

Approved for tabling in the House.



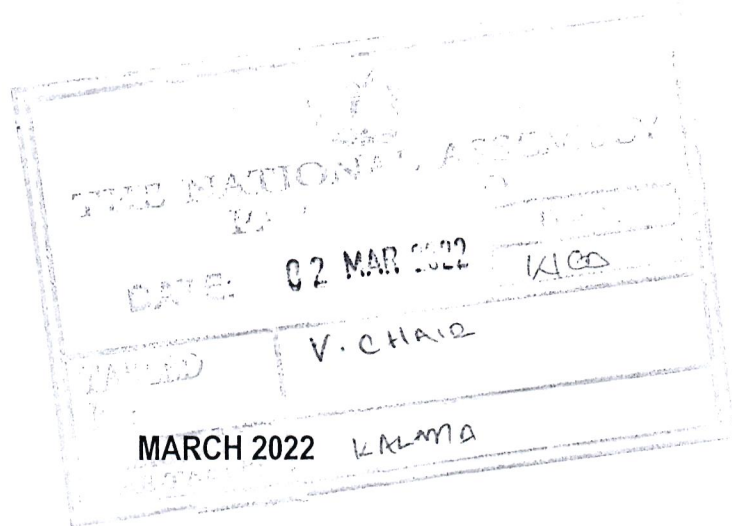
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REPUBLIC OF KENYA
KENYA NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SIXTH SESSION

REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE DIVISION OF
REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2022)



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CHAIRPERSON'S FOREWORD

The Division of Revenue Bill (National Assembly Bill No. 8 of 2022) was read for the first time in the National Assembly during the afternoon sitting of Tuesday, March 1st, 2022. Pursuant to Standing Order 127(2), the Bill was committed to the Budget and Appropriations Committee for evaluation and recommendations. The Bill seeks to provide a framework for equitable allocation of revenue raised nationally between the national government and county governments for the financial year 2022/23 in accordance with Article 202, 203, 205 and 218 of the Constitution.

The enactment of the Division of Revenue Bill, 2022 is critical in setting the stage for the preparation of the County Allocation of Revenue Bill, 2022, which will inform the firming up and finalization of preparation of the annual budget estimates for 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 this house fast tracks the approval and subsequent enactment of the Bill in a timely manner to enable county governments process their budgets for 2022/23 smoothly.

MANDATE OF THE COMMITTEE

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

Membership of the Committee

Mr. Speaker, the Budget and Appropriations Committee as currently constituted comprises of the following Honourable Members:

| MEMBER | CONSTITUENCY | PARTY |
|--|---------------------|------------|
| 1. Hon. Kanini Kega, CBS, M.P. – Chairperson | Kieni | Jubilee |
| 2. Hon. Benard Masaka Shinali, M.P. – Vice Chairperson | Ikolomani | Jubilee |
| 3. Hon. CPA John Mbadi, EGH, CBS, M.P. | Suba South | ODM |
| 4. Hon. Emmanuel Wangwe, CBS, M.P. | Navakholo | Jubilee |
| 5. Hon. Fatuma Gedi Ali, CBS, M.P. | Wajir County | PDR |
| 6. Hon. Wangari Mwaniki, OGW, M.P. | Kigumo | Jubilee |
| 7. Hon. CPA Moses K. Lessonet, CBS, M.P. | Eldama Ravine | Jubilee |
| 8. Hon. Samwel Moroto, M.P. | Kapenguria | Jubilee |
| 9. Hon. Millie Odhiambo, M.P. | Suba North | ODM |
| 10. Hon. Richard Onyonka, M.P. | Kitutu Chache South | Ford Kenya |
| 11. Hon. (Dr.) Makali Mulu Benson, M.P. | Kitui Central | Wiper |
| 12. Hon. Twalib Bady, M.P. | Jomvu | ODM |
| 13. Hon. Jude Njomo, M.P. | Kiambu Town | Jubilee |
| 14. Hon. Sarah Paulata Korere, M.P. | Laikipia North | Jubilee |
| 15. Hon. Josephine Naisula Lesuuda, OGW, M.P. | Samburu West | KANU |
| 16. Hon. Alfred Kiptoo Keter, M.P. | Nandi Hills | Jubilee |
| 17. Hon. Sakwa Bunyasi, M.P. | Nambale | ANC |
| 18. Hon. Florence Chepng'etich Koskey Bore, M.P. | Kericho County | Jubilee |
| 19. Hon. James Gichuki Mugambi, M.P. | Othaya | Jubilee |
| 20. Hon. Danson Mwashako, M.P. | Wundanyi | Wiper |
| 21. Hon. (Eng.) Mark Nyamita, M.P. | Uriri | ODM |
| 22. Hon. Paul Abuor, M.P. | Rongo | ODM |
| 23. Hon. Mercy Wanjiku Gakuya, M.P. | Kasarani | Jubilee |
| 24. Hon. CPA Francis Kuria Kimani, M.P. | Molo | Jubilee |
| 25. Hon. Samuel Atandi, M.P. | Alego Usonga | ODM |
| 26. Hon. Joseph Manje, M.P. | Kajiado North | Jubilee |
| 27. Hon. Marselino Arbelle, M.P. | Laisamis | Jubilee |

