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REPUBLIC OF KENYA

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THIRTEENTH PARLIAMENT - FOURTH SESSION

THE SENATE

STANDING COMMITTEE ON FINANCE AND BUDGET

REPORT ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO. 10 OF 2025)

PAPERS LAID	
DATE	15/5/25
TABLED BY	Sen. L
COMMITTEE	Finance
CLERK AT THE TABLE	Abdirahman

Rt. Hon. Speaker
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date 15/05/25

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

May 2025

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LIST OF ABBREVIATIONS/ACRONYMS

CAF	- County Assemblies Forum
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CAIPs	- County Integrated Industrial Parks
CBA	- Collective Bargaining Agreement
CHPs	- Community Health Promoters
CoG	- Council of Governors
DORB	- Division of Revenue Bill
FY	- Financial Year
GDP	- Gross Domestic Product
ICPAK	- Institute of Certified Public Accountants of Kenya
IGRTC	- Intergovernmental Relations Technical Committee
IPPD	- Integrated Payroll and Personnel Database
KDCWG	- Kenya Devolution Civil Society Organization Working Group
NSSF	- National Social Security Fund
OSR	- Own Source Revenue
PFM	-Public Finance Management
RTWF	- Return To Work Formula
UHC	- Universal Health Coverage
WASH	- Water Sanitation and Hygiene

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PREFACE

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

Article 124 (1) of the Constitution of Kenya provides that each House of Parliament may establish committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

Parliamentary committees consider policy issues, scrutinize the workings and expenditures of the National and County Governments, and examine proposals for legislation. The end result of any process in Committees is a report, which is tabled in the House for consideration.

The Senate Standing Committee on Finance and Budget is established under Section 8(1) of the Public Finance Management (PFM) Act, Cap 412A and standing order 228 of the Senate Standing Orders and is mandated to-

a) investigate, inquire into, and report on all matters relating to coordination, control, and monitoring of the county budgets and examine -
    (i) the Budget Policy Statement presented to the Senate;
    (ii) the report on the budget allocated to constitutional Commissions and independent offices;
    (iii) the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the cash disbursement schedules for county governments;
    (iv) all matters related to resolutions and Bills for appropriations, the share of national revenue amongst the counties, matters concerning the national budget, including public finance and monetary policies and public debt, planning, and development policy; and
b) Pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.

MEMBERSHIP OF THE COMMITTEE

The Standing Committee on Finance and Budget was constituted by the Senate of the Thirteenth (13th) Parliament on Thursday, 13th October, 2022 during the First Session. The Committee was later reconstituted on Wednesday, 12th February, 2025, during the Fourth Session. The Committee as currently constituted is comprised of the following Members-

1) **Sen. (Capt.) Ali Ibrahim Roba, EGH, MP**	-	**Chairperson**
2) **Sen. Maureen Tabitha Mutinda, MP**	-	**Vice-Chairperson**
3) Sen. (Dr.) Boni Khalwale, CBS, MP	-	Member
4) Sen. Mohamed Faki Mwinyihaji, CBS, MP	-	Member
5) Sen. Richard Momoima Onyonka, MP	-	Member
6) Sen. Shakila Abdalla Mohamed, MP	-	Member
7) Sen. Eddy Gicheru Oketch, MP	-	Member
8) Sen. Mariam Sheikh Omar, MP	-	Member
9) Sen. Esther Okenyuri, MP	-	Member

CHAIRPERSON'S FOREWORD

The Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025) was published vide a Kenya Gazette Supplement No. 38 of 2025. The Bill was introduced in the National Assembly, debated and passed without amendments on Wednesday, 9th April, 2025. Consequently, in accordance with Article 110(4) of the Constitution, the Bill was referred to the Senate for consideration.

The Bill was read a First Time in the Senate on Wednesday, 16th April, 2025. Consequently, pursuant to standing order 145 of the Senate Standing Orders, the Bill was committed to the Standing Committee on Finance and Budget for consideration and facilitation of public participation.

The Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025) is prepared in line with Article 218 of the Constitution. It provides for vertical equitable sharing of revenue raised nationally between the national and county governments in the Financial Year (FY) 2025/26 in accordance with Articles 202(1) and 203 of the Constitution.

The projected revenue collection for the FY 2025/26 is estimated at Ksh.2,835.040 billion. Out of this, the National Governments share is Ksh.2,419.382 billion, representing 85.33% of the total revenue, while the proposed county governments' equitable share is Ksh.405.069 billion representing 14.28% of the total revenue.

The Bill indicates that the proposed county governments' equitable share is 25.79% of the most recent audited revenue for the FY 2020/2021 approved by the National Assembly. The County equitable share is proposed to increase by 4.5% from a baseline of Ksh.387.425 billion (allocated in FY 2024/2025).

The Bill also provides an allocation to the Equalization Fund for the FY 2025/2026 totaling to Ksh.10.589 billion, of which, Ksh.7.852 billion is 0.5% of the FY 2020/21 audited and approved revenue, as per Article 204 of the Constitution and Ksh.2.736 billion is for fund arrears.

It is worth noting that during consideration of the 2025 Budget Policy Statement approved by the Senate, the Senate made some key financial recommendations with regard to the division of revenue. Notably, the Senate recommended county governments equitable share allocation of Ksh.465.0 billion for FY 2025/26.

The recommendation was informed by the need for county governments to meet new non- discretionary financial obligations relating to housing levy deductions, enhanced contributions to the National Social Security Fund (NSSF), matching allocations for the County Integrated Industrial Parks (CAIPS), matching allocations for Community Health Promoters Program, procurement of new medical equipment, meting the outstanding obligation under Doctors CBA, annual wage drift.

Following the referral of the Bill to the Standing Committee, and pursuant to Article 118 of the Constitution and standing order 145(5) of the Senate Standing Orders, the Committee facilitated public participation and took into account the views and recommendations of the public in its report. An advert inviting the general public to submit memoranda on the Bill was published in two newspapers of nationwide circulation on 19th April, 2025.

During consideration of the Bill, the Committee held three (3) meetings (Annex 2- minutes of the Committee) and received submissions from the following key stakeholders -

a) The National Treasury and Economic Planning;
b) The Council of Governors (CoG);
c) The Commission on Revenue Allocation;
d) A joint submission from The Institute of Certified Public Accountants of Kenya (ICPAK) and Bajeti Hub;
e) The County Assembly Forum (CAF);
f) The Kenya Devolution Civil Society Organization Working Group; and
g) The Coast Civil Society Network for Human Rights

Observations

The Committee made several observations, among them-

a) There has been marginal growth in the county equitable share from previous financial years, despite the substantive growth in shareable revenue. In FY

2025/26 while shareable revenue is estimated to grow by 10.1 percent (Ksh.259.1 billion increase), counties are proposed to get an increase of Ksh.17.7 billion from this revenue growth.

b) Noting that over the years, the county equitable share has on average been 2.23% of GDP, and FY 2025/26 nominal GDP is projected to be Ksh.19,272 billion, Ksh.387.425 billion should be adjusted to ensure county equitable share percentage of GDP is maintained at the same level.

c) Whereas there have been consistent allocations and appropriations to the Equalization Fund by Parliament, there has been a delay in transfers to the Fund. The total disbursement to the Fund as of June, 2024 was Ksh.13.4 billion out of the total entitlement of Kshs.62.4 billion.

d) The Bill uses the most recent audited and approved accounts of revenue for FY 2020/21, amounting to Ksh.1,570.6 billion. However, the National Assembly on 15th April, 2025, approved the audited accounts of revenue of Ksh.1,920,434,085,078 as the total nationally collected revenue of FY 2021/22.

e) Following the change in the most recent audited and approved accounts of revenue (from Ksh.1,570.6 billion to Ksh.1,920.4 billion), the allocation to Equalization Fund must be adjusted in order to meet the constitutional obligation under Article 204(1).

f) Clause 3 on the object and purpose of the Bill makes reference to Article 203(2) of the Constitution instead of Article 202(1) which provides for the sharing of revenue raised nationally between the two levels of government.

g) County government expenditure needs have sharply grown due to increase in non-discretionary expenditures such as contribution to housing levy, NSSF, Social Health Insurance Fund, Matching of contribution to County Aggregated Industrial Parks, annual wage drift among others.

h) As submitted by the Cabinet Secretary, National Treasury and Economic Planning, the projected sharable revenue for FY 2025/26 had been revised from Ksh.2,835 billion to Ksh.2,757 billion.

Recommendations

Having considered the Bill and submissions from the stakeholders, the Committee recommends that the Senate approves the Bill with the following amendments –

a) Clause 3 be amended to make reference to Article 202(1) of the Constitution which requires revenue raised nationally be shared equitably between the National and county levels of government; and

b) The Schedule to the Bill be amended to reflect the following-

   i) The total sharable Revenue Ksh.2,756,978,546,059;
   ii) The most recent account of revenue as approved by the National Assembly as Ksh.1,920,434,085,078 for FY 2021/22;
   iii) National Government share – Ksh.2,279,638,176,610;
   iv) County government share – Ksh. 465,001,459,673;
   v) Allocation to the Equalization Fund - Ksh.9,602,170,425 (0.5% of most recent approved accounts of revenue); and
   vi) The Equalization Fund arrears- Ksh.2,736,739,351.

Acknowledgement

The Committee appreciates all the stakeholders who submitted written memoranda or appeared before the Committee to present their comments on the Bill.

The Committee appreciates the support extended by the offices of the Speaker and the Clerk of the Senate while undertaking this important assignment.

I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Division of Revenue Bill, 2025 successful.

It is now my pleasant duty, pursuant to standing order 148(1) of the Senate Standing Orders to present the Report of the Standing Committee on Finance and Budget on the Division of Revenue Bill, 2025 (National Assembly Bills No.10 of 2025).

Signature................................Date....12/05/25.................

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP,
CHAIRPERSON,
STANDING COMMITTEE ON FINANCE AND BUDGET

ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO.10 OF 2025)

We, the undersigned Members of the Senate Standing Committee on Finance and Budget, do hereby append our signatures to adopt this Report-

	Name	Designation	Signature
1.	**Sen. Capt. Ali Ibrahim Roba, EGH, MP**	**Chairperson**	
2.	**Sen. Maureen Tabitha Mutinda, MP**	**Vice-Chairperson**	
3.	Sen. (Dr.) Boni Khalwale, CBS, MP	Member	
4.	Sen. Mohamed Faki Mwinyihaji, CBS, MP	Member	
5.	Sen. Richard Momoima Onyonka, MP	Member	
6.	Sen. Shakila Abdalla Mohamed, MP	Member	
7.	Sen. Eddy Gicheru Oketch, MP	Member	
8.	Sen. Mariam Sheikh Omar, MP	Member	
9.	Sen. Esther Okenyuri, MP	Member	

CHAPTER ONE

OVERVIEW OF THE DIVISION OF REVENUE BILL, 2025

1.1 Legal provisions governing the Division of Revenue between National and County Governments.

1. The Division of Revenue Bill is prepared in accordance with the provisions of Article 218 of the Constitution. The law mandates that a Division of Revenue Bill be introduced in Parliament at least two months before the end of each financial year. The Bill aims to allocate revenue raised nationally between the national and county government levels.
2. The sharing of revenue contemplated in Article 218 is anchored in Article 202(1) of the Constitution, which dictates that revenue raised nationally be shared equitably among national and county governments. Furthermore, section 191(2) of the Public Finance Management Act (Cap. 412A) stipulates that the Division of Revenue Bill should specify the share of each level of government of the revenue raised nationally for the relevant financial year.
3. Article 218(2) of the Constitution and section 191(5) of the Public Finance Management Act (Cap. 412A) indicate that the legislative proposal on the Division of Revenue should be accompanied by a memorandum that explains the following-
    i. *how the Bill takes into account the criteria listed in Article 203(1) of the Constitution*
    ii. *the extent of the deviation from the Commission on Revenue Allocation's recommendations*
    iii. *the extent, if any, of deviation from the recommendations of the Intergovernmental Budget and Economic Council; and*
    iv. *any assumptions and formulae used in arriving at the respective shares.*
4. The criteria for determining the equitable shares to each level of government is exclusively provided for in Article 203 of the Constitution. The minimum equitable share to county governments is provided for in Article 203(2), where it is specified that for every financial year, the equitable share of the revenue raised nationally that

is allocated to county governments shall be not less than fifteen percent of most recent audited accounts of revenue collected by National Government, as approved by the National Assembly.

1.2 Consideration of the Division of Revenue Bill, 2025 by Parliament.

5. Article 110(4) of the Constitution requires that if any Bill concerning county government has been passed by one of the Houses of Parliament, the Speaker of that House shall refer it to the Speaker of the other House. The other House is required to consider the Bill and pass it in the form it was passed by the originating House, pass it in amended form, or reject the Bill.
6. The Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025) was published on 12th March, 2025 and subsequently presented to the National Assembly for consideration. The National Assembly upon deliberation, passed the Bill without amendments on Wednesday, 9th April, 2025. The Bill was thereafter forwarded to the Senate for consideration under the provisions of Article 110(4) of the Constitution and standing orders 41 and 142 of the National Assembly Standing Orders.
7. The Bill was read a First Time in the Senate on 16th April, 2025, and pursuant to standing order 145 of the Senate Standing Orders it was committed to the Standing Committee on Finance and Budget. The Committee was required to facilitate and undertake public participation on the Bill and prepare a report to the Senate, taking into account the views and recommendations of the public.

1.3 Analysis of the DORB, 2025.

8. The projected total shareable revenue for the FY 2025/26 is Ksh.2,835.0 billion. This represents a 7.7 percent growth (*203.4 billion increase*) in shareable revenue from the projected Ksh.2,631.4 billion for FY 2024/25. The shareable revenue as provided in the Bill is informed by the performance trends of ordinary revenues of the government.
9. Out of the set target collection of Ksh.2,835.0 billion as shareable revenue for FY 2025/26, the Bill proposes to allocate Ksh.2,419.4 billion to the National

Government, Ksh.405.1 billion to the County Governments, and Ksh.10.6 billion to the Equalization fund. Based on this projected shareable revenue of Ksh. 2,835.0 billion, the allocation to the National Government is equivalent to 85.3 percent, while that of the county governments is 14.3 percent. This trend is depicted in the previous allocations, where the share for the National Government has averaged above 85 percent, while that of the counties being between 14 and 15 percent on average.

10. The proposed shareable revenue of Ksh.2.835.0 billion is a growth of Ksh. 203.4 billion from the FY 2024/25 shareable revenue of Ksh.2,631.4 billion. Out of the increase of the Ksh.203.4 billion, counties are set to receive an increase of Ksh.17.7 billion from the allocation of Ksh.387.425 billion in FY 2024/25. Hence, the proposed allocation of Ksh.405.1 billion for the FY 2025/26. A review of the county equitable share allocations indicates that counties receive a marginal increase as an adjustment for revenue growth from the preceding year. The highest adjustment was in FY 2021/22, with an increase of Ksh.53.5 billion, and the second highest is the proposed Ksh.17.7 billion for FY 2025/26.
11. The Constitution in Article 203(2) sets the minimum allocation to counties at any given financial year to be not less than fifteen percent of the most recent audited accounts of revenue collected by the National Government, as approved by the National Assembly. The Bill uses the last audited and approved revenue for FY 2020/21, amounting to Ksh.1,570.6 billion. An evaluation of the proposed Ksh.405.1 billion against this constitutional threshold indicates that the amount (*Ksh.405.1 billion*) is equivalent to 25.79 percent of the Ksh.1,570.6 billion.
12. The Bill indicates that the proposed allocations of Ksh.405.1 billion to counties was informed by factors such as continuous underperformance of revenue by the end of the fiscal year, increased expenditures for debt services, the fiscal consolidation commitments of reducing fiscal deficit to 4.3 percent of GDP and the limited access to domestic and external borrowing.
13. The Bill also provides for the allocation to the Equalization Fund in accordance with Article 204(1) of the Constitution. Pursuant to Article 204(1), 0.5 percent of all revenue collected by the national government annually, calculated based on the most

recent audited and approved revenue accounts, should be allocated to the Fund. The Bill proposes an allocation of Ksh.7.85 billion to the Equalization Fund.

14. Further, there is an allocation of Ksh.2.74 billion in the FY 2025/26 as partial payment to arrears owed to the Equalization Fund. The arrears to the Fund at the end of FY 2023/24 stood at Ksh.49 billion. In the period between the inception of the Fund (FY 2011/12) to June 2024, total disbursement to the Fund was Ksh.13.4 billion out of the total entitlement of Ksh.62.4 billion.

CHAPTER TWO

SUBMISSIONS BY STAKEHOLDERS ON THE BILL

2.0 Introduction

15. This Chapter entails submissions from various stakeholders regarding the Bill. They include the following;
    a) The National Treasury and Economic Planning;
    b) The Council of Governors (CoG);
    c) The Commission on Revenue Allocation;
    d) A joint submission from The Institute of Certified Public Accountants of Kenya (ICPAK) and Bajeti Hub;
    e) The County Assembly Forum (CAF);
    f) The Kenya Devolution Civil Society Organization Working Group; and
    g) The Coast Civil Society Network for Human Rights.

2.1 Submissions by the National Treasury and Economic Planning

16. The National Treasury appeared before the Committee submitted the following-
    a) The National Treasury projected a total shareable revenue of Ksh. 2.835 trillion for FY 2025/26. From this, they allocated Ksh 2.419 trillion to the National Government, Ksh.405.1 billion to County Governments as the equitable share (25.79% of the most recent audited revenue), and Ksh 10.6 billion to the Equalization Fund, comprising Ksh. 7.9 billion for FY 2025/26 and Ksh. 2.7 billion in arrears.
    b) Upon reviewing the performance of ordinary revenue since the Bill's submission, the Treasury reported that revenue collection in FY 2024/25 had consistently lagged behind targets, with the shortfall widening each month and reaching a cumulative Ksh.142.8 billion by March, 2025. They estimate that the overall ordinary revenue for FY 2024/25 would be Ksh.2,435.1 billion, which is Ksh.482.1 billion below the original budget target.
    c) Given the depressed performance, the Treasury stated that the earlier revenue forecast for FY 2025/26 was no longer realistic. They therefore recommended a

downward revision of the ordinary revenue forecast for FY 2025/26 to Ksh. 2,757.0 billion, which is Ksh. 78.0 billion lower than the initial projection.

d) The Treasury explained that several factors informed the proposed division of revenue for FY 2025/26. Firstly, the revised projection was based on a lower revenue baseline, reflecting the consistent underperformance of ordinary revenue in recent years. Secondly, they highlighted the need to finance mandatory expenditures under Article 203(1) of the Constitution-including public debt, pensions, constitutional services, and emergencies-which would total Ksh. 2,616.6 billion in FY 2025/26. After these mandatory expenditures, only Ksh. 140.4 billion would remain for sharing between the two levels of government.

e) After accounting for county allocations (Ksh. 417.9 billion, including both equitable share and additional allocations), the Treasury noted that the balance left for the National Government would be negative, at –Ksh. 277.6 billion. This persistent fiscal deficit, they said, had led to additional borrowing over the years, distorting the fiscal framework and undermining fiscal consolidation efforts. The Treasury also pointed out that Kenya had faces financing constraints due to limited access to domestic and international financial markets, with borrowing consistently falling short of targets.

f) Furthermore, the Treasury observed that the National Government continued to bear the full burden of revenue shortfalls, as counties always received their full equitable share allocation regardless of revenue performance. This had resulted in budget cuts and delayed disbursements for national ministries and agencies, with arrears sometimes carried forward to subsequent years. They also highlighted that the cost of public debt servicing was projected to account for 52 percent of ordinary revenue in FY 2025/26, significantly higher than the average of 41 percent in previous years.

g) For the horizontal sharing of the equitable share, the Treasury proposed that the Ksh.405.1 billion allocations to counties for FY 2025/26-a 4.6 percent increase from the previous year-be distributed according to the Third determination of the basis of division of revenue among counties, since the Fourth determination has not been approved by Parliament.

h) Additionally, the Treasury proposed Ksh.69.8 billion in additional allocations (both conditional and unconditional) to county governments for FY 2025/26. Of this amount, Ksh.12.89 billion would be financed from the National Government's share of revenue, and Ksh.55.07 billion from loans and grants provided by development partners.

