

PARLIAMENT
OF KENYA
LIBRARY


Approved
SNA
21/3/23.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION -2023
SELECT COMMITTEE ON BUDGET AND APPROPRIATIONS

REPORT ON THE DIVISION OF REVENUE BILL, (NATIONAL ASSEMBLY
BILL NO. 9 OF 2023)

 THE NATIONAL ASSEMBLY PAPERS LAYD	
DATE: 21 MAR 2023	DAY: TUE
TABLED BY:	HON. NDINDI NYORO (CHAIRMAN)
CLERK AT THE TABLE:	B. INZOFA

The Clerk's Chambers
Parliament Buildings
NAIROBI

MARCH 2023

TABLE OF CONTENTS

1.0 CHAIRPERSON’S FOREWORD 2

 1.1. Key Recommendations 2

 1.2. Acknowledgements 3

2.0. PREFACE..... 4

 2.1. Establishment and Mandate of the Committee 4

 2.2. Membership of the Committee 4

 2.3. Committee Secretariat 5

 2.4. Technical Staff from Parliamentary Budget Office 5

3.0 REVIEW OF THE 2023 DIVISION OF REVENUE BILL..... 5

 3.1. Background..... 5

 3.2. Highlights of the Division of Revenue Bill, 2023 5

 3.3. Commission of Revenue Allocation (CRA) recommendation on County Equitable Share..... 7

 3.4. Senate Recommendation on County Equitable Share..... 8

4.0. KEY OBSERVATIONS 8

5.0 RECOMMENDATIONS 9

1.0 CHAIRPERSON'S FOREWORD

The Budget and Appropriations Committee is a select Committee established under Article 221 (4 and 5) of the Constitution, section 7 of the Public Finance Management Act, 2012 and standing order 207. The Committee is mandated to take the lead in budgetary oversight by the National Assembly.

The Division of Revenue Bill (National Assembly Bill No. 9 of 2023) was read for the first time in the National Assembly during the afternoon sitting of Tuesday 21st, March 2023. Pursuant to standing order 127(2), the Bill was committed to the Budget and Appropriations Committee for review and recommendations. The Bill seeks to provide for sharing of revenue raised nationally between the national government and county governments for the financial year 2022/23 in accordance with Article 202, 203 and 218 of the Constitution.

To this end, the enactment of the Division of Revenue Bill, 2023 is critical in setting the stage for the preparation of the County Allocation of Revenue Bill, 2023, which will inform the completion of preparation of the annual budget estimates for the forty-seven (47) county governments. The spirit and letter of Article 224 of the Constitution requires that County Governments prepare and adopt their annual budgets and appropriations Bills based on the approved Division of Revenue Act. It is important therefore that we dispense with the approval and subsequent enactment of the Bill in a timely manner thus ensuring that the county budgeting process goes on undisrupted.

1.1. Key Recommendations

A. NON-FINANCIAL RECOMMENDATIONS

1. **THAT**, given that the latest audited accounts by the Auditor General and approved by the National Assembly relates to FY 2019/20, the Committee recommends that Public Accounts Committee to fast-track the legislative approval of audited accounts of revenue, in particular nationally raised revenue, to ensure timely equitable sharing of such revenue in line with Article 229(8) read together with Article 203(3) and Article 218 of the Constitution.
2. **THAT**, before the end of the current FY 2022/23, a multi-agency team comprising of the National Treasury, Controller of Budget, Council of County Governors and the Commission on Revenue Allocation be established to initiate and finalize a legislative mechanism to review the definition, coverage and application in relation to aspect of revenue as currently defined in the CRA Act of 2011. This will support the accurate/appropriate revenue amount to be used as a basis for determining allocation to the Equalization Fund pursuant to Article 204 of the Constitution.

3. THAT, for the FY 2024/25 and going forward, the National Treasury to ensure proposals on sharing of nationally raised revenue between the two (2) levels of Governments, and in response to CRA recommendations, should be based on an objective and verifiable criterion. This should be in line with provisions of Article 203 (1) (a) to (k) of the Constitution and other provisions which requires an objective basis in the vertical allocation of resources including any deviation from CRA's proposal on revenue sharing.

B. FINANCIAL RECOMMENDATIONS

Following extensive deliberations, the Committee recommends that this House approves the Division of Revenue Bill as follows:

A. Total Sharable Revenue	Ksh. 2,571,159,000,000
B. National Government	Ksh. 2,177,365,426,000
C. Equalization Fund	Ksh. 8,368,574,000
D. County Equitable Share	Ksh. 385,425,000,000

1.2. Acknowledgements

The Committee wishes to thank the Office of the Speaker, the Office of the Clerk of the National Assembly, and the Parliamentary Budget office for the support extended in fulfilling this mandate of reviewing the Division of Revenue Bill (National Assembly Bill No. 9 of 2023).

On behalf of the Committee and Pursuant to standing order 199(6) of the National Assembly, it is therefore my pleasant duty and privilege, to table this report on review on the Division of Revenue Bill (No. 9 of 2023) for consideration and approval by the House. Finally, the Committee recommends that this House approves the Division of Revenue Bill, 2023 to be read a second time.

SIGNED



HON. NDINDI NYORO, CBS, M.P.