Committee Secretariat

The Committee Secretariat is comprised of the following:

- | | | |
|---|---------------------|--|
| 1 | Mr. Joseph Ndirangu | Fiscal Analyst I/ Clerk of the Budget and Appropriations Committee |
| 2 | Mr. Danson Kachumbo | Fiscal Analyst I/ Clerk of the Budget and Appropriations Committee |
| 3 | Mr. Benard Omondi | Sergeant-at-arms |
| 4 | Ms. Pauline Wanjiru | Hansard Reporter |
| 5 | Mr. Eugene Luteshi | Audio Officer |
| 6 | Mr. George Mbaluka | Office Assistant |

The Committee also received technical support from the Macroeconomic Analysis and Statistics department of the Parliamentary Budget Office; under the leadership and guidance of the Director Ms. Phyllis Makau, OGW; the Senior Deputy Director, Dr. Martin Masinde; and the Deputy Director, Ms. Lucy Makara. .

Examination of the Division of Revenue Bill (National Assembly Bill No. 8 of 2022)

The Division of Revenue Bill (National Assembly Bill No. 8 of 2022) was read a first time during the afternoon sitting of Tuesday, March 1st, 2022. Pursuant to Standing Order 127(2), the Bill was committed to the Budget and Appropriations Committee and was reviewed in one sitting.

It's important to note that the Division of Revenue Bill is an outgrowth of the review and finalization of the Budget Policy Statement, it should therefore not be treated as other bills. Indeed, the policy underpinning the division of revenue was already subjected to substantial public participation during the process of reviewing the Budget Policy Statement. The Committee therefore, considered proposals from the public that touched on devolved functions which included: a proposal by African Women Studies Centre that noted reduction of resources to agriculture sector. The other was by "The Cradle, The Children Foundation " which requested for allocation of resources towards Universal Healthcare to incorporate mental health care programs and counselling services.

The Committee notes that the provisions under the DoRB, 2022 are in line with the House resolutions on the Budget Policy Statement for FY 2022/23 and the medium term. This is in accordance with the provisions of Standing Order 232(8) (a).


On behalf of the Committee and Pursuant to the Standing Orders 199(6) of the National Assembly, it is therefore my honor, duty and privilege, to table this report on the Division of Revenue Bill (National Assembly Bill no. 8 of 2022) for consideration and approval by the House.

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. 8 of 2022).

Hon. Speaker,

It is therefore my pleasant undertaking, on behalf of the Budget and Appropriations Committee, to table this report and recommend it to the House for adoption.

Signed: 

Hon. Benard Masaka Shinali, M.P.
VICE CHAIRPERSON, THE BUDGET AND APPROPRIATIONS COMMITTEE

Date: *02 March 2022*

1.0 INTRODUCTION

1. The Division of Revenue Bill (National Assembly Bill No. 8 of 2022) outlines the framework for the sharing of revenue raised nationally between the national government and county governments for the financial year 2022/23 as per provisions of Article 202, 203, 205 and 218 (2) of the Constitution. The sharable revenue is computed based on the most recent audited accounts of revenue received, as approved by the National Assembly and 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 accounts approved by Parliament relate to FY 2017/18 where revenue stood at Kshs. 1,413,694.84 million.

