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The County Allocation of Revenue Bill, 2019

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REPUBLIC OF KENYA
THE NATIONAL TREASURY AND PLANNING

County Allocation of Revenue Bill, 2019

A legislative proposal for submission to Parliament

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THE COUNTY ALLOCATION OF REVENUE BILL, 2019

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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 2019/2020 financial year and 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, 2019.

Interpretation. 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;

“conditional allocations” for the purposes of this Act, means additional resources allocated to county governments from revenue raised nationally or in the form of loans and grants from development partners;

No. 16 of 2011. “revenue” has the meaning assigned to it under section 2 of the Commission on Revenue Allocation Act; and

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 2019/20;
(b) provide, pursuant to Article 187(2) and 202 (2) of the Constitution, for conditional allocations for the financial year 2019/20; and
(c) facilitate the transfer of allocations made to counties under this Act from the Consolidated Fund to the respective County Revenue Funds.

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Equitable allocation of county governments' share of revenue.

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 2019/20 shall be as set out in Column D of the First Schedule.

No. 18 of 2012.

(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 of the Public Finance Management Act, 2012.

Conditional allocations to county governments.

5. (1) Conditional allocations from national government revenue to each county government for the financial year 2019/20 shall be as set out in Column H of the Second Schedule, comprising —

- (a) conditional grants for level 5 hospitals as set out in Column B of the Second Schedule;
- (b) conditional allocations for construction of county headquarters as set out in Column C of the Second Schedule;
- (c) conditional allocations to compensate county health facilities for forgone user fees revenue as set out in Column D of the Second Schedule;
- (d) conditional allocations for leasing of medical equipment as set out in Column E of the Second Schedule;
- (e) conditional allocations from the Road Maintenance Fuel Levy Fund for the repair and maintenance of county roads as set out in Column F, of the Second Schedule; and
- (f) conditional allocations for development of youth polytechnics as set out in Column G of the Second Schedule.

(2) Conditional allocations financed by proceeds of loans or grants from development partners to each county government for the financial year 2019/20 shall be as set out in Column O of the Third Schedule, comprising of—

- (a) conditional allocation financed by a grant from the World Bank to finance Transforming Healthcare Systems for Universal Care Project (THSUCP) as set out in Column B of the Third Schedule;
- (b) conditional allocation financed by a World Bank credit to finance Agricultural and Rural Inclusive Growth Project (NARIGP) as set out in Column C of the Third Schedule;
- (c) conditional allocation financed by a World Bank loan to finance the Kenya Climate Smart Agriculture Project (KCSAP) as set out in Column D of the Third Schedule;
- (d) conditional allocation financed by a grant from the World Bank for Kenya Devolution Support Programme (KDSP)- level 1 known as KDSP Capacity Building (“level 1”) Grant as set out in Column E of the Third Schedule;
- (e) conditional allocation financed by a loan from the World Bank for Kenya Urban Support Project (KUSP)- Urban Development Grant (UDG), as set out in Column F of the Third Schedule;
- (f) conditional allocation from a grant by DANIDA to finance Universal Healthcare in Devolved System Program as set out in Column G of the Third Schedule;
- (g) Conditional allocation from an EU grant to finance Instruments for Devolution Advice and Support (IDEAS) program as set out in Column H of the Third Schedule;
- (h) Conditional allocation from a World Bank credit to finance Water & Sanitation Development Project (WSDP) as set out in Column I of the Third Schedule;
- (i) Conditional allocation amounting to Kenya Shillings four billion (Ksh. 4.89 billion) financed by a grant from the World Bank for Kenya Devolution Support Programme (KDSP) known as KDSP Performance (“level 2”) Grant as set out in Column J of the Third

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Schedule which shall be allocated among county government on the basis of a criteria to be determined as follows;

- i. the Accounting Officer responsible for the grant, shall for each eligible county government, carry out or cause to be carried out, in accordance with the Intergovernmental agreement between the National Government and each eligible county government, an assessment to determine the eligible county government's performance score for purposes of determining the Performance ("level 2") grant allocation for the financial year 2019/20;
 - ii. the allocation to the eligible county governments shall be on the basis of the criteria comprising of the performance score determined in paragraph (i) above and the Revenue sharing formula approved by Parliament in accordance with Article 217 of the Constitution; and
 - iii. the Cabinet Secretary shall publish in the Kenya Gazette the allocations determined in terms of paragraph (ii) above.
- (j) Conditional allocation financed by a loan from Government of Sweden to finance Agriculture Sector Development Support Programme II (ASDSP II) as set out in Column K of the Third Schedule;
 - (k) Conditional allocation financed by a grant from EU to finance Water Tower Protection and Climate Change Mitigation and Adaptation Programme (WaTER) as set out in Column L of the Third Schedule;
 - (l) Conditional allocation financed by a credit from the World Bank to finance the Kenya

Urban Support Project (KUSP) - Urban Institutional Grants (UIG) as set out in Column M of the Third Schedule; and

- (m) Conditional allocation financed by both loan and grant from the German Development Bank (KfW) to finance Drought Resilience Programme in Northern Kenya (DRPNK) as set out in Column N of the Third Schedule.