2.2 Submissions by the Council of Governors

17. The CoG appeared before the Committee and submitted as follows-

General Comments

a) The Council of Governors (COG) expressed appreciation for the Senate's support in enabling devolved units to fulfil their mandates through proper financing and oversight. While they acknowledged the Senate's recommendation of Ksh.465 billion as the equitable share for counties in FY 2025/26, the COG maintained that the amount is insufficient to meet counties' actual financing needs.

b) The Council of Governors argued that county allocations did not reflect the expanded fiscal space or projected 5.3% economic growth. They noted a five-year disparity where counties' share rose by only Ksh.70.9 billion compared to Ksh.702.6 billion for the national government. They called for a review of the revenue sharing framework and proposed a minimum allocation of Ksh. 536.88 billion for FY 2025/26.

c) The COG also noted that the Division of Revenue Bill, 2025, did not consider the financial implications of recently delineated and gazetted functions between national and county governments. They called for urgent identification and transfer of attendant resources to counties, as required by previous summit resolutions, to ensure counties could effectively perform these additional functions.

d) Regarding baseline allocations, the COG observed that the current baseline for counties had been reduced to Ksh.387.425 billion from the earlier Ksh.400.117 billion, even as the national government's allocation was restored through supplementary budgets. The COG recommended reinstating the counties' baseline allocation to Ksh.400.117 billion, in line with the Division of Revenue Act, 2024.

e) The COG raised concerns about recent cabinet resolutions on state corporation reforms, which involved merging, dissolving, or transferring several state corporations, including those performing devolved functions. They emphasized that, in accordance with the principle of resources following functions, any state corporations performing devolved functions should be transferred to counties along with their resources, and this should be reflected in the revenue division for FY 2025/26.

f) Additionally, the COG pointed out that counties continued to face unmet financial obligations and deficits due to previous budget cuts, with no additional allocations provided to address outstanding non-discretionary expenditures. They recommended that the Division of Revenue Bill, 2025, should provide for these expenditures arising from national government policies and projects.

g) Finally, the COG criticized the lack of enforcement of legal provisions meant to protect counties' equitable share from revenue shortfalls. Despite legal safeguards, counties had suffered budget cuts while the national government's budget was restored, undermining the stability and predictability of revenue allocation. The COG urged the Senate to ensure that counties' allocations were protected as envisaged in the Constitution and relevant laws.

Specific Comments

h) The CoG recommended that the Bill's schedule be amended so that the national government receives Ksh.2,290,308,164,884 and counties receive Ksh.536,880,000,000, instead of the proposed Ksh.2,419,382,005,336 for the national government and Ksh.405,069,420,197 for counties.

i) The Council of Governors (COG) proposed the removal of the Equalisation Fund arrears item from the Division of Revenue schedule. They argued that each year's fund allocation is specific and including arrears in future Division of Revenue Acts leads to double allocation and reduces shareable revenue. With arrears exceeding Ksh.60 billion, the Council recommended that they be addressed through a separate Equalisation Fund Appropriation Act and protected from changes under National Government Appropriation Acts.

2.3 Submissions by the Commission on Revenue Allocation (CRA)

18. CRA appeared before the Committee and submitted the following-

a) CRA noted the need to correct the constitutional basis for equitable sharing between the national and county governments which is Article 202(1), not Article 203(2), which only outlines revenue-sharing criteria.

b) The Commission highlighted a significant decline in county governments' share of the national budget, from 10.4% in FY 2024/25 to 9.3% in FY 2025/26, while the national executive's share increased. CRA recommended allocating Ksh 417.4 billion to counties, stressing that lower allocations undermine service delivery and contravene the objectives of devolution.

c) CRA also objected to how the Bill categorizes "national interest" by including devolved functions such as youth empowerment and irrigation. They argued that national interest projects can be implemented by either level of government and must respect the constitutional allocation of functions under the Fourth Schedule.

d) Additionally, CRA opposed the inclusion of the National Government Constituencies Development Fund (NG-CDF) and the Affirmative Action Fund in the list of statutory deductions from shareable revenue. They clarified that these are funded from the national government's equitable share, not deducted before revenue is shared.

e) The claim that the national government is left with a negative balance after allocations, CRA pointed out that several listed expenditures—such as NG-CDF, state law office, and the DPP—are national government functions. Thus, the claim of a deficit is misleading since the Constitution recognizes only two levels of government.

f) CRA also corrected the Bill's reference to the applicable revenue-sharing formula, clarifying that the Third Basis expired with FY 2024/25. The Fourth Basis has already been submitted to Parliament, and the Senate is expected to guide its implementation from FY 2025/26.

g) Finally, CRA disagreed with the Treasury's justification that paying Ksh.2.7 billion in Equalization Fund arrears limits capacity to increase county allocations.

They emphasized that the Equalization Fund is a separate constitutional obligation and not a valid reason to suppress county equitable share growth.

2.4 Joint Submissions by the Institute of Certified Public Accountants of Kenya (ICPAK) and Bajeti Hub

19. ICPAK and Bajeti Hub made the following submissions on the Bill-

a) ICPAK and Bajeti Hub expressed concern over the declining proportion of county equitable share in total sharable revenue, which dropped to 14.29% in 2025 from 14.61% in 2024, despite a nominal increase in allocations. They emphasized that while the legal minimum of 15% of the last audited revenue is met, counties receive a shrinking portion of the overall public resources. They recommended adopting the CRA's proposed allocation of Ksh 417.4 billion and urged the Treasury to use inflation rates rather than revenue growth as a basis for determining equitable share.

b) They criticized the continued reliance on outdated FY 2020/21 audited revenue figures for determining the Equalization Fund allocation. Although Ksh 7.85 billion was proposed for FY 2025/26, with Ksh 2.7 billion for arrears, they argued that this limits the fund's relevance and effectiveness. They called for prompt approval of updated financial statements, a clear payment plan for arrears, and robust monitoring to ensure funds benefit marginalized areas.

c) The submission pointed out the lack of clarity around allocations labelled under 'National Interest', such as the Ksh 11.175 billion earmarked for 'Youth Empowerment'. They called for detailed justifications and consistency with legal criteria, recommending transparency in how such programs are identified and funded across fiscal years.

d) They argued that using 2013 cost data to allocate resources for devolved functions is outdated due to population growth and rising service delivery costs like electricity. They urged Parliament to mandate a fresh costing exercise based on recent delineation of functions by IGTRC.

e) While noting projected growth in ordinary revenue to Ksh 2.84 trillion for FY 2025/26, they warned that actual collections often fall short, underscoring the need for realistic forecasting. They recommended improving tax collection, reducing leakages, and diversifying revenue sources to avoid overreliance on taxation.

f) The submission highlighted a persistent gap between OSR targets and actual collections, with a Ksh 22 billion shortfall in FY 2023/24. They cited weak enforcement, outdated baselines, and planning gaps as causes. To reduce reliance on national transfers, they recommended strengthening county revenue systems and setting realistic targets.

g) Kenya's public debt rose to Ksh 10.58 trillion in 2024, hitting 63% of GDP. The growing cost of debt servicing, projected at Ksh 1.6 trillion—was said to crowd out development funding and potentially reduce county allocations. The team recommended stricter adherence to debt limits under the PFM Act, better reporting, and alignment between the Division of Revenue Bill and official debt data to ensure accurate fiscal planning.

h) In their general submissions, ICPAK and Bajeti Hub urged Parliament to ensure the Division of Revenue Bill (DORB) reflects recent IGRTC directives that delineate functions between the national and county governments. They emphasized that the National Treasury must explain how the current revenue framework aligns with and supports the deepening of devolution.

i) They recommended increasing county allocations within the DOR framework, especially considering recent national legislation—such as the Social Health Insurance Act and the Primary Health Care Act—which imposes additional administrative and service delivery responsibilities on counties. Despite this, the fiscal framework for 2025/26 shows a decline in the county expenditure share from 10.4% to 9.3%.

j) The submission also called on Parliament and the National Treasury to create fiscal space for counties by reforming or winding up state corporations that duplicate county functions. They highlighted that entities like Regional Development Authorities, particularly in the WASH sector, perform roles that counties are already mandated to carry out.

k) Lastly, they proposed strengthening intergovernmental fiscal relations, improving financial oversight and accountability, enforcing fiscal discipline through realistic projections, and enhancing public participation in budgeting to promote transparency and responsiveness to citizen needs.

2.5 Submissions by the County Assembly Forum (CAF);

20. CAF made the following submissions-

a) The County Assemblies Forum (CAF) recommended an enhanced allocation of Ksh 450 billion to counties, stating that it better reflects counties' rising fiscal demands, inflation pressures, and constitutional obligations. They noted that both the CRA and Treasury had agreed on maintaining the baseline of Ksh 387.4 billion from FY 2024/25 but differed on the increment, with CRA proposing Ksh 417.4 billion—still short of what CAF considers adequate.

b) CAF justified their proposal by citing increased non-discretionary expenditures at the county level, such as the Housing Levy, Social Health Insurance Fund contributions, and UHC rollout costs. These were said to strain county budgets and are not fully addressed in the National Treasury's lower allocation. Additionally, CAF highlighted that County Assemblies remain underfunded, which undermines their oversight, legislative, and representation functions, particularly the work of committees like PAC and PIC that ensure fiscal accountability.

c) They also referenced economic pressures, including rising inflation and utility costs, arguing that a static or modest increase in county allocations would erode service delivery capacity. The proposed Ksh 450 billion would provide stability and allow counties to sustain essential services amid economic volatility. CAF also noted that their proposed allocation aligns with Article 203 of the Constitution, as it represents approximately 28.5% of the last audited national revenue, thereby meeting both the legal minimum and the spirit of equitable distribution.

d) Furthermore, CAF emphasized that increased funding is essential to realize the gains of devolution and to support county development priorities, such as industrial parks, youth and women empowerment programs, and the completion of stalled projects.

e) They concluded by calling on the Senate to reject the Treasury's proposal, improve upon CRA's recommendation, and adopt the Ksh 450 billion proposal to ensure counties are adequately resourced to meet their obligations and strengthen devolution.

2.6 Submissions by the Kenya Devolution Civil Society Organization Working Group

21. The KDCWG submitted as follows-

a) The Kenya Devolution Civil Society Organization Working Group (KDCWG) submitted that the proposed Ksh 405.1 billion allocation to counties in the Division of Revenue Bill 2025 fell short of constitutional requirements. They noted that this amount represented only 14.26% of projected national revenue, which contravene Article 203(2) of the Constitution that sets a minimum of 15%. They also pointed out that outdated audited accounts from FY 2020/21 were used as a basis instead of the latest ones, leading to underfunding of counties.

b) KDCWG argued that counties deserve a larger share—at least Ksh 677.3 billion—when accounting for devolved functions currently still performed by the national government, such as library services, fertilizer procurement, and urban roads. They criticized the rejection of the Commission on Revenue Allocation's recommendation of Ksh 417.4 billion, which was done without justification by the National Assembly or Treasury.

c) On the Equalization Fund, the group maintained that its implementation should be county-led since the targeted services (health, water, roads) are devolved. They proposed that such funds be given to counties as conditional grants, in line with Schedule 4 of the Constitution.

d) They further expressed concern over persistent delays in disbursing the equitable share to counties, noting violations of Article 219 and Section 17(6) of the PFM Act. By April 2025, disbursements had only been made up to February. They also highlighted new revenue streams—such as the Housing Levy and Social Health Insurance Fund—allocated to the national government despite housing and health being county functions.

e) The group also criticized the impact of ballooning public debt on counties, stressing that they are neither consulted nor shielded from its consequences. They insisted that allocations made under the guise of "national interest" should be broken down and partly executed at the county level.

f) In conclusion, KDCWG urged the Senate to allocate no less than Ksh 677 billion, ensure full costing and transfer of all devolved functions, enforce timely disbursements, fast-track approval of audited revenue, and pass legislation to operationalize the Equalization Fund with county governments involvement.

2.7 Submissions by the Coast Civil Society Network for Human Rights

22. The Coast Civil Society Network for Human Rights submitted the following;

a) The Coast Civil Society Network for Human Rights criticized the proposed allocation of Kshs. 405.1 billion to counties, noting that it falls below the Commission on Revenue Allocation's recommendation of Kshs. 417.4 billion. Further, that the allocation amounts to only 14.26% of projected national revenue, falling short of the constitutional threshold of 15% as required under Article 203(2) of the Constitution.

b) The Network objected to the use of outdated 2020/21 audited revenue figures in determining county allocations, instead of the more recent 2023/24 accounts. They pointed out that using current audited figures would entitle counties to at least Kshs. 620.7 billion, based on the present revenue-to-allocation proportion of 25.79%.

c) They expressed concern that county functions have expanded, including the devolution of services such as libraries, yet the funding allocated has not been adjusted accordingly. Meanwhile, the national government continues to retain control over functions like urban roads, health staffing, and fertilizer distribution, limiting counties' ability to fully deliver services.

d) The Network recommended that the Senate revise the allocation upwards to Kshs. 677.3 billion, comprising Kshs. 405.1 billion currently proposed and an additional Kshs. 272.2 billion identified by the Intergovernmental Relations Technical Committee as needed for fully devolved functions.

e) They raised concerns over delays in disbursing county funds, noting that by April 2025, county governments had only received disbursements up to February. They argued that such delays contravene Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act and urged the Senate to intervene.

f) The Network highlighted that new national-level revenue streams such as the Housing Levy and the Social Health Insurance Fund relate to devolved functions, yet are managed centrally, which undermines counties' financial autonomy and ability to implement their mandates.

g) They also criticized the influence of ballooning public debt and vague "national interest" considerations in revenue sharing, warning that these factors unfairly disadvantage counties and that national priorities should be addressed within county contexts as well.

h) The Network proposed several legal reforms, including compelling full transfer and costing of devolved functions, mandating timely approval of audited revenue accounts, and instituting an automatic approval mechanism if the National Assembly delays beyond six months.

i) They called on the Senate to facilitate a conditional grant to Makadara Hospital in Mombasa, which supports several coastal counties but suffers from inadequate funding and resources.

j) Finally, the Network urged the Senate to pass the Equalisation Fund Bill and ensure that the fund is administered through counties in line with constitutional mandates, particularly to support marginalized regions.

CHAPTER THREE

OBSERVATIONS AND RECOMMENDATIONS

3.1 Observations

23. The Committee, having considered the Bill and submissions from stakeholders, made the following observations. That-

a) There has been marginal growth in the county equitable share from previous financial years, despite the substantive growth in shareable revenue. In FY 2025/26 while shareable revenue is estimated to grow by 10.1 percent (Ksh.259.1 billion increase), counties are proposed to get an increase of Ksh.17.7 billion from this revenue growth. This is equivalent to 6.8 percent of this projected revenue growth.

b) The National Treasury advised the Committee that the performance of ordinary revenue in the Financial Year 2024/25 had consistently fallen below target with the shortfall widening each month and reaching a cumulative amount of Ksh.142.8 billion by March, 2025. The National Treasury estimated that the total ordinary revenue for FY 2024/25 would be Ksh.2,435.1 billion, falling short of the original target by Ksh. 482.1 billion. Given this underperformance, the National Treasury indicated that the earlier revenue forecast for FY 2025/26 was no longer realistic and proposed that the projected sharable revenue for FY 2025/26 should be Ksh.2,756,978,546,059.

c) While the Division of Revenue Act sets out the allocation to each level of government and allocation to the Equalization Fund, there have been budget carryovers (undisbursed funds) of equitable share at the end of the financial year. This means the provision under the Bill (clause 5(1)) stipulating that the National Government solely bears the shortfalls in revenue collection is breached. For instance, an allocation for FY 2023/24 amounting to Ksh.30.8 billion was transferred to the counties in FY 2024/25.

d) Whereas there have been consistent allocations and appropriations to the Equalization Fund by Parliament, there has been a delay in transfers to the Fund. The total disbursement to the Fund as of June 2024 was Ksh.13.4 billion out of the total entitlement of Kshs.62.4 billion. Five years to the lapse of the Fund as per Article 204(6), the objectives of the Fund are far from being achieved.

e) The Bill indicates that the most recent audited and approved accounts of revenue are for FY 2020/21, amounting to Ksh.1,570.6 billion. However, the National Assembly, on 15th April, 2025, approved the audited accounts of revenue of Ksh.1,920,434,085,078 as the total nationally collected revenue of FY 2021/22. This means the most recent audited revenue received and approved by the National Assembly to be applied in the Division of Revenue Bill, 2025 is Ksh.1,920.4 billion for FY 2021/22. This change in the most recent audited revenue implies that the funds allocated to counties, being Ksh.405.1 billion, is equivalent to 21.09 percent of the latest audited and approved revenue.

f) Following the change in the most recent audited and approved accounts of revenue (from Ksh.1,570.6 billion to Ksh.1,920.4 billion), the allocation to the Equalization Fund must be adjusted in order to meet the constitutional obligation under Article 204(1).

g) An analysis of the Bill in light of the provisions of Article 203(1) of the Constitution reveals that the specified mandatory expenditures make up 87.5 percent of the estimated shareable revenue for FY 2025/26. As a result, it makes it difficult to equitably share the remaining amount between the two levels of government.

h) Clause 3 of the Bill states that the object and purpose of the Bill is to provide for the equitable sharing of revenue raised nationally among the National and county governments in accordance with Article 203(2) of the Constitution. Article 203(2) of the Constitution however provides the minimum share of revenue due to county governments and the proper constitutional provision providing for the sharing of revenue as proposed in clause 3 is Article 202(1) as read together with Article 203 of the Constitution.

i) Over the years, the county equitable share has on average been 2.23% of GDP. Noting that in FY 2025/26 nominal GDP is projected to be Ksh.19,272 billion, the county equitable share percentage of GDP should be maintained at the same level and further an additional Ksh.34.93 billion be provided to meet the cost of the non-discretionary expenditures listed below–

i) Housing levy deductions- Ksh.4.1 billion
ii) Enhanced Contributions to the NSSF- Ksh.6 billion
iii) Matching allocation to the CAIPs project- Ksh.11.8 billion
iv) Matching allocations for the CHPs- Ksh.3.23 billion
v) Annual wage increments -IPPD annual adjustment- Ksh.6.3 billion
vi) Basic Salary increment as per the Doctors CBA 2017/21; Execution of the Return To Work Formula (RTWF)-Ksh. 3.5 billion.

3.2 Recommendations

24. Having considered the Bill and submissions from the stakeholders, the Committee recommends that the Senate approves the Bill with the following amendments-

a) Clause 3 be amended to make reference to Article 202(1) of the Constitution which requires revenue raised nationally be shared equitably between the National and county levels of government; and
b) The Schedule to the Bill be amended to reflect the following-
    i) The total sharable Revenue Ksh.2,756,978,546,059;
    ii) The most recent account of revenue as approved by the National Assembly as Ksh.1,920,434,085,078 for FY 2021/22;
    iii) National Government share – Ksh.2,279,638,176,610;
    iv) County government share – Ksh.465,001,459,673;
    v) Allocation to the Equalization Fund - Ksh.9,602,170,425 (0.5% of most recent approved accounts of revenue); and
    vi) The Equalization Fund arrears- Ksh.2,736,739,351.

Appendices

a) Committee stage Amendments
b) Minutes of the Committee
c) Submissions from stakeholders
d) Public Advert

Annex 1- Committee Stage Amendments

13th May, 2025

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO. 10 OF 2025)

NOTICE is given that Sen. (Capt.) Ali Ibrahim Roba, the Chairperson to the Standing Committee on Finance and Budget intends to move the following amendments to the Division of Revenue Bill, 2025, National Assembly Bills No.10 of 2025, at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended by deleting the expression "203(2)" appearing immediately after the words "accordance with Article" and substituting therefor the expression "202(1)".

