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REPUBLIC OF KENYA

PARLIAMENT OF KENYA

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26/11/24

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)

26/11/24

PAPERS LAID	
DATE	26/11/2024
TABLED BY	Sen. Mutinyi, Hajji on behalf of co-chair
COMMITTEE	Mediation
CLERK AT THE TABLE	Jillian

APPROVED  
RT. HON. SEN  
AMASON J. KINGI

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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 22<sup>nd</sup> October, 2024 and 30<sup>th</sup> 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.....








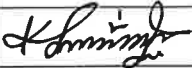



Date.....20.11.2024.....



**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 10<sup>th</sup> 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 17<sup>th</sup> 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 7<sup>th</sup> 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	<b>0.50%</b>
D. County equitable share	380,000,000,000	<b>24.20%</b>

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 7<sup>th</sup> 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 3<sup>rd</sup> 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	<b>0.50%</b>
<i>b). Arrears</i>	147,185,275	
D. County equitable share	<b>400,116,788,147</b>	<b>25.48%</b>

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





**ANNEX 1:**

**MINUTES OF**

**THE**

**COMMITTEE**





REPUBLIC OF KENYA

13<sup>TH</sup> PARLIAMENT – (THIRD SESSION)

MINUTES OF THE FIRST MEETING OF THE MEDIATION COMMITTEE ON THE DIVISION OF REVENUE (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO.38 OF 2024) HELD ON THURSDAY, 7<sup>TH</sup> NOVEMBER 2024 IN THE SENATE CHAMBER, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

---

**PRESENT**

1. Hon. Ndindi, Nyoro, CBS, MP	-	<b>Co- Chairperson</b>
2. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP	-	<b>Co- Chairperson</b>
3. Sen. Mohamed Faki Mwinyihaji, CBS, MP	-	Member
4. Sen. Edwin Sifuna, MP	-	Member
5. Sen. Veronica Maina Nduati, MP	-	Member
6. Hon. John Chikati, PhD, MP	-	Member
7. Hon. Mulu Makali, PhD, MP	-	Member
8. Hon. Ochieng, David Ouma, MP	-	Member
9. Hon. David Kiplagat, MP	-	Member
10. Sen. Eddy Gicheru Oketch, MP	-	Member
11. Hon. Ojiambo Oundo, PhD, MP	-	Member
12. Hon. Fatuma Jehow, MP	-	Member

**ABSENT WITH APOLOGY**

13. Hon. Otucho, Mary Emaase, MP	-	Member
14. Hon. Otiende Amollo, PhD, SC, MP	-	Member
15. Sen. Recha Julius Murgor, MP	-	Member
16. Sen. Richard Momoima Onyonka, MP	-	Member
17. Sen. Wamatinga Wahome, MP	-	Member
18. Sen. Mungatana Danson Buya, MP	-	Member

**SECRETARIAT**

1. Mr. Stephen Gikonyo	Principal Clerk Assistant ( <b>Presiding</b> )
2. Ms. Lucy Makara	Ag.Senior Deputy Director, PBO
3. Mr. Christopher Gitonga	Clerk Assistant
4. Mr. Danson Kachumbo	Senior Fiscal Analyst
5. Ms. Jemimah Waigwa	Principal Legal Counsel
6. Ms. Lucy Radoli	Legal Counsel

7. Mr. Moses Mwariri	Legal Counsel
8. Mr. Gorod Abdi	Senior Fiscal Analyst
9. Mr. Ringine Mutwiri	Fiscal Analyst/ Committee Clerk
10. Mr. Benard Adera	Fiscal Analyst
11. Mr. Kiminza Kioko	Fiscal Analyst
12. Mr. Nandemu Barasa	Media Relations Officer
13. Ms. Fridah Ngari	Media Relations Officer
14. Mr. Ian Otieno	Audio Officer
15. Mr. Nimrod Ochieng	Audio Officer
16. Mr. Simon Ouko	Sergeant-at-Arms
17. Mr. Jared Amara	Office Attendant
18. Mr. Collins Amuono	Attaché of the National Assembly
19. Mr. Paul Ntowais	Attaché of the National Assembly
20. Mr Allan Mwangi	Attaché of the senate

**MIN.NO: NA/SEN/MED/DoRA/2024/001**

**PRELIMINARIES**

The meeting was called to order at 10:30 a.m. This was followed by a word of prayer, and a round of introduction.

**MIN.NO: NA/SEN/MED/DoRA/2024/002**

**ADOPTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. Mohamed Faki Mwinyihaji, CBS, MP, and seconded by Hon. (Dr.) Mulu Makali, MP, as listed below-

1. Prayer;
2. Introduction;
3. Adoption of the Agenda;
4. Election of the Chairperson and Vice Chairperson;
5. Remarks by the Chairperson and Vice-Chairperson;
6. *Consideration of the Division of Revenue Bill(National Assembly Bills No. 38 of 2024);*
7. Any Other Business; and

Adjournment.