CHAIRPERSON, THE BUDGET AND APPROPRIATIONS COMMITTEE

21-03-2023

DATE

Report on the The Division of Revenue Bill, 2023

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 21 MAR 2023	DAY: TUE
31 Page	
HON. NDINDI NYORO (CHAIRPERSON)	

2.0. PREFACE

2.1. Establishment and Mandate of the Committee

1. Article 221 (4) of the Constitution and Section 7 of the Public Finance Management Act, 2012 provide for the establishment of a Committee of the National Assembly whose main role is to take the lead in budgetary oversight by the National Assembly. Pursuant to this constitutional provision, Standing Order 207 establishes the Budget and Appropriations Committee with specific mandates as follows:

- i. Examine the Division of Revenue Bill
- ii. Investigate, inquire into and report on all matters relating to coordination, control and monitoring of the national budget;
- iii. Discuss and review the budget estimates and make recommendations to the House;
- iv. Examine the Budget Policy Statement presented to the House
- v. Examine bills related to the national budget including appropriation bills; and
- vi. Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.

2.2. Membership of the Committee

2. Pursuant to Standing Order 207(2), the Budget and Appropriations Committee as currently constituted comprises of the following Honourable Members:

NO.	MEMBER	CONSTITUENCY	PARTY
1	Hon. Ndindi, Nyoro, CBS, M.P.- Chairperson	Kiharu	UDA
2	Hon. Otucho, Mary Emaase, M.P.- Vice Chairperson	Teso South	UDA
3	Hon. Chumel, Samwel Moroto, M.P.	Kapenguria	UDA
4	Hon. Odhiambo, Millie Grace Akoth, M.P	Suba North	ODM
5	Hon. (Dr.) Mulu, Makali, M.P.	Kitui Central	WDM - K
6	Hon. Lekuton, Joseph, M.P.	Laisamis	UDM
7	Hon. Lesuuda, Josephine Naisula, OGW, M.P.	Samburu West	KANU
8	Hon. Robi, Mathias Nyamabe, M.P.	Kuria West	UDA
9	Hon. Ochieng, David Ouma, M.P.	Ugenya	MDG
10	Hon. Muchira, Michael Mwangi, M.P.	OI Jorok	UDA
11	Hon. Shinali, Bernard Masaka, M.P.	Ikolomani	ODM
12	Hon. Mwakuwona, Danson Mwashako, M.P.	Wundanyi	WDM - K
13	Hon. Atandi, Samuel Onunga, M.P.	Alego Usonga	ODM
14	Hon. Mwirigi, John Paul, M.P.	Igembe South	UDA
15	Hon. Mejjadonk, Benjamin Gathiru, M.P.	Embakasi Central	UDA

16	Hon. Wangaya, Christopher Aseka, M.P.	Khwisero	ODM
17	Hon. Wachira, Rahab Mukami, M.P.	Nyeri (CWR)	UDA
18	Hon. (Dr.) Masara, Peter Francis, M.P.	Suna West	ODM
19	Hon. Ongili, Babu Owino Paul, M.P.	Embakasi East	ODM
20	Hon. Wanjiku, John Njuguna, M.P.	Kiambaa	UDA
24	Hon. Guyo, Ali Wario, M.P.	Garsen	ODM
21	Hon. (Dr.) Murumba, John Chikati, M.P.	Tongaren	FORD-
23	Hon. Busia, Ruth Adhiambo Odinga, M.P.	Kisumu (CWR)	ODM
24	Hon. Kitilai, Ole Ntutu, M.P.	Narok South	Indepenc
25	Hon. Sergon, Flowrence Jematiah, M.P.	Baringo (CWR)	UDA
26	Hon. Mokaya, Nyakundi Japheth, M.P.	Kitutu Chache North	UDA
27	Hon. Abdirahman Mohamed Abdi, M.P.	Lafey	Jubilee

2.3 Committee Secretariat

3. The Committee Secretariat is comprised of the following:

- | | |
|------------------------|-----------------------------------------------------------------------------|
| 1. Mr. Danson Kachumbo | Fiscal Analyst/ Clerk of the Budget and Appropriations Committee |
| 2. Mr. Jibril Mohamud | Fiscal Analyst / Assistant Clerk of the Budget and Appropriations Committee |
| 3. Mr. Ringine Mutwiri | Fiscal Analyst |
| 4. Mr. Faith Makena | Sergeant-at-arms |
| 5. Mr. Nimrod Ochieng | Audio Officer |
| 6. Ms. Mercy Maiyende | Media Relations |
| 7. Mr. Jared Amara | Office Assistant |

2.4 Technical Staff from Parliamentary Budget Office

4. The Committee received technical support from the following officers from the Parliamentary Budget Office.

- | | |
|--------------------------|-------------------------------------------|
| 1. Dr. Martin Masinde | Ag. Director, Parliamentary Budget Office |
| 2. Mr. Fredrick Muthengi | Chief Fiscal Analyst, PBO |
| 3. Ms. Millicent Makina | Fiscal Analyst |
| 4. Dr. Abel Nyagwachi | Fiscal Analyst |
| 5. Mr. Cyrille Mutali | Fiscal Analyst III |
| 6. Ms. Loice Olesia | Fiscal Analyst III |