SCHEDULE

THAT the Bill be amended by deleting the Schedule and substituting therefor the following new Schedule—

SCHEDULE **(s. 4)**

ALLOCATION OF REVENUE RAISED NATIONALLY BETWEEN THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS FOR THE 2025/26 FINANCIAL YEAR

Type/ level of allocation	Amount in Kshs.	Percentage (%) of the FY 2021/22 audited and approved Revenue of Ksh.1,920,434,085,078
A. Total Shareable Revenue	2,835,040,979,609	
B. National Government	2,357,700,610,160	
C. Equalization Fund	12,338,909,776	
of which, a) 0.5 Per Centum	9,602,170,425	0.50%
b) Arrears	2,736,739,351	
D. County equitable share	465,001,459,673	24.21%

Dated ......13th May, 2025.

Sen. (Capt.) Ali Ibrahim Roba,
Chairperson,
Standing Committee on Finance and Budget.

Annex 2- Minutes of the Committee

MINUTES OF THE TWO HUNDRED AND ELEVENTH (211TH) MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON MONDAY, 12TH MAY, 2025 IN VICTORIA HALL 1, ARGYLE GRAND HOTEL AT 4.00 P.M.

PRESENT

1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP - **Chairperson**
2. Sen. Maureen Tabitha Mutinda, MP - **Vice-Chairperson**
3. Sen. (Dr.) Boni Khalwale, CBS, MP - Member
4. Sen. Mohamed Faki Mwinyihaji, CBS, MP - Member
5. Sen. Richard Momoima Onyonka, MP - Member
6. Sen. Eddy Oketch Gicheru, MP - Member

ABSENT WITH APOLOGY

1. Sen. Shakila Abdalla Mohamed, MP - Member
2. Sen. Mariam Sheikh Omar, MP - Member
3. Sen. Esther Okenyuri, MP - Member

SECRETARIAT

1. Mr. Christopher Gitonga - Clerk Assistant
2. Mr. David Ngamate - Clerk Assistant
3. Ms. Lucy Radoli - Legal Counsel
4. Mr. Kiminza Kioko - Fiscal Analyst
5. Mr. Constant Wamayuyi - Researcher
6. Ms. Rose Omutere - Audio Officer
7. Mr. James Ngusya - Sergeant-At-Arms

MIN/SEN/SCF&B/1225/2025 PRELIMINARIES

The Chairperson called the meeting to order at 4:04 p.m. This was followed by a word of prayer.

MIN/SEN/SCF&B/1226/2025 ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. (Dr.) Boni Khalwale, CBS, MP, and seconded by Sen. Richard Momoima Onyonka, MP, as listed below-

1. Prayer;
2. Adoption of the Agenda;
3. Consideration of the draft report on the Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025);
4. Adoption of the Report on the Division of Revenue Bill, 2025 (National Assembly Bills No.10 of 2025)
5. Any other Business; and
6. Adjournment and Date of the Next Meeting.

MIN/SEN/SCF&B/1227/2025 CONSIDERATION OF THE DRAFT REPORT ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO. 10 OF 2025)

The Committee considered its draft report on the Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025) and made the following observations-

a) There has been marginal growth in the county equitable share from previous financial years, despite the substantive growth in shareable revenue. In FY 2025/26 while shareable revenue is estimated to grow by 10.1 percent (Ksh.259.1 billion increase), counties are proposed to get an increase of Ksh.17.7 billion from this revenue growth.
b) While the Division of Revenue Act sets out the allocation to each level of government and allocation to the Equalization Fund, there have been budget carryovers (undisbursed funds) of equitable share at the end of the financial year. This means this provision of the National Government to solely bear the shortfalls in revenue collection is not fulfilled.
c) Whereas there have been consistent allocations and appropriations to the Equalization Fund by the Parliament, there has been a delay in transfers to the Fund. The total disbursement to the Fund as of June 2024 was Ksh.13.4 billion out of the total entitlement of Kshs.62.4 billion.
d) The Bill uses the most recent audited and approved accounts of revenue for FY 2020/21, amounting to Ksh.1,570.6 billion. However, the National Assembly on 15th April, 2025, approved the audited accounts of revenue of Ksh.1,920,434,085,078 as the total nationally collected revenue of FY 2021/22.
e) Following the change in the most recent audited and approved accounts of revenue (from Ksh.1,570.6 billion to Ksh.1,920.4 billion), the allocation to Equalization Fund must be adjusted in order to meet the constitutional obligation under Article 204(1).

f) Clause 3 on the object and purpose of the Bill makes reference to Article 203(2) of the Constitution instead of Article 202(1) which provides for the sharing of revenue raised nationally between the two levels of government.
g) County government expenditure needs have sharply grown due to increase in non-discretionary expenditures such as contribution to housing levy, NSSF, Social Health Insurance Fund, Matching of contribution to County Aggregated Industrial Parks, annual wage drift among others.
h) As submitted by the Cabinet Secretary, National Treasury and Economic Planning, the projected sharable revenue for FY 2025/26 had been revised from Ksh.2,835 billion to Ksh.2,757 billion

MIN/SEN/SCF&B/1228/2025 ADOPTION OF THE REPORT ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO.10 OF 2025)

Following deliberations, considerations of stakeholders' submissions, the Committee noted that county equitable share should be informed by reflect the GDP growth as well as the non-discretionary expenditure requirement. Thus, the Committee resolved-

a) Noting that over the years, the county equitable share has on average been 2.23% of GDP, and FY 2025/26 nominal GDP is projected to be Ksh.19,272 billion, Ksh.387.425 billion should be adjusted such that county equitable share percentage of GDP is maintained at the same level, and
b) Further, providing for Ksh.34.9 billion to cater for the following non-discretionary expenditure-
    i) Housing levy deductions- Ksh.4.1 billion
    ii) Enhanced Contributions to the NSSF- Ksh.6 billion
    iii) Matching allocation to the CAIPs project- Ksh.11.8 billion
    iv) Matching allocations for the CHPs- Ksh.3.23 billion
    v) Annual wage increments -IPPD annual adjustment- Ksh.6.3 billion
    vi) Basic Salary increment as per the Doctors CBA 2017/21; Execution of the Return To Work Formula (RTWF)-Ksh. 3.5 billion.

Consequently, the Committee unanimously adopted its report having been proposed by Sen. Richard Momoima Onyonka, MP, and seconded by Sen. Maureen Tabitha Mutinda, MP, with the recommendation that-

a) Clause 3 be amended to make reference to Article 202(1) of the Constitution; and
b) The schedule be amended to reflect the following-
    i) The total sharable Revenue Ksh.2,756,978,546,059
    ii) The most recent approved account of revenue Ksh. 1,920,434,085,078.
    iii) The National government share- Ksh. 2,279,638,176,610
    iv) The County government share – Ksh. 465,001,459,673

v) The Equalization Fund -Ksh.9,602,170,425 (0.5% of most recent approved accounts of revenue)

vi) The Equalization Fund arrears- Ksh.2,736,739,351

MIN/SEN/SCF&B/1229/2025 ANY OTHER BUSINESS

The Chairperson informed the Committee the status of the motion on the fourth basis and issues raised during the plenary. Following deliberations, the Committee resolved to convene a breakfast meeting, where all Senators will be invited, on Thursday, 22nd May, 2025 within Nairobi City County. The purpose of the meeting will be to brief the Senators on the Committee's recommendation on fourth basis for sharing nationally raised revenue among county governments as contained in the report.

MIN/SEN/SCF&B/1230/2025 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 4:46 p.m. Next meeting shall be by notice.

SIGNATURE: .... DATE: ....

SEN.(CAPT.) ALI IBRAHIM ROBA, EGH, MP

(CHAIRPERSON

MINUTES OF THE TWO HUNDRED AND NINTH (209TH) MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON MONDAY, 12TH MAY, 2025 IN VICTORIA I HALL, ARGYLE HOTEL, MACHAKOS COUNTY AT 9.00 A.M.

PRESENT

1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP	-	**Chairperson**
2. Sen. Maureen Tabitha Mutinda, MP	-	**Vice-Chairperson**
3. Sen. (Dr.) Boni Khalwale, CBS, MP	-	Member
4. Sen. Mohamed Faki Mwinyihaji, CBS, MP	-	Member
5. Sen. Richard Momoima Onyonka, MP	-	Member
6. Sen. Eddy Oketch Gicheru, MP	-	Member
7. Sen. Mariam Sheikh Omar, MP	-	Member

ABSENT WITH APOLOGY

1. Sen. Shakila Abdalla Mohamed, MP	-	Member
2. Sen. Esther Okenyuri, MP	-	Member

SECRETARIAT

1. Mr. Christopher Gitonga	-	Clerk Assistant
2. Mr. David Ngamate	-	Clerk Assistant
3. Ms. Lucy Radoli	-	Legal Counsel
4. Mr. Kiminza Kioko	-	Fiscal Analyst
5. Mr. Constant Wamayuyi	-	Researcher
6. Ms. Rose Ometere	-	Audio Officer
7. Ms. Rita Chudi	-	Office Assistant
8. Mr. James Ngusya	-	Sergeant-At-Arms

IN ATTANDNCE

National Treasury and Economic Planning (NT)

1. Hon. FCPA. John Mbadi, EGH	-	Cabinet Secretary
2. Ms. Elizabeth Nzioka	-	Director of Planning
3. Mr. Milford Bett	-	Parliament Liaison Officer (NT)
4. Mr. Collins Mulai	-	National Treasury
5. Ms. Mildred Kenyan	-	National Treasury
6. Ms. Faith Jully	-	National Treasury

Commission on Revenue Allocation

7. Mr. Koitamet Olekina	-	Vice - Chairperson
8. Dr. Isabel Waiyaki	-	Commissioner
9. Ms. Lineth Oyugi	-	Director, Economic Affairs

Institute of Certified Public Accountants of Kenya (ICPAK)

10. Mr. Andrew Rori
11. Hilary Onami
12. Mr. Tony Juma
13. Ms. Nancy Moraa

County Assemblies Forum (CAF)

14. Mr. Seth Kamanza	-	Chair (CAF)
15. Mr Chege Mwaura	-	Secretary General (CAF)
16. Ms. Lonah Losem	-	CEO (CAF)
17. Mr. Aharub Khatri	-	Speaker Mombasa County Assembly
18. Ms. Christine Mududa	-	Deputy Clerk Mombasa C, assembly
19. Mr. Austin Munene	-	Director, Economic Affairs
20. Ms. Salma Ali	-	Mombasa County Assembly

MIN/SEN/SCF&B/1215/2025 PRELIMINARIES

The Chairperson called the meeting to order at 9.30 a.m. and the proceedings commenced with a word of prayer. This was followed by a round of introductions by the Members of the Committee and the stakeholders.

MIN/SEN/SCF&B/1216/2025 ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Eddy Oketch Gicheru, MP, and seconded by Sen. Mariam Sheikh Omar, MP, as listed below-

1. Prayer;
2. Introduction;
3. Adoption of the Agenda;
4. **Meeting with the Cabinet Secretary, National Treasury and Economic Planning to deliberate on the Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025); (*Committee paper No 135-A*);**
5. **Meeting with the Cabinet Secretary, National Treasury and Economic Planning to deliberate on the County Wards (Equitable Development) Bill, 2024 *(Committee paper No 136)*;**
6. Any other Business; and
7. Adjournment and Date of the Next Meeting.

MIN/SEN/SCF&B/1217/2025 **MEETING WITH THE CABINET SECRETARY, NATIONAL TREASURY AND ECONOMIC PLANNING TO DELIBERATE ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO. 10 OF 2025); *(COMMITTEE PAPER NO 135-A)***

Upon invitation, the Cabinet Secretary, National Treasury and National Planning submitted as follows-

a) The National Treasury had projected total sharable revenue of KSh. 2,835.0 billion for the FY 2025/26 as contained in the Division of Revenue Bill, 2025 submitted to Parliament in February 2025.

b) The Bill proposed allocation of Ksh.2,419.4 billion to the National Government, County Governments Ksh. 405.1 billion as County Equitable Share; and KSh. 10.6 billion for Equalization Fund, being the sum of Ksh. 7.9 billion for FY 2025/26 (0.5 percent of the most recent audited and approved revenue of KSh. 1,570.6 billion for FY 2020/21 as required by the Constitution), and KSh. 2.7 billion (as arrears to the Fund). The allocation of KSh. 405.1 billion as County Equitable Share translates to 25.79 per cent of the most recent audited and approved revenue.

c) The National Treasury has reviewed the performance of ordinary revenue since the submission of the Division of Revenue Bill, 2025 to Parliament in February 2025. to be Ksh 2,435.1 billion, reflecting a shortfall of Kshs. 482.1 billion relative to the original budget for FY 2024/25.

d) That with the foregoing, that the ordinary revenue forecast of Ksh. 2,835.0 billion for FY2025/26 as contained in the Division of Revenue Bill, 2025 may not be achievable.

e) That the Ministry had made downward revision of the ordinary revenue forecast for FY 2025/26 to Ksh 2,757.0 billion, which is Ksh 78.0 billion lower than the Budget Policy Statement 2025 projection of Ksh 2,835.0 billion.

f) The Cabinet Secretary cited the below as the factors informing the proposed Division of Revenue for FY 2025/26-

   i) That over the period 2016/17 to 2023/24 actual ordinary revenue has always been below target except for FY 2021/22, and as such even the FY 2025/26 may experience such shortfall.

   ii) The need to finance mandatory expenditures under Article 203 (1) of the Constitution.

   iii) That fiscal deficit in financing other major National Government functions has always occasioned additional borrowing which continues to distort the fiscal framework set out in the annual Budget Policy Statements and further undermine government fiscal consolidation plan.

   iv) Financing constraints due to limited access to finance in the domestic and international financial markets.

v) High cost of public debt service; that the public debt service in FY 2025/26 will account for 52 percent of ordinary revenue which is higher than the average (41 percent) over the period FY 2016/;17 to 2024/25.

g) That the National Treasury has proposed that equitable share of KSh. 405.1 billion to County Governments in FY 2025/26. This allocation is a 4.6 percent increase from the FY 2024/25 allocation of KSh 387.4 billion which is consistent with the provision of Article 203(1) that envisages stable and predictable allocations of revenue to County Governments. The allocation of KSh. 405.1 billion is based on the macro fiscal framework which relies on expected revenues and expenditure commitments for FY 2025/26. This shall be shared in accordance with the Third determination of the basis of the division of revenue among counties approved by Parliament pursuant to Article 217 (7) of the Constitution.

h) In conclusion, the Cabinet Secretary informed the Committee that the National Treasury proposes to allocate KSh. 69.8 billion as additional allocations (conditional and unconditional) to County Governments. That arising KSh 12.89 billion will be financed from the National Government's share of revenue, and KSh 55.07 billion from proceeds of loans and grants from Development Partners.

Committee Observations

Following the deliberations the Committee observed that;

a) That division of revenue was not proportionate in the growth of national revenues over the years;

b) That the division did not cater for the burdened counties whose expenditure obligations have ballooned with the new government policies like Social Health Authority Contributions Housing levy, NSSF for instance.

c) The National Government had factored projects in its budget like the health infrastructure a function which is devolved to counties. For instance, Ksh. 50, 000,000/ Mugumo health centre

d) That there was a big variance in the National Governments allocations to the National Referral Hospitals.

MIN/SEN/SCF&B/1218/2025 **MEETING WITH THE CABINET SECRETARY, NATIONAL TREASURY AND ECONOMIC PLANNING TO DELIBERATE ON THE COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL, 2024 *(COMMITTEE PAPER NO 136)***

The Committee was as follows-

a) Preliminary "*Clause 2*" should define the terms 'equitable development 'and 'Ward Projects Identification Committee' in the context of the Bill.

b) Allocation of resources for Ward development projects "*Clause 5 2(b)*". That the Bill designates the Ward as the fundamental within the County in resource sharing. This approach has not guided on unique characteristics including; *i. Allocation to municipalities* and *cities* and; ii. *Allocation to transboundary projects across wards.*

c) *"Clause 3 (a)"* Allocation of 60% of resources for ward development projects. The CS raised concern over the *rationale for allocating no less than sixty percent of the development budget?* That Proposing such a high allocation may impede county governments' ability to undertake these essential transformative projects. He opined that the County Integrated Development Plan (CIDP) guidelines provide for the identification and financing of transformative or flagship projects at the county level.

d) Allocation of resources for Ward development projects *"Clause 6 "that the Bill* Introduces a clause to address the challenges that occur when there is a delay in obtaining approval for the Resource Sharing Formula following its expiration.

e) In the Identification of Ward based projects for equitable development within wards *"Clause 7 (3)"*, the CS recommends that the Ward Projects Identification Committee, although established by the County Executive Committee Member (CECM), should have been nominated by the community through a democratic process at the ward level, in accordance with the criteria outlined in *"Clauses 7(4) and 7(10)"*.

f) Identification of Ward based projects for equitable development within wards *"Clause 7 (3)"* The schedule should be enhanced to ensure that;

   i. Projects are identified by the community at the grassroots level, as indicated in *"Clause 7 (12)"*. These projects must undergo screening through the project management process to assess cost estimates and viability, including feasibility studies and environmental and social safeguards;

   ii. The committee should make provisions to prioritize community projects that are incomplete, ongoing multiyear projects, and stalled projects for further support;

   iii. A decision is needed regarding the financing of community investments that require maintenance and sustainability measures for the projects;

   iv. Submissions from the committee should be organized in order of priority, as agreed upon in the ward public participation forum; and

   v. Ward projects should be sourced from the project lists generated during public participation on the County Integrated Development Plan (CIDP) and Annual Development Plan (ADP), which serves as the basis for any financing to the County Government;

g) Identification of Ward based projects for equitable development within wards *"Clause 8 (1)"* that the projects submitted by the committees should be in order of priority given that the county executive committee member had designated technical officers to the committees in *"Clause7 (13)"* to handle other technical issues. Therefore *"Clause 8 (1)"* should thus be consolidation and harmonization of ward priorities in line with the County Integrated Development Plan. ii. The CECM should ensure that the provisions of the Public Finance Management (Public Investment Management) Regulations, 2022 are adhered to in the project identification, approval, and execution processes.

h) Identification of Ward based projects for equitable development within wards *"Clause 10"* that the projects shall be based on the broad priorities of the CIDP, ADP and County Fiscal Strategy Paper (CFSP).

i) Implementation of Projects *"Clause 12 (4)"* that it is essential to clearly define any additional funds allocated to a project, along with their sources. Thus, the amount distributed equitably to the ward should be used to cover any additional funds needed for existing projects within the ward before considering new projects.

j) Implementation of Projects *"Clause 12 5(b)"* to insert a paragraph stating that each phase of the project should have achievable milestones that ensures a project can be utilized.

k) Implementation of Projects *"Clause 15 1(l)"* queries the role of the County Executive Committee/Cabinet in the operationalization of completed projects. While the CECM for Finance will report on the steps taken, the responsibility for operationalization and project sustainability lies with all stakeholders in the county government.

l) Implementation of Projects "Clause 15 (2)" The wording in "Clause 15(1)", which uses the term "shall," is sufficient to compel the CECM to report to the County Assembly. Therefore, Clause 15(2) can be deleted.

<u>MIN/SEN/SCF&B/1219/2025</u>   <u>ADJOURNMENT AND DATE OF NEXT MEETING</u>

The meeting adjourned at 1. 30 p.m. Next meeting shall be held at the same venue at 2.30 p.m.

SIGNATURE: ………………………… DATE: …13-05-25…………

SEN.(CAPT.) ALI IBRAHIM ROBA, EGH, MP

(CHAIRPERSON

MINUTES OF THE TWO HUNDRED AND EIGHTH (208TH) MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON TUESDAY, 6TH MAY, 2025 IN COUNTY HALL, GROUND FLOOR BOARDROOM, PARLIAMENT BUILDINGS AT 9.00 A.M.