**MIN.NO: NA/SEN/MED/DoRA/2024/003**

**ELECTION OF THE CHAIRPERSON  
AND VICE CHAIRPERSON**

The Presiding Officer welcomed the members to the meeting. Thereafter, he informed the meeting that the Standing Orders of the Senate and National Assembly provide that the Chairperson and Vice-Chairperson of the Mediation Committee shall be appointed at the first meeting of the Committee and shall not be members of the same House. Thereafter, he requested for proposals for the position of the Chairperson.

After deliberations, the meeting unanimously resolved that instead of electing Chairperson and Vice Chairperson, the Committee should have Co-Chairpersons. The Committee unanimously agreed

that Hon. Ndindi Nyoro, CBS, MP, and Sen. (Capt.) Ali Ibrahim Roba, EGH, MP, be the Co-Chairpersons having been proposed by Hon. David Kiplagat, MP, and seconded by Sen. Eddy Gicheru Oketch, MP.

MIN.NO: NA/SEN/MED/DoRA/2024/004

REMARKS BY THE CO-CHAIRPERSONS

The Presiding Officer welcomed the Co-Chairpersons to make their opening remarks and preside over the meeting.

Remarks by Co-Chairperson from the National Assembly

Hon. Ndindi Nyoro, CBS, MP, thanked the Members present for creating time to attend the meeting despite their busy schedules. He further informed the meeting as follows-

- a) There were two figures for the county equitable share proposed by the National Assembly (Kshs. 380.1 billion) and Senate (Kshs. 400.1 billion).
- b) Total budget for FY 2024-2025 is Kshs. 3.88 trillion.
- c) National government recurrent expenditure Kshs. 1.6 trillion.
- d) Development expenditure for national government Kshs. 623 billion
- e) Consolidated Fund Service (CFS): Kshs. 1.23 trillion  
*Of which Interest payments on debt (domestic and foreign): Ksh. 1.008 trillion*
- f) Allocation to counties: Kshs. 410 billion (including carryovers)
- g) Anticipated revenue deficit is Kshs. 768 billion
- h) The Mediation Committee had been constituted to develop a version of the Bill that both Houses may pass.
- i) The National Assembly supports devolution while the Senate is mandated to defend devolution by representing counties and protecting the interests of the counties.
- j) Finally, he urged the Committee to work together to establish an agreement within the 30-day deadline.

Remarks by Co-Chairperson from the Senate

Upon invitation, Sen. (Capt.) Ali Ibrahim Roba, EGH, MP, informed the meeting that-

- a) The overall budget that currently stands at Kshs. 3.88 trillion;
- b) recurrent budget amounts to Kshs. 2.83 trillion comprising Kshs. 1 trillion interest repayments on public debt, Kshs. 1.3 trillion in ministerial recurrent expenditures and Kshs. 190 billion in pensions and other CFS expenditures, while the development budget

transfers	counties amount	451 billion compris	to K sh.599
			380 billion

after, invited e Parliamentary post mak

**REVENUE BILL, 2024, (NATIONAL  
ASSEMBLY BILLS NO. 14 OF 2024)  
(COMMITTEE PAPER NO.01)**

Upon invitation, the Parliamentary Budget Office briefed the Committee as follows-

1. The Division of Revenue (Amendment) Bill, 2024, was published on 17<sup>th</sup> July 2024. The purpose of the Bill was to amend the Division of Revenue Act, 2024 to provide for equitable sharing of shortfall in revenue raised Nationally, occasioned by the downward revision of projected ordinary revenue in FY 2024/25, between the two levels of government.
2. The projected shortfall in revenue collection of **Ksh. 346 billion** in FY 2024/25 is occasioned by the failure to enact the Finance Bill, 2024 into law. On 26<sup>th</sup> June 2024, the President referred the Finance Bill, 2024 for reconsideration by the National Assembly according to Article 115 of the Constitution. The President in his reservations proposed the deletion of all the clauses in the Bill.
3. The withdrawn Finance Bill contained revenue-raising measures that was designed to support Government expenditure needs and other policy measures; hence the failure to enact it translated to a revenue collection deficit. This necessitated reorganizing and rationalizing the Government's financial arrangements for FY 2024/25.
4. The National Assembly considered and passed the Bill on 7<sup>th</sup> August 2024. The Bill was thereafter transmitted to the Senate for consideration, in accordance with Article 110(4) of the Constitution. The Senate as per Standing Order 145 of the Senate Standing Orders, facilitated public participation on the Bill and on 3<sup>rd</sup> October, 2024 the Senate considered the Bill and **passed it with amendments.**

The Bill was then referred back to the National Assembly on 4<sup>th</sup> October 2024 for concurrence on the Senate Amendments as per the provisions of Article 112(1)(b) of the Constitution. The National Assembly on 16<sup>th</sup> October, **rejected** the amendments to the Bill as Proposed by the Senate.