2.0 HIGHLIGHTS OF THE DIVISION OF REVENUE BILL, 2022

2. The total shareable revenue for FY 2022/23 is estimated at Kshs 2,141,584,412,556 and is allocated as follows;

| | | |
|------|---------------------------------------|------------------------------|
| i. | National Government | Kshs. 1,764.1 billion |
| | Of Which: | |
| | <i>Leasing of Medical Equipment</i> | Kshs. 5.2 billion |
| | <i>Supplement for construction of</i> | |
| | <i>County headquarters</i> | Kshs. 454 million |
| ii. | County Government Equitable Share | Kshs 370.0 billion |
| iii. | Equalization Fund | Kshs 7.1 billion |

3. 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 2022/23 of Ksh. 370 billion is equivalent to 26.17% of the last audited and approved revenue equivalent to Ksh 1,413,694.84 million and is above the 15% set constitutional threshold.
4. The equitable share to county governments has been maintained at Kshs. 370 billion for FY 2022/23 which is in line with approval of the 3rd basis revenue sharing formula covering the FY

2020/21 to 2024/25. This retention in county equitable revenue share is informed by the following circumstances:

- a) Continued uncertainty in revenue performance occasioned by effects of Covid-19 pandemic;
 - b) The Government is pursuing a fiscal consolidation plan that is to be shared between the two levels of government;
 - c) The CFS has been revised upwards for FY 2022/23, in order to retain the deficit within medium term projections. National government has reduced its ceilings downwards while maintaining county sharable revenue at the same level.
 - d) Most of the devolved functions have effectively been linked to financing in the approved 3rd basis formula for allocation of sharable revenue among counties.
5. 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) *Primary school digital literacy program*
 - f) *School examination fees*
6. 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.
7. In finalizing this report, the Committee reviewed and considered the opinion of the Commission on Revenue Allocation (CRA). The Commission proposed allocation of equitable share to counties be retained at Ksh. 370 billion on account of slower economic growth brought by the Covid-19 pandemic, revenue underperformance, increased fiscal deficit and debt unsustainability and election related expenditures.

3.0 OBSERVATIONS

8. The Committee observed that since the Division of Revenue Bill is based on last audited and approved revenues, the delay in provision of latest audited accounts for approval by the National Assembly continues to deny counties their actual share of revenue.

4.0 RECOMMENDATIONS

9. That, the Auditor General should fast track submission of audit reports for approval by Parliament in a timely manner to ensure that the division of revenue is based most recent financial year.
10. **Mr. Speaker**, having considered the above matters, the Committee recommends that this House approves the Division of Revenue Bill as follows:
 - i. National Government Kshs. 1,764.1 billion;
 - ii. County Government Equitable Share Kshs 370.0 billion;
 - iii. Equalization Fund Kshs 7.1 billion.

11. **Hon. Speaker**, the Committee requests that this House approves the Division of Revenue Bill, 2022 to be read a second time.



MINUTES OF THE 15th SITTING OF THE BUDGET AND APPROPRIATIONS COMMITTEE HELD AT MINI CHAMBER, FIRST FLOOR, COUNTY HALL ON WEDNESDAY, 2ND MARCH 2022, AT 10.00 A.M.

PRESENT:

1. **Hon. Benard Masaka Shinali, M.P.- Vice Chairperson**
2. Hon. (CPA) Moses K. Lessonet, CBS, M.P.
3. Hon. Millie Odhiambo, M.P.
4. Hon. (Dr.) Makali Mulu, M.P.
5. Hon. Jude Njomo, M.P.
6. Hon. Sakwa Bunyasi, M.P.
7. Hon. Sarah Paulata Korere, M.P.
8. Hon. Wangari Mwaniki, OGW, M.P.
9. Hon. Florence C. K. Bore, M.P.
10. Hon. Paul Abuor, M.P.
11. Hon. (Eng.) Mark Nyamita, M.P.
12. Hon. Samuel Atandi, M.P.
13. Hon. Joseph Manje, M.P.
14. Hon. (CPA) Francis Kuria Kimani, M.P.
15. Hon. Mercy Wanjiku Gakuya, M.P.
16. Hon. Masalino Arbelle, M.P.