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(3) Each county government's allocation under subsection (1) (a), (b), (c), (e) and (f) shall be transferred to the respective County Revenue Fund, in accordance with a payment schedule published in the Gazette by the Cabinet Secretary in accordance with section 17 of the Public Finance Management Act, 2012, but shall only be accessed by each county government after meeting conditions set by the Cabinet Secretary responsible for that function at the beginning of the financial year and such transfers shall be included in the budget estimates of the county government and submitted to the county assembly for approval.

(4) The county governments' allocations under subsection (1) (d) shall be included in the budget estimates of the national government and shall be submitted to Parliament for approval provided that the national government and county governments will have an intergovernmental agreement in line with Article 187 of the Constitution.

(5) A county governments' allocation under subsection (2) (a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (l), (m) and (n) above shall be transferred to the respective County Revenue Fund, in accordance with a payment schedule published in the Gazette by the Cabinet Secretary in accordance with section 17 of the Public Finance Management Act, 2012 provided the Cabinet Secretary and the responsible development partner have agreed in writing that the funds shall be transferred to the county governments and such transfers shall be included in the budget estimates of the county government and submitted to the county assembly for approval.

Report on actual transfers.

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

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Books of accounts to reflect national government transfers.

7. (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 and any other conditional allocations from the national government transferred to the County Revenue Fund.

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(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.

Financial Misconduct.

8. 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.

Cabinet Secretary to make Regulations.

9. The Cabinet Secretary may, with the approval of Parliament make Regulations on—

- (a) any matter in respect of which Regulations require to be made under this Act; and
- (b) any subsidiary or incidental administrative or procedural matter necessary for the proper implementation or administration of this Act.

Clarification of revenue sharing formula to apply

10. For the avoidance of doubt the allocation of the equitable share of revenue to the county governments under Section 4 of this Act shall be in accordance with the second determination of the basis of the division of revenue among counties approved by Parliament pursuant to Article 217 (7) of the Constitution.

FIRST SCHEDULE (s. 4(1))

Allocation of Each County Governments' Equitable Share of Revenue Raised Nationally in the Financial year 2019/20

No	County	2018/2019		2019/2020	
		Allocation Ratio	Equitable Share	Allocation Ratio	Equitable Share
		Column A	Column B	Column C	Column D
1	Baringo	1.62	4,940,384,400	1.61	4,991,000,000
2	Bomet	1.89	5,763,781,800	1.74	5,394,000,000
3	Bungoma	2.85	8,691,417,000	2.81	8,711,000,000
4	Busia	1.9	5,794,278,000	1.9	5,890,000,000
5	Elgeyo Marakwet	1.2	3,659,544,000	1.22	3,782,000,000
6	Embu	1.42	4,330,460,400	1.36	4,216,000,000
7	Garissa	2.21	6,739,660,200	2.22	6,882,000,000
8	Homa bay	2.13	6,495,690,600	2.13	6,603,000,000
9	Isiolo	1.25	3,812,025,000	1.34	4,154,000,000
10	Kajiado	1.91	5,824,774,200	2.03	6,293,000,000
11	Kakamega	3.29	10,033,249,800	3.29	10,199,000,000
12	Kericho	1.82	5,550,308,400	1.7	5,270,000,000
13	Kiambu	2.98	9,087,867,600	2.98	9,238,000,000
14	Kilifi	3.45	10,521,189,000	3.3	10,230,000,000
15	Kirinyaga	1.31	3,995,002,200	1.34	4,154,000,000
16	Kisii	2.45	7,471,569,000	2.46	7,626,000,000
17	Kisumu	2.2	6,709,164,000	2.16	6,696,000,000
18	Kitui	2.78	8,477,943,600	2.79	8,649,000,000
19	Kwale	2.4	7,319,088,000	2.46	7,626,000,000
20	Laikipia	1.31	3,995,002,200	1.32	4,092,000,000
21	Lamu	1.13	3,446,070,600	0.82	2,542,000,000
22	Machakos	2.65	8,081,493,000	2.45	7,595,000,000
23	Makueni	2.27	6,922,637,400	2.34	7,254,000,000
24	Mandera	3.23	9,850,272,600	3.23	10,013,000,000
25	Marsabit	2.23	6,800,652,600	2.14	6,634,000,000
26	Meru	2.55	7,776,531,000	2.54	7,874,000,000
27	Migori	2.14	6,526,186,800	2.14	6,634,000,000
28	Mombasa	2.62	7,990,004,400	2.23	6,913,000,000
29	Murang'a	1.99	6,068,743,800	1.99	6,169,000,000

