

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2021**

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**NAIROBI, 25th May, 2021**

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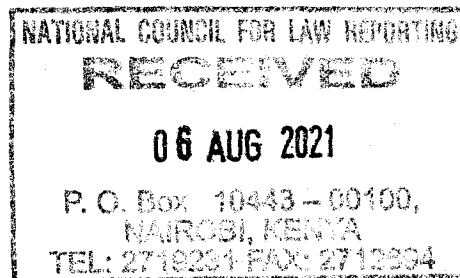
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**THE COUNTY GOVERNMENTS GRANTS BILL,  
2021**

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**THE COUNTY GOVERNMENTS GRANTS BILL,  
2021**

**A Bill for**

**AN ACT of Parliament to provide for the allocation of conditional grants to county governments for the 2021/2022 financial year; the responsibilities of 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 Governments Grants Act, 2021.

Short title.

**2.** In this Act —

Interpretation.

“agreement” means an intergovernmental agreement entered into under subsection section 4;

“Cabinet Secretary” means the Cabinet Secretary responsible for finance;

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

“county executive committee member” means the county executive committee member in charge of matters relating to finance.

**3.** The object of this Act is to—

Object.

(a) provide, pursuant to Article 187(2) and 202 (2) of the Constitution, for conditional allocations for the financial year 2021/22; and

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

**4.** (1) The National Treasury shall enter into an agreement with the respective county government for the transfer of the respective conditional allocation made to the county government pursuant to this Act.

Intergovernmental agreements.

(2) An agreement under subsection (1) shall set out any conditions that may be attached to the conditional allocations made under this Act.

(3) Where a county government intends to enter into an agreement under subsection (1), the county executive committee member shall submit the agreement to the respective County Assembly for approval.

(4) The County Assembly shall, within seven days of submission of an agreement under subsection (3), approve or reject the agreement.

(5) Where a County Assembly fails to consider an agreement under subsection (3) within seven days, the agreement shall be deemed to be approved.

(6) An agreement under subsection (1) shall set out all conditions attached to an allocation made under this Act.

5. The county executive shall facilitate public participation on any agreement made pursuant to the provisions of this Act.

Public participation.

6. An agreement under section 4 shall be—

- (a) signed by an authorized person or officer; and
- (b) published in the *Kenya Gazette* and county *gazette* within a period of seven days of the agreement.

Execution of agreement for conditional allocation.

7. (1) The National Treasury shall, within seven days of entering into an agreement under this section, submit to the Senate, the agreement together with any other documents relating to the agreement.

Submission to Senate.

(2) The National Treasury shall publish and publicize all agreements entered into pursuant to this Act.

8. (1) Conditional allocations to each county government from national government for the financial year 2021/22 shall be as set out in Column D of the First Schedule, comprising —

Conditional allocations to county governments.

- (a) conditional allocations for the construction of county headquarters as set out in Column B of the Second Schedule; and
- (b) conditional allocations for the leasing of medical equipment as set out in Column C 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 2021/22 shall be as set out in Column N of the Second Schedule, comprising of—

- (a) conditional allocations 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 allocations 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 allocations from a EU grant to finance Instruments for Devolution Advice and Support (IDEAS) program as set out in Column E of the Third Schedule;
- (e) conditional allocations from a World Bank credit to finance Water and Sanitation Development Project (WSDP) as set out in Column F of the Third Schedule;
- (f) conditional allocations 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 allocations financed by a grant from the World Bank for Kenya Devolution Support Programme (KDSP) – level 2 known as KDSP Capacity Building (“level 2”) Grant as set out in Column H of the Third Schedule;
- (h) conditional allocations financed by a loan from Government of Sweden to finance Agriculture Sector Development Support Programme II (ASDSP II) as set out in Column I of the Third Schedule;
- (i) conditional allocations 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 J of the Third Schedule;
- (j) conditional allocations financed by a credit from World Bank to finance Emergency Locust

Response Project (ELRP) as set out in Column K of the Third Schedule;

(k) conditional allocations financed by a loan from the World Bank to finance Kenya Informal Settlement Improvement Project (KISIP II) as set out in Column L of the Third Schedule; and

(l) conditional allocations financed by United Nations Fund for Population Activities (UNFPA) to finance the 9<sup>th</sup> Country Programme Implementation as set out in Column M of the Third Schedule.