**I. Highlights of the Division of Revenue (Amendment) Bill, 2024 as passed by the National Assembly.**

5. The object and the purpose of the Bill is highlighted as to amend the Principal Act (DORA, 2024) to provide for equitable sharing of revenue shortfall raised Nationally, occasioned by a downward revision of the Projected ordinary revenue among national government and County governments in FY 2024/25.
6. The Division of Revenue (Amendment) Bill, 2024 seeks to amend the Division of Revenue Act (DORA), 2024 to revise the sharing of the revenue raised nationally between the national and county governments, to reflect the downward revision of projected ordinary revenue collection for the FY 2024/25. The shortfall as proposed in the Bill amounts to **Ksh.346 billion.**
7. The sharing of the shortfall of the **Ksh.346 billion**, between the two levels of government is indicated as **Ksh.Ksh.325.88 billion** be borne by the National government while **Ksh.20.12 billion** be reduced from the County equitable share. The new allocation for the National Government was proposed to be **Ksh.2,214.27 billion** from an initial allocation of

**Ksh.2,540.15 billion**, while that of the County Governments was adjusted to **Ksh.380 billion** from **Ksh.400.12 billion**.

8. To reflect the new sharable revenue and the new vertical sharing of the revenue between the National government and the county governments, the Bill proposed the following amendments to the Division of Revenue Act, 2024;

i. **Amendment of Section 5 of the DORA, 2024:** the Bill proposes amendment of **Section 5** to provide for sharing of any revenue shortfall in FY 2024/25, equitably between the national and county governments (*Clause 3 of the Bill*). The clause also provides for capping of the proportion of revenue shortfall to be borne by county governments. This is effected by the insertion of an additional clause 5(A1) which provides that the proportion of the shortfall to be borne by county governments shall not exceed fifteen percent (15%) of the shortfall.

ii. **Deletion and replacement of the Schedule in DORA, 2024:** clause 4 of the Bill deletes the Schedule to the division of revenue on the allocation of revenues raised nationally between the national government and county government and replaces it with a new Schedule.

9. The new schedule as shown in the Bill provides for the following;

- i. New Total Sharable Revenue of **Ksh.2,602.12 billion** from **Ksh.2,948.12 billion**.
- ii. New National Government share of **Ksh.2,214.27 billion** from **Ksh.2,540.15**.
- iii. New County equitable share of **Ksh.380 billion** from **Ksh.400.12 billion**.
- iv. The Equalization Fund was retained at **Ksh.7.8 billion**.

10. The observation was that the National Government's share of revenue raised nationally was adjusted downward by **Ksh.325.88 billion (94.19% of the shortfall)** while that of the County governments by **Ksh.20.12 billion (5.81 % of the shortfall)**. The proposed allocation of **Ksh.2,214.27 billion** to the National Government was **12.83 percent** less than what was allocated in the Division of Revenue Act, 2024, while that of the county government of **Ksh.380 billion** is **5.03 percent** compared to **Ksh.400.12 billion**.

11. The allocation of **Ksh.380 billion** as equitable share to Counties is **24.2 percent** of the last audited and approved revenues of the government for the financial year 2020/2021 (Ksh. 1,570.6 billion) hence meets the Constitutional threshold of fifteen (15) percent as per Article 203(2).

## II. The Senate's consideration of the Bill.

12. The Senate considered the Division of Revenue (Amendment) Bill, 2024 as passed by the National Assembly and passed it **with amendments**. The amendments entailed the deletion of some clauses, restating some texts of the Bill, and substitution of the schedule in the Bill with a new schedule setting out a further new sharing of revenue.

13. The Senate proposed the deletion of Clause 2 of the Bill and substituting with a new clause reading as follows; *The object of this Act is to amend the Division of Revenue Act (hereinafter referred to as the "principal Act") to provide for the downward revision of projected ordinary revenue*. This implies that the object and the purpose of the Bill was restated to provide for a downward revision of the total equitable share; as opposed to earlier provisions that included the sharing of the revenue shortfall between the two levels of government.

14. A further amendment was the deletion of Clause 3 in its entirety from the Bill. The implication is 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 was to be borne by the County Governments (15%) was removed. This means the provisions of Section 5 of the DORA remain unchanged.
15. Clause 4 of the Bill was amended by deleting the proposed new schedule and substituting it with a further new schedule. The new schedule for sharing of revenue as passed by the Senate was as follows;

Type/Level of allocation	Amount in Kshs.	(%) of last audited and approved Revenue
A. Total Sharable Revenue	2,631,418,000,000	
B. National Government	2,223,301,211,853	
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	400,116,788,147	25.48%