3.0 REVIEW OF THE 2023 DIVISION OF REVENUE BILL

3.1. Background

5. The Division of Revenue Bill (National Assembly Bill No. 9 of 2023) provides for the sharing of revenue raised nationally between the national government and county governments for the financial year 2023/24 in accordance with Article 202, 203 and 218 (2) of the Constitution.
6. The High Court Judgement (No. 3 of 2019) held that by the 30th April of any financial year, the Division of Revenue Bill ought to be introduced in Parliament simultaneously with the County Allocation of Revenue Bill.
7. The revenue shared is calculated based on the most recent audited accounts of revenue received, as approved by the National Assembly. This is distributed equitably between the two levels of government then shared among counties using the formula approved under Article 217 of the Constitution. In this case, the latest audited revenues approved by Parliament related to financial year 2019/20 and stood at Kshs. 1,673,714 million.
8. It is worth noting that the approved shareable revenue slightly varies from what was included in the 2023 Budget Policy Statement on account of the last approved audited accounts. It is indicated that the proposed equitable share allocation is 24.5 percent of the last audited accounts (Kshs. 1,573.42 billion for FY 2019/20).
9. Apart from the sharable revenue, the Bill also sets out the indicative amounts for the emergencies, National interest items, transfer of library services, other national obligations, conditional grants, and other allocations.

2.5 Highlights of the Division of Revenue Bill, 2023

10. The total shareable revenue for FY 2023/24 is estimated at Kshs 2,571,159 billion and is allocated as follows;

i. National Government	Kshs. 2,177,365 million
ii. County Equitable Share	Kshs 385,425 million
iii. Equalization Fund	Kshs 8, 368 million

11. Article 202 of the Constitution sets the indicative methodology for sharing of the nationally raised revenue among the national and county governments. The proposed Equitable Share for FY 2023/24 of Kshs. 385.4 billion is equivalent to 23.03 percent of the last approved

audited revenues worth Kshs. 1,673,714 million for FY 2019/20. Further, the proposed allocation in the Bill represents a growth of approximately 4 percent from the financial year of 2022/23 of Kshs. 370 billion. The growth of 4 percent is on account of Kshs. 15 billion from the baseline of Kshs. 370 billion due to adjustment to revenue growth; and an allocation of Kshs. 425 million towards transfer of library functions to the counties.

12. The following factors were taken into consideration in calculating the County Governments' equitable revenue share allocation for FY 2023/24;

- i. The proposed equitable share of Kshs. 385.425 billion in the FY 2023/24 is equivalent to 23.03 percent of the last audited accounts (Kshs. 1,673,714 million for FY 2019/20) and as approved by Parliament. The proposed allocation therefore meets the requirement of Article 203(2) of the Constitution;
- ii. High level of debt financing as well as elevated debt risk;
- iii. Financing constraints due to limited access to finance in the domestic and international financial markets. The National Treasury did not disburse Kshs. 29.6 billion to County Governments in the FY 2021/22 due to financial constraints;
- iv. The Government is also implementing a fiscal consolidation plan so as to lower the fiscal deficit and slow down debt accumulation. To reflect this fiscal tightening, the National Government recurrent ceiling growth has been restricted, declining from a growth of 10.3 percent in FY 2017/18 to 1.2 percent in FY 2023/24; and
- v. The fact that the National Government continues to solely bear shortfalls in revenue in any given financial year, while County Governments receive their full allocation despite the budget cuts affecting the National Government entities.

13. Article 203 (1) provides for the criteria to be considered in allocating sharable resources to the County governments in relation to matters of the national interest, which are reflected in the Bill as follows;

- a) *Enhancement of security operations;*
- b) *National Irrigation & fertilizer clearance;*
- c) *Youth empowerment;*
- d) *National Social Safety net;*
- e) *Financing for constitutional Commission & offices; and*
- f) *School examination fees.*

14. Article 203 (1) (e) of the Constitution provides for the consideration of the fiscal capacity and efficiency of county governments. To this end, county governments should continue putting in place strategies to enhance mobilization of Own Source Revenue (OSR) for enhanced service delivery.

15. In addition, Library being a devolved function as provided for under the Fourth Schedule of the Constitution, has been unbundled and attendant resources amounting to Ksh. 425 million identified and proposed to be fully transferred to County Governments as part of the equitable share in FY 2023/24. For FY 2023/24, the resources should not be shared using the formulae and, therefore, counties should be held harmless.

16. This amount will be included in the Equitable share allocation for the 33 County Governments in a phased approach starting from FY 2023/24 at 100%, 75% for FY 2024/25 (balance of 25% to be shared as equitable) and 25% for FY 2025/26 (balance of 75% to be shared as equitable)). From the fourth FY, that is FY 2026/27, the 33 County Government's will be required to integrate the salaries of these staff into their pay roll, after which the entire Ksh 425 million will be available for sharing as equitable share among the 47 County Governments, in line with the principle of transferring resources to devolved functions.

2.6 Commission of Revenue Allocation (CRA) recommendation on County Equitable Share

17. Shareable revenue is expected to rise by 17 percent, from Kshs. 2,192 billion in financial year 2022/23 to Kshs. 2,571 billion in financial year 2023/24. The National Government allocation has increased from Kshs. 1,814.8 billion to Kshs. 2,150.3 billion, and thus the County Government allocation has increased from Kshs. 370 billion to Kshs. 407 billion, based on the projected increase in revenue raised nationally.