(3) Each county government's allocation under subsection (1)(a) shall—

(a) 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; and

No. 18 of 2012.

(b) 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.

(4) The county governments' allocations under subsection (1)(b) shall, subject to subsection (5), be included in the budget estimates of the National Government and shall be submitted to Parliament for approval.

(5) Allocations shall not be included in the budget estimates under subsection (4) unless—

(a) the National Government and the respective county governments have entered into an intergovernmental agreement in accordance with this Act; or

(b) in the case of a loan or grant by a development partner, the Cabinet Secretary and the responsible development partner have agreed in writing that the funds shall be transferred to the county government.

(6) A county governments' allocation under subsection (2) shall be transferred to the respective County

Revenue Fund in accordance with a payment schedule published in the *Kenya Gazette* by the Cabinet Secretary in accordance with section 17 of the Public Finance Management Act.

No. 18 of 2012

**9.** The Cabinet Secretary shall publish a monthly report on actual transfers of all conditional allocations to County Governments disbursed pursuant to this Act.

Report on actual transfers.

**10.** Each county treasury shall reflect all transfers of conditional allocations by the National Government to the respective county government in its books of accounts.

Books of accounts to reflect national government transfers. Reporting.

**11.** A county treasury shall, as part of its consolidated quarterly and annual reports required under the Public Finance Management Act, report on—

No. 18 of 2012

- (a) 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;
- (b) the actual expenditure by the county government of the allocations made under section 4(1) and (2);
- (c) the extent of compliance with the provisions of this Act and with the conditions of allocations as set out in the intergovernmental agreement or framework entered into by the national government, the development partner and the county government;
- (d) an explanation of any material problems in the expenditure of any allocations made under this Act or compliance with any conditions of allocations set out in an intergovernmental agreement of framework; and
- (e) any other information that may be required by the relevant intergovernmental agreement.

**12.** The Public Finance Management Act is amended—

Consequential amendment. No.18 of 2012.

(a) by deleting section 42 and substituting therefor the following new section—

Consideration by  
Parliament of  
Division of Revenue  
and County  
Allocation of  
Revenue Bills.

**42.** Parliament shall consider the Division of Revenue Bill, the County Allocation of Revenue Bill, and a Bill for the allocation and transfer of conditional or unconditional allocations under Article 202(2) of the Constitution not later than thirty days after the Bills have been introduced with a view to approving them, with or without amendments.

(b) in section 191 by deleting subsection (1) and substituting therefor the following new subsection-

(1) Each year when the Budget Policy Statement is introduced, the Cabinet Secretary shall submit to Parliament a Division of Revenue Bill, a County Allocation of Revenue Bill and a Bill for the allocation and transfer of conditional or unconditional allocations made under Article 202(2) of the Constitution prepared by the National Treasury as provided in this Act for the financial year to which that Budget relates.



**FIRST SCHEDULE**

s. 7(1))

**Conditional Allocations to County Governments from National Government Revenue in Financial year 2021/22(Kenya Shillings)**

