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REPUBLIC OF KENYA

THE NATIONAL TREASURY AND ECONOMIC PLANNING



County Allocation of Revenue Bill, 2024

PAPERS LAID	
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A legislative proposal for submission to Parliament

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The County Allocation of Revenue Bill, 2024

COUNTY ALLOCATION OF REVENUE BILL, 2024
ARRANGEMENT OF CLAUSES

Clause

- 1— Short title.
- 2— Interpretation.
- 3— Object and purpose of the Bill.
- 4— Equitable allocation of county governments' share of revenue.
- 5— Report on actual transfers.
- 6— Books of accounts to reflect national government transfers.
- 7— Financial misconduct.
- 8— Clarification of revenue sharing formula to apply
- 9—Consequential amendments

SCHEDULE

Allocation of Each County Governments' Equitable Share of Revenue Raised Nationally in the Financial Year 2024/25.

APPENDIX

Explanatory Memorandum to The County Allocation of Revenue Bill, 2024

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A Bill for

AN ACT of Parliament to provide for the equitable allocation of revenue raised nationally among the county governments for the financial year 2024/25; the responsibilities of national and county governments pursuant to such allocation; and for connected purposes.

ENACTED by Parliament of Kenya, as follows—

Short title.	1. This Act may be cited as the County Allocation of Revenue Act, 2024.
Interpretation. No. 16 of 2011.	2. In this Act, unless the context otherwise requires— “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance; “revenue” has the meaning assigned to it under section 2 of the Commission on Revenue Allocation Act, 2011.
Object and purpose of the Act.	3. The object and purpose of this Act is to— (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 2024/25; and (b) facilitate the transfer of allocations made to counties under this Act from the Consolidated Fund to the respective County Revenue Funds.
Equitable allocation of county governments’ share of revenue. No. 18 of 2012.	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 2024/25, shall be as set out in Column F of the Schedule. (2) Each county government’s allocation under subsection (1) shall be transferred to the respective County Revenue Fund, in accordance with a payment schedule approved by the Senate and published in the gazette by the Cabinet Secretary in accordance with Section 17 (7) of the Public Finance Management Act, 2012.

Report on actual transfers.	5. The National Treasury shall publish a monthly report on actual transfers of all allocations to county governments.
Books of accounts to reflect national government transfers.	6. (1) Each county treasury shall reflect all transfers by the National Government to the county governments in its books of accounts.
	(2) The estimates of revenue of each county shall separately reflect the total equitable revenue share under section 4 of this Act, from the national government transferred to the County Revenue Fund.
No. 18 of 2012	(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 financial 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.
Financial Misconduct.	7. 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.
Clarification of revenue sharing formula to apply	8. The allocation of the equitable share of revenue to the 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.

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The County Allocation of Revenue Bill, 2024

SCHEDULE (s. 4(1))