Table 1: Comparison of the CRA and the DoRB 2023 on the Equitable Share of Revenue proposed for FY 2023/24 (Kshs. Million)

Expenditure Item	CRA (A)	DORB 2023 (B)	Variance {C= (A-B)}
1. Equitable Revenue Share in FY 2022/23	370,000	370,000	-
2. Revenue Growth Adjustment in FY 2023/24	37,000	15,000	22,000
3. Transfer of library services	-	425	425
TOTAL EQUITABLE OF REVENUE	407,000	385,425	21,575

Source: DoRB, 2023

2.7 Senate Recommendation on County Equitable Share

18. In their report on the Budget Policy Statement 2023 approved by the House, the Senate made the following recommendations with regard to the Division of Revenue proposals:

- i. The county equitable share is approved at Kshs. 407 billion to enable counties to adequately meet their obligations given the current economic circumstances.
- ii. The transfer of library services allocation of Kshs. 425 million be included in the additional allocations and NOT County Equitable share. The rationale for this resolution is that this amount is already earmarked for a specific function, and it cannot be distributed using the revenue sharing formula. This reasonably excludes it from being considered as county equitable share.
- iii. The Road Maintenance Levy Fund (RMLF) should no longer be considered as part of Equitable share and should be submitted separately as part of the county additional allocations. The estimated amount for FY 2023/24 is Kshs. 10 billion. The rationale for this is that the RMLF was included in Equitable share in FY 2021/22 and is no longer clearly earmarked. It is therefore not clear, how the RMLF is being implemented in the counties or if it's even being allocated to counties in the first place.

4.0. KEY OBSERVATIONS

19. County allocation has increased by Kshs. 15.425 billion from the Kshs. 370 billion allocated in FY 2022/23. The increment is due to adjustment to revenue growth by Kshs. 15 billion.

20. The CRA recommends County Government's equitable share of revenue be Kshs. 407 billion. This is based on the projected shareable revenue of Kshs. 2,571 billion for the financial year 2023/24.

21. It is worth noting that the most recent Auditor General Report relates to the financial year 2021/22 and has yet to be debated and approved by the National

Assembly. It is thus recommended that the Public Account Committee (PAC) expedite the consideration of the revenues separately in order to allow for the timely processing of the annual Division of Revenue Bill.

22. The Committee observed that the Public Account Committee (PAC) Report on the financial statements for the National Government for the financial year 2019/20 makes reference to Kshs. 1,730,992 million as the basis for revenue sharing between the two levels of government. However, this figure is the aggregate revenue which include ordinary revenue and development revenue. The ordinary revenue relating to the financial year 2019/20 is Kshs. 1,673,714 million which is in line with the definition as per the CRA Act, 2011.

5.0 RECOMMENDATIONS

A. NON-FINANCIAL RECOMMENDATIONS

23. **THAT**, given that the latest audited accounts by the Auditor General and approved by the National Assembly relates to FY 2019/20, the Committee recommends that Public Accounts Committee to fast-track the legislative approval of audited accounts of revenue, in particular nationally raised revenue, to ensure timely equitable sharing of such revenue in line with Article 229(8) read together with Article 203(3) and Article 218 of the Constitution.

24. **THAT**, before the end of the current FY 2022/23, a multi-agency team comprising of the National Treasury, Controller of Budget, Council of County Governors and the Commission on Revenue Allocation be established to initiate and finalize a legislative mechanism to review the definition, coverage and application in relation to aspect of revenue as currently defined in the CRA Act of 2011. This will support the accurate/appropriate revenue amount to be used as a basis for determining allocation to the Equalization Fund pursuant to Article 204 of the Constitution.

25. THAT, for the FY 2024/25 and going forward, the National Treasury to ensure proposals on sharing of nationally raised revenue between the two (2) levels of Governments, and in response to CRA recommendations, should be based on an objective and verifiable criterion. This should be in line with provisions of Article 203 (1) (a) to (k) of the Constitution and other provisions which requires an objective basis in the vertical allocation of resources including any deviation from CRA's proposal on revenue sharing.

B. FINANCIAL RECOMMENDATIONS

26. Having considered the above matters, the Committee recommends that this House approves the Division of Revenue Bill as follows:

A. Total Sharable Revenue	Ksh. 2,571,159,000,000
B. National Government	Ksh. 2,177,365,426,000
C. Equalization Fund	Ksh. 8,368,574,000
D. County Equitable Share	Ksh. 385,425,000,000

27. Finally, the Committee recommends that this House approves the Division of Revenue Bill, 2023 to be read a second time.

Thank you.

SIGNED


[Handwritten Signature]

HON. NDINDI NYORO, CBS, M.P.