S/N	County	FY 2020/21	2021/22 FY		
		Total Conditional Grants from the National Government Revenue	Supplement for construction of county headquarters	Conditional Grant-Leasing of Medical Equipment	Total Conditional Grants from the National Government Revenue
		Column A	Column B	Column C	Column D
1	Baringo	318,526,073	-	153,297,872	153,297,872
2	Bomet	361,373,348	-	153,297,872	153,297,872
3	Bungoma	499,669,894	-	153,297,872	153,297,872
4	Busia	388,217,282	-	153,297,872	153,297,872
5	Elgeyo/Marakwet	283,800,930	-	153,297,872	153,297,872
6	Embu	613,874,883	-	153,297,872	153,297,872
7	Garissa	717,044,187	-	153,297,872	153,297,872
8	Homa Bay	395,535,074	-	153,297,872	153,297,872
9	Isiolo	365,357,737	68,000,000	153,297,872	221,297,872
10	Kajiado	368,033,501	-	153,297,872	153,297,872
11	Kakamega	1,014,514,769	-	153,297,872	153,297,872
12	Kericho	334,767,128	-	153,297,872	153,297,872
13	Kiambu	1,060,769,036	-	153,297,872	153,297,872
14	Kilifi	554,005,433	-	153,297,872	153,297,872
15	Kirinyanga	297,552,826	-	153,297,872	153,297,872
16	Kisii	879,284,082	-	153,297,872	153,297,872
17	Kisumu	771,446,538	-	153,297,872	153,297,872
18	Kitui	510,802,514	-	153,297,872	153,297,872
19	Kwale	431,815,791	-	153,297,872	153,297,872
20	Laikipia	303,695,016	-	153,297,872	153,297,872
21	Lamu	316,841,615	38,000,000	153,297,872	191,297,872
22	Machakos	842,088,971	-	153,297,872	153,297,872
23	Makueni	436,722,040	-	153,297,872	153,297,872
24	Mandera	477,240,570	-	153,297,872	153,297,872
25	Marsabit	354,066,748	-	153,297,872	153,297,872
26	Meru	837,284,031	-	153,297,872	153,297,872
27	Migori	394,818,918	-	153,297,872	153,297,872
28	Mombasa	784,013,153	-	153,297,872	153,297,872
29	Muranga	442,598,480	-	153,297,872	153,297,872
30	Nairobi	702,891,009	-	153,297,872	153,297,872
31	Nakuru	901,451,849	-	153,297,872	153,297,872
32	Nandi	338,393,049	-	153,297,872	153,297,872
33	Narok	380,949,944	-	153,297,872	153,297,872
34	Nyamira	351,822,008	-	153,297,872	153,297,872

S/N	County	FY 2020/21	2021/22 FY		
		Total Conditional Grants from the National Government Revenue	Supplement for construction of county headquarters	Conditional Grant-Leasing of Medical Equipment	Total Conditional Grants from the National Government Revenue
		Column A	Column B	Column C	Column D
35	Nyandarua	371,922,709	75,000,000	153,297,872	<b>228,297,872</b>
36	Nyeri	754,409,397	-	153,297,872	<b>153,297,872</b>
37	Samburu	266,665,895	-	153,297,872	<b>153,297,872</b>
38	Siaya	372,931,392	-	153,297,872	<b>153,297,872</b>
39	Taita Taveta	326,074,867	-	153,297,872	<b>153,297,872</b>
40	Tana River	369,347,509	75,000,000	153,297,872	<b>228,297,872</b>
41	TharakaNithi	366,125,130	76,000,000	153,297,872	<b>229,297,872</b>
42	Trans Nzoia	369,864,846	-	153,297,872	<b>153,297,872</b>
43	Turkana	485,437,183	-	153,297,872	<b>153,297,872</b>
44	Uasin Gishu	373,139,609	-	153,297,872	<b>153,297,872</b>
45	Vihiga	349,554,070	-	153,297,872	<b>153,297,872</b>
46	Wajir	416,579,339	-	153,297,872	<b>153,297,872</b>
47	West Pokot	310,945,251	-	153,297,872	<b>153,297,872</b>
	<b>Total</b>	<b>23,164,265,625</b>	<b>332,000,000</b>	<b>7,205,000,000</b>	<b>7,537,000,000</b>