16. The new schedule as proposed indicates that the allocation of the National government is approved at **Ksh.2,223.30billion**, that of the County governments at **Ksh.400.12 billion** (as contained in DORA,2024), and that of the equalization Fund at **Ksh.8 billion** of which **Ksh.7.8 billion** as the constitutional 0.5 % and **Ksh.147 million** is the contribution of arrears to the fund.
17. It is notable that, 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**. This necessitated the Senate to adjust the total sharable revenue to reflect the new sharable revenue projection.
18. The National Treasury also indicated that the upward adjustment of the sharable revenue happened during the finalization of the approved supplementary Budget No.1 for Financial Year 2024/25 which was after the submission of the Division of Revenue (Amendment)Bill, 2024 hence the reason for the adjustment.
19. The senate observed that whereas the **Ksh.380 billion** as proposed in the Bill met the Constitutional threshold of 15%, the amount was less by **1.4 %** or **Ksh.5.4 billion** than the allocation for the previous FY 2023/24. Further, the allocation of **Ksh.400.12 billion** contained non-discretionary expenditures as a result of new priority programmes initiated by the National Government that need to be implemented by the Counties.
20. The identified non-discretionary financial obligations to counties include; Housing levy deductions of **Ksh. 4.0 billion**, Enhanced contributions to the National Social Security Fund (NSSF) of **Ksh. 3.0 billion**, Matching allocations for the County Aggregation and Industrial Parks of **Ksh. 11.75 billion**, Matching allocation for the Community Health Promoters program of **Ksh. 3.2 billion**, the Cost of maintaining the handed-over medical equipment of **Ksh.5.86 billion**, and the automatic yearly payroll adjustments(increases).



21. After the Bill was Passed in the Senate with Amendments, it was referred back to the National Assembly on 4<sup>th</sup> October 2024 for concurrence on the Senate Amendments as per the provisions of Article 112(1)(b) of the Constitution. The National Assembly on 16<sup>th</sup> October 2024 **rejected the amendments** to the Bill as proposed by the Senate. The National Assembly observed that the notion that the National Government bears the total revenue shortfalls is **not sustainable, equitable, or fair**. There is a need to ensure that any revenue shortfalls are borne equitably by both levels of government.

22. The **rejection of the Amendments** of the Senate by the National Assembly paved the way for a mediation process on the Bill under the provisions of Article 112(1) of the Constitution. The Mediation Committee is required to consider and agree on a version of the Bill within thirty days, which shall be subjected to a vote in both Houses.

### III. Matters For Consideration by the Committee.

23. The Committee may consider addressing the following matters emanating from the contents of the Bill which would help in developing an agreed version of the Bill;

	<b>Provisions of the affected Clauses of the Bill.</b>	<b>Proposal of the National Assembly</b>	<b>Proposal of the Senate</b>
1	<b>Clause 3:</b> (1) If the actual revenue raised nationally in the financial year 2024/25 falls short of the expected revenue set out in the Schedule, the shortfall shall be borne by both the national government and the county governments equitably.	Clause 3 should <b>remain</b> .	Clause 3 be <b>deleted</b>
2	<b>Clause 3(1A)</b> Notwithstanding the generality of subsection (1), the proportion of the shortfall to be borne by county governments shall not exceed fifteen per centum (15%) of that shortfall.	Clause 3 should <b>remain</b> .	Clause 3 be <b>deleted</b>
3	<b>Clause 4:</b> Deletion and replacement of the Schedule	That the allocation to Counties be set at <b>Ksh.380,000,000,000</b>	The allocation to Counties be set at <b>Ksh.400,116,788,147</b>
4	<b>Clause 2:</b> The object and purpose of this Act is to amend the Division of Revenue Act, 2024, (hereinafter referred to as the "principal Act") to provide for equitable sharing of the shortfall in revenue raised nationally, occasioned by downward revision of projected ordinary revenue, among the national government and county governments.	The provisions of the Clause be <b>retained</b> .	<b>Clause 2 be amended to read;</b> The object of this Act is to amend the Division of Revenue Act (hereinafter referred to as the "principal Act") to provide for the downward revision of projected ordinary revenue.

The Committee made the following observations and concerns-

1. Devolution has played a critical role in the development of various regions in the country, and that devolution was working.
2. That the mediation Committee should seek to address both the issues in the Bill and additional matters that may have an influence on the acceptability of the Bill in both Houses.
3. Members emphasized that both Houses need to collaborate to prioritize the public's welfare over political considerations.
4. The Committee noted the need for government entities to consistently engage in the mediation process before resorting to litigation. They expressed their concern over the Council of Governors' ongoing court or legal dispute over the Road Maintenance Levy Fund (RMLF).
5. That the final outcome of the mediation process should not only be acceptable to the Members of the Committee, but also to the respective Houses which will make the final decision in plenary.
6. That the withdrawal of the Finance Bill was an unprecedented event in the Country and has implications on government finances. The amount in the approved DoRA was partly based on the additional revenue from the Finance Bill.
7. That the other Arms of Government including the Executive, Parliament, Judiciary, and Constitutional Commissions have already incurred part of the shortfall and it would be prudent for the Counties to do the same.
8. The proposed allocation to counties is less than the allocation for the last Financial Year, which will result in defunding of counties. The Senate opposed this and proposed that counties should not get less than the previous year's allocation.
9. The National Government has more alternatives for raising revenue to cover the shortfall, including additional borrowing, whereas counties have no room for such.
10. 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 Industrial Aggregation Parks among others.
11. The proposed reduction in county allocation could have a huge impact on service delivery among county governments while paralyzing some interventions and resulting in more pending bills.
12. Constitutional Organs such as the Commission on Revenue Allocation have indicated the implication of the proposed reduction of county on allocation, which are far-reaching.