**Allocation of Each County Governments' Equitable Share of Revenue Raised
Nationally in the Financial year 2024/25**

S/No.	County	2023/2024	2024/2025				
		Total Equitable Share	0.5 (Allocation Ratio*)		(Equitable Share** - 0.5 Allocation Ratio) *(Formula***)		Total Equitable Share****
			Allocation ratio	Equitable Share	Allocation ratio	Equitable Share	
			column A	column B	column C	column D	
1	Baringo	6,647,771,186	1.61	2,547,825,000	1.80	4,202,674,960	6,750,499,960
2	Bomet	6,977,924,070	1.74	2,753,550,000	1.86	4,330,220,756	7,083,770,756
3	Bungoma	11,111,983,608	2.81	4,446,825,000	2.93	6,832,162,461	11,278,987,461
4	Busia	7,475,585,295	1.9	3,006,750,000	1.97	4,580,808,705	7,587,558,705
5	Elgeyo Marakwet	4,801,453,188	1.22	1,930,650,000	1.26	2,942,735,244	4,873,385,244
6	Embu	5,341,810,744	1.36	2,152,200,000	1.40	3,269,531,176	5,421,731,176
7	Garissa	8,248,748,101	2.22	3,513,150,000	2.08	4,854,254,856	8,367,404,856
8	Homa bay	8,128,387,250	2.13	3,370,725,000	2.09	4,876,870,879	8,247,595,879
9	Isiolo	4,899,041,209	1.34	2,120,550,000	1.22	2,848,109,825	4,968,659,825
10	Kajiado	8,300,213,576	2.03	3,212,475,000	2.24	5,215,219,332	8,427,694,332
11	Kakamega	12,912,646,262	3.29	5,206,425,000	3.39	7,899,311,766	13,105,736,766
12	Kericho	6,703,129,925	1.7	2,690,250,000	1.77	4,113,428,765	6,803,678,765
13	Kiambu	12,227,552,449	2.98	4,715,850,000	3.31	7,699,917,252	12,415,767,252
14	Kilifi	12,109,200,498	3.3	5,222,250,000	3.03	7,059,512,633	12,281,762,633
15	Kirinyaga	5,420,217,528	1.34	2,120,550,000	1.45	3,382,345,819	5,502,895,819
16	Kisii	9,258,588,608	2.46	3,892,950,000	2.36	5,500,082,943	9,393,032,943
17	Kisumu	8,361,797,770	2.16	3,418,200,000	2.18	5,067,465,357	8,485,665,357
18	Kitui	10,829,486,936	2.79	4,415,175,000	2.82	6,575,030,956	10,990,205,956
19	Kwale	8,584,103,693	2.46	3,892,950,000	2.06	4,808,696,798	8,701,646,798
20	Laikipia	5,358,246,532	1.32	2,088,900,000	1.44	3,351,265,089	5,440,165,089
21	Lamu	3,237,350,707	0.82	1,297,650,000	0.85	1,988,302,778	3,285,952,778
22	Machakos	9,547,295,309	2.45	3,877,125,000	2.50	5,812,243,198	9,689,368,198
23	Makueni	8,455,460,962	2.34	3,703,050,000	2.09	4,871,489,327	8,574,539,327
24	Mandera	11,633,191,646	3.23	5,111,475,000	2.87	6,685,128,044	11,796,603,044
25	Marsabit	7,560,398,412	2.14	3,386,550,000	1.84	4,278,428,854	7,664,978,854
26	Meru	9,892,625,172	2.54	4,019,550,000	2.59	6,020,232,825	10,039,782,825
27	Migori	8,341,446,108	2.14	3,386,550,000	2.18	5,079,048,151	8,465,598,151
28	Mombasa	7,861,523,820	2.23	3,528,975,000	1.91	4,441,107,262	7,970,082,262
29	Murang'a	7,473,786,703	1.99	3,149,175,000	1.90	4,432,970,897	7,582,145,897
30	Nairobi	20,072,059,115	5.03	7,959,975,000	5.33	12,415,569,797	20,375,544,797
31	Nakuru	13,593,424,693	3.31	5,238,075,000	3.68	8,564,705,320	13,802,780,320

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S/No.	County	2023/2024	2024/2025				
		Total Equitable Share	0.5 (Allocation Ratio*)		(Equitable Share** - 0.5 Allocation Ratio) *(Formula***)		Total Equitable Share****
			Allocation ratio	Equitable Share	Allocation ratio	Equitable Share	
		column A	column B	column C	column D	column E	column F = C+E
32	Nandi	7,305,294,033	1.69	2,674,425,000	2.04	4,746,900,940	7,421,325,940
33	Narok	9,196,276,899	2.54	4,019,550,000	2.28	5,306,437,910	9,325,987,910
34	Nyamira	5,334,198,486	1.52	2,405,400,000	1.29	3,002,183,805	5,407,583,805
35	Nyandarua	5,905,976,056	1.54	2,437,050,000	1.53	3,555,845,547	5,992,895,547
36	Nyeri	6,485,331,051	1.71	2,706,075,000	1.66	3,873,950,891	6,580,025,891
37	Samburu	5,594,312,489	1.46	2,310,450,000	1.45	3,366,145,277	5,676,595,277
38	Siaya	7,263,019,462	1.83	2,895,975,000	1.92	4,476,465,755	7,372,440,755
39	Taita Taveta	5,040,427,430	1.34	2,120,550,000	1.29	2,993,039,127	5,113,589,127
40	Tana River	6,790,702,542	1.85	2,927,625,000	1.70	3,959,871,749	6,887,496,749
41	Tharaka Nithi	4,378,234,821	1.24	1,962,300,000	1.06	2,476,468,407	4,438,768,407
42	Trans Nzoia	7,499,822,440	1.82	2,880,150,000	2.03	4,735,425,264	7,615,575,264
43	Turkana	13,143,946,933	3.33	5,269,725,000	3.47	8,071,521,411	13,341,246,411
44	Uasin Gishu	8,426,072,635	2	3,165,000,000	2.32	5,392,896,690	8,557,896,690
45	Vihiga	5,267,026,885	1.47	2,326,275,000	1.29	3,014,437,256	5,340,712,256
46	Wajir	9,853,656,422	2.7	4,272,750,000	2.46	5,720,742,852	9,993,492,852
47	West Pokot	6,573,866,403	1.58	2,500,350,000	1.79	4,175,583,239	6,675,933,239
	Total	385,424,616,067	100	158,250,000,000	100	232,866,788,147	391,116,788,147

* This is the Ksh. 316.5 billion allocations as Equitable Share to counties in the financial year 2019/20. Thus, the allocation to county governments under this component is one half of Ksh. 316.5 billion, amounting to Ksh. 158. 25 billion.