CHAIRPERSON, THE BUDGET AND APPROPRIATIONS COMMITTEE

21-03-2023

DATE

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 21 MAR 2023	
Tabled BY:	HON
THE TABLE:	B- INZOFU



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION, 2023

PARLIAMENTARY BUDGET OFFICE

Approved
SWA
21/3/23

**MINUTES OF THE 28TH SITTING OF THE SELECT COMMITTEE ON
BUDGET & APPROPRIATIONS HELD ON MONDAY, 21ST MARCH 2023
FROM 9.00 A.M. AT 5TH FLOOR COMMITTEE ROOM IN
CONTINENTAL HOUSE**

MEMBERS PRESENT

1. Hon. Ndindi, Nyoro, M.P.- Chairperson
2. Hon. Chumel, Samwel Moroto, M.P.
3. Hon. Lekuton, Joseph, M.P.
4. Hon. Lesuuda, Josephine Naisula, OGW, M.P.
5. Hon. Ochieng, David Ouma, M.P.
6. Hon. Muchira, Michael Mwangi, M.P.
7. Hon. Shinali, Bernard Masaka, M.P.
8. Hon. Mwakuwona, Danson Mwashako, M.P.
9. Hon. Atandi, Samuel Onunga, M.P.
10. Hon. Mwirigi, John Paul, M.P.
11. Hon. Mejjadonk, Benjamin Gathiru, M.P.
12. Hon. Wangaya, Christopher Aseka, M.P.
13. Hon. Wachira, Rahab Mukami, M.P.
14. Hon. (Dr.) Masara, Peter Francis, M.P.
15. Hon. Ongili, Babu Owino Paul, M.P.
16. Hon. (Dr.) Murumba, John Chikati, M.P.
17. Hon. Busia, Ruth Adhiambo Odinga, M.P.
18. Hon. Kitilai, Ole Ntutu, M.P.
19. Hon. Sergon, Flowrence Jematiah, M.P.
20. Hon. Mokaya, Nyakundi Japheth, M.P.
21. Hon. Abdirahman Mohamed Abdi, M.P.

ABSENT WITH APOLOGIES

1. Hon. Otucho, Mary Emaase, M.P.- Vice Chairperson
2. Hon. Odhiambo, Millie Grace Akoth, M.P.
3. Hon. (Dr.) Mulu, Makali, M.P.

4. Hon. Wanjiku, John Njuguna, M.P.
5. Hon. Robi, Mathias Nyamabe, M.P.
6. Hon. Guyo, Ali Wario, M.P.

IN-ATTENDANCE

PARLIAMENTARY BUDGET OFFICE

- | | |
|--------------------------|------------------------------------------|
| 1. Dr. Martin Masinde | Ag. Director Parliamentary Budget Office |
| 2. Mr. Fredrick Muthengi | Chief Fiscal Analyst |
| 3. Dr. Abel Nyagwachi | Fiscal Analyst I |
| 4. Mr. Ringine Mutwiri | Fiscal Analyst III |
| 5. Ms. Loice Olesia | Fiscal Analyst III |
| 6. Mr. Cyrille Mutali | Fiscal Analyst III |

COMMITTEE SECRETARIAT

- | | |
|------------------------|-------------------------------------|
| 1. Mr. Danson Kachumbo | Fiscal Analyst I/ Lead Clerk |
| 2. Mr. Jibril Mohamud | Fiscal Analyst III/ Assistant Clerk |
| 3. Mr. Moses Mwariri | Legal Counsel |
| 4. Ms. Mercy Mayende | Media Relations |
| 5. Ms. Faith Makena | Sergeant-at-arms |
| 6. Mr. Jared Amara | Office Assistant |

AGENDA

1. Prayers;
2. Preliminaries:
3. **Briefing by Parliamentary Budget Office (PBO) on the analysis of Division of Revenue Bill (DoRB), 2023;**
4. **Consideration and adoption of the Committee draft report on the Division of Revenue Bill (DoRB), 2023**
5. Any Other Business (A.O.B); and
6. Adjournment.

MIN BAC NA/2023/132: PRELIMINARIES

The chairperson called the meeting to order at 9:00 a.m. and requested Hon. Wachira, Rahab Mukami, M.P. to lead the Committee in prayer after which there was a round of introduction.

MIN BAC NA/2022/133: BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE(PBO) ON THE ANALYSIS OF DIVISION OF REVENUE BILL (DORB), 2023

The Chairperson invited the Parliamentary Budget Office (PBO) to take Members through the Bill. In the presentation PBO indicated as follows:

1. The Division of Revenue Bill (DoRB) is prepared in accordance with Article 218 of the Constitution. This Bill is introduced in the National Assembly and upon approval by the National Assembly, is referred to the Senate for concurrence.
2. The High Court Judgement (No. 3 of 2019) held that by the 30th of April in any financial year, the Division of Revenue Bill ought to be introduced in Parliament simultaneously with the County Allocation of Revenue Bill. Importantly, the Appropriation Bill can only be considered after the passage of the Division of Revenue Bill.
3. The Division of Revenue Bill 2023 provides for the sharing of revenue raised nationally between the National Government and County Governments for the financial year 2023/24. The revenue shared is calculated on the basis of the most recent audited accounts of revenue received and approved by the National Assembly. In this case, the latest audited revenues approved by National Assembly related to financial year 2019/20 and stood at Kshs. 1,673,714 million.
4. It is worth noting that the approved shareable revenue approved by Parliament slightly varies from what was included in the 2023 Budget Policy Statement. The ordinary revenue of Kshs. 1,573,416 million included in the BPS varies by 6% from the audited ordinary revenue by the Auditor-General and as approved by the National Assembly of Kshs. 1,673,714 million.