ABSENT WITH APOLOGY:

1. **Hon. Kanini Kega, CBS, M.P.- Chairperson**
2. Hon. (CPA) John Mbadi, EGH, CBS, M.P.
3. Hon. Emmanuel Wangwe, CBS, M.P.
4. Hon. Badi Twalib, M.P.
5. Hon. Samwel Moroto, M.P.
6. Hon. Richard Onyonka, M.P.
7. Hon. Alfred Kiptoo Keter, M.P.
8. Hon. Josephine Naisula Lesuuda, OGW, M.P.
9. Hon. James Gichuki Mugambi, MBS, M.P.
10. Hon. Fatuma Gedi Ali, CBS, M.P.
11. Hon. Danson Mwashako, M.P.

PARLIAMENTARY BUDGET OFFICE

1. Mr. Fredrick Muthengi
2. Ms. Amran Yunis
3. Mr. Wilson Ringine
4. Mr. Kioko Kiminza

Chief Fiscal Analyst
Fiscal Analyst I
Fiscal Analyst III
Fiscal Analyst III

COMMITTEE SECRETARIAT

- | | |
|------------------------|------------------------------|
| 1) Mr. Joseph Ndirangu | Fiscal Analyst I/ Lead Clerk |
| 2) Mr. Danson Kachumbo | Fiscal Analyst I |
| 3) Mr. Benard Omondi | Seargent at Arms |
| 4) Ms. Pauline Wanjiru | Hansard Reporter |
| 5) Mr. Eugene Luteshi | Audio Officer |
| 6) Mr. George Mbaluka | Office Attendant |

AGENDA

1. *Preliminaries & Confirmation of Agenda*
2. *Considering the Division of Revenue Bill (National Assembly Bill No.8 of 2021)*
3. *Consideration of the draft Report*
4. *Any Other Business (A.O.B)*

MIN. NO. NA/BAC/2022/87: PRELIMINARY

The Chairperson welcomed the committee members to the meeting and called the meeting to order at 10.30 a.m. Thereafter, the Chairperson invited the Parliamentary Budget Office to brief members on the Division of Revenue Bill (National Assembly Bill No.8 of 2021).

MIN.NO.NA/BAC/2022/88: CONSIDERING THE CONSIDERING THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO.8 OF 2021)

The presentation from Parliamentary Budget Office highlighted the following:

A. INTRODUCTION

1. Article 218 of the Constitution provides for the submission of the Division of Revenue Bill and the County Allocation of Revenue Bill to Parliament, at least two months before the end of each financial year.
2. The Division of Revenue Bill provides for the equitable division of revenue raised nationally between the national and county governments in accordance with Article 202(1) of the Constitution while the County Allocation of Revenue Bill divides revenue allocated to counties through the Division of Revenue Bill to the county governments as equitable share.
3. In addition, section 191 of the Public Finance Management (PFM) Act, 2012, provides that each year when the Budget Policy Statement (BPS) is introduced, the Cabinet Secretary shall submit to Parliament a Division of Revenue Bill and County Allocation of Revenue Bill prepared by the National Treasury for the financial year to which that Budget relates.
4. The adoption of the BPS Report by both Houses paved the way for the publication and subsequent introduction of the Division of Revenue Bill, 2022 in National Assembly.

B. HIGHLIGHTS OF THE DIVISION OF REVENUE BILL, 2022

5. The Division of Revenue Bill, 2022 (National Assembly Bill No 8) was published on 25th February 2022. The total shareable revenue for the FY 2022/2023 is estimated at Kshs. 2,141.585 billion proposed to be allocated as follows and as shown in Annex I;
- | | |
|--|---------------------------|
| a) National Government | Kshs. 1,764.516 billion |
| <i>Of which; GoK Conditional allocations</i> | <i>Kshs. 5.65 billion</i> |
| b) County Equitable Share | Kshs. 370.00 billion |
| c) Equalization Fund – | Kshs. 7.068 billion |