SECOND SCHEDULE		Conditional Allocations from Loans and Grants from Development Partners for Financial Year 2021/2022 (Figures in Kenya Shillings)											(s. 7(2))	
S/N	County	2021/22 FY												
		2020/21 FY	Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K	Column L
Total Loans and Grants			IDA (World Bank) credit (National Agricultural and Rural Inclusive Growth Project (NARIGP))	IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP)	EU Grant (Instruments for Devolution Advice and Support IDEAS)	IDA (World Bank) credit: Water & Sanitation Development Project (WSDP)	DANIDA Grant - Primary Health Care in Devolved Context	IDA (World Bank) credit: Kenya Devolution Support Project (KDSPP) Level 2 grant	Sweden - Agricultural Sector Development Support Programme (ASDSP) II	German Development Bank (KfW) - Drought Resilience Programme in Northern Kenya (DRPNK)	World Bank - Emergency Locust Response Project (ELRP)	World Bank - Kenya Informal Settlement Improvement Project (KISIP II)	UNFPA - 9th Country Programme Implementation	Total Loans and Grants
1	Baringo	434,339,263	51,439,168	300,000,000	36,744,378	-	11,290,125	75,822,872	25,115,290	-	27,905,333	-	-	528,317,166
2	Bomet	470,975,357	98,737,242	349,999,960	-	-	12,201,750	167,353,974	24,888,732	-	-	-	-	653,181,658
3	Bungoma	376,922,526	52,969,787	280,530,114	-	-	19,705,125	112,815,048	26,752,122	-	-	50,000,000	-	542,772,196
4	Busia	457,458,804	42,178,872	295,795,506	-	-	13,323,750	69,825,044	26,009,940	-	47,838,667	50,000,000	-	447,133,112
5	Elgeyo/Mara kwet	451,406,116	37,021,153	350,000,000	-	-	8,555,250	184,795,683	23,843,630	-	-	-	-	702,054,383
6	Embu	384,183,435	5,714,632	387,946,601	-	-	9,537,000	-	22,224,624	-	28,398,667	-	-	453,821,524
7	Garissa	934,781,540	33,361,734	348,172,365	-	50,000,000	15,567,750	64,613,906	35,533,363	-	40,478,667	-	-	1,087,727,785
8	Homa Bay	309,416,619	70,450,834	279,115,289	-	-	14,936,625	120,374,189	26,387,350	-	76,030,667	50,000,000	8,864,000	454,463,421
9	Isiolo	577,117,295	20,444,468	350,699,130	-	-	9,396,750	132,797,633	24,714,544	-	-	50,000,000	-	576,204,540
10	Kajiado	559,702,274	33,348,868	321,108,120	-	-	14,235,375	78,009,910	28,082,288	-	-	150,000,000	-	691,090,920
11	Kakamega	485,462,055	73,144,291	338,783,306	-	-	23,071,125	102,491,953	28,692,485	-	-	50,000,000	-	569,054,323
12	Kenicho	445,266,392	75,948,635	350,000,000	-	-	11,921,250	73,731,600	30,340,365	-	-	50,000,000	-	589,239,254
13	Kiambu	357,387,255	11,433,390	402,836,649	-	-	20,897,250	102,491,953	27,964,926	-	-	200,000,000	8,864,000	2,154,008,617
14	Kilifi	1,253,234,710	36,935,995	254,610,493	-	-	23,141,250	146,608,512	25,522,510	-	-	-	-	573,638,600
15	Kirinyaga	295,037,247	47,498,316	344,612,512	-	-	9,396,750	128,507,146	26,370,204	-	-	-	-	575,643,577
16	Kisii	364,718,901	63,079,905	324,295,427	16,140,145	-	17,250,750	82,682,844	29,715,378	-	-	-	-	575,643,577
17	Kisumu	425,782,038	51,833,637	274,627,706	15,626,168	-	15,147,000	82,682,844	29,715,378	-	-	300,000,000	-	769,632,733