PRESENT

1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP - **Chairperson**
2. Sen. Maureen Tabitha Mutinda, MP - **Vice-Chairperson**
3. Sen. (Dr.) Boni Khalwale, CBS, MP - Member
4. Sen. Mohamed Faki Mwinyihaji, CBS, MP - Member
5. Sen. Shakila Abdalla Mohamed, MP - Member
6. Sen. Mariam Sheikh Omar, MP - Member
7. Sen. Esther Okenyuri, MP - Member

ABSENT WITH APOLOGY

1. Sen. Richard Momoima Onyonka, MP - Member
2. Sen. Eddy Oketch Gicheru, MP - Member

SECRETARIAT

1. Mr. Christopher Gitonga - Clerk Assistant
2. Ms. Beverlyne Chivadika - Clerk Assistant
3. Mr. Mitchell Otoro - Legal Counsel
4. Mr. Kiminza Kioko - Fiscal Analyst
5. Mr. Constant Wamayuyi - Researcher
6. Mr. Stanley Gikore - Media Relations Officer
7. Mr. Victor Kimani - Audio Officer
8. Mr. James Ngusya - Sergeant-At-Arms

IN ATTANDNCE

Commission on Revenue Allocation

1. CPA. Mary Wanyonyi Chebukati - Chairperson
2. Mr. Jonas Kuko - Commissioner
3. CPA. Roble Nuno - Ag. CEO/ Secretary
4. Ms. Lineth Oyugi - Director, Economic Affairs
5. Mr. Renny Mutai - Deputy Director
6. Mr. Alvin Wafula - PA to the Chairperson

Council of Governors

1. Hon. FCPA. Fernandes Barasa, OGW - Governor, Kakamega/Chair, Technical Committee on Finance and Economic Affairs
2. Hon. Mutula Kilonzo Jnr., CBS - Governor, Makueni County
3. Mr. Stephen Momanyi - Programs officer

MIN/SEN/SCF&B/1207/2025 PRELIMINARIES

The Chairperson called the meeting to order at 9:30 a.m. This was followed by a word of prayer and followed by a round of introduction.

MIN/SEN/SCF&B/1208/2025 ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. (Dr.) Boni Khalwale, CBS, MP, and seconded by Sen. Mariam Sheikh Omar, MP, as listed below-

1. Prayer;
2. Introduction;
3. Adoption of the Agenda;
4. Confirmation of Minutes of 207th Sitting;
5. Matters arising from the minutes of the previous sitting;
6. Briefing on the Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025);
7. Meeting with the-
   a) Commission on Revenue Allocation;
   b) Council of Governors; and
   c) National Treasury and Economic Planning

   to deliberate on the Division of Revenue Bill, 2025 (National Assembly Bills No.10 of 2025)-*Committee Paper No.135*; and
8. Adjournment and Date of the Next Meeting.

MIN/SEN/SCF&B/1209/2025 CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The Minutes of the Two Hundred and Seventh (207th) meeting held on Thursday, 17th April, 2025 at 9:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. (Dr.) Boni Khalwale, CBS, MP, and seconded by Sen. Esther Okenyuri, MP.

MIN/SEN/SCF&B/1210/2025 MATTERS ARISING FROM THE PREVIOUS MEETING

Ex. Min/Sen/SCF&B/1202/2025 Meeting with Senate Majority Leader Sen. Aaron Cheruiyot, EGH, to deliberate on processing of Bills referred to the Committee from the National Assembly

The Committee noted the need to expedite the arrangement for a meeting with Senate Majority Leader so that the issue on processing of Bills from the National Assembly that are similar or have similar provisions to the Senate Bills can be resolved.

Ex. Min/Sen/Scf&B/1204/2025 Consideration of Pending Legislative Business before the Committee

a) Six Members confirmed attendance to the scheduled multi-sectoral consultation meeting on the County Wards (Equitable Development) Bill, 2024 set for Monday, 12th May, 2025 in Machakos County. This constituted requisite quorum for the meeting to proceed.
b) Members were also informed of the county visits to Kitui County on Monday, 19th May, 2025, and Kisii County on Monday, 26th May, 2025, on the issue of pending bills.
c) Members requested for constant reminders about the scheduled Committee activities.

MIN/SEN/SCF&B/1211/2025 BRIEFING ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO. 10 OF 2025) (*COMMITTEE PAPER NO.135)*

The Committee noted the considered *Committee Paper No.135* on the Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025) and noted that-

a) In FY 2025/26, the shareable revenue is expected to grow from the projected Ksh.2,575.9 billion in FY 2024/25 to Kshs.2,835 billion. This represented a growth of 10.1%. However, by the end of the financial year 2024/25.
b) Out of the projected sharable revenue of Ksh.2,835 billion, the Bill proposed to allocate Ksh.2,419.4 billion to the National Government, Ksh.405.1 billion to the County Governments, and Ksh.10.6 billion to the Equalization Fund.
c) The allocation to the National Government is equivalent to 85.3% of the total shareable revenue, while the county equitable share accounts for 14.3%.
d) The allocation of Ksh.405.1 billion to county governments represents an increase of Ksh.17.7 billion (4.5% growth) from the previous allocation of Ksh. 387.4 billion for FY 2024/25.
e) On 15th April, 2025, the National Assembly approved the audited accounts of revenue of Ksh.1,920,434,085,078 as the total nationally collected revenue for FY 2021/22.

f) The above implied that the most recent audited revenue received and approved by National Assembly to be applied for the Division of Revenue in 2025 is Ksh. 1,920.4 billion for FY 2021/22 and not the Ksh. 1,570.6 billion for FY 2020/21 as proposed in the Bill. The Ksh.405.1 billion is equivalent to 21.09% of the latest audited and approved revenue.
g) The Bill proposed an allocation of Ksh.7.85 billion to the Equalization Fund which is equivalent to the 0.5% as provided in Article 204 of the Constitution. However, due to the change in the year and the figure of the most recent audited and approved revenue, the Ksh.7.85 billion is equal to 0.41% of the Ksh.1,920.4 billion.
h) There is a further allocation of Ksh.2.74 billion in the FY 2025/26 as partial payment to arrears owed to the Equalization Fund. The arrears to the Fund at the end of FY 2023/24 stood at Ksh.49 billion. In FY 2024/25, the allocation was Ksh.8 billion, but it has since been revised to Ksh.6.2 billion in the approved Supplementary II estimates.
i) Whereas there have been consistent allocations and appropriations to the Equalization Fund by the Parliament, there has been delay in transfers to the Fund. The total disbursement to the Fund as of June 2024 was Ksh.13.4 billion out of the total entitlement of Kshs.62.4 billion.

MIN/SEN/SCF&B/1212/2025 **MEETING WITH STAKEHOLDERS TO DELIBERATE ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO.10 OF 2025)**

Meeting with Commission on Revenue Allocation

Upon invitation, the Chairperson of the Commission submitted Commission's comments as follows-

a) Clause 3 of the Bill on object and purpose of the Bill need to be amended to make reference to the correct Article of the Constitution, Article 202 instead of Article 203. Article 203 provides for criteria for sharing of revenue subject to 202(1), while 202(1) provides for sharing of revenue among national and county governance.
b) There has been a decline in the county equitable share allocation (FY 2024/25 to FY 2025/26) from 10.4% to 9.3% and increase in allocation to the National Executive from 56.7% to 57.5%. This has negative impact on service delivery and amounts to claw back on objects of devolution.
c) The Commission recommended that national government be allocated Ksh.2,409.75, and county governments Ksh.417.4 billion as equitable share for FY 2025/26.
d) The Bill presented items of national interest as being synonymous to national government priorities yet they can be implemented by either level of government

based on the law of subsidiarity. The national government should not isolate some of its functions and budget for them as national interest.

e) The Bill provided other allocations like NG-CDF and Affirmative Action Fund as deductions to be made before arriving at sharable revenue. The allocations are supposed to be made from national government's share of revenue pursuant to section 4(1)(a) of the NG-CDF Act, 2015, and Legal Notice No.52 of PFM Act (National Government Affirmative Active Fund) Regulations, 2016.

f) The Bill provides that after considering all the mandatory expenditures under Article 203 of Constitution, balance left for sharing between two levels of government is Ksh.353.4 billion and balance for national government as Ksh.(64,522). This statement was not factual since a number of national government functions had been provided for.

g) The Senate should provide guidance on Basis which will be used in sharing revenue among counties.

h) The financing of Equalization Fund arrears amounting to Ksh.2.7 billion is not enough adequate commitment to clear the pending arrears to the Fund.

The Committee commended the Commission's for comprehensive, detailed and well thought out submissions on the Bill. This would benefit the Committee in formulating its final recommendations to the Senate.

Meeting with Council of Governors

Upon invitation, the Chairperson of the Council's Technical Committee on Finance and Economic Affairs submitted the following general and specific comments on the Bill-

A. Resource Allocation Framework:

The Council submitted that-

a) Despite the expanded fiscal space and projected stable economic growth at 5.3% over the medium-term, for the previous 5 years, FYs 2020/21 - 2024/25, counties equitable share had grown by a marginal Ksh.70.9 billion while that of the national government had grown by Ksh.702.6 billion.

b) The national government's allocation has been consistent with the ordinary revenue growth, while the counties' share has almost stagnated for the past 5 years, thus indicating arbitrary allocation revenue to counties that is not congruent to the economic growth trends and macroeconomic performance.

c) Consequently, the Council proposed a minimum allocation to counties of **Ksh.536.88 billion** for FY 2025/26.

B. Attendant Resources relating to the delineated and gazetted functions of 16th December 2024:

d) The Bill failed to take into account the recently delineated and gazetted functions of the national and county governments which consequently had a financial implication.

e) There is need for urgent identification of the attendant resources from the current budget as a baseline allocation and transfer the same to the counties through the Division of Revenue Bill, 2025.

f) Based on FY 2024/25 budget, some of the allocations to national government Ministries, Departments and Agencies (MDAs) are for devolved functions.

C. Baseline Allocation

g) The Council averred that the counties' equitable share baseline allocation should be the initial allocation of Ksh.400.117 billion as opposed to Ksh.387.425 billion.

D. Cabinet Resolution on State Corporations Reforms

h) The Cabinet on 21st January 2025 approved the merging of 42 State Corporations with overlapping mandates into 20, dissolution 16 State Corporations, transfer of 9 Corporations to relevant Ministries or other State entities and restructuring of 6. The State Corporations to be dissolved included the 6 Regional Development Authorities. However, there is no mention of the transfer of those performing devolved functions to Counties. Some of the State Corporations performing devolved functions recommended for merging include National Water Harvesting and Storage Authority, KURA and KeRRA.

i) Following the principle of resources following functions, there should be a transfer of these State-owned firms performing devolved functions to counties together with the attendant resources. This should also inform the allocations in the Division of Revenue for FY 2025/26.

E. Unmet County financial obligations and deficits from the 2024/25 budget cuts: -

j) Despite the reduction of counties' equitable share in FY 2024/25, there has been no allocation to counties to meet the outstanding non-discretionary expenditures expected to be financed by counties in the prevailing fiscal year and the medium term.

k) Counties budget implementation for FY 2024/25 was constrained from the reduction and the delays in passing the County Governments Additional Allocations Bill, 2024.

l) The Division of Revenue Bill, 2025 should have taken note of the non-discretionary expenditures by counties emanating from national government priority policies, programmes and projects amounting to Ksh.73.78 billion. These include Housing levy deductions-4.05 billion; Enhanced contributions to NSSF (set to double in FY 2025/26)- 6.0 billion; Matching allocations for the CAIPs Project-11.75 billion; Matching allocations for Community Health Promoters Program-3.23 billion; Cost of Procurement of new medical equipment-39.0 billion; Annual Wage increments (IPPD) annual adjustments-6.30 billion, and Sustainability of the basic salary increment as per the Doctors CBA 2017-2021 and executed RTWF-3.45 billion

F. Variation in revenue (Revenue shortfalls)

m) Whereas the Division of Revenue Acts have been providing for protection of counties' equitable share from revenue shortfalls, enforcement of the same has not been adhered to.

n) Counties suffered a Kshs.13 billion cut in the current FY 2024/25 due to projected shortfalls contrary to section 5 of the Division of Revenue Act, 2024.

o) While Counties suffered this cut, the national government has almost gone to the initial budget before the budget cuts. This is contrary to the need for stability and predictability in revenue allocation as provided for under Article 203 (1)(j).

G. With regards to specific comments

p) The Schedule to the Bill should be amended to allocate Ksh.2,290,308,164,884 to the National Government and Ksh.536,880,000,000 to the County Governments informed by the following:

  i. Revenue growth: The economy in general is projected to grow at 5.3% in the next FY and remain stable over the medium term. Additionally, the projected shareable revenue has grown by 7.78% which should be equitably allocated.

  ii. Unmet non-discretionary expenditures by counties due to policy shifts by the National government and other priority programmes/projects

  iii. Unbundled and delineated functions: As baseline allocation, the 2024/25 budgetary allocations to MDAs should be identified and transferred through the Division of Revenue Bill, 2025.

  iv. Baseline allocation following FY 2024/25 budget cut: Due to improved revenues, the baseline allocation should be Ksh.400.117 billion.

q) The Schedule to the Bill be amended by deleting the row providing for Equalisation Fund Arrears. This is because-

  i. Each Financial year, the Division of Revenue Act provides for the Equalisation Fund which is specific to the FY (0.5%). Once allocated, it follows that the funds are appropriated in line with Article 203(3)(a) of the Constitution.

  ii. Providing for the arrears in a different year's Division of Revenue Act amounts to double allocation and by extension reduce the shareable revenue. The Equalisation Fund arrears should only feature in the subsequent Appropriation Bills.

  iii. The total Equalisation Fund arrears are in excess of Kshs.60 billion and providing for the arrears in the Division of Revenue Bill limits the scope and payment plan of the arrears which ideally should only be done through an Equalisation Fund Appropriation Act.

iv. The Council proposed that the arrears be separated and protected from revisions through the National government's Appropriation Acts.

Following deliberations, the Committee observed that-

a) In determining the county equitable share of Ksh.536.88 billion, the Council used the following-
   i. Baseline allocation of Ksh.400.12; adjustment for revenue growth at 5.3% equivalent to Kshs.21.21 billion; Fourth Basis Stabilization Factor Allocation as recommended by CRA Ksh.12 billion; Additional revenue from unmet non-discretionary expenditures emanating from National government priority projects/programmes/policies-Ksh.73.78 and Additional Revenue from allocations to National government MDAs performing devolved functions (based on FY 2024/25 budget estimates-Ksh. 29.77.
   ii. The Council was informed that the most recent audited accounts of revenue received and approved by the National Assembly are for FY 2021/2022 of Ksh.1,920,434,085,078.
   iii. Some counties have subscribed to County Peer Review Mechanism, where governors engage in discussions and exchanged ideas on improving service delivery and ensuring that governance practices align with the needs and expectations of the citizenry.

The Committee commended the Council's comprehensive, detailed and well thought out submissions on the Bill. This would benefit the Committee in formulating its final recommendations to the Senate.

Meeting with National Treasury and Economic Planning

a) The Committee was informed that the Cabinet Secretary (CS) had responded to Committee's invitation by stating that he was attending a Cabinet meeting and would be unable to attend the meeting and requested that the meeting be rescheduled to a later date.
b) Following deliberations, and noting that passage of the Bill is critical to ensuring seamless budget preparation process at both the national and county levels of government, the Committee acceded to CS's request and resolved to reschedule the meeting with the Cabinet Secretary for National Treasury and Economic Planning to deliberate on the Bill to Thursday, 8th May, 2025.

MIN/SEN/SCF&B/1213/2025 ANY OTHER BUSINESS

a) The meeting was informed of a letter from County Assembly Forum requesting for a meeting with the Committee on 23rd to 24th May, 2024, to discuss among other issues, the recurrent expenditure budget ceiling for county assemblies for the FY

2025/26. However, due to urgent legislative work awaiting consideration, the Committee agreed to request the County Assemblies Forum to submit their views on the Recurrent Expenditure Budget Ceiling for county assemblies for the FY 2025/2026 in writing, and will engage CAF at a later date during processing of the County Allocation of Revenue Bill.

b) Furthermore, the Committee noted an invitation from the National Council for Population and Development's to a sensitisation meeting on establishment of a Parliamentary Caucus on Population and Development on 8th May, 2025. However, due to pressing urgent legislative work, the Committee noted unavailability to honour the invitation.

MIN/SEN/SCF&B/1214/2025 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting adjourned at 12:28 p.m. Next meeting shall be by notice.

SIGNATURE: .... **DATE:** 13/05/25

SEN.(CAPT.) ALI IBRAHIM ROBA, EGH, MP

(CHAIRPERSON

Annex 3- Submissions from Stakeholders

COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILL NO.10 OF 2025)

TO

THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET

FROM

THE COUNCIL OF GOVERNORS

COUNCIL OF GOVERNORS

THE COUNCIL OF GOVERNORS,

In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Article 6 (2);

In further recognition of the need to ensure that all legislation is cognizant of devolved governments; and

Aware of the need for coordinated action between the National and County Governments to ensure that legislation properly respond to the key issues, and further reflects the spirit and purpose of devolution.

Having reviewed the Division of Revenue Bill, 2025 (National Assembly Bill No.10 of 2025), the Council of Governors, on behalf of the 47 County Governments, submits the proposals highlighted herein below for consideration:

A. GENERAL COMMENTS

The Council of Governors appreciates the continued support of the Senate towards ensuring the devolved units are enabled to perform their functions in terms of financing and oversight on the use of public resources. We acknowledge the Senate's recommendation of **Kshs.465 billion** as equitable share to Counties for FY 2025/26. However, this may not adequately address the financing needs of the Counties as demonstrated hereinbelow.

1. **Resource Allocation Framework:** - We note that despite the expanded fiscal space and projected stable economic growth at 5.3% over the medium-term, the same does not reflect on Division of Revenue between the two levels of government. The proposed Counties equitable share allocation is not in sync with the growth trends in both Ordinary Revenues and GDP. For the last 5 years, that is FYs 2020/21 - 2024/25, Counties equitable share has grown by a marginal Kshs.70.9 billion while that of the national government has grown by Kshs.702.6 billion. During the same period ordinary revenue has grown from Kshs.1.8 trillion to 2.6 trillion and now projected at Kshs.2.8 trillion for FY 2025/26 as shown in table 1 below.

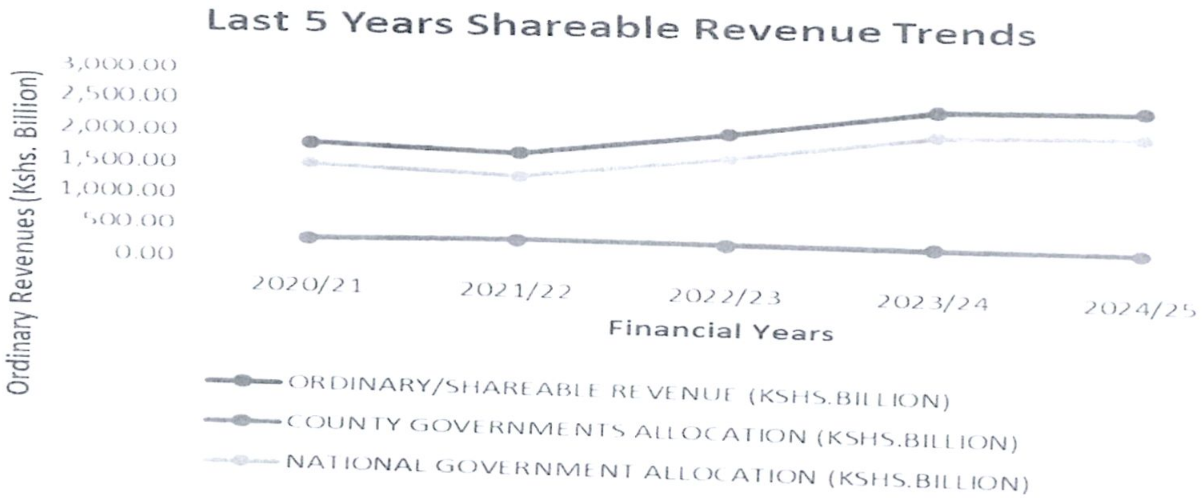
Table 1: Revenue sharing trends between the FY 2020/21 and 2025/26

ORDINARY REVENUE SHARING TRENDS FOR THE LAST FIVE YEARS			
FYS	ORDINARY/SHAREABLE REVENUE (KSHS.BILLION)	COUNTY GOVERNMENTS ALLOCATION (KSHS.BILLION)	NATIONAL GOVERNMENT ALLOCATION (KSHS.BILLION)
2020/21	1,856.70	316.5	1,533.4
2021/22	1,775.60	370	1,398.8
2022/23	2,141.60	370	1,764.1
2023/24	2,571.20	385	2,177.4
2024/25	2,631.40	387.4	2,236.0
Absolute Increment	774.70	70.9	702.6
2025/26	2,835.00	405.4	2,419.40

Source: ***Division of Revenue Acts FYs 2020/21-2024/25* & DoRB, 2025**

While the National government's allocation has been consistent with the ordinary revenue growth, the Counties' share has almost stagnated for the past 5 years as illustrated in figure 1 below. This points to arbitrary allocation revenue to Counties that is not congruent to the economic growth trends and macroeconomic performance. For instance, the Explanatory Memorandum to the Division of Revenue Bill, 2025 has not provided any basis or itemized description of what constitutes the Counties share of revenue as is the case with the national government's allocation contrary to the provisions of Section 191 (5)(b) of the Public Finance Management Act CAP 412A.