MIN.NO: NA/SEN/MED/DoRA/2024/006

ADJOURNMENT AND DATE OF NEXT  
MEETING

The meeting was adjourned at 1.00 p.m. The next meeting will be held at 2:00 P.M.

**SIGNED**

Signed.....

Signed.....

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

Date...12.11.2024.....

Hon. Ndindi Nyoro, CBS, MP  
Co-Chairperson

Date...12.11.2024.....





REPUBLIC OF KENYA

13<sup>TH</sup> PARLIAMENT – (THIRD SESSION)

MINUTES OF THE SECOND MEETING OF THE MEDIATION COMMITTEE ON THE DIVISION OF REVENUE (AMENDMENT) BILL, (NATIONAL ASSEMBLY BILL NO 38 OF 2024), HELD ON THURSDAY, 7<sup>TH</sup> NOVEMBER 2024 IN THE SENATE CHAMBERS, PARLIAMENT BUILDING AT 2.00 P.M.

PRESENT

- |   |   |                 |
|---|---|-----------------|
| 1. Hon. Ndindi, Nyoro, CBS, MP            | - | Co- Chairperson |
| 2. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | Co- Chairperson |
| 3. Sen. Mohamed Faki Mwinyihaji, CBS, MP  | - | Member          |
| 4. Sen. Edwin Sifuna, MP                  | - | Member          |
| 5. Sen. Veronica Maina Nduati, MP         | - | Member          |
| 6. Hon. John Chikati, PhD, MP             | - | Member          |
| 7. Hon. Mulu Makali, PhD, MP              | - | Member          |
| 8. Hon. Ochieng, David Ouma, MP           | - | Member          |
| 9. Hon. David Kiplagat, MP                | - | Member          |
| 10. Hon. Ojiambo Oundo, PhD, MP           | - | Member          |

ABSENT WITH APOLOGY

- |                                      |   |        |
|--------------------------------------|---|--------|
| 11. Hon. Otucho, Mary Emaase, MP     | - | Member |
| 12. Hon. Otiende Amollo, PhD, SC, MP | - | Member |
| 13. Hon. Fatuma Jehow, MP            | - | Member |
| 14. Sen. Recha Julius Murgor, MP     | - | Member |
| 15. Sen. Richard Momoima Onyonka, MP | - | Member |
| 16. Sen. Eddy Gicheru Oketch, MP     | - | Member |
| 17. Sen. Wamatinga Wahome, MP        | - | Member |
| 18. Sen. Mungatana Danson Buya, MP   | - | Member |

## SECRETARIAT

1. Ms. Lucy Makara
2. Mr. Christopher Gitonga
3. Mr. Danson Kachumbo
4. Ms. Jemimah Waigwa
5. Ms. Lucy Radoli
6. Mr. Moses Mwariri
7. Mr. Gorod Abdi
8. Mr. Ringine Mutwiri
9. Mr. Benard Adera
10. Mr. Kiminza Kioko
11. Mr. Nandemu Barasa
12. Ms. Fridah Ngari
13. Mr. Ian Otieno
14. Mr. Nimrod Ochieng
15. Mr. Simon Ouko
16. Mr. Jared Amara
17. Mr. Collins Amuono
18. Mr. Paul Ntowais
19. Mr Allan Mwangi

Ag. Senior Deputy Director, PBO  
Clerk Assistant  
Senior Fiscal Analyst  
Principal Legal Counsel  
Legal Counsel  
Legal Counsel  
Senior Fiscal Analyst  
Fiscal Analyst/ Committee Clerk  
Fiscal Analyst  
Fiscal Analyst  
Media Relations Officer  
Media Relations Officer  
Audio Officer  
Audio Officer  
Sergeant-at-Arms  
Office Attendant  
Attaché of the National Assembly  
Attaché of the National Assembly  
Attaché of the senate

MIN.NO: NA/SEN/MED/DoRA/2024/007

## PRELIMINARIES

The Chairperson called the meeting to order at 2:05 p.m. This was followed by a word of prayer and a round of introduction.

