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2022**

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**THE COUNTY ALLOCATION OF REVENUE BILL,
2022**

A Bill for

AN ACT of Parliament to provide for the equitable allocation of revenue raised nationally among the county governments for the 2022/2023 financial year; the responsibilities of national and county governments pursuant to such allocation; and for connected purposes.

ENACTED by Parliament of Kenya, as follows—

1. This Act may be cited as the County Allocation of Revenue Act, 2022.

Short title.

2. In this Act —

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance; and

“revenue” has the meaning assigned to it under section 2 of the Commission on Revenue Allocation Act.

No.16 of 2011

3. The object of this Act is to—

Object.

(a) provide, pursuant to Article 218(1)(b) of the Constitution, for the allocation of an equitable share of revenue raised nationally among the county governments, in accordance with the resolution approved by Parliament under Article 217 of the Constitution for the financial year 2022/23; and

(b) facilitate the transfer of allocations made to counties under this Act from the Consolidated Fund to the respective County Revenue Funds.

4. (1) Each county governments’ equitable share of revenue raised nationally, on the basis of the revenue sharing formula approved by Parliament in accordance with Article 217 of the Constitution in respect of the financial year 2022/23 shall be as set out in Column H of the First Schedule.

Equitable allocation of county governments’ share of revenue.

(2) Each county government’s allocation under subsection (1) shall be transferred to the respective County Revenue Fund, in accordance with a payment schedule

No. 18 of 2012.

approved by the Senate and published in the gazette by the Cabinet Secretary in accordance with section 17 of the Public Finance Management Act, 2012.

5. The budget ceilings for recurrent expenditure for county governments for the financial year 2022/2023 shall be as set out in the Second Schedule.

Budget ceilings for recurrent expenditure.

6. (1) Where a county government has transferred functions to the national government pursuant to Article 187 of the Constitution, the county executive in consultation with the national government shall determine the cost of the transferred functions.

Funding of transferred functions.

(2) The respective county assembly shall appropriate such monies as may be required for the transferred functions in accordance with the determination made under subsection (1) and the allocation shall not be less than the amount appropriated by the County Assembly in the preceding financial year.

(3) The monies appropriated under subsection (1), shall be transferred to the national government.

(4) A national government entity to which a county government function has been transferred shall submit a quarterly report to the Senate and the respective county assembly on the status of the discharge of the devolved function.

(5) The Auditor-General shall, no later than three months after the end of a financial year, prepare a special audit report on the financial and non-financial performance of an entity to which a county government function has been transferred.

(6) A report prepared under subsection (5) shall be submitted to the Senate and the respective county assembly.

7. The National Treasury and Planning shall publish a monthly report on actual transfers of all allocations to county governments.

Report on actual transfers.

8. (1) Each county treasury shall reflect all transfers by the national government to the county governments in its books of accounts.

Books of accounts to reflect national government transfers.

(2) The estimates of revenue of each county shall separately reflect the total equitable revenue share under section 4 of this Act transferred to the County Revenue Fund.

(3) A county treasury shall as part of its consolidated quarterly and annual reports required under the Public Finance Management Act, 2012 report on actual transfers received by the county government from the national government, up to the end of that quarter or year in the format prescribed by the Public Sector Accounting Standards Board or in the absence of a format prescribed by the Board, in the format prescribed by the National Treasury.

No. 18 of 2012

9. Despite the provisions of any other law, any serious or persistent non-compliance with provisions of this Act constitutes an offence under the Public Finance Management Act, 2012.

Financial
Misconduct.

10. For the avoidance of doubt the allocation of the equitable share of revenue to county governments under section 4 of this Act shall be 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.

Applicable
revenue-sharing
formula.