Figure 1: Illustration of revenue sharing trends for the past 5 FYs (2020/21-2024/25)



We therefore urge the Senate to review the resource allocation framework to align with the macroeconomic and growth trends. **To realize this, the Council proposes for a minimum allocation of Kshs.536.88 billion for FY 2025/26.**

2. **Attendant Resources relating to the delineated and gazetted functions of 16th December 2024:** - The Division of Revenue Bill, 2025 has not considered the recently delineated and gazetted functions of the national and county governments which consequently have a financial implication. Despite numerous directives being issued to the Intergovernmental Relations Technical Committee (IGRTC) to complete this exercise within the current FY, we note that it is yet to commence. We therefore call for the Senate to cause urgent identification of the attendant resources from the current budget as a baseline allocation and transfer the same to the Counties through the Division of Revenue Bill, 2025. This aligns with the 11th National and County governments Coordinating Summit resolution that the corresponding resources related to the unbundled and gazetted functions shall be transferred to the county governments commencing July 2025. **As an indicative figure, see attached analysis of allocations to national government MDAs for devolved functions based on FY 2024/25 budget (Annex 4).**

3. **Baseline Allocation:** We note that the baseline allocation for Counties' equitable share is Kshs.387.425 billion as opposed to the initial allocation of Kshs.400.117 billion. The National government's allocation has been enhanced and almost reinstated the initial allocation through the recent Supplementary Budget owing to improved revenue projections negating what informed the cuts. However, the County governments continue to suffer cuts through both equitable share and conditional grants. It is the Council's opinion that the baseline allocation should be Kshs.400.117 billion in accordance with the Division of Revenue Act, 2024.

4. **Cabinet Resolution on State Corporations Reforms:** - The Cabinet on 21st January 2025 approved the merging of 42 State Corporations with overlapping mandates into 20, dissolution 16 State Corporations, transfer of 9 Corporations to relevant Ministries or other State entities and restructuring of 6. The State Corporations to be dissolved include the 6 Regional Development Authorities. However, we note that there is no mention of the transfer of those performing devolved functions to Counties. Some of the State Corporations performing devolved functions recommended for merging include National Water Harvesting and Storage Authority, KURA and KeRRA. **Following the principle of resources following functions, there should be a transfer of these State-owned firms performing devolved functions to Counties together with the attendant resources. This should therefore inform the Division of Revenue for FY 2025/26.**

5. **Unmet County financial obligations and deficits from the 2024/25 budget cuts:** - Despite the reduction of Counties' equitable share in FY 2024/25, there has been no allocation to Counties to meet the outstanding non-discretionary expenditures expected to be financed by Counties in the current fiscal year and the medium term. Counties budget implementation for FY 2024/25 is already constrained from the reduction and the delays in passing the County Governments Additional Allocations Bill, 2024. The Division of Revenue Bill, 2025 should therefore provide for the non-discretionary expenditures by Counties emanating from national government priority policies, programmes and projects (***Annex 3***).

6. **Variation in revenue (Revenue shortfalls):** - Whereas the Division of Revenue Acts have been providing for protection of Counties' equitable share from shortfalls, enforcement of the same has not been followed through. Specifically, Counties suffered a Kshs.13 billion cut in the current FY due to projected shortfalls yet Section 5 of the Division of Revenue Act provides otherwise. While Counties suffered this cut, the national government has almost gone to the initial budget before the budget cuts. This is contrary to the need for stability and predictability in revenue allocation as provided for under Article 203 (1)(j). **The Senate should therefore ensure that Counties' allocations are protected as envisaged in the Constitution and the Division of Revenue Acts.**

B. SPECIFIC CONCERNS

The Council proposes the following specific amendment to the Division of Revenue Bill, 2025 (National Assembly Bill No.10 of 2025):

Clause/Section	Provision	CoG's Proposal	Rationale/Justification
SCHEDULE	Row B of the Schedule allocates Ksh.2,419,382,005,336 to the National Government and row D allocates Ksh.405,069,420,197 to the County Governments.	Rows B and D of the schedule be amended to allocate Ksh.2,290,308,164, 884 to the National Government and Ksh.536,880,000,0 00 to the County Governments respectively. (See schedule below under Annex 1)	The Council's proposal of a minimum of Kshs.536.88 billion is informed by the following: 1. **Revenue growth;** - The economy in general is projected to grow at 5.3% in the next FY and remain stable over the medium term. Additionally, the projected shareable revenue has grown by 7.78% which should be equitably allocated. 2. **Unmet non-discretionary expenditures by Counties due to policy shifts by the National government and other priority programmes/projects:** - In FY 2024/25, County governments suffered a Ksh.14 billion budget cut in shareable revenue despite having numerous non-discretionary obligations that remain unmet. The budget cuts and the below par allocations constrained the county governments' capacity to finance the programmes which ultimately compromise their implementation and service delivery to citizens. Most of the obligations are due to policy changes by the national government such as the enhanced contributions to NSSF (which are set to double from February 2025), roll out of the Universal Health Coverage; national government priority projects such as affordable housing, County Aggregation and Industrial

			Parks; and other priority programmes such as Community Health Promoters compensation (see Annex 3 for details). 3. **Unbundled and delineated functions: -** Following the gazettement of additional functions on 16th December 2024, the National and County Governments Coordinating Summit resolved that the attendant resources be transferred to Counting beginning July 2025. As baseline allocation, the 2024/25 budgetary allocations to MDAs should be identified and transferred through the Division of Revenue Bill, 2025. 4. **Baseline allocation following FY 2024/25 budget cut:** - Due to improved revenues, the baseline allocation should be Kshs.400.117 billion.
	C (b) Equalisation Fund Arrears	The Schedule is amended by deleting row C (b).	Each Financial year, the Division of Revenue Act provides for the Equalisation Fund which is specific to the FY it relates (0.5%). Once allocated, it follows that the funds are appropriated in line with Article 203 (3)(a) of the Constitution. Therefore, providing for the arrears in a different year's Division of Revenue Act amounts to double allocation and by extension reduce the shareable revenue. The Equalisation Fund arrears should only feature in the subsequent Appropriation Bills. Secondly, the total Equalisation Fund arrears are in excess of Kshs.60 billion and providing for the arrears in the Division of Revenue Bill limits the scope and payment plan of the arrears which ideally should only be through an Equalisation Fund Appropriation Act. The Council proposes

			that the arrears be separated and protected from revisions through the National government's Appropriation Acts.

SCHEDULE (AMENDED)

ANNEX 1: ALLOCATION OF REVENUE RAISED NATIONALLY BETWEEN THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS FOR THE FINANCIAL YEAR 2025/26

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	2,835,040,979,609	
B. National Government	2,290,308,164,884	
C. Equalization Fund	7,852,814,725	0.50 %
D. County Equitable Share	536,880,000,000	34.18%

ANNEX 2: PROPOSED RECOMMENDATIONS ON THE VERTICAL SHARING OF REVENUES FOR FY 2025/26

County Governments Equitable Share of Revenue 2025/26 FY	CRA Recommendation (Ksh Billion)	NT Proposal (2025 BPS) (Ksh billion)	CoG Proposal (Ksh Billion)
Baseline (i.e. allocation in the previous year 2024/25)	387.43	387.43	400.12

Option 1: Adjusted			
1. Adjustment for Revenue Growth		17.64	21.21 (at 5.3%)
2. Fourth Basis Stabilization Factor Allocation	12		12
3. Additional revenue from unmet non-discretionary expenditures emanating from National government priority projects/programmes/policies. (As per Annex 1 hereinbelow)	18		73.78
4. Additional Revenue from allocations to National government MDAs performing devolved functions (based on FY 2024/25 budget estimates as per Annex 2 hereinbelow)		-	29.77
Computed Equitable share of revenue	417.43	405.07	536.88
Percentage of the last audited and approved accounts of Ksh.1,570.6 billion (For FY 2020/21)	26.57%	25.79%	34.18%
Percentage of the total projected shareable revenue for FY 2025/26 of Ksh.2,835.0 billion	14.72%	14.23%	18.94%

Sources: *Division of Revenue Bill, 2025 & CRA Recommendation for FY 2025/26*

ANNEX 3: COUNTY GOVERNMENTS UNMET NON-DISCRETIONARY FINANCIAL OBLIGATIONS

Item (Non-discretionary Expenditure)	Cost implication on County governments for FY 2025/26

Housing levy deductions	4.05 billion (Minimum)
Enhanced contributions to NSSF – (set to double in FY 2025/26)	6.0 billion (Minimum)
Matching allocations for the CAIPs Project	11.75 billion
Matching allocations for Community Health Promoters Program	3.23 billion
Cost of Procurement of new medical equipment	39.0 billion
Annual Wage increments – IPPD annual adjustments	6.30 billion
Sustainability of the basic salary increment as per the Doctors CBA 2017-2021 and executed RTWF	3.45 billion
Total	**73.78 billion**

Source: County governments

ANNEX 4: SAMPLE OF BUDGETARY ALLOCATIONS TO NATIONAL GOVERNMENT MDAS FOR DEVOLVED FUNCTIONS IN FY 2024/25

FY 2024/25 BUDGETARY ALLOCATIONS TO NATIONAL GOVERNMENT MDAS FOR DEVOLVED FUNCTIONS - BASED ON SUPPLEMENTARY II ESTIMATES			
MDA	**Vote D1082 State Department for Medical Services**		
	HEADS	**NET AMOUNT (KSH)**	**TOTALS (KSH)**
	1082100600 Free Maternity Program (Strategic Intervention)	2,049,000,000	
	1082102200 Infrastructural Support to Kigumo Hospital	50,000,000	
	1082103100 Procurement of Family Planning & Reproductive Health Commodities	500,000,000	
	1082103800 Vaccines Programme	2,027,000,000	
	1082105000 Upgrading of Children Ward - Kibugua Level 3 Hospital	50,000,000	

	1082105100 Upgrading & Equipping of Maternal & New Born Ward Endebess Hospital	70,000,000	
	1082105600 Upgrading and Equipping of Lusigetti Hospital Kikuyu	100,000,000	
	1082107400 Construction and Equipping of Health Centres	220,000,000	
	1082107600 Reproductive, Maternal, Neonatal Child & Adolescent Health Project	1,800,000,000	
	1082107800 Construction and Equipping of Level 4 Hospitals	250,000,000	
	1082107900 Construction and Equipping of Level 5 Hospitals	100,000,000	
Sub-total			**7,216,000,000**
MDA	**Vote D1036 State Department for the ASALs and Regional Development**		
	HEADS		
	1036103200 Dry Land Climate Action for Community Drought Resilience	858,510,000	
	1036103400 Ewaso Ng'iro North Catchment & Riparian Conservation Project-BETA	149,969,484	
	1036104200 Mango Value Chain Programme-BETA	129,000,000	
	1036107600 Cherengany Watershed Conservation Programme-BETA	25,000,000	
	1036108000 Malindi Integrated Social & Health Dev. Programme (MISHDP) -BETA	300,000,000	
	1036112000 Drilling of Boreholes - LBDA	10,000,000	

	1036112300 Drought Mitigation - KVDA	37,500,000	
	1036114000 Small Holder Irrigation Scheme; Napuu and Kampsiwet	30,000,000	
	1036114100 Small Holder Irrigation Scheme; Arror and Chepkum	28,000,000	
	1036115000 Kiangochi Muchungucha Irrigation Water project - TARDA	105,000,000	
	1036115800 Upper Yokot dam Construction & Distribution/Supply(Keiyo N.) - KVDA	70,000,000	
	1036116000 BETA Priorities and Flood Control -KVDA	314,500,000	
	1036116100 BETA Priorities and Flood Control-ENNDA	215,000,000	
	1036116200 BETA Priorities and Flood Control - TARDA	25,000,000	
	1036116300 BETA Priorities and Flood Control - LBDA	198,000,000	
	1036116400 BETA Priorities and Flood Control - CDA	20,000,000	
	1036116500 BETA Priorities and Flood Control - ENSDA	75,000,000	
	1036119000 Etio Phase II Water Distribution Supply	180,000,000	
Sub-total			**2,770,479,484**
MDA	**Vote D1091 State Department for Roads**		
	1091144100 KAJIADO ACCESS ROADS	65,000,000	
	1091164900 Access Roads to Affordable Housing Facilities	323,250,000	

	1091165000 Access Roads to Industrial Park Facilities	290,000,000	
	1091167700 Rural Roads Gravelling II	75,000,000	
	1091170100 Rural Roads Murramming IV	40,000,000	
	1091170800 Rural Roads Murramming X	15,000,000	
	1091175200 Stage Construction	203,000,000	
Sub-total			**1,011,250,000**
MDA	**Vote D1104 State Department for Irrigation**		
	1104100200 Small Holder Irrigation Programme	7,000,000	
	1104100600 Community Based Irrigation Projects	1,000,000,000	
Sub-total			**1,007,000,000**
MDA	**Vote D1109 State Department for Water & Sanitation**		
	1109103500 Water Harvesting Program (LVSWSB)	53,000,000	
	1109104100 Kikuyu Springs Groundwater Conservation	7,000,000	
	1109104200 Lamu Groundwater Conservation	10,000,000	
	1109104800 Drilling and equipping of 40 no boreholes	50,000,000	
	1109106300 Maua water and drainage project	25,000,000	
	1109117000 Affordable Housing Water Supply - BETA	70,000,000	

	1109128700 Restoration and Conservation of Water Catchment Areas	220,000,000	
Sub-total			**435,000,000**
MDA	**Vote D1152 State Department for Energy**		
	1152102700 Last Mile Electricity Connectivity-BETA	1,400,000,000	
	1152114000 Critical Rural Access Last Mile Connectivity	200,000,000	
	1152114200 Street Lighting (REREC)	250,000,000	
Sub-total			**1,850,000,000**
MDA	**Vote D1162 State Department for Livestock Development**		
	1162104500 Livestock Production Interventions	20,000,000	
	1162105900 Establishment of Feedlots, Fodder and Pasture	50,000,000	
Sub-total			**70,000,000**
MDA	**Vote D1169 State Department for Agriculture**		
	1169103300 Fertilizer subsidy programme	14,500,000,000	
	1169103900 Food Security and Crop Diversification Project-BETA	140,000,000	
	1169110100 Crop Post-Harvest Management	310,000,000	
	1169110400 Development of Aggregation Centres	90,000,000	
Sub-total			**15,040,000,000**

MDA	**Vote D1331 State Department for Environment & Climate Change**		
	1331101300 National Solid Waste Management	40,000,000	
	1331101700 Plastic Waste Management and Pollution Control	22,500,000	
	1331102000 Sound Chemicals and Waste Management Kenya	12,000,000	
	1331104400 Enhancing Community Resilience & Water Security	300,000,000	
Sub-total			**374,500,000**
GRAND TOTAL			**29,774,229,484.00**

Source: National Treasury Budget Books 2024/25 FY

NATIONAL TREASURY SUBMISSION TO THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO. 10 OF 2025)

i. Introduction

Article 218 of the Constitution requires a ***Division of Revenue Bill (DORB)*** which divides revenue raised by the National Government among the national and county levels of government in accordance with the Constitution; and a ***County Allocation of Revenue Bill (CARB)***, which divides among the counties, the revenue allocated to the county level of government, to be introduced in Parliament at ***least two months before the end of each financial year (FY)***.

DORB provides for the equitable division of revenue raised nationally between the National and County Governments for each FY in accordance with Article 202(1) of the Constitution.

CARB provides for the equitable allocation of revenue among the County Governments from revenue raised by the National Government in a financial year and the responsibilities of National and County Governments with respect to such allocation, in accordance with the determined basis of the division of revenue among counties as approved by Parliament pursuant to Article 217 (7) of the Constitution.

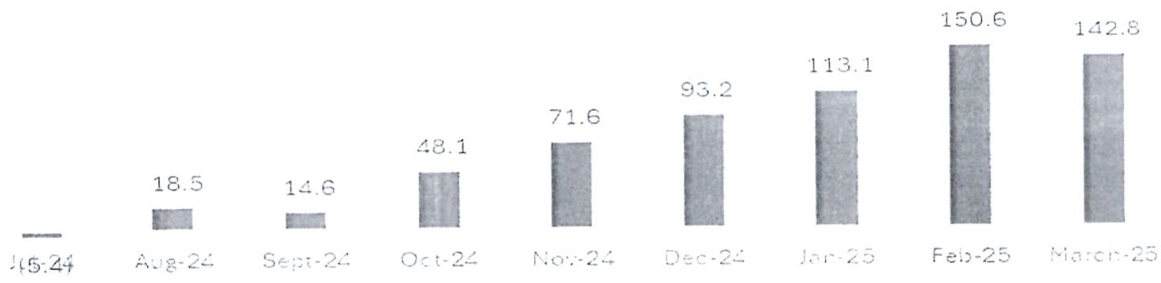
Section 191 (1) of the PFMA, 2012 requires that each year when the Budget Policy Statement (BPS) is introduced, the Cabinet Secretary responsible for matters relating to finance shall submit to Parliament a DORB, a CARB and a County Governments Additional Allocations Bill (CGAAB) for the financial year to which that Budget relates.

ii. National Treasury's Proposal on Division of Revenue for FY 2025/26

The National Treasury had projected total sharable revenue of **KSh. 2,835.0 billion** for the FY 2025/26 as contained in the Division of Revenue Bill, 2025 submitted to Parliament in February 2025.The Bill proposed allocation of **Ksh. 2,419.4 billion** to the National Government, County Governments **KSh. 405.1 billion** as County Equitable Share; and **KSh. 10.6 billion** for Equalization Fund, being the sum of **KSh. 7.9 billion for FY 2025/26** (0.5 percent of the most recent audited and approved revenue of **KSh. 1,570.6 billion** for FY 2020/21 as required by the Constitution), and **KSh. 2.7 billion** (as arrears to the Fund). The allocation of **KSh. 405.1 billion** as County Equitable Share translates to **25.79 per cent** of the most recent audited and approved revenue.

The National Treasury has further reviewed the performance of ordinary revenue since the submission of the Division of Revenue Bill, 2025 to Parliament in February 2025. As indicated in the Chart 1, revenue collection in FY 2024/25 has consistently lagged behind target and the ordinary revenue shortfall has widened each month reaching a cumulative shortfall of **Ksh 142.8 billion** in March 2025. The National Treasury therefore estimates that the overall ordinary revenue for FY 2024/25 will be **Ksh 2,435.1 billion**, reflecting a shortfall of **Kshs. 482.1 billion** relative to the original budget for FY 2024/25.

Chart 1: ordinary revenue cumulative shortfall



Following the depressed ordinary revenue performance in FY 2024/25, it is now evident that the ordinary revenue forecast of **Ksh. 2,835.0 billion** for FY2025/26 as contained in the Division of Revenue Bill, 2025 may not be achievable. To retain the forecast as contained in the BPS 2025 would therefore be imprudent and would undermine the credibility of the budget and further lead to accumulation of arrears.