MIN.NO: NA/SEN/MED/DoRA/2024/008 RESUMPTION OF CONSIDERATION of  
THE DIVISION OF REVENUE (AMENDMENT)  
BILL, 2024, (NATIONAL ASSEMBLY BILL No.38 of  
2024)

The Committee resumed consideration of the contentious clauses of the Bill. After deliberations, it was resolved as follows-

- a) That the Secretariat should prepare and submit a brief in the subsequent meeting on the following-
  - a) The ordinary revenue performance against the projected revenues for the last 10 years;
  - b) The county governments own source revenue performance.
  - c) The counties undertaking County Aggregated Industrial Parks (CAIPs) programmes, expenditures incurred on the same by both national and county governments. Further, an analysis of the challenges/gaps faced in implementation of these projects.


- b) In subsequent meetings the Committee should deliberate on the following-
- a) To what extent should each level of government bear revenue shortfall burden and what process should be applied in determination of the shortfall.
  - b) The criteria and process applied in determination of the Kshs. 346 billion shortfall and the underlying factors or assumptions that attributed to determination of this specific figure.
  - c) Can county level of government be allocated equitable less than the allocation made in previous financial year.
  - d) For Financial Year 2024/25, what will be the county equitable share.
  - e) What are the projects/ programmes which were to be financed through the funds (Kshs. 346 billion) which were projected collected through the withdrawn Finance Bill, 2024. A comprehensive breakdown the programmes should be availed.
  - f) Probable way forward to deal with the case filed the High Court by Council of Governors (CoG) regarding allocations of funds from the Roads Maintenance Levy Fund.

MIN.NO: NA/SEN/MED/DoRA/2024/009


ADJOURNMENT AND THE DATE  
OF THE NEXT MEETING

The meeting adjourned at 2.31 pm. The next meeting shall be held on Tuesday, 12<sup>th</sup> November 2024.

**SIGNED**

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

Date..... 12.11.2024

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

Date..... 12.11.2024







**REPUBLIC OF KENYA**

**13<sup>TH</sup> PARLIAMENT – (THIRD SESSION)**

**MINUTES OF THE THIRD MEETING OF THE MEDIATION COMMITTEE ON THE DIVISION OF REVENUE (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO.38 OF 2024) HELD ON TUESDAY, 12<sup>TH</sup> NOVEMBER 2024 IN THE BUNGE TOWER, 5<sup>TH</sup> FLOOR, COMMITTEE ROOM 24 AT 10.00 A.M.**

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**PRESENT**

1. Hon. Ndindi, Nyoro, CBS, MP	-	Co- Chairperson
2. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP	-	Co- Chairperson
3. Sen. Mohamed Faki Mwinyihaji, CBS, MP	-	Member
4. Sen. Eddy Gicheru Oketch, MP	-	Member
5. Sen. Richard Momoima Onyonka, MP	-	Member
6. Hon. Fatuma Jehow, MP	-	Member
7. Hon. Otiende Amollo, PhD, SC, MP	-	Member
8. Hon. Mulu Makali, PhD, MP	-	Member
9. Hon. David Kiplagat, MP	-	Member
10. Hon. Ojiambo Oundo, PhD, MP	-	Member

**ABSENT WITH APOLOGY**

11. Hon. Otucho, Mary Emaase, MP	-	Member
12. Hon. John Chikati, PhD, MP	-	Member
13. Hon. Ochieng, David Ouma, MP	-	Member
14. Sen. Recha Julius Murgor, MP	-	Member
15. Sen. Edwin Sifuna, MP	-	Member
16. Sen. Veronica Maina Nduati, MP	-	Member
17. Sen. Wamatinga Wahome, MP	-	Member
18. Sen. Mungatana Danson Buya, MP	-	Member

**SECRETARIAT**

1. Ms. Lucy Makara	Ag. Senior Deputy Director, PBO
2. Mr. Christopher Gitonga	Clerk Assistant
3. Mr. Danson Kachumbo	Senior Fiscal Analyst
4. Ms. Jemimah Waigwa	Principal Legal Counsel
5. Ms. Lucy Radoli	Legal Counsel
6. Mr. Moses Mwariri	Legal Counsel
7. Mr. Gorod Abdi	Senior Fiscal Analyst
8. Ms. Beverlyne Chivadika	Clerk Assitant
9. Mr. Ringine Mutwiri	Fiscal Analyst/ Committee Clerk
10. Mr. Benard Adera	Fiscal Analyst

11. Mr. Kiminza Kioko	Fiscal Analyst
12. Mr. Nandemu Barasa	Media Relations Officer
13. Ms. Fridah Ngari	Media Relations Officer
14. Mr. Ian Otieno	Audio Officer
15. Mr. Nimrod Ochieng	Audio Officer
16. Mr. Simon Ouko	Sergeant-at-Arms
17. Mr. Jared Amara	Office Attendant
18. Mr. Collins Amuono	Attaché of the National Assembly
19. Mr. Paul Ntowais	Attaché of the National Assembly
20. Mr Allan Mwangi	Attaché of the senate

**MIN.NO: NA/SEN/MED/DoRA/2024/010**      **PRELIMINARIES**

The Co-Chairpersons welcomed the Committee Members to the meeting and called the meeting to order at 10.30 a.m. This was followed by a prayer by Hon. Mulu Makali, PhD, MP.