I. EQUITABLE SHARE OF REVENUE

5. The projected revenue collection for the financial year 2023/24 is estimated at Kshs. 2,571.2 billion. The respective allocations to the national government, county governments and the Equalization Fund stand at Kshs. 2,177.3 billion, Kshs. 385.4 billion and Kshs. 8.3 billion respectively.

Table 1: Projected Revenue and Allocation in FY 2023/24

ITEM DESCRIPTION	KSHS. IN BILLION
Projected Revenue	2,571.2
National Government	2,177.3
Public Debt	1,250.7
Other Outflows (National Interest, Other National Obligations, Emergencies)	926.6
County Governments	385.4
Equalization Fund	8.3

Source: DoRB, 2023

6. The proposed Equitable Share for FY 2023/24 of Kshs. 385.4 billion is equivalent to 23.03% of the last approved audited revenues worth Kshs. 1,673,714 million for FY 2019/20. This growth in the equitable share is approximately 4% from the financial year of 2022/23 of Kshs. 370 billion.

Table 2: Equitable Revenue Share Allocation to County Governments FY 2023/24

DETAILS	DoRB 2023 (Amount in Kshs. Million)
Equitable share in FY 2022/23	370,000
Add:	
Adjustment for Revenue Growth	15,000
Transfer to Library Services	425
Equitable Revenue Share	385,425

Source: DoRB, 2023

7. The following factors were taken into consideration in calculating the County Governments' equitable revenue share allocation for FY 2023/24:
- i. The proposed equitable share of Kshs. 385.425 billion in the FY 2023/24 is equivalent to 23.03% of the last audited accounts (Kshs. 1,673,714 million for FY 2019/20) and as approved by Parliament. The proposed

allocation therefore meets the requirement of Article 203(2) of the Constitution;

- ii. High level of debt financing as well as elevated debt risk;
 - iii. Financing constraints due to limited access to finance in the domestic and international financial markets. Notably, The National Treasury did not disburse Kshs. 29.6 billion to County Governments in the FY 2021/22 due to financial constraints;
 - iv. The Government is also implementing a fiscal consolidation plan so as to lower the fiscal deficit and slow down debt accumulation. To reflect this fiscal tightening, the National Government recurrent ceiling growth has been restricted, declining from a growth of 10.3% in FY 2017/18 to 1.2% in FY 2023/24; and
 - v. The fact that the National Government continues to solely bear shortfalls in revenue in any given financial year, while County Governments receive their full allocation despite the budget cuts affecting the National Government entities.
8. It is worth noting that despite the fact that the DoRB highlights that Counties have received their full allocation despite the budget cuts affecting the National Government entities, County Governments transfers have been below their respective targets. As at March 2023, the total issues on account of the equitable share stood at Kshs. 183,150 million which represents 49.5% of the total equitable share with three (3) months to the end of the financial year. Article 219 of the Constitution provides that a county's share of revenue shall be transferred to the county without delay and without deduction. There are agreed upon cash disbursement schedules which are rarely honoured. Thus, counties have and continue to bear the brunt of revenue shortfalls which affects their budget implementation.
9. Library being a devolved function as provided for under the Fourth Schedule of the Constitution, has been unbundled and attendant resources amounting to Kshs. 425 million identified and proposed to be fully transferred to County Governments. This amount of Kshs. 425 million will be included in the Equitable share allocation for the 33 County Governments in a phased approach starting from FY 2023/24 at 100%, 75% for FY 2024/25 (balance of 25% to be shared as equitable) and 25% for FY 2025/26 (balance of 75% to be shared as equitable)). From the fourth FY, that is FY 2026/27, the 33 County Government's will be required to integrate the salaries of these staff into their

pay roll, after which the entire Kshs. 425 million will be available for sharing as equitable share among the 47 County Governments, in line with the principle of transferring resources to devolved functions.

10. It is worth noting that the transfer of library services of Kshs. 425 million should be included in the additional allocations and not County Equitable share. Given that this amount is already earmarked for a specific function and will not be distributed using the revenue sharing formula, it cannot be considered to be equitable share by definition and is therefore an additional allocation to counties.

II. Commission of Revenue Allocation (CRA) submissions

11. The shareable revenue is projected to increase by 17% computed on a 3 year moving average from Kshs. 2,192 billion in the financial year 2022/23 to Kshs. 2,571 billion in the financial year 2023/24. Based on the projected increase of revenue raised nationally, the National Government allocation has increased from Kshs. 1,814.8 billion to Kshs. 2,150.3 billion and thus the County Governments' allocation should increase from Kshs. 370 billion to Kshs. 407 billion.

Table 3: Comparison of the CRA and the DoRB 2023 on the Equitable Share of Revenue proposed for FY 2023/24 (Kshs. Million)

Expenditure Item	CRA (A)	DoRB 2023 (B)	Variance {C= (A- B)}
1. Equitable Revenue Share in FY 2022/23	370,000	370,000	-
2. Revenue Growth Adjustment in FY 2023/24	37,000	15,000	22,000
3. Transfer of library services	-	425	425
TOTAL EQUITABLE OF REVENUE	407,000	385,425	21,575

Source: DoRB, 2023

III. SENATE

12. In their report on the Budget Policy Statement 2023 approved by the House, the Senate made the following recommendations with regard to the Division of Revenue proposals:

- i. The county equitable share is approved at Kshs. 407 billion. The rationale is to enable counties to adequately meet their obligations given the current economic circumstances notably rising costs.
- ii. The transfer of library services allocation of Kshs. 425 million should be included in the additional allocations and NOT County Equitable share. The rationale for this resolution is that this amount is already earmarked for a specific function and it cannot be distributed using the revenue sharing formula. This reasonably excludes it from being considered as county equitable share.
- iii. The Road Maintenance Levy Fund (RMLF) should no longer be considered as part of equitable share and should be submitted separately as part of the county additional allocations. The estimated amount for FY 2023/24 is Kshs. 10 billion. The rationale for this is that the RMLF was deemed included in equitable share in FY 2021/22 and is no longer clearly earmarked. It is therefore not clear, how the RMLF is being implemented in the counties or if it's even being allocated to counties in the first place.