We therefore recommend downward revision of the ordinary revenue forecast for FY 2025/26 to **Ksh 2,757.0 billion**, which is **Ksh 78.0 billion** lower than the Budget Policy Statement 2025 projection of **Ksh 2,835.0 billion.**

iii. Factors informing the proposed Division of Revenue for FY 2025/26

The proposed division of Revenue for FY 2025/26 is informed by the following factors:

i. Projected Ordinary Revenue in FY 2025/26

It should be noted that the projected ordinary revenue for FY 2025/26 **Ksh 2,757.0 billion** is informed by the lower baseline of **Ksh 2,435.1 billion** being the FY 2024/25 revised ordinary revenue targets against an initial target of **KSh 2,917.2 billion.**

It is important to note that over the period 2016/17 to 2023/24 actual ordinary revenue has **always been below target except for FY 2021/22, and as such even the FY 2025/26 may experience such shortfall.**

ii. *The need to finance mandatory expenditures under Article 203 (1) of the Constitution.*

Table 1 summarizes the mandatory expenditures under Article 203(1) of the Constitution, to be financed in the FY 2025/26.

Table 1: Summary of Considerations Under Article 203 (1) of the Constitution

Item Description for FY 2025/26	Allocation (KSh. million)
Ordinary Revenue (Excluding AIA)	**2,756,979**
National Interest [Article 203 (1)(a)]	109,551
Public debt (Art. 203 [1][b])	1,437,879
Pensions, Constitutional Services and Other	246,268
Other National obligations (Article. 203 [1][b])	810,324
Emergencies [Art. 203 (1)(k)]	2,000
Equalization Fund [Art. 203 (1) (g) and (h)]	**10,590**
Of which: a. Allocation in FY 2025/26; and	7,853
b. Arrears	2,737
Total Mandatory Expenditures	**2,616,613**
Balance to be Shared by the 2 Levels of Government	**140,366**
County Governments' allocation from revenue raised nationally; - *Of which:*	417,963
a) County Equitable Share Of Revenue	405,069
b) Unconditional Additional Allocations from National Government's Share Revenue	2,946
c) Conditional Additional Allocations from National Government's Share Revenue	9,948
Balance left for the National Government	**(277,597)**

In summary, the share of the revenue is as follows: -

	Budget Item	**Amount (million KSh.)**
1.	Ordinary Revenue: -	**2,756,979**
2.	Less: Mandatory Expenditures	2,616,613
		==========
3.	Balance left for vertical sharing	**140,366**
4.	Less: Allocation to Counties	**417,964**
	Of which: a. Equitable share	*(405,069)*
	b. Additional allocations	*(12,884)*
		==========
	Balance left for National Government	**(277,597)**

This fiscal deficit in financing other major National Government functions has always occasioned additional borrowing which continues to distort the fiscal framework set out in the annual Budget Policy Statements and further undermine government fiscal consolidation plan.

Over the years, after taking into account all the mandatory expenditures contemplated under Article 203(1) of the Constitution, there has always been minimal and sometimes as shown above, no resources left to finance other National Government obligations, such as defence, roads, energy and Education.

iii. *Financing constraints due to limited access to finance in the domestic and international financial markets.*

Kenya's borrowing fell short of the targeted access for both domestic and foreign financing respectively over the years. The same trend has also been recorded in the first half of FY 2024/25.

iv. *The National Government continues to solely bear shortfalls in revenue in any given financial year.*

Over the years, Counties have always received full allocation of equitable share of revenue despite shortfalls in performance of ordinary revenue. The National Government Ministries, Departments and Agencies, therefore, have continued to bear the full burden of revenue shortfall through budget cuts. In cases where there is delay in disbursement of revenue during the financial year, the arrears have always been disbursed in subsequent financial year.

Due to underperformance of revenues during FY 2023/24, the National Treasury was not able to transfer **KSh. 30.8 billion** to Counties (being the equitable share allocation for June 2024) implying that the total budgeted equitable share for FY 2024/25 amount to **KSh. 418.3 billion** including the June 2024 balances carried forward. Further, as at end of first quarter FY 2024/25, disbursement to counties was behind by **KSh.63.9 billion.**

Note that this increased financial commitment to County Governments shall be funded from a lower projected ordinary revenue for FY 2024/25, further constraining the fiscal space in the medium-term including FY 2025/26.

It should also be noted that Article 219 of the Constitution provides that "county's share of revenue raised by the national government shall be transferred to the county without **undue delay** and **without deduction**, except when the transfer has been stopped under Article 225."

v. *High cost of public debt service*

This is largely due to a relatively stable but still high exchange rate to the dollar, as well as high interest rates in the domestic markets. Public debt service in FY 2025/26 will account **for 52 percent** of ordinary revenue which is higher than the average **(41 percent)** over the period FY 2016/;17 to 2024/25.

iv. *Proposed Horizontal sharing of equitable share of KSh. 405.1 billion in FY 2025/26*

The National Treasury has proposed that equitable share of **KSh. 405.1 billion** to County Governments in FY 2025/26. This allocation is a 4.6 percent increase from the FY 2024/25 allocation of **KSh 387.4 billion** which is consistent with the provision of Article 203(1) that envisages stable and predictable allocations of revenue to County Governments. The allocation of KSh. 405.1 billion is based on the macro fiscal framework which relies on expected revenues and expenditure commitments for FY 2025/26. This shall be shared in accordance with the Third determination of the basis of the division of revenue among counties approved by Parliament pursuant to Article 217 (7) of the Constitution. This is informed by the fact that the proposed Fourth determination of the basis of the division of revenue among counties by the Commission for Revenue Allocation had not been approved by Parliament as at 15th February, 2025, the statutory deadline for submission of CARB to Parliament in accordance with Section 191 as read with Section 25 of the PFMA.

v. Proposed Additional Allocation to County Governments in FY 2025/26

In addition to the Equitable Share allocations, Article 202 (2) of the Constitution provides that County Governments may be given additional allocations from the National Governments Share of revenue either conditionally or unconditionally; while Article 190 of the Constitution also provides that Parliament shall by legislation ensure that County Governments have adequate support to enable them to perform their functions.

Further, Section 4 of the County Governments Additional Allocations Act (CGAAA), 2024 requires that additional allocations shall be funds agreed upon by the National Assembly and the Senate during the consideration of the Budget Policy Statement and shall comprise of County Governments' additional allocations financed from either the National Government's Share of Revenue or proceeds of loans or grants from Development Partners. Pursuant to Section 5 of the CGAAA 2024, funds for additional allocations to County Governments shall be included in the budget estimates of the National Government and shall be submitted to Parliament for approval.

In the 2025 Budget Policy Statement, the National Treasury proposes to allocate **KSh 69.8 billion** as additional allocations (conditional and unconditional) to County Governments. Out of this, **KSh 12.89 billion** will be financed from the National Government's share of revenue, and **KSh 55.07 billion** from proceeds of loans and grants from Development Partners.

HON. FCPA JOHN MBADI NG'ONGO, EGH
CABINET SECRETARY/ NATIONAL TREASURY & ECONOMIC PLANNING

Joint Memorandum to the Senate Standing Committee on Finance and Planning on the Division Of Revenue Bill, 2025

(National Assembly Bills No. 10 of 2025)

Submitted on Monday, May 12, 2025

Contact Person:
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About Bajeti Hub

Bajeti Hub (formerly International Budget Partnership Kenya - IBP Kenya) is a Kenyan non-profit organization working to advance transparency, accountability, participation, and equity in national and county budgeting processes. Bajeti Hub's work is focused on strengthening the impact of civil society advocacy and citizens on budget policies and outcomes at both levels of governance in Kenya. Through deep and sustained engagement, Bajeti Hub provides support to build expertise and skills of civil society actors and citizens involved in budget advocacy. Citizen advocacy, generation of evidence, technical assistance, learning, and networking are all integral components of Bajeti Hub's work

About the Institute of Certified Public Accountants of Kenya (ICPAK)

The Institute of Certified Public Accountants of Kenya (ICPAK) is the statutory body of Accountants established in 1978 and draws its mandate from the Accountants Act No.15 of 2008. It is also a member of the Pan African Federation of Accountants (PAFA) and the International Federation of Accountants (IFAC), the global Accountancy umbrella body.

Preamble

The Division of Revenue Bill, 2025 is prepared in accordance with Article 218 of the Constitution to provide for the equitable division of nationally raised revenue between the national and county governments for the FY 2025/26. This Bill ensures that both levels of government receive adequate resources to fulfil their respective mandates and facilitate effective service delivery to its citizens. It also considers public debt obligations, economic conditions, and national priorities, ensuring a balance between fiscal sustainability and the resource needs of both levels of government. Furthermore, the Bill outlines mechanisms for addressing revenue shortfalls or surpluses, ensuring that the national government absorbs any revenue deficits while any surpluses are used for debt repayment or fiscal adjustments while aligning with Kenya's economic strategy.

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Chapter eleven of the Constitution of Kenya 2010 establishes a two-tier government, National and County governments, and provides specific functions for each level. Article 187 (2)(a) requires that, if a function is transferred, arrangements should be put in place to ensure that the resources necessary for the performance of the function or exercise of the power are transferred. Further, Article 202 provides that revenue raised nationally shall be shared equitably between both levels and that; county governments may be given additional allocations from the national government's share of the revenue, either conditionally or unconditionally. It is against this background, that the National Treasury prepares a Division of Revenue Bill annually, while taking into consideration the recommendations of the Commission on Revenue Allocation and the Intergovernmental Budget and Economic Council, as provided for by Section 12 (h) of the Public Finance Management Act, 2012. Further, Section 191 (1) of the Public Finance Management Act 2012 requires the Cabinet Secretary to submit the Bill to Parliament for review and consideration.

The table below provides a detailed submission of the Bill;

Clause	**Submission**	**Recommendation**
Clause 6	We remain concerned about the declining percentage of county equitable share to total sharable revenue since the DORA 2018. Despite the nominal increase in county allocations, the percentage of total sharable revenue allocated to county governments has continued to decline, dropping to 14.29% in 2025, compared to 14.61% in 2024. The implication of this is that while the national government has been meeting the legal requirement of providing an equitable share of at least 15 percent of the most recently audited measure of its revenue, County Governments have been experiencing a continuing decline in the resources available to them as a share of overall shareable public resources. The table below shows the revenue allocation of both National and County governments across the years under review: An analysis of previous Division of Revenue Acts is shown below:	1. The Senate adopt the CRA's Recommendation of Ksh. 417.4 billion as the equitable share to counties. 2. The National Treasury to consider inflation rates as opposed to revenue growth rates to inform the Division of Revenue in future.

Clause	Submission	Recommendation

Revenue Share	DORB 2025	DORA (Amm.) 2024	DORB 2023	DORA 2022	DORA 2021	DORA 2020	DORA 2019	DORA 2018
Total Sharable	**2,835.0**	2,602.1	2,571.2	2,141.0	1,775.0	1,856.0	1,877.0	1,688.0
National Government	**2,480.9**	2,214.3	2,177.4	1,764.0	1,398.0	1,533.0	1,554.0	1,369.0
County Equitable Share	**418.0**	385.0	385.4	370.0	370.0	316.0	316.0	314.0
% of County Government to Total Sharable revenue	**14.74**	14.80	23.0	17.3	20.8	17.0	16.8	18.6
% of National Government to Total Sharable Revenue	**87.51**	85.10	77.0	82.4	78.8	82.6	82.8	81.1

Source: Division of Revenue Acts 2018-2024 and DORB 2023 & 2025

In the FY 2025/26 Division of Revenue Bill, the National Treasury has allocated Kshs. 405.1 billion as the equitable share for county governments. However, the Commission on Revenue Allocation (CRA) recommends a higher allocation of Kshs. 417.4 billion, creating a funding gap of Kshs. 12.3 billion between the two proposals. While the national treasury's proposal is based on revenue forecasts and fiscal constraints, The CRA recommended figure represents a more needs-based approach to ensure counties receive adequate funding to sustain devolved functions effectively.

The Kshs. 417.4 billion county allocation was determined using a structured formula that considers multiple factors affecting service

Clause	Submission	Recommendation
	delivery across counties. The formula distributes funds based on population size, equal share, poverty levels, geographical size and income distance. Finally, a stabilization factor is applied to prevent drastic changes in allocations compared to previous years, ensuring smoother transitions in county funding. Therefore, County Allocation y = [(0.42 * Population Index y) +(0.22 * Equal Share Index y) + (0.14 * Poverty Index y) + (0.09 * Geographical Size Index y) + (0.13 * Income Distance Index y) * Stabilization factor y]. When this formula is applied to all counties and their individual allocations are summed up, using the previous year's allocation as the baseline, it results in the proposed total equitable share allocation for counties. Additionally, the county equitable share, calculated at 25.79% of Kshs1,570,562,945,014, should be Kshs 405,048,184,000, not Kshs 405,069,420,197.	
Clause 22 - Equalization Fund & Audited Revenue	We note with concern the continued use of the FY 2020/21 audited financials as the baseline for determining allocations. This approach raises questions about the accuracy and relevance of the figures used in financial planning and resource distribution. For the upcoming fiscal year, a proposed allocation of Kshs. 7,852,814,725 which represents 0.5% of the last audited and approved actual revenue for FY 2020/21, has been set aside for the Equalization Fund. Additionally, an amount of Kshs. 2,736,739,351 has been earmarked as part-payment of arrears from previous years. While these allocations contribute to addressing the current funding gaps, the reliance on outdated revenue baselines may limit the fund's effectiveness.	1. The Senate as part of Parliament should explore measures to have the National Assembly expedite the approval process of audited financial statements. 2. The national treasury should ensure the allocation of funds is based on up-to-date revenue figures.

<table>
<tr><th>Clause</th><th>Submission</th><th>Recommendation</th></tr>
<tr>
<td></td>
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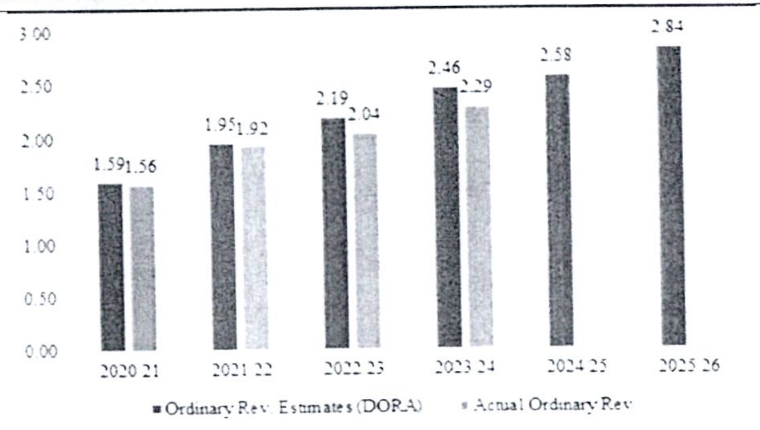
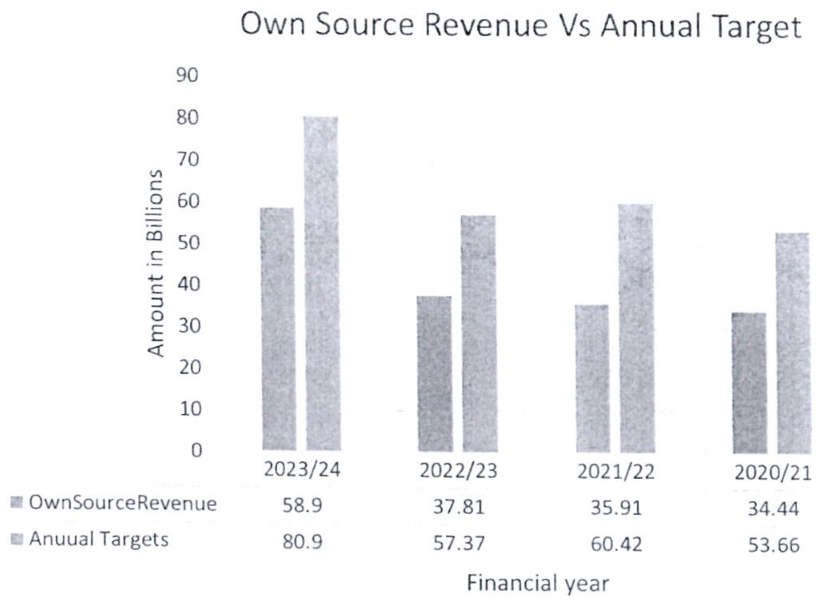
<table>
<tr><th>Financial Year</th><th>Approved Audited Revenues (Kshs.)</th><th>Amount of Equalisation Fund Entitlement (Kshs.)</th><th>Amount Transferred to the Fund (Kshs.)</th></tr>
<tr><td>2011/2012</td><td>468,151,970,000</td><td>2,340,759,850</td><td></td></tr>
<tr><td>2012/2013</td><td>529,300,000,000</td><td>2,646,500,000</td><td></td></tr>
<tr><td>2013/2014</td><td>529,300,000,000</td><td>2,646,500,000</td><td></td></tr>
<tr><td>2014/2015</td><td>776,900,000,000</td><td>3,884,500,000</td><td>6,400,000,000</td></tr>
<tr><td>2015/2016</td><td>776,900,000,000</td><td>3,884,500,000</td><td></td></tr>
<tr><td>2016/2017</td><td>776,900,000,000</td><td>3,884,500,000</td><td>6,000,000,000</td></tr>
<tr><td>2017/2018</td><td>776,900,000,000</td><td>3,884,500,000</td><td></td></tr>
<tr><td>2018/2019</td><td>776,900,000,000</td><td>3,884,500,000</td><td></td></tr>
<tr><td>2019/2020</td><td>776,900,000,000</td><td>3,884,500,000</td><td></td></tr>
<tr><td>2020/2021</td><td>1,357,698,000,000</td><td>6,788,490,000</td><td></td></tr>
<tr><td>2021/2022</td><td>1,357,689,000,000</td><td>6,788,490,000</td><td></td></tr>
<tr><td>2022/2023</td><td>1,413,694,840,000</td><td>7,068,474,200</td><td></td></tr>
<tr><td>Total</td><td>10,317,233,810,000</td><td>51,586,214,050</td><td>12,400,000,000</td></tr>
</table>
Source: Auditor General Report 2024

The administrative challenges surrounding the Equalization Fund remain unclear, particularly the factors contributing to its low disbursement rate over the past decade. Unlike other funds aimed at supporting service delivery and addressing marginalization such as the Constituency Development Fund, Affirmative Action Social Development Fund, Women Empowerment Fund, Youth Enterprise Development Fund, and National Drought Emergency Fund, the Equalization Fund appears to be less effective in achieving its intended purpose. Understanding the underlying reasons behind this disparity is crucial for improving its functionality and impact.
</td>
<td>3. The national treasury should provide a detailed payment plan for unremitted funds to track disbursement effectiveness.
4. The national treasury should implement monitoring mechanisms to ensure funds are used for their intended purposes in marginalized areas.</td>
</tr>
<tr>
<td>Clause 9 and 10 – National interest</td>
<td>There needs to be more clarity on the projects and programmes budgeted for under the lines of National Interest (Art. 203 [1]). For example, what projects, programmes or activities does 'Youth</td>
<td>For each item under National Interest the National Treasury must</td>
</tr>
</table>

Clause	Submission	Recommendation
	Empowerment' exactly comprise? What informs its allocations in the DORB each year and Ksh. 11.175 Billion in DORB 2025?	1. Provide an explanation of the allocations to the identified programmes of national interest, and what informs the change sin these from one DROB to the next. A good example is provided in Clause 12, which explains the large increase in the NSNP allocation. 2. Indicate how the identified programme is related to the criteria under Clause 11.
Clause 16 – Costing of Functions	The onset of devolution was 2013, when Kenya's population was roughly 45 million and the cost of a unit of electricity was Ksh. 12 – 19 per unit. Kenya's population is currently projected to rise to 53.3 million in 2025, with the price of electricity having risen to Ksh. 31 per unit, reflecting not only a higher service delivery demand but a higher cost of delivering public services. Therefore, the growth in population and rise in the cost of basic factors like electricity alone diminish the utility of using a 2013 expenditure for devolved functions as a baseline to allocate revenue to counties in 2025.	1. We recommend the Senate to request the National Treasury together with IGTRC to commission an update costing of expenditure for devolved functions based on the recent delineation of functions by the IGTRC.
Revenue Projections	Ordinary revenue is projected to grow to Kshs 2.84 trillion in FY 2025/26 from the projected Kshs 2.58 trillion in FY 2024/25. The revenue estimates are as shown below:	1. The government's focus should be on fiscal consolidation and

Clause	Submission	Recommendation
	 ***Source: National Treasury*** The revenue estimates over the years, as depicted in the chart, indicate a consistent increase in both projections and actual collections. However, actual revenue has often fallen short of estimates, emphasizing the need for realistic revenue forecasting and effective revenue collection strategies.	reduction of tax leakages is needed to further enhance ordinary revenue performance. 2. The government should regulate revenue from government assets, dividends from state-owned enterprises, and user fees to reduce overreliance on taxation. 3. Ensuring that the revenue projections are reflecting realistic economic growth rates, inflation trends, and external shocks.
Clause 15 - Own Source Revenue	The chart below highlights a persistent shortfall in Own Source Revenue (OSR) collection compared to annual targets, indicating inefficiencies in revenue mobilization and overestimated projections. Despite fluctuations, revenue collection has consistently underperformed, with the largest gap in 2023/24 (Kshs. 22 billion shortfall). This raises concerns about weak enforcement, revenue leakages, and unrealistic target setting, which impact county budget execution and service delivery.	1. Improve county revenue collection strategies to reduce over-reliance on equitable share allocations.

