Sharable Revenue	2,631,418,000,000	
B. National Government	2,235,993,000,000	
C. Equalization Fund	8,000,000,000	
of which: a). 0.5 Per Centum	7,852,814,725	0.50%
b). Arrears	147,185,275	
D. County Equitable Share	387,425,000,000	24.67%