FIRST SCHEDULE (s.4(1))

Allocation of Each County Governments' Equitable Share of Revenue Raised Nationally in the Financial year 2022/23

		FY 2021/22		FY 2022/23					
		Total Equitable Share **** FY 2021/22		0.5(Allocation Ratio)*		Equitable share**-0.5 allocation ratio)*(Formula***)		Total Equitable Share **** FY 2022/23	
		Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J=F+H
No.	County	Allocation Ratio	Total Equitable share	Allocation Ratio	0.5% county allocation	Allocation Ratio	Equitable share using formula	Allocation Ratio	Total Equitable share
1	Baringo	1.72	6,369,394,592	1.61	2,547,825,000	1.80	3,821,569,592	1.72	6,369,394,592
2	Bomet	1.81	6,691,099,118	1.74	2,753,550,000	1.86	3,937,549,118	1.81	6,691,099,118
3	Bungoma	2.88	10,659,435,192	2.81	4,446,825,000	2.93	6,212,610,192	2.88	10,659,435,192
4	Busia	1.94	7,172,162,009	1.90	3,006,750,000	1.97	4,165,412,009	1.94	7,172,162,009
5	Elgeyo/Marakwet	1.25	4,606,532,480	1.22	1,930,650,000	1.26	2,675,882,480	1.25	4,606,532,480
6	Embu	1.39	5,125,243,762	1.36	2,152,200,000	1.40	2,973,043,762	1.39	5,125,243,762
7	Garissa	2.14	7,927,212,254	2.22	3,513,150,000	2.08	4,414,062,254	2.14	7,927,212,254
8	Homa Bay	2.11	7,805,353,300	2.13	3,370,725,000	2.09	4,434,628,300	2.11	7,805,353,300
9	Isiolo	1.27	4,710,388,265	1.34	2,120,550,000	1.22	2,589,838,265	1.27	4,710,388,265
10	Kajiado	2.15	7,954,768,229	2.03	3,212,475,000	2.24	4,742,293,229	2.15	7,954,768,229
11	Kakamega	3.35	12,389,412,168	3.29	5,206,425,000	3.39	7,182,987,168	3.35	12,389,412,168

12	Kericho	1.74	6,430,664,924	1.70	2,690,250,000	1.77	3,740,414,924	1.74	6,430,664,924
13	Kiambu	3.17	11,717,525,720	2.98	4,715,850,000	3.31	7,001,675,720	3.17	11,717,525,720
14	Kilifi	3.15	11,641,592,941	3.30	5,222,250,000	3.03	6,419,342,941	3.15	11,641,592,941
15	Kirinyaga	1.40	5,196,177,952	1.34	2,120,550,000	1.45	3,075,627,952	1.40	5,196,177,952
16	Kisii	2.40	8,894,274,509	2.46	3,892,950,000	2.36	5,001,324,509	2.40	8,894,274,509
17	Kisumu	2.17	8,026,139,240	2.16	3,418,200,000	2.18	4,607,939,240	2.17	8,026,139,240
18	Kitui	2.81	10,393,970,413	2.79	4,415,175,000	2.82	5,978,795,413	2.81	10,393,970,413
19	Kwale	2.23	8,265,585,516	2.46	3,892,950,000	2.06	4,372,635,516	2.23	8,265,585,516
20	Laikipia	1.39	5,136,265,679	1.32	2,088,900,000	1.44	3,047,365,679	1.39	5,136,265,679
21	Lamu	0.84	3,105,649,643	0.82	1,297,650,000	0.85	1,807,999,643	0.84	3,105,649,643
22	Machakos	2.48	9,162,304,232	2.45	3,877,125,000	2.50	5,285,179,232	2.48	9,162,304,232
23	Makueni	2.20	8,132,783,562	2.34	3,703,050,000	2.09	4,429,733,562	2.20	8,132,783,562
24	Mandera	3.02	11,190,382,598	3.23	5,111,475,000	2.87	6,078,907,598	3.02	11,190,382,598
25	Marsabit	1.97	7,277,004,032	2.14	3,386,550,000	1.84	3,890,454,032	1.97	7,277,004,032
26	Meru	2.57	9,493,857,338	2.54	4,019,550,000	2.59	5,474,307,338	2.57	9,493,857,338
27	Migori	2.16	8,005,020,448	2.14	3,386,550,000	2.18	4,618,470,448	2.16	8,005,020,448
28	Mombasa	2.05	7,567,354,061	2.23	3,528,975,000	1.91	4,038,379,061	2.05	7,567,354,061
29	Murang'a	1.94	7,180,155,855	1.99	3,149,175,000	1.90	4,030,980,855	1.94	7,180,155,855
30	Nairobi City	5.20	19,249,677,414	5.03	7,959,975,000	5.33	11,289,702,414	5.20	19,249,677,414