<table>
<tr><th>Clause</th><th>Submission</th><th>Recommendation</th></tr>
<tr><td></td><td>



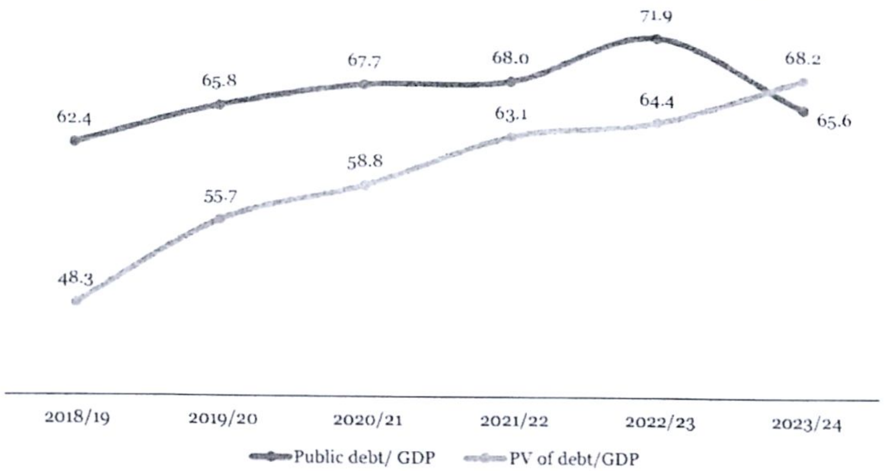
It is also worth noting that a few factors contribute to the underperformance of revenue:

1. The Auditor General's County allocation assessments are based on outdated financial baseline, potentially leading to misaligned budgetary recommendations and oversight
2. Weak linkage between planning and budget formulation.
3. Under-performance in own-source revenue,

</td><td></td></tr>
</table>

Clause	Submission	Recommendation
Clause 13 - Public debt	Kenya's public debt stock increased from Kshs. 10,278.88 billion at the end of June 2023 to Kshs. 10,581.98 billion by June 2024, reflecting a growth of Kshs. 303.1 billion. This expansion has resulted in public debt reaching 63.0% of GDP, emphasizing the country's continued reliance on borrowing to finance national expenditures. While a slight decline in the overall public debt-to-GDP ratio may suggest attempts to moderate debt accumulation, the present value of debt exceeding the recommended threshold signals persistent debt stress. This raises concerns about fiscal sustainability as high debt levels may limit the government's ability to invest in critical development programs without improving financial vulnerabilities. The graph below represents public debt to GDP ratio for FY 2018/19 to FY 2023/24:	1. The government should ensure strict adherence to legal debt thresholds as per the Public Finance Management (PFM) Act. 2. The National Treasury should improve on enhancing public debt reporting focusing on detailed disclosures on the contingent liabilities, maturity profiles, and debt sustainability analyses. 4. The projections provided in the DORBs should align with figures from the Public Debt Management Office (Annual public debt reports) to ensure that the total shareable revenue remains accurate

Clause	Submission	Recommendation



Source:2025 Medium Term Debt Management Strategy

For the fiscal year 2025/26, the allocation to public debt repayment is projected to increase by Kshs. 265.8 billion, further emphasizing the growing burden of debt servicing. The table below shows the allocation in public debt repayment in comparison to total sharable revenue and county equitable share across the years under review:

Revenue Share	DORB 2025/26	DORA 2024/25	DORA 023/24	DORA 2022/23	DORA 2021/22
Total Sharable (billion)	2,835.04	2,948.1	2,571.2	2,141.0	1,775.0
County Equitable Share (billion)	405.1	391.1	385.4	370.0	370.0
Debt servicing Share in million (DoRB 2025, 2024)	1,606.42	1,352.61	1,187.78	930.35	1,174.01

Clause	Submission	Recommendation

Debt Service in million (Annual Public Debt report 2023-2024)			1,557,122	1,199,436	917,778		780,628
Deviation from the figures in the annual public debt report			-369,338	-269,082	256,235		49.28

Source: DORA 2020/21- 2024/25 & Annual Public Debt report 2023-24

The increasing public debt burden raises concerns about fiscal sustainability, as debt servicing costs continue to consume a significant portion of government revenue, showing that the upward trend in debt repayment limits fiscal space for development programs.

We also note that the figures provided in the latest annual public debt report of 2023-2024 conflict with those provided in the Division of Revenue Bills 2025 and 2024. In case the actual figures are higher than those in the DORB 2025, then it means that the Counties' share will be less, as public debt is a non-discretionary payment.

General Submissions:

1. The Finance and Planning Committee must demonstrate the responsiveness of the DORB to the recent gazette notice from the IGRTC delineating functions of national county governments. The Committee should compel the National Treasury to provide an explanation of how this DOR framework aligns with and supports the enhanced

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devolution of functions, particularly in light of the IGTRC notice delineating the roles of county and national governments.[1]

2. We recommend an increased allocation to counties within the DOR framework, especially in the face of recent national level legislation across sectors that places greater administrative, or service delivery demands on county governments. The fiscal framework for FY 2025/26 and the Medium-Term indicates a projected decline in the proportion of expenditure allocated to counties, dropping from 10.4% to 9.3% of the total projected expenditure. However, recent reforms in the health sector include the Social Health Insurance Act, the Digital Health Act, Facility Improvement Financing Act and the Primary Health Care Act, which all assign counties new administrative roles e.g. the establishment of data banks, hiring of accountants at facilities among other roles.

3. We further contend that to create fiscal space for more allocations to counties through the equitable share, the Committee can compel the National Treasury to expedite ongoing reforms in State Corporations that duplicate county functions. For example, annual allocations to the Regional Development Authorities could be diverted to Counties through the equitable share, given that many of these authorities play a duplicative role to county governments in the WASH sector, as identified by IGTRC.

4. We further recommend the Finance and Planning Committee to:
    a. Strengthen intergovernmental fiscal relations to ensure both levels of government collaborate effectively in revenue allocation and utilization.
    b. Enhance financial oversight and accountability in both National and County governments to minimize waste and inefficiencies by arresting and prosecuting officers that pilfer public resources.
    c. Promote fiscal discipline by ensuring revenue projections align with realistic economic assumptions and past performance.
    d. Enhance public participation in budget processes to enhance transparency and responsiveness to citizen needs.

[1] GAZETTE NOTICE NO. 16472 https://igrtc.go.ke/Downloads

REPUBLIC OF KENYA

COUNTY ASSEMBLIES FORUM (CAF)

Flamingo Towers, 5th Floor Wing B, Mara Road, Upper Hill P.o Box 73552- 00200 Nairobi Kenya Tel: 0701 046 933
Email:communication@countyassembliesforum.org www.countyassembliesforum.org

MEMORANDUM TO THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGETON ON THE DIVISION OF REVENUE BILL, 2025

TO: Mr. Jeremiah Nyegenye, CBS, Clerk of the Senate, Parliament of Kenya.

FROM: The County Assemblies Forum.

DATE: 24TH APRIL, 2025

1.0 Introduction

1.1.1 The County Assemblies Forum [CAF] is the coordinating body of the 47 County Assemblies in Kenya. CAF seeks to institutionalize the law making, representation and oversight capacities for the County Assemblies in Kenya and form linkages with other arms of government. The primary mandate of CAF is to promote networking and synergy amongst the 47 Assemblies, coordinate intergovernmental relations and enhance good practice in legislative development.

1.1.2 This memorandum presents CAF's position on the proposed equitable share revenue for the county governments for the FY 2025/2026 and sets forth reasoned and evidence-based recommendations to guide deliberations on the Division of Revenue Bill, 2025.

2.0 Background

2.1.1 The Division of Revenue Bill, 2025 proposes the allocation of equitable share to county governments as follows:

Expenditure Item	CRA (Billion)	National Treasury (Billion)	Variance (Billion)
1. Equitable Revenue Share in FY 2024/25	387.425	387.425	0
Add:			
2. Increase in Revenue Allocation	30.000	17.644	12.366
TOTAL EQUITABLE SHARE OF REVENUE	417.425	405.069	12.366

Source: National Treasury

2.1.1 **Commission on Revenue Allocation (CRA) recommendation: Ksh.417.4 billion**

2.1.2 **National Treasury proposal: KShs.405.1 billion**

2.1.3 County Assemblies Forum (CAF) position: Ksh.450 billion

2.1.4 While both the CRA and National Treasury agree on maintaining the FY 2024/25 baseline of Ksh.387.425 billion, they differ on the increment for FY 2025/26. CRA proposes an additional Ksh.30 billion, while the National Treasury proposes a lower increment of Ksh.17.644 billion, creating a variance of Ksh.12.366 billion between the two recommendations.

2.1.5 CAF proposes an enhanced equitable share of **Ksh.450 billion**, on the basis that this allocation is more reflective of the realities on the ground and the increasing obligations of county governments.

3.0 CAF Position on the Division of Revenue Bill, 2025

3.1 CAF proposes an **equitable share of Ksh.450 billion** to County Governments for the Financial Year 2025/26. This figure is based on a realistic assessment of current county-level obligations, inflationary pressures, the need to anchor new devolved functions, and the necessity of safeguarding constitutional principles of devolution and equity.

4.0 Justification for CAF's Proposal of Ksh.450 billion

4.1.1 Escalating Non-Discretionary Expenditure at the County Level

4.1.2 Counties are increasingly facing high non-discretionary expenditure, including the Housing Levy, employer contributions to the Social Health Insurance Fund (SHIF), the rollout of Universal Health Coverage (UHC), and statutory salary increments. These obligations are legally binding and cannot be deferred, yet they are not fully provided for under the National Treasury's Ksh.405.1 billion proposals. An allocation of Ksh.450 billion will provide counties with the fiscal space to honour these obligations without sacrificing service delivery or development spending.

4.1.3 Strengthening Oversight, Legislation, and Representation Functions of County Assemblies

4.1.4 County Assemblies continue to be underfunded, hindering their ability to carry out their legislative, representative, and oversight mandates effectively. The proposed **Ksh.450 billion** allocation allows for strengthening the institutional capacity of County Assemblies, including the work of Public Accounts Committees (PAC) and Public Investments Committees (PIC), which are essential for fiscal accountability and safeguarding public funds at the county level.

4.1.5 Inflationary and Economic Pressures on County Budgets

4.1.6 Economic assumptions by the National Treasury project a 5.3% GDP growth and inflation within the 5±2.5% band. However, the cost of implementing county functions especially healthcare, agriculture, and early childhood education has significantly increased due to inflation, rising energy costs, and currency depreciation. A static or marginally increased allocation, such as the one proposed by the National Treasury, fails to account for these economic realities. A Ksh.450 billion allocation accommodates inflation and allows counties to maintain, if not improve, current service levels.

4.1.7 Alignment with the Principles of Article 203 of the Constitution

4.1.8 Article 203(1)(d) of the Constitution requires that revenue allocation take into account the fiscal capacity and efficiency of county governments. Further, Article 203(2) mandates a minimum of 15% of the latest audited and approved national revenue to be allocated to counties. The proposed Ksh.450 billion represents approximately 28.5% of the last approved revenue, thereby aligning with both the spirit and letter of Article 203 by ensuring counties are predictably and adequately resourced in light of their growing responsibilities.

4.1.9 Realizing the Gains of Devolution and Supporting County Development Agendas

4.1.10 Devolution has demonstrably improved access to public services. However, to sustain and deepen these gains, counties need increased resources to complete stalled development projects, improve health facilities, and fund county-led economic development priorities, including County Aggregated Industrial Parks and youth empowerment programs. CAF's proposal is aimed at catalysing grassroots transformation and reducing fiscal dependency through targeted and productive spending.

4.1.11 Pending bills

4.1. CAF's Recommendations to the Committee

4.2. **Approve Ksh.450 billion to Empower Counties for Sustainable Growth.** We urge the Committee to approve the Ksh.450 billion, a figure which reflects the growing fiscal needs of counties and ensures they can meet their obligations without compromising service delivery.

4.3. **Secure Adequate Resources for development.** CAF advocates for the Ksh.450 billion allocation to enable counties complete the stalled projects, expand industrial parks, and invest in youth and women empowerment, hence accelerating the impact of devolution.

4.4. **Align the allocation with the Constitutional Mandate.** CAF calls for the approval of Ksh.450 billion to ensure compliance with Article 203 of the Constitution, which mandates equitable resource distribution based on the fiscal capacity of the counties.

4.5. **Cushion Counties Against Economic Strains.** CAF urges the Committee to approve the Ksh.450 billion to help counties navigate fluctuating energy/fuel costs, currency fluctuations, fluctuating inflation rates, by ensuring that they continue providing essential services without extreme financial constraints.

5.0 Conclusion and Asks

5.1.1 In light of the above, CAF respectfully urges the Senate Standing Committee on Finance and Budget to:

5.1.2 Reject the National Treasury's proposal of Ksh.405.1 billion on grounds of fiscal insufficiency.

5.1.3 Consider but improve upon the CRA's recommendation of Ksh.417.4 billion by aligning with actual county financial obligations.

5.1.4 Adopt CAF's proposal of Ksh.450 billion as the equitable share for counties in FY 2025/26 to guarantee sustained service delivery, institutional capacity strengthening, and the consolidation of devolution gains.

5.1.5 We thank the Committee for its continued support for devolution and reaffirm CAF's commitment to working collaboratively with all national stakeholders to ensure counties are adequately and equitably funded.

6.0 DORA since devolution

Summary/Highlights

6.1.1 FY 2013/14 had the lowest allocation of 190 billion.

6.1.2 FY 2024/25 had the highest allocation at 387.43 billion.

6.1.3 In terms of percentages, the allocation for FY 2014/15 had the highest at 43% though with inclusion of other allocations including equalization funds to counties.

6.1.4 Allocation for FY 2023/24 in terms of percentage was the lowest since devolution with 23.03%.

6.1.5 Generally, the allocations to counties have been fluctuating since devolution in terms of percentages.

6.1.6 Currently, the audited and approved accounts by the Parliament that is being used to divide this revenue is for the **FY 2020/21** with total amount of **1.57 trillion.**

6.1.7 Summary of DORA Since Devolution

No.	Financial Year	Allocation in billions	Percentage %	Comments
1.	2013/2014	190 B	27.9	Equitable shareable revenue only
2.	2014/2015	226B	43	This was total allocations to counties including equalisation fund
3.	2015/2016	259.77	33	Equitable shareable revenue only
4.	2016/2017	280.3	30	Equitable shareable revenue only
5.	2017/2018	302	32.28	Equitable shareable revenue only
6.	2018/19	314	33.6	Equitable shareable revenue only
7.	2019/2020	316.5	30.49	Equitable shareable revenue only
8.	2020/21	316.5	23.31	Equitable shareable revenue only

9.	2021/22	370	27.3	Equitable shareable revenue only
10	2022/23	370	26.17	Equitable shareable revenue only
11	2023/24	385.43	23.03	Equitable shareable revenue only
12	2024/25	387.43	24.67	Equitable shareable revenue only
13	2025/2026	405	25.4	Equitable share as proposed by National Treasury

Yours sincerely,

HON. SETH KAMANZA,

CHAIRPERSON, LEGAL AFFAIRS SUB-COMMITTEE

Tel: 254 (20) 4298000
Email: info@cra.go.ke
Website: www.crakenya.org

Prism Towers
3rd Ngong Avenue
28th Floor
P.O. BOX 1310 – 00200
NAIROBI

COMMISSION ON REVENUE ALLOCATION

REF: CRA/ADM/SEN/BPS/02 Vol.III (115) **DATE:** 29th April 2025

J.M.Nyegenye, CBS
Clerk of the Senate
Parliament Buildings
P.O Box 41842-00100
NAIROBI

Dear Nyegenye,

INVITATION TO A MEETING TO SUBMIT VIEWS ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO 10 OF 2025)

The Commission acknowledges receipt of your letter reference number SEN/DSEC/F&B/2025/043 (c) dated 22nd April, 2025 inviting the Commission to a meeting to submit views on the Division of Revenue Bill,2025 (National Assembly Bill no. 10 of 2025.

The Commission has reviewed the Bill and wishes to submit a memorandum with the comments attached herein as Appendix I. The Commissions also confirms its attendance to a meeting of the Standing Committee on Finance and Budget on 6th May, 2025 to submit and discuss the views.

Thank you for your continued cooperation.

Yours sincerely,

for: CPA. Roble Nuno
Ag. COMMISSION SECRETARY/CEO

ENCL.