IV. OBSERVATIONS AND EMERGING ISSUES

13. From the foregoing the following are noted:

- i) County allocation has increased by Kshs. 15.425 billion from the Kshs. 370 billion allocated in FY 2022/23. The increment is due to adjustment to revenue growth by Kshs. 15 billion and an allocation of Kshs. 425 million towards the transfer of library functions to the counties. The rationale behind the inclusion of Kshs. 425 million in the equitable share raises some concerns since the amount is already earmarked for a specific function and cannot be distributed using the revenue sharing formula.
- ii) The CRA recommends County Government's equitable share of revenue at Kshs. 407 billion. This is based on the projected shareable revenue of Kshs. 2,571 billion for the financial year 2023/24.
- iii) It is worth noting that the Public Account Committee (PAC) Report on the financial statements for the National Government for the financial year 2019/20 makes reference to Kshs. 1,730,992 million as the basis for revenue

sharing between the two levels of government. However, this figure is the aggregate revenue which includes ordinary revenue and development revenue. The ordinary revenue relating to the financial year 2019/20 stands at Kshs. 1,673,714 million which is in line with the definition as per the CRA Act, 2011 and is also the amount contained in the division of revenue bill, 2023.

- iv) The latest Auditor General Report relating to financial year 2021/22 has been submitted to Parliament but is yet to be debated and approved by the National Assembly. There is urgent need for the Public Account Committee (PAC) to fast-track the consideration of the revenues separately in order to allow the use of the most recent statistics in the processing of future annual Division of Revenue Bills.
- v) The National Assembly is in receipt of a petition submitted claiming the use of outdated audited financial accounts, that of 2019/20. The petitioner, acting on a court directive, avers that the use of audited revenue accounts relating to the FY 2019/20 as unreliable figures and presents uncertainty in the revenue sharing process. The petitioner's prayer is that the FY 2021/22 audited revenues are used in the division of revenue process or at worst the FY 2020/21 accounts.

Following the presentation by the Parliamentary Budget Office the Committee made the following observations and recommendations:

KEY OBSERVATIONS

- 2. County allocation has increased by Kshs. 15.425 billion from the Kshs. 370 billion allocated in FY 2022/23. The increment is due to adjustment to revenue growth by Kshs. 15 billion.
- 3. The CRA recommends County Government's equitable share of revenue be Kshs. 407 billion. This is based on the projected shareable revenue of Kshs. 2,571 billion for the financial year 2023/24.
- 4. It is worth noting that the most recent Auditor General Report relates to the financial year 2021/22 and has yet to be debated and approved by the National Assembly. It is thus recommended that the Public Account Committee (PAC) expedite the consideration of the revenues separately in order to allow for the timely processing of the annual Division of Revenue Bill.
- 5. The Committee observed that the Public Account Committee (PAC) Report on the financial statements for the National Government for the financial

year 2019/20 makes reference to Kshs. 1,730,992 million as the basis for revenue sharing between the two levels of government. However, this figure is the aggregate revenue which include ordinary revenue and development revenue. The ordinary revenue relating to the financial year 2019/20 is Kshs. 1,673,714 million which is in line with the definition as per the CRA Act, 2011.

RECOMMENDATIONS

A. NON-FINANCIAL RECOMMENDATIONS

6. **THAT**, given that the latest audited accounts by the Auditor General and approved by the National Assembly relates to FY 2019/20, the Committee recommends that Public Accounts Committee to fast-track the legislative approval of audited accounts of revenue, in particular nationally raised revenue, to ensure timely equitable sharing of such revenue in line with Article 229(8) read together with Article 203(3) and Article 218 of the Constitution.
7. **THAT**, before the end of the current FY 2022/23, a multi-agency team comprising of the National Treasury, Controller of Budget, Council of County Governors and the Commission on Revenue Allocation be established to initiate and finalize a legislative mechanism to review the definition, coverage and application in relation to aspect of revenue as currently defined in the CRA Act of 2011. This will support the accurate/appropriate revenue amount to be used as a basis for determining allocation to the Equalization Fund pursuant to Article 204 of the Constitution.
8. **THAT**, for the FY 2024/25 and going forward, the National Treasury to ensure proposals on sharing of nationally raised revenue between the two (2) levels of Governments, and in response to CRA recommendations, should be based on an objective and verifiable criterion. This should be in line with provisions of Article 203 (1) (a) to (k) of the Constitution and other provisions which requires an objective basis in the vertical allocation of resources including any deviation from CRA's proposal on revenue sharing.