The County Allocation of Revenue Bill, 2022

31	Nakuru	3.52	13,026,116,323	3.31	5,238,075,000	3.68	7,788,041,323	3.52	13,026,116,323
32	Nandi	1.89	6,990,869,041	1.69	2,674,425,000	2.04	4,316,444,041	1.89	6,990,869,041
33	Narok	2.39	8,844,789,456	2.54	4,019,550,000	2.28	4,825,239,456	2.39	8,844,789,456
34	Nyamira	1.39	5,135,340,036	1.52	2,405,400,000	1.29	2,729,940,036	1.39	5,135,340,036
35	Nyandarua	1.53	5,670,444,228	1.54	2,437,050,000	1.53	3,233,394,228	1.53	5,670,444,228
36	Nyeri	1.68	6,228,728,555	1.71	2,706,075,000	1.66	3,522,653,555	1.68	6,228,728,555
37	Samburu	1.45	5,371,346,037	1.46	2,310,450,000	1.45	3,060,896,037	1.45	5,371,346,037
38	Siaya	1.88	6,966,507,531	1.83	2,895,975,000	1.92	4,070,532,531	1.88	6,966,507,531
39	Taita/Taveta	1.31	4,842,174,698	1.34	2,120,550,000	1.29	2,721,624,698	1.31	4,842,174,698
40	Tana-River	1.76	6,528,408,765	1.85	2,927,625,000	1.70	3,600,783,765	1.76	6,528,408,765
41	Tharaka-Nithi	1.14	4,214,198,593	1.24	1,962,300,000	1.06	2,251,898,593	1.14	4,214,198,593
42	Trans Nzoia	1.94	7,186,157,670	1.82	2,880,150,000	2.03	4,306,007,670	1.94	7,186,157,670
43	Turkana	3.41	12,609,305,994	3.33	5,269,725,000	3.47	7,339,580,994	3.41	12,609,305,994
44	Uasin Gishu	2.18	8,068,858,318	2.00	3,165,000,000	2.32	4,903,858,318	2.18	8,068,858,318
45	Vihiga	1.37	5,067,356,827	1.47	2,326,275,000	1.29	2,741,081,827	1.37	5,067,356,827
46	Wajir	2.56	9,474,726,151	2.70	4,272,750,000	2.46	5,201,976,151	2.56	9,474,726,151
47	West Pokot	1.70	6,297,284,329	1.58	2,500,350,000	1.79	3,796,934,329	1.70	6,297,284,329
	Total	100	370,000,000,000	100	158,250,000,000	100	211,750,000,000	100	370,000,000,000

*This refers to the Shareable Revenue allocated to counties in the financial year 2019/ 20 of Ksh. 316.5 billion. Thus, the allocation to county

governments under this component is one half of the equitable share allocated to county governments in FY 2019/20 amounting to Ksh. 158. 25 billion.

** This is the equitable share of revenues raised nationally allocated to county governments in FY 2022/23 amounting to Ksh. 370 billion. Once you net out one-half of the amounts of Allocation Ratio or Ksh.158.25 billion from the Equitable share of Ksh. 370 billion, the resulting balance of Ksh. 211.75 billion shall be allocated among county governments using the Formula.

*** Formula= $0.18 * \text{Population Index}_i + 0.17 * \text{Health Index}_i + 0.10 * \text{Agriculture Index}_i + 0.05 * \text{Urban Index}_i + 0.14 * \text{Poverty Index}_i + 0.08 * \text{Land Area Index}_i + 0.08 * \text{Roads Index}_i + 0.20 * \text{Basic Share Index}$

**** Total Equitable Share or county Allocation = $0.5 (\text{Allocation Ratio}) + ((\text{Equitable Share} - (0.5 \text{ Allocation Ratio})) * (\text{Formula}))$.