SECOND SCHEDULE		Conditional Allocations from Loans and Grants from Development Partners for Financial Year 2021/2022 (Figures in Kenya Shillings)													(s. 7(2))	
		2021/22 FY														
S/N	County	2020/21 FY	Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K	Column L	Column M	Column N
		Total Loans and Grants	IDA (World Bank) Transforming Health Systems for Universal Care Project	IDA (World Bank) credit (National Agricultural and Rural Inclusive Growth Project (NARIGP))	IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP)	EU Grant (Instruments for Devotion Advice and Support IDEAS)	IDA (World Bank) credit: Water & Sanitation Development Project (WSDP)	DANIDA Grant - Primary Health Care in Devolved Context	IDA (World Bank) credit: Kenya Devolution Support Project (KDSP) "Level 2 grant"	Sweden - Agricultural Sector Development Support Programme (ASDSP) II	German Development Bank (KfW) - Drought Resilience Programme in Northern Kenya (DRPNK)	World Bank - Emergency Locus Response Project (ELRP)	World Bank - Kenya Informal Settlement Improvement Project (KISIP II)	UNFPA - 9th Country Programme Implementation	Total Loans and Grants	
18	Kitui	323,076,845	14,548,168	283,089,026	-	-	-	19,564,875	112,815,048	28,857,290	28,857,290	38,964,000	50,000,000	7,386,704	505,225,111	
19	Kwale	732,337,859	9,438,302	278,050,578	-	-	600,000,000	17,250,750	102,491,953	27,464,844	27,464,844	-	-	-	1,084,696,427	
20	Laikipia	412,138,832	28,777,132	-	349,961,100	15,626,168	-	9,256,500	167,353,974	23,833,630	23,833,630	-	-	-	594,808,504	
21	Lamu	453,357,718	42,427,244	-	300,102,326	-	-	5,750,250	-	25,109,992	25,109,992	-	-	-	387,821,812	
22	Machakos	405,961,434	9,399,935	-	321,468,007	-	-	17,180,625	161,906,472	25,492,885	25,492,885	28,384,000	-	-	563,831,924	
23	Makueni	388,984,714	87,593,306	284,347,309	-	-	-	16,409,250	184,795,683	27,068,180	27,068,180	-	-	-	600,213,719	
24	Mandera	681,208,984	54,586,272	-	298,883,700	-	-	22,650,375	141,844,646	32,096,096	32,096,096	52,925,333	-	4,432,000	607,418,422	
25	Marsabit	616,904,659	8,210,555	-	306,870,917	16,140,048	-	15,006,750	116,524,635	31,621,584	31,621,584	84,508,000	-	4,432,000	753,314,489	
26	Meru	320,613,089	36,886,029	398,724,835	-	-	-	17,811,750	141,844,646	25,100,278	25,100,278	47,977,333	110,000,000	-	778,344,871	
27	Migori	332,385,398	48,944,473	276,072,733	-	15,626,168	-	15,006,750	-	31,009,120	31,009,120	-	-	4,432,000	391,091,244	
28	Mombasa	1,292,389,448	18,129,227	-	-	-	800,000,000	15,637,875	156,635,628	23,499,950	23,499,950	-	-	-	1,313,902,680	
29	Murang'a	423,235,015	81,798,466	335,683,961	-	-	-	13,954,875	-	23,492,070	23,492,070	-	-	-	454,929,372	
30	Nairobi City	166,720,323	87,492,037	-	-	-	-	35,272,875	-	36,639,733	36,639,733	-	-	7,386,704	866,791,349	
31	Nakuru	327,483,267	79,792,976	269,563,385	-	-	-	23,211,375	120,374,189	26,343,334	26,343,334	-	-	-	819,285,259	
32	Nandi	433,775,389	59,482,857	297,105,136	-	-	-	11,851,125	82,682,844	23,676,246	23,676,246	-	-	-	524,798,208	
33	Narok	404,396,552	49,785,426	398,148,737	-	-	-	17,811,750	141,844,646	30,988,725	30,988,725	-	-	-	645,965,988	
34	Nyamira	549,161,906	90,226,074	275,417,324	-	-	-	10,659,000	112,815,048	24,250,072	24,250,072	-	-	-	563,367,518	
35	Nyandarua	484,866,657	94,478,706	-	289,609,680	31,223,224	-	10,799,250	184,795,683	22,983,146	22,983,146	-	-	-	683,889,689	