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30	Nairobi	5.03	15,339,588,600	5.03	15,593,000,000
31	Nakuru	3.01	9,179,356,200	3.31	10,261,000,000
32	Nandi	1.71	5,214,850,200	1.69	5,239,000,000
33	Narok	2.03	6,190,728,600	2.54	7,874,000,000
34	Nyamira	1.52	4,635,422,400	1.52	4,712,000,000
35	Nyandarua	1.57	4,787,903,400	1.54	4,774,000,000
36	Nyeri	1.6	4,879,392,000	1.71	5,301,000,000
37	Samburu	1.41	4,299,964,200	1.46	4,526,000,000
38	Siaya	1.92	5,855,270,400	1.83	5,673,000,000
39	Taita Taveta	1.29	3,934,009,800	1.34	4,154,000,000
40	Tana River	1.77	5,397,827,400	1.85	5,735,000,000
41	Tharaka Nithi	1.16	3,537,559,200	1.24	3,844,000,000
42	Trans Nzoia	1.79	5,458,819,800	1.82	5,642,000,000
43	Turkana	3.43	10,460,196,600	3.33	10,323,000,000
44	Uasin Gishu	1.89	5,763,781,800	2	6,200,000,000
45	Vihiga	1.42	4,330,460,400	1.47	4,557,000,000
46	Wajir	2.7	8,233,974,000	2.7	8,370,000,000
47	West Pokot	1.57	4,787,903,400	1.58	4,898,000,000
	Total	100	304,962,000,000	100	310,000,000,000

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SECOND SCHEDULE (s. 5(1))

Conditional allocations to County Governments from National Government Revenue in Financial year 2019/20 (Figures are in Kenya Shillings)

S/N	County	FY 2019/20									
		FY 2018/19 Total Conditional Grants from the National Government Revenue	Column A	Column B	Supplement for construction of county headquarters	Column D	Column E	Column F	Column G	Column H	Total Conditional Grants from the National Government Revenue
1	Baringo	382,727,014	-	-	13,191,000	131,914,894	144,643,406	24,873,298	314,622,598		
2	Bomet	420,841,205	-	-	16,713,356	131,914,894	156,322,688	47,388,298	352,339,235		
3	Bungoma	533,956,683	-	-	32,837,307	131,914,894	252,452,156	53,928,298	471,132,654		
4	Busia	435,973,669	-	-	16,934,085	131,914,894	170,697,188	63,333,298	382,879,464		
5	Elgeyo/Marakwet	349,797,077	-	-	8,788,919	131,914,894	109,605,563	30,228,298	280,537,673		
6	Embu	667,061,008	301,040,462	-	10,724,225	131,914,894	122,183,250	33,603,298	599,466,129		
7	Garissa	775,747,878	344,739,884	-	12,964,636	131,914,894	199,446,188	20,628,298	709,693,899		
8	Homa Bay	444,954,827	-	-	22,185,346	131,914,894	191,360,531	35,163,298	380,624,069		
9	Isiolo	449,049,293	-	121,000,000	3,472,461	131,914,894	120,386,438	10,833,298	387,607,090		
10	Kajiado	415,206,684	-	-	16,955,365	131,914,894	182,376,469	35,493,298	366,740,025		
11	Kakamega	1,006,978,228	427,283,237	-	37,789,290	131,914,894	295,575,656	76,923,298	969,486,374		
12	Kericho	409,519,496	-	-	18,048,789	131,914,894	152,729,063	29,433,298	332,126,043		
13	Kiambu	1,087,865,232	538,716,763	-	34,671,542	131,914,894	267,725,063	55,113,298	1,028,141,559		
14	Kilifi	564,228,319	-	-	25,969,864	131,914,894	296,474,063	58,863,298	513,222,118		
15	Kirinyaga	371,794,810	-	-	11,282,570	131,914,894	120,386,438	34,503,298	298,087,199		
16	Kisii	917,177,976	417,572,254	-	26,138,997	131,914,894	221,007,938	74,553,298	871,187,381		
17	Kisumu	813,848,454	369,017,341	-	21,299,489	131,914,894	194,055,750	41,673,298	757,960,772		
18	Kitui	510,797,140	-	-	22,499,906	131,914,894	250,655,344	72,588,298	477,658,441		
19	Kwale	455,485,910	-	-	15,209,593	131,914,894	221,007,938	59,793,298	427,925,722		
20	Laikipia	347,622,182	-	-	9,968,208	131,914,894	118,589,625	31,908,298	292,381,024		