SECOND SCHEDULE**(S.5)**

County Government Budget Ceilings on Recurrent Expenditure in Financial Year 2022/2023 (Figures are in Kenya Shillings)					
No.	County Title	County Assembly Ceilings		County Executive Ceilings	
		FY 2021/22	FY 2022/23	FY 2021/22	FY 2022/23
1	Baringo	746,019,020	710,595,811	569,787,017	607,049,529.23
2	Bomet	648,066,449	618,698,924	552,531,315	588,023,141
3	Bungoma	890,983,497	871,842,235	621,554,119	664,128,690
4	Busia	801,409,679	764,107,471	587,042,718	626,075,916
5	Elgeyo/Marakwet	593,254,972	589,692,855	535,275,615	568,996,754
6	Embu	595,875,448	592,070,797	535,275,615	568,996,754
7	Garissa	829,101,968	814,618,947	569,787,017	607,049,529
8	Homa Bay	931,868,578	871,400,107	604,298,418	645,102,303
9	Isiolo	448,252,685	448,678,779	463,713,275	492,255,576
10	Kajiado	765,404,524	697,082,894	527,830,690	562,230,871
11	Kakamega	1,189,967,209	1,096,480,336	673,321,221	721,207,850
12	Kericho	728,813,928	707,542,746	569,787,017	607,049,529
13	Kiambu	1,206,180,907	1,113,255,193	673,321,221	721,207,850
14	Kilifi	797,062,541	778,345,599	587,042,718	626,075,916
15	Kirinyaga	634,065,925	580,207,279	522,925,302	556,100,619
16	Kisii	990,572,876	940,327,913	621,554,119	664,128,690
17	Kisumu	745,033,801	717,523,521	587,042,718	626,075,916
18	Kitui	886,616,229	860,063,722	604,298,418	645,102,303
19	Kwale	618,445,792	615,164,287	535,275,615	568,996,754
20	Laikipia	470,108,195	466,051,181	493,319,288	524,178,098
21	Lamu	418,152,304	417,017,546	463,713,275	492,255,576
22	Machakos	907,790,391	863,593,376	604,298,418	645,102,303
23	Makueni	756,641,539	728,391,627	569,787,017	607,049,529
24	Mandera	811,048,184	862,727,463	578,963,987	616,986,522
25	Marsabit	715,654,362	675,331,692	535,275,615	568,996,754
26	Meru	988,437,598	937,757,166	621,554,119	664,128,690
27	Migori	863,486,098	855,472,208	604,298,418	645,102,303

County Government Budget Ceilings on Recurrent Expenditure in Financial Year 2022/2023 (Figures are in Kenya Shillings)					
No.	County Title	County Assembly Ceilings		County Executive Ceilings	
		FY 2021/22	FY 2022/23	FY 2021/22	FY 2022/23
28	Mombasa	679,254,392	672,879,215	569,787,017	607,049,529
29	Murang'a	761,307,014	752,466,895	587,042,718	626,075,916
30	Nairobi City	1,545,872,087	1,444,469,758	759,599,725	816,339,786
31	Nakuru	1,049,146,986	1,006,131,371	656,065,520	702,181,463
32	Nandi	669,452,972	664,597,125	569,787,017	607,049,529
33	Narok	769,346,518	733,202,187	569,787,017	607,049,529
34	Nyamira	612,444,433	608,070,587	535,275,615	568,996,754
35	Nyandarua	664,643,697	649,522,973	552,531,315	588,023,141
36	Nyeri	717,305,285	690,970,327	569,787,017	607,049,529
37	Samburu	518,009,214	516,531,727	480,968,975	533,708,983
38	Siaya	686,651,724	681,249,074	569,787,017	607,049,529
39	Taita/Taveta	631,282,421	617,830,210	535,275,615	568,996,754
40	Tana River	588,396,752	581,197,328	505,669,601	537,074,233
41	Tharaka -Nithi	455,222,064	432,681,749	493,319,288	524,178,098
42	Trans Nzoia	676,650,593	641,183,494	552,531,315	588,023,141
43	Turkana	821,950,164	817,227,453	569,787,017	607,049,529
44	Uasin Gishu	707,791,808	701,574,855	569,787,017	607,049,529
45	Vihiga	659,609,764	634,864,249	552,531,315	588,023,141
46	Wajir	853,341,593	852,099,483	560,610,046	597,112,535
47	West Pokot	610,173,508	600,329,266	535,275,615	568,996,754
	Total	35,656,167,687	34,493,121,001	26,708,080,067	28,486,731,674

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to make provision for the allocation of revenue raised nationally among the county governments for the financial year 2022/23.