SECOND SCHEDULE		Conditional Allocations from Loans and Grants from Development Partners for Financial Year 2021/2022 (Figures in Kenya Shillings)													(a. 7(2))	
S/N	County	2021/22 FY													Total Loans and Grants	
		Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K	Column L	Column M	Column N	
		413,326,122	48,739,220	-	352,822,250	-	11,991,375	184,795,683	21,917,144	-	-	60,000,000	-	-	600,265,872	
36	Nyeri	335,728,670	5,601,594	212,277,520	-	15,626,168	102,491,953	32,990,533	-	-	91,713,333	-	-	470,939,351		
37	Samburu	482,259,587	76,115,752	-	314,639,880	-	12,832,875	112,815,048	23,749,120	-	-	-	-	540,152,875		
38	Siaya	794,169,323	47,631,029	-	290,416,775	15,624,929	9,396,750	26,612,835	-	-	40,000,000	-	-	1,379,682,318		
39	Taita Taveta	550,425,744	57,525,672	-	350,271,550	14,727,370	12,973,125	33,065,790	-	-	-	-	-	468,563,507		
40	Tana River	489,787,815	32,426,873	-	350,000,000	-	8,695,500	137,242,250	22,357,452	-	29,566,667	20,000,000	-	600,288,742		
41	Tharaka Nithi	363,274,338	80,437,623	298,658,950	-	-	12,762,750	105,802,077	24,025,084	-	-	50,000,000	-	571,686,484		
42	Trans Nzoia	809,914,377	12,776,238	270,565,502	-	-	23,351,625	112,815,048	43,577,943	200,000,000	120,206,667	-	2,954,593	786,247,616		
43	Turkana	504,253,916	33,080,799	-	354,491,402	11,000,000	14,025,000	112,815,048	23,441,718	-	-	60,000,000	-	608,853,967		
44	Uasin Gishu	388,286,930	47,721,396	243,345,337	-	-	10,308,375	93,307,470	22,632,350	-	-	-	-	417,314,928		
45	Vihiga	871,896,369	33,852,983	-	346,040,790	15,626,168	18,933,750	40,580,823	-	-	50,598,667	50,000,000	4,432,000	1,160,065,181		
46	Wajir	502,634,431	51,216,786	-	353,574,020	11,000,000	11,079,750	66,268,057	32,310,513	-	34,504,000	-	-	559,953,126		
47	West Pokot	30,204,347,586	2,234,664,877	6,394,997,409	7,838,338,898	238,730,934	701,250,000	4,599,999,996	1,300,042,984	370,000,000	800,000,001	2,800,000,000	73,866,705	32,343,890,516		
	Total															

This includes an allocation of KSh. 6,366,000,000 for IDA (World Bank) credit: Kenya Urban Support Project (KUSP) - Urban Development Grant (UDG) to be allocated to 45 county governments in FY 2020/21 using a criterion prescribed in section 5 (2) (e) (i)-(iii) of the County Allocation of Revenue Act, 2020

## MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to make provision for the transfer of conditional allocations from national governments share of revenue and from development partners to the county governments for the financial year 2021/22.

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

**Clause 3** of the Bill contains the object of the Bill which is to provide for the allocation of conditional grants to county governments for the financial year 2021/2022; and to provide for the transfer of these conditional allocations from the Consolidated Fund to the respective County Revenue Fund.

**Clause 4** of the Bill provides for conditional allocations to be made to county governments.

**Clause 5** of the Bill provides for the requirement for county governments to facilitate public participation on intergovernmental agreements on conditional allocations.

**Clause 6** of the Bill provides for execution of agreement for conditional allocation.

**Clause 7** of the Bill provides for submission of intergovernmental agreements on conditional allocations to the Senate.

**Clause 8** of the Bill provides for conditional allocations to county governments.

**Clause 9** of the Bill provides for reports on actual transfers.

**Clause 10** of the Bill provides for county government books of accounts to reflect national government transfers.

**Clause 11** provides for reporting.

**Clause 12** of the Bill sets out consequential amendments to the Public Finance Management Act.

Dated the 24th May, 2021.