B. FINANCIAL RECOMMENDATIONS

9. Having considered the above matters, the Committee recommends that this House approves the Division of Revenue Bill as follows:

A. Total Sharable Revenue	Ksh. 2,571,159,000,000
B. National Government	Ksh. 2,177,365,426,000
C. Equalization Fund	Ksh. 8,368,574,000
D. County Equitable Share	Ksh. 385,425,000,000

10. Finally, the Committee recommends that this House approves the Division of Revenue Bill, 2023 to be read a second time.

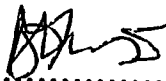
MIN BAC NA/2023/134: CONSIDERATION AND ADOPTION OF THE COMMITTEE'S DRAFT REPORT ON THE DIVISION OF REVENUE BILL (DORB), 2023

Having gone through the report and following the deliberations, the Committee unanimously adopted the report that the Bill be passed without amendments. The adoption was proposed by Hon. Ongili, Babu Owino Paul, M.P. and seconded by Hon. Wachira, Rahab Mukami, M.P.

MIN BAC NA/2023/135: ANY OTHER BUSINESS & ADJOURNMENT

There being no other business, the meeting was adjourned at 12.00 p.m. The next meeting will be communicated in due course.

SIGNED



.....
HON. NDINDI NYORO, CBS, M.P.

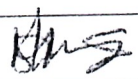
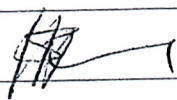
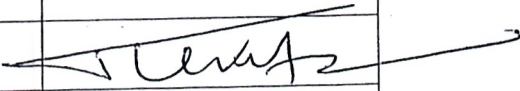

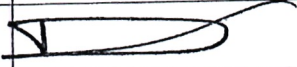
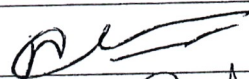
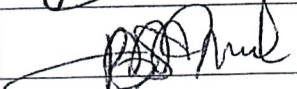

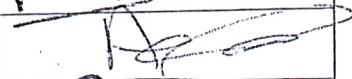

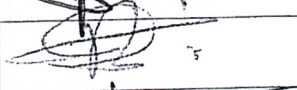
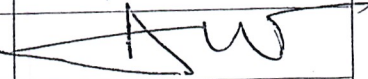
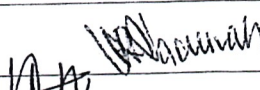
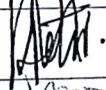
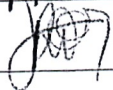
CHAIRPERSON, BUDGET AND APPROPRIATIONS COMMITTEE


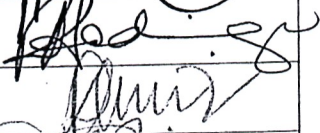
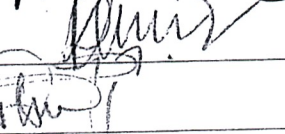
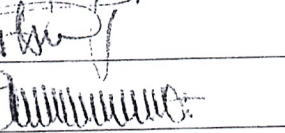
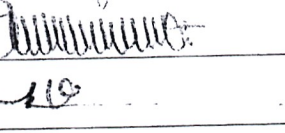

21 - 03 - 2023

.....
DATE

Budget and Appropriations Committee

Date..21/3/2022.. Time..9AM.... Sitting:KADUNA

NAME	SIGNATURE
1. Hon. Ndindi, Nyoro, CBS, M.P.- Chairperson	
2. Hon. Otucho, Mary Emaase, M.P.- Vice Chairperson	
3. Hon. Chumel, Samwel Moroto, M.P.	
4. Hon. Odhiambo, Millie Grace Akoth, M.P.	
5. Hon. (Dr.) Mulu, Makali, M.P.	
6. Hon. Lekuton, Joseph, M.P.	
7. Hon. Lesuuda, Josephine Naisula, OGW, M.P.	
8. Hon. Robi, Mathias Nyamabe, M.P.	
9. Hon. Ochieng, David Ouma, M.P.	
10. Hon. Muchira, Michael Mwangi, M.P.	
11. Hon. Shinali, Bernard Masaka, M.P.	
12. Hon. Mwakuwona, Danson Mwashako, M.P.	
13. Hon. Atandi, Samuel Onunga, M.P.	
14. Hon. Mwirigi, John Paul, M.P.	
15. Hon. Mejjadonk, Benjamin Gathiru, M.P.	
16. Hon. Wangaya, Christopher Aseka, M.P.	
17. Hon. Wachira, Rahab Mukami, M.P.	
18. Hon. (Dr.) Masara, Peter Francis, M.P.	
19. Hon. Ongili, Babu Owino Paul, M.P.	

NAME	SIGNATURE
20. Hon. Wanjiku, John Njuguna, M.P.	
21. Hon. Guyo, Ali Wario, M.P.	
22. Hon. (Dr.) Murumba, John Chikati, M.P.	
23. Hon. Busia, Ruth Adhiambo Odinga, M.P.	
24. Hon. Kitilai, Ole Ntutu, M.P.	
25. Hon. Sergon, Flowrence Jematiah, M.P.	
26. Hon. Mokaya, Nyakundi Japheth, M.P.	
27. Hon. Abdirahman Mohamed Abdi, M.P.	

Signed.....

Date.....

Committee Clerk

Signed.....

Date.....

Director of Parliamentary Budget Office