Appendix I

Promoting an Equitable Society

MEMORANDUM ON THE DIVISION OF REVENUE BILL 2025

No.	Provision of the Bill	Issue	Proposal	Justification
1.	Section 3: Object and purpose of the Act.	-The Bill provides the object and purpose of the Act is to provide for the equitable sharing of revenue raised nationally among the national and county governments in the financial year 2025/26 in accordance with Article 203(2) of the Constitution.	-The correct reference of the sharing of revenue among the national and county governments is in accordance with Article 202(1).	-Article 203 provides the criteria for the sharing of revenue subject to 202(1).
2.	Schedule S.4: Allocation of revenue raised nationally between the national and county governments for the FY 2025/26	-Decline in the equitable share allocation to the county government from 10.4 percent to 9.3 percent and an increase in the allocation to the national executive from 56.7 percent to 57.5 percent*(see Table 1 below).	-The Commission in its FY 2025/26 vertical recommendation, recommended that the national government be allocated Ksh. 2,409.75, and county governments Ksh. 417.4 billion as equitable shares for the financial year 2025/26.	-The decline in the share of allocations to the county government has a negative impact in the ability of governments to improve on service delivery to the citizens and this amounts to a claw back on the objects of devolution. -County governments have conditional financial obligations that were meant to commence in financial year 2024/25. However, due to the downward revision of projected ordinary revenue for the financial year 2024/25, implementation of specific

No.	Provision of the Bill	Issue	Proposal	Justification
				programmes and projects estimated at Ksh.25.03 billion have not been fully financed.
3.	Table 2: Evaluation of the Bill against Article 203(1) of the Constitution *Row A: National interest*	-The Bill presents items of national interest as being synonymous to national government priorities.	-The national interests can be implemented by either level of government based on the law of subsidiarity.	-The provision to allocate 47 county governments an additional Ksh. 17.6 billion for FY 2025/26 does not amount to equity in the sharing of nationally raised revenues.
4.	Table 2: Evaluation of the Bill against Article 203(1) of the Constitution *Row D: Other statutory allocations*	The Bill presents other statutory allocations namely NG-CDF and Affirmative Action Fund as deductions to be made before arriving at the shareable revenue .	The NG-CDF and Affirmative action Funds are not part of items in Article 203 to be considered before arriving at the shareable revenue. The allocation into the two Funds are made from the national government's equitable share of revenue.	-Section 4 (1)(a) of the NG-CDF Act, 2015 established the NG-CDF Fund consisting of an amount not less than 2.5% of the national government's equitable share of revenue. -Legal Notice No.52 of the Public Finance Management Act,2012 (National Government Affirmative Action Fund), Regulation 2016 established the national government affirmative action as an allocation from the national government's equitable share of revenue.
4.	Table 2: Evaluation of the Bill against Article 203(1) of the Constitution *Row G: Balance to be shared by the two levels of government*	-The Bill provides that after considering all the mandatory expenditures under Article 203(1) of the Constitution, the balance left for sharing between the two levels of government is Ksh 353.4 billion (row G) and the balance left for the national government is Ksh. (64,522) (row H)	-The national interest and obligation are implemented under the national level of government.	-It is not entirely factual to state that the national government is always left with a negative balance. The Constitution established only two levels of government.
5.	No 21 of the explanatory notes of the Bill	-The paragraph in this Section makes mention of the Third Basis	-The Third Basis as approved by Parliament in September 2020 was to be used for 5	-The Commission has developed and submitted its recommendation on the Fourth

No.	Provision of the Bill	Issue	Proposal	Justification
		Formula as applicable from financial year 2020/21 to 2025/26.	financial years: 2020/21 to 2024/25. -Parliament need to provide guidance on the Basis which will be used for sharing revenue among the county governments from the financial year 2025/26.	Basis for sharing revenue among county governments to Parliament for consideration.
6.	No 29 of the explanatory notes of the Bill	The explanatory notes in 29(i) provides that in arriving at the respective revenue shares, the National Treasury considered that the Equalisation Fund arrears of Ksh.2.7 billion will be financed from the national government's equitable share.	-The financing of Equalisation Fund arrears amounting to Ksh. 2.7 billion is not enough justification against further increasing the county government's equitable share.	-Article 204(1) of the Constitution provides the Equalisation Fund as a special purpose Fund into which one half per cent of all revenue collected by the national government each year shall be paid.

Table 1: Summary of Budget Allocations (Ref Table 3.1 / Page 55 -2025 BPS)

	Allocation	2024/25	2025/26
1	National Government	58.3	59.1
	Of Which: a) Executive b) Parliament c) Judiciary	 56.7 1.0 0.6	 57.5 1.0 0.6
2	CFS	31.3	31.6
3	County Governments	10.4	9.3

CFS:(Foreign and Domestic Debt, Pension and Salaries for state officers)

0 2 MAY 2025

28th April 2025

3 0 APR 2025

To

The Clerk,

The Senate,

P.O. Box 41842-00100,

Nairobi.

THE SENATE RECEIVED

3 0 APR 2025

DEPUTY CLERK

(1) DSFC DLG

kindly deal

EP 02/05/2025

Dear Sir,

(2) Mr. Gitonga kindly deal 02/05/25

RE: SUBMISSION OF MEMORANDUM ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 10 OF 2025)

The Coast Civil Society Network for Human Rights is a broad coalition of civil society organizations, religious institutions and all institutions working to enhance human rights and good governance at the Coast.

The Network has particularly taken note of the fact that the Division of Revenue Bill 2025, proposes to allocate Kshs. 405.1 billion to Counties. The Commission on revenue allocation on the other hand, having considered all factors, recommended allocation of Kshs. 417.4 billion[1]. Following the call by the Senate for members of the public to submit memoranda on the Division of Revenue Bill, 2025 (National Assembly Bill No. 10 of 2025) by the 29th April 2025, please find below our proposals:

Constitutional Basis for the Division of Revenue

Article 203 (2) of the Constitution of Kenya 2010 states that the equitable share to county governments is to be determined annually from the revenue raised nationally and that it shall not be less than fifteen percent (15%) of all revenue collected by the national government. Article 203(3) in particular states that the equitable share is calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

On account of information in the public, the National Treasury projects that in the FY 2025/2026, the ordinary revenue collected Nationally to Kshs. 2.84 trillion. The National

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[1] Clause 27 of the Explanatory Memorandum to Division of Revenue Bill, 2025

Assembly has allocated Kshs. 405.1 billion to counties. This is 14.26 percent of the amount expected to be collected nationally. This contravenes article 203(2) of the constitution.

Further, we are concerned that while the latest audited accounts of revenue by the Office of the Auditor General is for the 2023/24 Financial Year, the audited revenue of accounts that was used as the basis for the Division of Revenue bill 2025 is for the 2020/21 Financial Year. The total ordinary revenue for the 2023/24[2] Financial Year according to the Kenya Revenue Authority is Kshs. 2.407 trillion[3]. In the case we used as the latest audited accounts as the basis for Division of Revenue, at the current proportion of 25.79%, counties should receive at least Kshs. 620.705 billion in the subject financial year. This consideration is important because of the following reasons:

a. The revenue share to the counties have been gradually reducing compared to the amount allocated to National Governments since 2017/2017 FY.
b. The controller of budget and the public accounts committee have cited counties to be operating with less development vote, this is the opportune moment for the Senate to correct this anomaly.
c. The National government already devolved further duties to counties in the FY 2023/2024 like library services. Thus, the roles under counties have increased and deserve more allocations.

We further, are concerned by National Assemblies rejection of recommendations of Commission on Revenue Allocation (CRA) which is the public body that is constitutionally mandated under Article 216(1) (a) of the Constitution to make recommendations on the basis for equitable sharing of revenue between the two levels of government. The CRA proposed Kshs.417.4 billion[4] as the equitable share to the county governments for current financial year. This rejection is not premised on any reason laid down by the National Assembly and treasury.

The Place of equalisation Fund: Under the explanatory notes to the memorandum of objects, it is spelt out that the amount due for equilisation funds shall be provided through National Government. Pursuant to article 204 of the Constitution of Kenya, Equalisation Fund is established to prop up marginalized areas by facilitating provision of services including water, roads, health facilities and electricity. Article 204 (3) (b) allows the National Government to provide conditional grants in facilitating the role of Equilisation Fund. Pursuant to schedule 4 of the Constitution, the roles enlisted under the service of the fund are responsibilities of the counties. Thus, all amounts allocated through the National Government should be allocated as grants to the counties and performed by the counties.

Delay in Transfer of Functions to County Governments

2 https://www.oagkenya.go.ke/wp-content/uploads/2024/06/AUDITOR-GENERALS-SUMMARY-REPORT-ON-NATIONAL-GOVERNMENT-2022-2023-with-cover.pdf

3 ARP - 8072024 – KRA Page on revenue performance 2023/2024.

4 Commission on Revenue Allocation (2025). Recommendation on the basis for equitable sharing of revenue between national and county governments for the financial year 2025/2026.

MEMORANDUM ON THE DIVISION OF REVENUE BILL 2025 (NATIONAL ASSEMBLY BILL NO. 10 OF 2025)
PRESENTED TO THE SENATE
BY THE KENYA DEVOLUTION CIVIL SOCIETY ORGANIZATIONS' WORKING GROUP

Date of Submission: 29th April, 2025

THE SENATE
RECEIVED
30 APR 2025
DEPUTY CLERK

SENATE CLERK'S OFFICE
RECEIVED
30 APR 2025
P.O. BOX 41842 - 00100, NAIROBI

To
The Clerk,
The Senate,
P.O. Box 41842-00100,
Nairobi.

Dear Sir,

RE: SUBMISSION OF MEMORANDUM ON THE DIVISION OF REVENUE BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 10 OF 2025)

Kenya Devolution Civil Society Organizations (CSOs) Working Group (KDCWG) is a national umbrella forum of the Kenyan civil society networks across the 47 counties with a focus on strengthening devolution. The forum provides the civil society and Kenyan citizens with a common platform for collective participation in the implementation of devolution and for learning and sharing of experience. The objective of the KDCWG is to contribute to the effectiveness of devolution in Kenya for the realization of the constitutional promise on devolved governance.

The KDCWG has particularly taken note of the fact that the Division of Revenue Bill 2025, proposes to allocate Kshs. 405.1 billion to Counties. The Commission on Revenue Allocation on the other hand, having considered all factors, recommended allocation of Kshs. 417.4 billion[1]. Following the call by the Senate for members of the public to submit memoranda on the Division of Revenue Bill, 2025 (National Assembly Bill No. 10 of 2025) by the 29th April 2025, please find below our proposals:

Constitutional Basis for the Division of Revenue

Article 203 (2) of the Constitution of Kenya 2010 states that the equitable share to county governments is to be determined annually from the revenue raised nationally and that it shall not be less than fifteen percent (15%) of all revenue collected by the national government. Article 203(3) in particular states that the equitable share is calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

On account of information in the public, the National Treasury projects that in the FY 2025/2026, the ordinary revenue collected Nationally to be Kshs. 2.84 trillion. The Division of Revenue Bill has allocated

[1] Clause 27 of the Explanatory Memorandum to Division of Revenue Bill, 2025

(1) DLC DSFC
Kindly deal
02/05/2025

(2) Mr. Gitonga
Kindly deal
02/05/25

Kshs. 405.1 billion to counties. This is 14.26 percent of the amount expected to be collected nationally. This contravenes article 203(2) of the constitution.

Further, we are concerned that while the latest audited accounts of revenue by the Office of the Auditor General is for the 2023/24 Financial Year, the audited revenue of accounts that was used as the basis for the Division of Revenue bill 2025 is for the 2020/21 Financial Year. The total ordinary revenue for the 2023/24[2] Financial Year according to the Kenya Revenue Authority is Kshs. 2.407 trillion[3]. In the case we used as the latest audited accounts as the basis for Division of Revenue, at the current proportion of 25.79%, counties should receive at least Kshs. 620.705 billion in the subject financial year. This consideration is important because of the following reasons:

a. The revenue share to the counties have been gradually reducing compared to the amount allocated to National Governments since 2017/2017 FY.
b. The Office of the Controller of Budget and the Public Accounts Committee have cited counties to be operating with less development vote, this is the opportune moment for the Senate to correct this anomaly.
c. The National government already devolved further duties to counties in the FY 2023/2024 like library services. Thus, the roles under counties have increased and deserve more allocations.

We further, are concerned by National Assembly's rejection of recommendations of Commission on Revenue Allocation (CRA) which is the public body that is constitutionally mandated under Article 216(1) (a) of the Constitution to make recommendations on the basis for equitable sharing of revenue between the two levels of government. The CRA proposed Kshs.417.4 billion[4] as the equitable share to the county governments for current financial year. This rejection is not premised on any reason laid down by the National Assembly and the National Treasury.

The Place of equalization Fund: Under the explanatory notes to the memorandum of objects, it is spelt out that the amount due for equalization funds shall be provided through National Government. Pursuant to article 204 of the Constitution of Kenya, Equalization Fund is established to prop up marginalized areas by facilitating provision of services including water, roads, health facilities and electricity. Article 204 (3) (b) allows the National Government to provide conditional grants in facilitating the role of Equalization Fund. Pursuant to schedule 4 of the Constitution, the roles enlisted under the service of the fund are responsibilities of the counties. Thus, all amounts allocated through the National Government should be allocated as grants to the counties and performed by the counties.

Delay in Transfer of Functions to County Governments

The Fourth Schedule of the Constitution of Kenya assigns roles to the national and county governments. Since 2013 to date however, the national government has continued to perform diverse functions of the county governments and also retained the related resources. The functions include the functions of

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2 https://www.oagkenya.go.ke/wp-content/uploads/2024/06/AUDITOR-GENERALS-SUMMARY-REPORT-ON-NATIONAL-GOVERNMENT-2022-2023-with-cover.pdf

3 ARP - 8072024 – KRA Page on revenue performance 2023/2024.

4 Commission on Revenue Allocation (2025). Recommendation on the basis for equitable sharing of revenue between national and county governments for the financial year 2025/2026.

Regional Development Authorities[5], urban roads, procurement of medical supplies, employment of health workers and procurement and sale of fertilizers. As a result, county governments have not functioned optimally and have struggled to deliver quality services being demanded by the citizens.

We are concerned that despite the President's assertion[6] that all financial resources be calculated and allocated to Counties in the FY 2025/2025, the same does not reflect on the current Division of Revenue Bill.

The actual position is that the National Government spends on the basis of taxes raised in the FY **2025/2026**, according to the projections while the counties shall be operating on the basis of the collections done in FY **2020/2021**, when we were tied to covid 19, and 4 years apart. In actual sense, the amount allocated to the counties falls short of the minimum 15 percent constitutional threshold when considered alongside the projections of 2025/2026.

We therefore recommend that the Senate make reference to the reports from IGRTC, presented to it on 23rd August 2023 and adjust the current allocated figure by allocating further Kshs. 272.2 billion which is the cost of several elements of devolved functions being held by the by the National Government.

In the case the Senate plays it role of protecting the interests of counties, counties should get the Kshs. 405.1 billion and further Kshs. 272.2 billion which adds to at least Kshs. 677.3 billion.

Delays in Disbursement of Equitable Share to County Governments

Service delivery and performance of the county governments have regularly been affected by persistent delays in transfer of the equitable share of the revenue collected nationally to the devolved units. Section 17(6) of the Public Finance Management Act (2012) places on the National Treasury the responsibility to release to county governments at the beginning of every month and not later than the fifteenth day from the commencement of the month, to facilitate expenditure for the following month. For instance, according to the Council of Governors, county governments have received their disbursements only up to February 2025, yet we are approaching end of FY 2024/2025.

We are concerned by the persistent delays of disbursements over the years, which contravenes Article 219 of the Constitution, which provides that a county share of revenue raised nationally shall be transferred to the county without undue delay and without deduction. It is appalling that the Senate has not taken action to resolve this challenge even though the sectors have been raising this concern on every opportune moment.

New Funds introduced with the roles under Counties: the Division of Revenue Bill should consider the Housing Levy and the Social Health Insurance Fund. The two streams have introduced huge revenue to the National Government yet the functions housing and health are county functions.

The authorities Include Kerio Valley Development Authority, Tana and Athi Rivers Development Authority, Lake Basin Development Authority, Ewaso Nyiro South Development and Coast Development Authority.

[6] NATIONAL GOVERNMENT TO TRANSFER REMAINING COUNTY ROLES, PRESIDENT RUTO – The Official Website of the President of the Republic of Kenya

Under the Explanatory Memorandum to the Division of Revenue, it is indicated that public debt is a factor considered in allocating the finances to counties. The notes further state that the National Treasury and the National Assembly considered National Interest. The Senate should consider addressing the two concerns. Seemingly, **the ballooning public debt will affect the counties negatively yet the counties are never consulted in their acquisition**. In the same vein, the National interest ought to be understood in the context that, it can be addressed both at national and county level. Thus, allocations intended for addressing National interests should be broken down and addressed even at counties.

Finally, under **section 3 of the Division of Revenue Bill**, the object of the bill is premised on article 202 (1), and not the 203(2), which is a principle that should guide the bill.

Our Key Asks:

1) **The Senate should propose allocation of at least Kshs. 677 billion considering all the functions earmarked to be devolved to counties by Intergovernmental Relations Committee, and in the very least Kshs. 426 billion on account of 15 percent of the amount projected for ordinary revenue by National Treasury.**
2) The Senate should institute legal mechanisms to ensure that all the devolved functions are fully costed and transferred to the county governments in the current financial year together with the budgetary allocations for each of the functions.
3) The Senate should put in place effective mechanisms to compel the National Treasury to ensure that the equitable share of the county governments as stipulated in Article 203(3) of the Constitution is transferred to county governments strictly in line with the provisions of Section 17(6) of the Public Finance Management Act.
4) The Senate should institute legal and political mechanisms to ensure that the National Assembly approves the audited revenue of accounts expeditiously and as a matter of priority within the financial year they are tabled in Parliament. The legal mechanisms the Senate should put in place should among others provide that in the event that the National Assembly fails to approve any audited report after submission to the house for six months, then the report shall automatically be considered approved by the National Assembly and apply as the basis for the division of revenue.
5) The Senate should ensure the passing of the Bill on Equalization fund and consider the place of the counties in ensuring equity by using the fund.

This memorandum is a compilation of inputs from members of the KDCWG General Assembly, which draws membership from CSO networks across the 47 counties in Kenya; and has been approved by members of the KDCWG Steering Committee, listed in the annexure.

Evans Kibet Boss
Convenor, Kenya Devolution CSOs Working Group

Approved by the Steering Committee members on behalf of the KDCWG

No	Name	Region
01	Evans Kibet Boss	North Rift Regional Economic Bloc
02	Benedine Kipruto	North Rift Region Economic Bloc
03	Michael Mburu	Central Region Economic Bloc
04	Sherry Muthaura	Central Region Economic Bloc
05	Abdi Billow	Northern Frontier Council Counties
06	Nuria Gollo	Northern Frontier Council Counties
07	Chris Owalla	Lake Region Economic Bloc
08	Fridah Jausiku	Lake Region Economic Bloc
09	Malusha Abedi	Jumuia ya Kaunti za Pwani
10	Jacinta Mbeyu	Jumuia ya Kaunti za Pwani
11	Jacob Ngumi	South Eastern Kenya Economic Bloc
12	Faith Kiema	South Eastern Kenya Economic Bloc
13	James Kainkei	Narok Kajiado Economic Bloc
14	Juliana Rono	Narok Kajiado Economic Bloc
15	Diana Gichengo	Nairobi City County
16	Cornelius Oduor	Nairobi City County
17	Halima Sharif	PWD Representative

For further information, please contact:

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Or

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Annex 4- Public Advert

REPUBLIC OF KENYA

HARAMBEE

THIRTEENTH PARLIAMENT | FOURTH SESSION

THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

The Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025)
The Public Audit (Amendment) Bill, 2024 (National Assembly Bills No. 4 of 2024)

The Division of Revenue Bill, 2025 (National Assembly Bills No.10 of 2025) and the Public Audit (Amendment) Bill, 2024 (National Assembly Bills No.4 of 2024) were read a First Time in the Senate on Wednesday, 16th April, 2025 and Thursday, 20th March, 2025 respectively. Thereafter, the Bills stood committed to the Standing Committee on Finance and Budget for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bills and to take into account the views and recommendations of the public when the Committee makes its report on the Bills to the Senate.

The Division of Revenue Bill, 2025 (National Assembly Bills No.10 of 2025) provides for equitable division of revenue raised nationally between the national and county governments in Financial Year 2025/2026. The proposed shareable revenue is Ksh.2,835,040,979,609 to be allocated as follows-

a) the National Government to be allocated Ksh. 2,419,382,005,336;
b) the County Governments to be allocated Ksh. 405,069,420,197; and
c) the Equalization fund to be allocated Ksh. 10,589,554,076.

The Public Audit (Amendment) Bill, 2024 (National Assembly Bills No.4 of 2024) seeks to amend the Public Audit Act Cap. 412B, to clarify on the administrative powers of the Auditor-General and provide for the powers of the Auditor-General with respect to initiating and undertaking forensic audits. The Bill further seeks to provide for the establishment of a Public Audit Fund, to clarify the steps involved in the process of auditing a public entity and to provide for actions to be taken by accounting officers on the recommendations made by the Auditor-General after debate and consideration of audit reports by Parliament or a County Assembly.

In accordance with the provisions of Article 118(1)(b) of the Constitution and standing order 145(5) of the Senate Standing Orders, the Standing Committee on Finance and Budget now invites interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to clerk.senate@parliament.go.ke and copied to financebudgetcomm.senate@parliament.go.ke to be received on or before **Tuesday, 29th April, 2025 at 5.00 p.m**.

The Bills and the digests that summarize the contents and context of the Bills may be accessed on the Parliament website at http://www.parliament.go.ke/the-senate/house-business/bills.

J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.