** This is the Equitable share of revenue raised nationally allocated to county governments in FY2024/25 amounting to Ksh. 391.12 billion. Once you net out one half of the amount of Allocation Ratio or Ksh. 158.25 billion from the Equitable share of Ksh. 391.12 billion, the resulting balance of Ksh. 232.87 billion shall be allocated among county governments using the Formula.

*** Formula= 0.18*Population Indexi+ 0.17*Health Indexi+0.10* Agriculture Indexi+0.05*Urban Indexi+0.14* Poverty Indexi+0.08*Land Area Indexi+0.08*Roads Indexi +0.20* Basic Share Index.

**** Total Equitable Share to County Governments = 0.5 (Allocation Ratio) + ((Equitable Share- (0.5 Allocation Ratio)) *(Formula)).

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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 2024/25.

Clause 1 and 2 of the Bill provides for the short title and defines the various terms used in the Bill, respectively.

Clause 3 of the Bill contains the objects and the purpose of the Bill which is to provide for the allocation of revenue raised nationally among county governments for the financial year 2024/25 as well as the transfer of the county allocations from the Consolidated Fund to the respective County Revenue Fund.

Clause 4 of the Bill provides for the allocation of equitable share of revenue raised nationally to each county government.


Clause 5 of the Bill provides for the publishing of monthly report by the national government, on actual transfers of all allocations to county governments.

Clause 6 of the Bill provides for a 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.

Clause 7 of the Bill defines what constitutes a financial misconduct.

Clause 8 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 the....., 2024

15/02/2024


NJUGUNA NDUNG'U, CBS
Cabinet Secretary

The National Treasury and Economic Planning

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APPENDIX

**EXPLANATORY MEMORANDUM TO THE COUNTY ALLOCATION OF REVENUE
BILL, 2024**

Background

1. This memorandum is prepared as an attachment to the County Allocation of Revenue Bill (CARB), 2024 in fulfilment of the requirements of Article 218(2) of the Constitution and section 191 (5) 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, 2024.

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. In September 2020, Parliament approved the third basis for allocation of the share of national revenue among the County Governments.

Explanation of Revenue Allocation as Proposed by the Bill

3. The Bill proposes to allocate county governments Ksh. 391.1 billion for the financial year 2024/25 as equitable share of revenue raised nationally, which is an increase from a base of Kshs.374.5 billion allocated in the financial year 2023/24.

4. In FY 2023/24, the Division of Revenue Act, 2023, allocated Ksh. 385.4 billion to county governments as equitable share. This allocation included Ksh. 10.9 billion being proceeds from the Road Maintenance Fuel Levy (RMFL) and Ksh. 425 million for Transfer of Library Services. The allocation of Ksh. 425 million was attendant resources for the personnel emoluments relating

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to the library services transferred from the Kenya National Library Services in FY 2022/23 to the county governments.

5. The RMFL, which was initially a conditional allocation to county governments for maintenance of county roads, was folded up to be part of county governments equitable share in FY 2021/22. However, the national and county governments coordinating Summit meeting held on 10th – 12th February, 2023 resolved that RMFL allocation to counties shall be considered in FY 2024/25 through a restructured process. Further to this, a consensus has been built that attendant resources for RMFL be transferred to county governments as conditional allocations beginning FY 2024/25.

6. Taking into account these policy developments, the equitable share base has been revised from Ksh. 385.4 billion allocated to counties in FY 2023/24, by netting off Ksh. 10.9 billion related to RMFL to Ksh. 374.5 billion.

7. The National Treasury has proposed an allocation of Ksh. 391.1 billion to county governments in FY 2024/25, translating to an increase of Ksh. 16.6 billion.

8. The county governments' equitable share of revenue amounting to Ksh. 391.1 billion was allocated among the county governments on the third basis of the revenue allocation criteria approved by Parliament in accordance with Article 217 of the Constitution.

9. **Fiscal Capacity and Efficiency of County Governments:** The National Treasury has proposed an increase of Ksh. 16.6 billion equitable share to county governments. Similarly, it is expected that the county governments will also grow their Own Source Revenue (OSR). The National Treasury has further instituted measures to support county governments enhance their revenue collection. These include; the National Rating Bill, the County Governments Revenue Raising Process Bill, the Model Tariffs and Pricing policy for adoption by county governments and recommendation for an Integrated County Revenue Management System. The National Treasury recommends that the Senate considers reinstating the fiscal effort parameter intended to incentivize OSR collection by the Counties in order to incentivize the attainment of the intended objectives of the above measures.

10. **Developmental needs of the county governments and their ability to perform the functions assigned to them:** 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. In addition, Article 209

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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.