**MIN.NO: NA/SEN/MED/DoRA/2024/011**      **CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS**

- a) The Minutes of First sitting meeting held on Thursday, 7<sup>th</sup> November, 2024 at 10:00 a.m. were confirmed as a true record of the proceedings of the Mediation Committee having been proposed by Hon. David Kiplagat, MP, and seconded by Sen. Mohamed Faki Mwinyihaji, CBS, MP.
- b) The Minutes of Second sitting meeting held on Thursday, 7<sup>th</sup> November, 2024 at 2:00 p.m. were confirmed as a true record of the proceedings of the Mediation Committee having been proposed by Hon. Ojiambo Oundo, PhD, MP, and seconded by Sen. Mohamed Faki Mwinyihaji, CBS, MP.

**MIN.NO:NA/SEN/MED/DoRA/2024/012**      **RESUMPTION OF CONSIDERATION OF THE DIVISION OF REVENUE (AMENDMENT) BILL, 2024, (NATIONAL ASSEMBLY BILL NO.38 OF 2024)**

1. The Committee resumed deliberations on the contentious clauses of the Bill, and noted the following points-
  - a) The controversies surrounding the Road Maintenance Levy Fund (RMLF) should be put to rest as they are outside the scope of the Committee's objectives.
  - b) There should be a clear separation between the Division of Revenue Bill and the issues within the County Governments Additional Allocation Bill. The Committee main aim is to mediate and develop a version of the Bill that will be passed by both Houses and find common ground to unlock funds to county governments by facilitating the processing of the County Allocation of Revenue Act (CARA).
  - c) All Members of the Mediation Committee support devolution, regardless of political affiliation. Given the Committee's responsibility for both technical and political aspects of the process, it was agreed to strive to find solutions that benefit both Kenyans and counties.

- d) The National Assembly has an advantage as DoRA and the Appropriation Act of the National Government have already been passed.
2. The Committee sought advisory legal opinions to understand the legal implications of certain decisions they are planning to make. This was to ensure they are making informed and legally sound choices moving forward.
  3. The legal counsels clarified the implications if the mediation committee fails to reach an agreement. In this case, the Bill would be defeated, and the DoRA 2024 would remain as enacted.
  4. They also explored the scenario where the Committee agrees on Kshs. 400.1 billion without a supplementary budget to amend the existing appropriation of Kshs. 380 billion. Counsel confirmed that the DoRA would take precedence per Supreme Court Advisory Opinion No. 3 of 2019, necessitating remedial action. Further, advisory opinions are binding.
  5. If an agreed version of the Bill is developed but rejected in either House, the outcome would be the same as failing to agree within 30 days, the Bill would be defeated. Discussions also included the potential impact of the President sending a memorandum on the Division of Revenue (Amendment) Bill, 2024 to align with the current memorandum on County Allocation of Revenue Bill, 2024
  6. The Presidential memorandum proposed reduction of the County Allocation to Kshs. 380 billion, prompting Senate amendments that reflect the President's reservations. If the DoRA allocation remains at Kshs. 400.1 billion, overriding Presidential reservations would require two-third majority votes in both Houses. Failure to do so could lead to legal inconsistencies.

**MIN.NO:NA/SEN/MED/DORA/2024/013**

**DISCUSSION** **ON**  
**REVENUESHORTFALLS SCENARIO**

After briefing by the Parliamentary Budget Office on performance of ordinary revenue and county own source revenue, the Committee noted that-

- a) own-source revenue is performing well and could act as a safety net for counties to manage certain responsibilities during this tight fiscal year. It also acknowledged that national revenue has continuously underperformed, making it impractical to revise the Division of Revenue Bill (DoRB) allocation upwards.
- b) The withdrawn Finance Bill, 2024 indicated that the national government is already dealing with a shortfall of Kshs. 325 billion, while counties have been asked to accommodate a Ksh. 20 billion cut, which is expected to be stabilized in the next financial year.

**MIN.NO: NA/SEN/MED/DORA/2024/014**

**LEGAL CLARIFICATION ON**  
**AMENDMENT TO DORA**

- a) The committee briefly deliberated on the proposed amendment to Section 5 of the existing Division of Revenue Act, 2024. The Section specifies that in the event of a national shortfall, the entire amount should be borne by the national government, ensuring that counties are not responsible for covering such deficits.


b) It was emphasized amendment of the Section is crucial as it automatically shifts the burden of shortfalls to be borne by both national government and counties, establishing significant legal implications for immediate application and future precedents. The discussion highlighted the importance of the amendment not only in terms of its absolute value but also its broader legal and financial impacts.

MIN.NO: NA/SEN/MED/DoRA/2024/015


ADJOURNMENT AND THE DATE OF  
THE NEXT MEETING

The meeting adjourned at 1:06 p.m. The next meeting shall be by Notice.