Section 1 of the Bill provides for the short title while **Section 2** defines the various terms used in the Bill.

Section 3 of the Bill contains the objects and the purpose of the Bill which is to provide for the allocation of revenue raised nationally for the financial year 2022/23 as well as the transfer of the county allocations from the Consolidated Fund to the respective County Revenue Fund.

Section 4 of the Bill deals with the allocation of equitable share of revenue raised nationally to each county government.

Section 5 of the Bill provides for Budget ceilings for recurrent expenditure for county governments in accordance with Section 107 (2) (a) of the Public Finance Management Act No. 18 of 2012.

Section 6 of the Bill provides for the modalities of funding of transferred functions.

Section 7 of the Bill provides for the publishing of monthly reports by the national government, on actual transfers of all allocations to county governments.

Section 8 of the Bill provides for the respective county treasury to reflect the total allocations from the national government separately in the County Finance Bill and reflect all transfers in the books of accounts.

Section 9 of the Bill provides for the actions constituting financial misconduct.

Section 10 of the Bill provides for use of the third determination of the basis of the allocation of revenue among counties as approved by Parliament pursuant to Article 217 (7) of the Constitution.

Dated 4th April, 2022.

CHARLES KIBIRU,
Chairperson, Committee on Finance and Budget.

APPENDIX**EXPLANATORY MEMORANDUM TO THE COUNTY ALLOCATON OF REVENUE BILL, 2022****Background**

1. This memorandum is prepared in fulfilment of the requirements of Article 218(2) of the Constitution and section 191 of the Public Finance Management Act, 2012, which require that the County Allocation of Revenue Bill tabled in Parliament be accompanied by a memorandum that:

- (a) explains the revenue allocation as proposed by the Bill;
- (b) evaluates the Bill against the criteria set out in Article 203(1) of the Constitution;
- (c) provides a summary of significant deviations from the recommendations of the Commission on Revenue Allocation (CRA) together with the explanation for such deviations;
- (d) explains the extent, if any, of deviation from the recommendations of the Intergovernmental Budget and Economic Council (IBEC); and
- (e) explains any assumptions and formulae used in arriving at the respective shares under the County Allocation of Revenue Bill, 2022.

2. The memorandum is also prepared based on the approved Third Basis for Revenue Allocation among county governments pursuant to Article 217 of the Constitution.

Explanation of Revenue Allocation as Proposed by the Bill

3. The County Allocation of Revenue Bill, 2022 proposes to allocate to County Governments Ksh.370 billion in the financial year 2022/23 as equitable share of revenue raised nationally.

4. The county governments' equitable share of revenue was allocated among the county governments on the basis of the third revenue allocation criteria approved by Parliament in accordance with Article 217 of the Constitution.

Evaluation of the Bill against Article 203(1) of the Constitution

Developmental needs of the county governments and their ability to perform the functions assigned to them:

5. County governments are allocated equitable share of revenue which is an unconditional allocation to enable counties have autonomy to plan, budget and implement development projects based on county priorities and account for the same.

6. The County Governments' equitable revenue share for FY 2022/23 is Ksh. 370 billion and in addition, Article 209 of the Constitution has assigned counties revenue raising powers and as such counties are expected to improve and maintain sustained collection of their own source revenues (OSR) to supplement the equitable share allocation to ensure improved service delivery regarding functions assigned and transferred to them as contemplated under Article 203(1) (f) of the Constitution.

