Bill for Introduction into the National Assembly—

The Division of Revenue Bill, 2012.......................................................... 6163
THE DIVISION OF REVENUE BILL, 2012
ARRANGEMENT OF CLAUSES

Clause
1—Short title.
2—Interpretation.
3—Object and purpose of the Act.
4—Equitable allocation of revenue.
5—Variation in Revenue.
6—Resolution of disputes and payment of wasteful expenditure.

SCHEDULE
A Bill for

AN ACT of Parliament to provide for the equitable division of revenue raised between the national and county governments in 2013/14 financial year, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Division of Revenue Act, 2012.

2. In this Act, unless the context otherwise requires—
   “revenue” has the meaning assigned to it in section 2 of the Commission on Revenue Allocation Act, 2011;
   “State Organ” has the meaning assigned to it in Article 260 of the Constitution;
   “Transition Authority” means the Transition Authority established under section 4 of the Transition to Devolved Government Act, 2012; and
   “Wasteful expenditure” has the meaning assigned to it in section 2 of the Public Finance Management Act; 2012.

3. The object and purpose of this Act is to provide for—
   (a) the equitable division of revenue raised nationally between the national and county levels of government for the financial year 2013/14;
   (b) additional resources to facilitate the proper functioning of county governments; and
   (c) the financing and continuation of the on-going services.

4. Revenue raised by the national government in respect of the financial year 2013/14 shall be divided among the national and county governments as set out in the Schedule to this Act.

5. (1) If the actual revenue raised nationally in the financial year falls short of the expected revenue set out in the Schedule, the shortfall shall be borne by the national government to the extent of the threshold prescribed in the Regulations by the Cabinet Secretary.
(2) If the shortfall in revenue referred to in sub-section (1) exceeds the threshold prescribed by the Cabinet Secretary, the shortfall in excess of that threshold shall be apportioned between the national and county governments on a prorata basis.

(3) If the actual revenue raised nationally in a financial year exceeds the expected revenue set out in the Schedule, the excess revenue shall be apportioned between the national government and country governments on a prorata basis.

6. (1) Any State Organ involved in an intergovernmental dispute regarding any provision of this Act or any division of revenue or allocation shall, in accordance with Article 189 of the Constitution and before instituting court proceedings to resolve the dispute, make every effort to settle the dispute with the other State Organ concerned, including exhausting all intergovernmental alternative mechanisms provided for resolving disputes in relevant legislation.

(2) If a court is satisfied that a State Organ, in an attempt to resolve a dispute has not exhausted all the mechanisms for alternative dispute resolutions as contemplated in section 35 of the Intergovernmental Relations Act, 2012 and refers the dispute back for the reason that the State Organ has not complied with subsection (1), the expenditure incurred by that State Organ in instituting the proceedings shall be regarded as wasteful expenditure.

(3) The costs in respect of the wasteful expenditure referred to in subsection (2) shall, in accordance with a prescribed procedure, be recovered without delay from the person who caused the State Organ not to comply with the requirements of subsection (1).
SCHEDULE  

Equitable Allocations between the national and county governments for 2013/14 (figures are in KSh. unless otherwise indicated)

<table>
<thead>
<tr>
<th>Level of Government</th>
<th>Revenue allocation</th>
<th>Percentage of Audited Revenue (Ksh. 608.1 billion)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Kenya Shillings</td>
<td>%</td>
</tr>
<tr>
<td><strong>National Allocation</strong></td>
<td>798,166,010,031</td>
<td>131.3%</td>
</tr>
<tr>
<td>Of which: Equalization Fund</td>
<td>4,349,335,000</td>
<td>0.7%</td>
</tr>
<tr>
<td>Special Allocations</td>
<td>51,327,338,216</td>
<td>8.4%</td>
</tr>
<tr>
<td><strong>County Allocations</strong></td>
<td>147,324,314,005</td>
<td>24.2%</td>
</tr>
<tr>
<td><strong>TOTAL SHAREABLE REVENUE</strong></td>
<td>945,490,324,036</td>
<td></td>
</tr>
</tbody>
</table>
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the equitable division of revenue raised nationally among the national and county levels of government as required by Article 218 of the Constitution.

Clauses 1 and 2 of the Bill provides for the short title of the Bill and the interpretation of terms used in the Bill.

Clause 3 of the Bill contains the provisions on the object and purpose of the Bill.

Clause 4 of the Bill prescribes how the revenue raised by the national government in 2013/14 financial year will be shared between the national and the county levels of government.

Clause 5 of the Bill deals with mechanisms for adjusting for variations in revenues.

Clause 6 of the Bill contains provisions which emphasizes on dispute resolution before instituting court proceedings and includes provisions on personal liability for officers who cause a State Organ to incur costs because of referring disputes relating to division of revenue to courts prior to exhausting available alternative dispute resolution mechanism.

Dated the 31st December, 2012.

ROBINSON NJERU GITHAE,
Minister for Finance.