CHARLES KIBIRU,  
*Chairperson, Committee on Finance and Budget.*

## EXPLANATORY MEMORANDUM TO THE COUNTY GOVERNMENTS GRANTS BILL, 2021

### Explanation of *Conditional Allocations to County Governments as Proposed by the Bill*

The Bill proposes to allocate county governments conditional allocations amounting to KSh. 7.537 billion from the national government share of revenue raised nationally in line with Article 202(2) of the Constitution and KSh. 32.343 billion as conditional allocations financed from loans and grants from development partners. Pursuant to this Article, the National Government proposes to allocate the following additional conditional allocations to support specific national policy objectives to be implemented by County Governments:

- **Additional Conditional Allocation to facilitate the leasing of medical equipment of KSh. 7.205 billion.** This grant which is in its seventh year of implementation, is proposed to increase from KSh. 6.205 billion in FY 2020/21 to KSh.7.205 billion in FY 2021/22 and is intended to facilitate the payment of lease amounts in respect of modern specialized medical equipment in at least two health facilities in each County Government over the medium term. This will facilitate easy access to specialized health care services and significantly reduce the distance that Kenyans travel in search of such services today.
- **Additional Conditional allocation to supplement County allocation for the construction of County headquarters of KSh. 332 Million in five counties:** This conditional allocation is intended to supplement financing for construction of headquarters by five County Governments that did not inherit adequate offices. The five counties are Isiolo; Lamu; Nyandarua; Tana River and Tharaka Nithi. This marks the fourth year of its implementation whereby the National Government contributes 70 percent of the budget while County Governments contributes 30 percent of the total cost of the projects. This allocation is expected to increase from KSh. 300 million allocated in FY 2020/21 to a proposed allocation of KSh. 332 million in FY 2021/22. This increase is attributed to the increased absorption of the funds and advanced stages in development of the County headquarters.
- **Transforming Health Systems for Universal Care Project conditional allocation of KSh. 2.2 billion (World Bank credit):-** This conditional allocation through the Ministry of Health is meant to improve delivery, utilization and quality of primary health care services with focus on reproductive, maternal, new-born, child and adolescent health (RMNCAH) at the county

level. This additional conditional allocation is proposed to decrease from KSh. 4.3 billion in FY 2020/21 to KSh. 2.2 billion in the Financial Year 2021/22. This is attributed to the structure of project implementation and financing as contained in the Project Appraisal Document and the financing agreement. According to the financing agreement and previous allocations, FY 2021/22 marks the final year of its implementation and the proposed allocation is the final tranche for disbursement to county governments. This conditional allocation will further complement the National Government efforts on attainment of the Universal Health Coverage policy initiative.

- **DANIDA Grant-Primary Health Care in Devolved Context program of KSh. 701 million:** The project is a successor of the DANIDA - Universal Healthcare for Devolved System Program which was restructured in December, 2020 of FY 2020/21. The program has been re-structured through an addendum to financing agreement which now provides that donor allocations to the programme shall be on a reducing balance of 25 % each financial year beginning FY 2021/22 for three financial years, with the county governments expected to co-finance the difference in each financial year. However, the restructured project will rely on the existing project development objective (PDO) whose main objective is “to improve utilization and quality of primary health care services with a focus on reproductive, maternal, new-born, child, and adolescent health services. The Project will achieve this objective by: (a) improving access to and demand for quality Primary Health Care (PHC) services; (b) strengthening institutional capacity in selected key areas to improve utilization and quality of PHC services; and (c) supporting cross-county and intergovernmental collaboration in the devolved Kenyan health system.

In this regard, conditional allocation to this programme is proposed to decline from an allocation of KSh. 900 million in FY 2020/21 to an allocation of KSh. 701 million in FY 2021/22, or by 25 %, a decline which should be co-financed by the respective county governments. This is attributed to provisions of the addendum to financing agreement which envisages gradual decrease of the amounts allocated to the project in each financial year, for sustainability before the donor exits after the three financial years.

- **National Agricultural and Rural Inclusive Growth Project; NARIGP of KSh. 6.4 billion (World Bank credit):** - NARIGP’s project development objective (PDO) is “to increase agricultural



productivity and profitability of targeted rural communities in selected Counties, and in the event of an Eligible Crisis or Emergency, to provide immediate and effective response.” The project will contribute to GoK’s high-level objective, which aims at transforming smallholder subsistence agriculture into an innovative, commercially oriented, and modern sector by: (i) increasing the productivity, commercialization, and competitiveness of selected agricultural commodities; and (ii) developing and managing key factors of production, particularly land, water, and rural finance.