Economic Disparities within and among counties and the need to remedy them:

7. The horizontal distribution of County Governments' equitable revenue share allocation of Ksh.370 billion for FY 2022/23 shall be based on the Third Basis Formula pursuant to provisions of Article 217 and Section 16 of the Sixth Schedule of the Constitution. The Third Basis formula which should be applicable from FY 2020/21 to FY 2024/25 has taken into account the following parameters; (i) Population (18%); (ii) Health Index (17%); (iii) Agriculture Index (10%); (iii) Urban Index (5%); (iv) Poverty Index (14%); (v) Land Area Index (8%); (vi) Roads Index (8%), and; (vii) Basic Share index (20%). The parameters take into account disparities among counties and aims at equitable distribution of resources across counties.

8. Further, it should be noted that Ksh. 7 billion has also been set aside for the Equalization Fund in 2022/23 which translates to 0.5 per cent of the last audited revenue accounts of governments, as approved by the National Assembly. This Fund is used to finance development Programmes that aim at reducing regional disparities among beneficiary counties.

Stability and Predictability of County Revenue Allocations:

9. The county governments' equitable share of revenue raised nationally has been protected from cuts that may be occasioned by

shortfall in revenue raised nationally, more so in the advent of the effects of Covid-19 Pandemic. According to clause 5 of the DoRB 2022, any shortfall in revenue raised nationally is to be borne by the National Government.

Evaluation of Deviations from the recommendations of the Commission on Revenue Allocation

10. The Division of Revenue Bill, 2022 proposes to allocate county governments an equitable share of Ksh.370 billion from the shareable revenue raised nationally. The CRA also recommends County Governments' equitable share of revenue of Ksh.370 billion as an unconditional allocation to be shared among county governments on the Third basis of the formula for sharing revenue approved by Parliament under Article 217 of the Constitution. In this case there is no differences in the amounts of proposed allocation of equitable share to county governments by both CRA and the National Treasury.

11. The National Treasury's Recommendation is premised on the following seven criteria provided for in Article 203(1) of the Constitution; i.) National interest, ii.) Provisions in respect of the public debt and other national obligations; iii.) The needs of the national government, determined by objective criteria; iv.) The need to ensure that county governments are able to perform the functions allocated to them; v.) The fiscal capacity and efficiency of county governments; vi.) The desirability of stable and predictable allocations of revenue; and vii.) The need for flexibility in responding to emergencies and other temporary needs, based on similar objective criteria.

12. CRA Recommendation is based on the following:

(i). Economic growth: The Commission is cognizant of the need to stimulate the economy following the slump occasioned by the COVID-19 global pandemic. However, given the limited fiscal space the Commission recommends that each level of government restructures its expenditures to stimulate the economy.

(ii). Revenue performance: The expected slow recovery of the economy and the 2022 general election are likely to affect revenue performance negatively in the financial year 2022/23. To contain the fiscal deficits within the recommended target there is need for equitable shares to be retained at the financial year 2021/22 levels.

(iii). Debt Sustainability: Persistent underperformance of revenues has led to increased fiscal deficits occasioning the accumulation of more debt to finance government functions. This call for fiscal consolidation to contain the public debt.

(iv). The 2022 General Election: The general election will be held in August 2022. It is important that the national government restructures its expenditures to finance the election as a matter of national interest.

13. Although, there are no differences on the proposed amount of equitable share raised nationally between the national and county governments, there are differences occasioned by consideration for additional conditional allocations financed from National government share of revenue amounting to Ksh.5.6 billion; - Whereas CRA has not made any additional proposals to fund Counties, the National Treasury has proposed Ksh.5.6 billion to be financed from the National Government share of revenue.

Conclusion

14. The proposals contained in the Bill take into account the fiscal framework set out in the BPS for 2022/23 and are intended to ensure fiscal sustainability specifically against the backdrop of escalating expenditure pressure on the fiscal framework occasioned by increase in Consolidated Fund Services (CFS) and the persistent under performance of the ordinary revenue.

15. It is expected with successful implementation of the Third Basis formula from FY 2021/22 to 2024/25, county governments will now be able to plan, budget and spend in accordance with areas of need as envisaged in the formula as well as achieve their developmental needs.