C. EQUITABLE SHARE OF REVENUE

6. Pursuant to Article 202 (1) of the Constitution, the nationally raised revenue is shared equitably among the national and county governments. Article 203 (2) further stipulates that the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than fifteen per cent of all revenue collected by the national government and shall be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly. The proposed Equitable Share for FY 2022/23 is Kshs. 370 billion which is equivalent to 26.17 percent of the last audited accounts of 2017/18 of Kshs. 1,413.694 billion as approved by the National Assembly.
7. This represents a decrease of 1.1 percent when compared to the 27.3 percent of the last audited accounts (Kshs. 1,357,698 million for FY 2016/17) as approved by the National Assembly.
8. In calculating the County Governments' equitable revenue share allocation for FY 2022/23, the following factors were considered;
- a) That the budget has been prepared during a period when the economy is experiencing COVID 19 Pandemic which has negatively affected revenue collection;
 - b) The government is implementing a fiscal consolidation plan to lower the fiscal deficit and slow down debt accumulation; and
 - c) The consolidated Fund Services budget for FY 2022/23 has been revised upwards by Kshs. 46.9 billion and therefore in order to retain the deficit at the 2021 BPS level the county equitable share remains at the same level as in FY 2021/22.
9. Article 218 (2) of the constitution provides that the Division of Revenue Bill shall be accompanied by a memorandum setting out an evaluation of the Bill in relation to the criteria set out in Article 203(1).
10. Among the criteria provided for under Article 203 (1) is the matter of the national interest which are reflected in the bill as follows;
- a) *Enhancement of security operations (police vehicles, helicopters, defence (e.t.c)*
 - b) *National Irrigation & fertilizer clearance*
 - c) *Youth empowerment*
 - d) *National Social Safety net*

- e) *Primary school digital literacy program*
- f) *School examination fees*

11. Article 203 (1) (e) of the constitution provides for the consideration of the fiscal capacity and efficiency of county governments. Fiscal capacity refers to the potential revenues that can be generated from the tax bases assigned to the counties. The Commission of Revenue Allocation needs to fast track county Own Source Revenue and Tax Gap Study which is meant to provide for county governments revenue potentials and capacity.

After the presentation, the Chairperson welcomed members of the Committee to comment on the presentation. The following were the Committee observations:

1. The Bill is consistent with the resolutions of the National Assembly on the Budget Policy Statement, however, the Senate in its resolution on the Budget Policy Statement had proposed a higher equitable share of Kshs. 495 billion;
2. In considering the BPS which is the basis of the Division of Revenue Bill, the National Assembly conducted public hearing, hence no need for conducting public hearing on the Division of Revenue Bill;
3. That the counties have already started conducting public hearing on their estimates of expenditure and it is important for Parliament to approve the Division of revenue bill to inform the counties of their equitable share.

MIN.NO.NA/BAC/2022/89: ADOPTION OF THE DRAFT REPORT ON THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO.8 OF 2021

The Parliamentary Budget office took members through the draft report. The report was proposed by Hon. Paul Abour, M.P. and seconded by Hon. Samuel Atandi, M.P. After deliberations the report was **ADOPTED** with the following observations and recommendations:

3.0 OBSERVATIONS

1. The Committee observed that the since the Division of Revenue Bill is based on last audited and approved revenues, the delay in provision of latest audited accounts for approval by the National Assembly continues to deny counties their actual share of revenue.

4.0 RECOMMENDATIONS

2. That, the Auditor General should fast track submission of audit reports for approval by Parliament in a timely manner to ensure that the division of revenue is based most recent financial year.
3. **Mr. Speaker**, having considered the above matters, the Committee recommends that this House approves the Division of Revenue Bill as follows:

- | | |
|---------------------------------------|------------------------|
| i. National Government | Kshs. 1,764.1 billion; |
| ii. County Government Equitable Share | Kshs 370.0 billion; |

iii. Equalization Fund

Kshs 7.1 billion.

4. **Hon. Speaker**, the Committee requests that this House approves the Division of Revenue Bill, 2022 to be read a second time.

MIN.NO.NA/BAC/2022/90: ANY OTHER BUSINESS & ADJOURNMENT

There being no other matters to consider, the meeting was adjourned at 1.00 p.m. The next sitting will be communicated later.

SIGNED



HON.BENARD SHINALI, M.P.

VICE CHAIRPERSON, BUDGET AND APPROPRIATIONS COMMITTEE

02 March 2022

DATE