SIGNED

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

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

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

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



REPUBLIC OF KENYA

13<sup>TH</sup> PARLIAMENT – (THIRD SESSION)

MINUTES OF THE FOURTH MEETING OF THE MEDIATION COMMITTEE ON  
THE DIVISION OF REVENUE (AMENDMENT) BILL, (NATIONAL ASSEMBLY  
BILL NO 38 OF 2024), HELD ON WEDNESDAY, 20<sup>TH</sup> NOVEMBER 2024 IN  
BUNGE TOWER, 5<sup>TH</sup> FLOOR COMMITTEE ROOM 21 AT 10.00 A.M.

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**PRESENT**

1. Hon. Ndindi, Nyoro, CBS, MP	-	Co- Chairperson
2. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP	-	Co- Chairperson
3. Sen. Mohamed Faki Mwinyihaji, CBS, MP	-	Member
4. Sen. Eddy Gicheru Oketch, MP	-	Member
5. Sen. Richard Momoima Onyonka, MP	-	Member
6. Sen. Edwin Sifuna, MP	-	Member
7. Sen. Veronica Maina Nduati, MP	-	Member
8. Sen. Wamatinga Wahome, MP	-	Member
9. Sen. Mungatana Danson Buya, MP	-	Member
10. Hon. Fatuma Jehow, MP	-	Member
11. Hon. Mulu Makali, PhD, MP	-	Member
12. Hon. David Kiplagat, MP	-	Member
13. Hon. Ojiambo Oundo, PhD, MP	-	Member

**ABSENT WITH APOLOGY**

14. Hon. Otucho, Mary Emaase, MP	-	Member
15. Hon. John Chikati, PhD, MP	-	Member
16. Hon. Ochieng, David Ouma, MP	-	Member
17. Hon. Otiende Amollo, PhD, SC, MP	-	Member
18. Sen. Recha Julius Murgor, MP	-	Member

## **SECRETARIAT**

1. Ms. Lucy Makara	Ag. Senior Deputy Director, PBO
2. Mr. Danson Kachumbo	Senior Fiscal Analyst
3. Ms. Jemimah Waigwa	Principal Legal Counsel
4. Ms. Lucy Radoli	Legal Counsel
5. Mr. Moses Mwariri	Legal Counsel
6. Mr. Gorod Abdi	Senior Fiscal Analyst
7. Ms. Beverlyne Chivadika	Clerk Assitant
8. Mr. Ringine Mutwiri	Fiscal Analyst/ Committee Clerk
9. Mr. Benard Adera	Fiscal Analyst
10. Mr. Kiminza Kioko	Fiscal Analyst
11. Mr. Nandemu Barasa	Media Relations Officer
12. Ms. Fridah Ngari	Media Relations Officer
13. Mr. Ian Otieno	Audio Officer
14. Mr. Nimrod Ochieng	Audio Officer
15. Mr. Simon Ouko	Sergeant-at-Arms
16. Mr. Jared Amara	Office Attendant
17. Mr. Collins Amuono	Attaché of the National Assembly
18. Mr. Paul Ntowais	Attaché of the National Assembly
19. Mr Allan Mwangi	Attaché of the senate

## **MIN.NO: NA/SEN/MED/DoRA/2024/020**      **PRELIMINARIES**

The Co-Chairpersons welcomed the Committee Members to the meeting and called the meeting to order at 11:00 a.m.

## **MIN.NO:NA/SEN/MED/DoRA/2024/021**

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

1. The Committee having agreed on a mediated version of the Bill adopted the Report proposed by Sen. Eddy Gicheru Oketch, MP, and seconded by Hon. Ojiambo Oundo, PhD, MP as follows:

### **1.0 Background and Overview of the Bill**

2. The Division of Revenue Act, 2024 was assented to on 10<sup>th</sup> 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.

3. 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.

## 2.0 Consideration of the Division of Revenue (Amendment) Bill, 2024

### 2.1 Consideration by the National Assembly

4. 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 17<sup>th</sup> 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.
5. 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.
6. The National Assembly considered the republished Bill on 7<sup>th</sup> 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%

7. 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

8. The Division of Revenue (Amendment) Bill, 2024 (National Assembly Bill No.38 of 2024) was passed by the Senate with the following amendments on 3<sup>rd</sup> October, 2024.

9. 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.

10. 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	<b>0.50%</b>
<i>b). Arrears</i>	147,185,275	
D. County equitable share	<b>400,116,788,147</b>	<b>25.48%</b>

11. 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

12. 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.

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

13. 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.

### 3.0 Committee Recommendation

14. 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. **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.

15. The meeting adjourned at 2:36 p.m. and the committee having successfully undertaken their mandate, no next meeting was scheduled.

**SIGNED**

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

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

**Date.....**

**Date.....**

**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 20<sup>th</sup> 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 'G. M. Ombui'.

20.11.2024

Handwritten initials in blue ink, possibly 'MS'.

20.11.2024.

**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.


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%

  
20.11.2024

  
20.11.2024.