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

Allocation of the sharable revenue (i.e., equitable share of Ksh.391.1 billion) among counties is based on the Third-generation formula approved by Parliament in September, 2020 pursuant to provisions of Article 217 and paragraph 16 of the Sixth Schedule of the Constitution. The Third Basis formula which is 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%); (iv) Urban Index (5%); (v) Poverty Index (14%); (vi) Land Area Index (8%); (vii) Roads Index (8%), and; (viii) Basic Share index (20%). The horizontal distribution of County Governments' equitable revenue share allocation of Ksh.391.1 billion for FY 2024/25 shall be based on the Third Basis Formula. It should be noted that the Third basis formula applied in FY 2024/25, takes into account disparities among counties and aims at equitable distribution of resources across counties.

12. Additionally, the equitable share to county governments is proposed to increase from an adjusted baseline of Ksh. 374.5 billion in FY 2023/24 to Ksh. 391.1 billion in FY 2024/25, an increase of Ksh. 16.6 billion, which is meant to facilitate county governments enhance service delivery in performance of their assigned functions under the second part of the Fourth Schedule of the Constitution.

13. Stability and Predictability of County Revenue Allocations: 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 projected global economic downturn in 2024. According to clause 5 of the Division of Revenue Bill (DoRB) 2024, any shortfall in revenue raised nationally is to be borne by the National Government, to the extent of the threshold prescribed in Regulations by the Cabinet Secretary.

Summary of Deviations from the Recommendations of the Commission on Revenue Allocations

14. The Division of Revenue Bill, 2024 proposes to allocate county governments an equitable share of Ksh. 391.1 billion from the shareable revenue raised nationally. The CRA, on the other hand, recommends County Governments' equitable share of revenue of Ksh. 398.14 billion as an unconditional allocation to be shared among county governments on the basis of the formula for sharing revenue approved by Parliament under Article 217 of the Constitution. The difference between the proposed allocation by the National Treasury and CRA is occasioned by: -

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- a) **Adjustment for the base of equitable share with RMFL:** - whereas the National Treasury has adjusted the base of Equitable share for FY 2023/24 of Ksh. 385.425 billion by netting off an allocation of Ksh. 10.933 billion to RMFL in FY 2023/24 as reported by the Kenya Roads Board, whereas CRA has adjusted it by Ksh. 9.8 billion allocated to RMFL in FY 2020/21; and which was then the amount converted to equitable share;
- b) **Adjustment for Revenue Growth:** - whereas the National Treasury has proposed an increase of Kshs. 16.6 billion to county governments equitable share, CRA has proposed an increase of Kshs. 22.5 billion, in FY 2024/25.

15. Table 3 analyses the approaches by CRA and the National Treasury in computing the proposal on the division of revenue between the national and county governments in FY 2024/25.

Table 3: Comparison of approaches towards recommendations of the Commission on Revenue Allocation and the National Treasury on the equitable share of revenue proposed for FY 2024/25

Expenditure Item	CRA	National Treasury	Variance
	A(million)	B(million)	C=(A-B(million))
1. Equitable Revenue Share in FY 2023/24	385,425	385,425	-
Less :			
1.1. Adjustment for RMFL	*9,800	**10,933	(1,133)
2. Adjusted Equitable share Base (1 - 1.1)	375,625	374,492	1,133
Add:			
3. Adjustment for Revenue Growth	22,520	16,625	5,895
TOTAL EQUITABLE OF REVENUE = (2+3)	398,145	391,117	7,028

Source: The National Treasury

* Allocations to RMFL in FY 2020/21; and which was then the amount converted to equitable share while ** allocations to RMFL in FY 2023/24 as reported by the Kenya Roads Board.

Conclusion

16. The proposals contained in the Bill take into account the fiscal framework set out in the 2024 BPS and are intended to ensure fiscal sustainability specifically against the backdrop of escalating expenditure pressure on the fiscal framework occasioned by increase in expenditures of Consolidated Fund Services (CFS) and the persistent under performance of the ordinary revenue.

17. The proposed equitable share allocated to county governments in the Division of Revenue Bill, 2024 has also taken into account the approved Third Basis Formula for Revenue Allocation. The proposed Kshs. 391.1 billion allocations among county governments pursuant to Article 217 of the Constitution is equivalent to 24.86 per cent of the actual revenue for FY 2019/20, as per the

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records of the National Treasury and as confirmed by the Office of the Auditor General. This is above the minimum threshold required under Article 203(2) of the Constitution.

18. The National Treasury has also taken into account the approved Third Basis for Revenue Allocation among county governments pursuant to Article 217 of the Constitution, whose application in the FY 2024/25 was preceded by a Ksh.16.6 billion increase in the Counties' equitable revenue share. It is expected with successful implementation of the Third Basis formula in FY 2024/25, county governments will 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.

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