NARIGP is being implemented in 21 selected counties with a total of 140 sub counties. Each sub-county has at least three (maximum of five) participating wards. Within these sub counties, the project will cover about 420 out of the existing 696 wards, which is equivalent to 60 per cent coverage. The selection of targeted counties was guided by the following underlying principles: (i) regional balance, to ensure equitable sharing of project benefits across the country; (ii) clustering, to reduce the operation and maintenance (O&M) costs of project implementation; (iii) security, to guarantee an enabling operating environment for supervision and monitoring of project activities; and (iv) data and facts, to ensure that selection is based on available socioeconomic data (such as production potential, population density, poverty rates, undernutrition levels, and vulnerabilities).

This additional conditional allocation, which is in its third year of implementation, is proposed to be allocated KSh. 6.4 in the financial year 2021/22, up from an allocation of KSh. 4.3 billion in FY 2020/21.

- **World Bank—Kenya Informal Settlement Improvement Project II (KISIP II) additional conditional allocation of KSh. 2.8 billion:** -The Proposed Development Objective(s) of this project is to improve access to basic services and tenure security of residents in participating urban informal settlements and strengthen institutional capacity for slum upgrading in Kenya. The primary beneficiaries of KISIP will be the residents of the participating informal settlements. They will have better access to basic infrastructure and services across a range of sub-sectors, including local roads, water and sanitation, storm water drainage (and reduction of flooding), waste management (increased collection), and street lighting. They will also have improved tenure security provided through titling. In addition, residents will indirectly benefit from the institutional development

activities aimed to strengthen the capacity of the county to implement slum upgrading interventions. This additional conditional allocation, which is in its first year of implementation, is proposed to be allocated KSh. 2.8 billion in FY 2021/22.

- **EU-Instruments for Devolution Advice and Support (IDEAS) grant of KSh. 230.7million:** This grant, which is in its fifth year of implementation, is proposed to be allocated KSh. 230.7 million in the Financial Year 2021/22. The grant is meant to support national and county government's capacities for the management of the devolution process and the responsible transfer and use of resources for the achievement of local economic development at the county level. This additional conditional allocation has increased slightly from an allocation of KSh. 216 million in FY 2020/21 to the proposed allocation of KSh. 230.7 million in FY 2021/22.
- **IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP) of KSh. 7.8 billion:** The project development objective (PDO) of this project is "to increase agricultural productivity and build resilience to climate change risks in the targeted smallholder farming and pastoral communities in Kenya, and in the event of an Eligible Crisis or Emergency, to provide immediate and effective response. KCSAP, which is in its fourth year of implementation, focuses on increasing agricultural productivity and enhancing resilience to impacts of climate change; reductions in Greenhouse Gas (GHG) emissions will be a co-benefit.

The direct beneficiaries of the project are estimated at about 521,500 households of smallholder farmers, agro-pastoralists, and pastoralists. Approximately 163,350 households organized in about 4,950 Common Interest Groups (CIGs) and 18,150 households in 1,100 Vulnerable and Marginalized Groups (VMGs) will benefit from community Climate-Smart Agriculture (CSA) micro projects. These beneficiaries will come from 24 participating counties, selected using the agreed criteria, in which top priority is assigned to counties with higher: (i) vulnerability to climate change and extreme weather events (ASAL counties being the most adversely impacted by droughts); (ii) volatility in agricultural production and presence of fragile ecosystems (natural resources are highly degraded in ASALs); and (iii) poverty indices (poverty incidence and poverty rates— ASALs have the highest poverty rates).

The allocations to this programme increased significantly from an allocation of Kshs.3.6 billion in the financial year 2020/21 to the proposed allocation of Kshs. 7.1 billion in financial year 2021/22. This increase can be attributed to increase in the number of mobilized beneficiary groups from which projects to be funded have been identified and approved by the National Steering Committee. This programme which targets both the Vulnerable & Marginalized and Common Interest groups; is bound to build equity and equality among the marginalised persons in the society such as the disabled, women and youths through the empowerment projects.

- **IDA—Water and Sanitation Development Project (WSDP)-World Bank Credit of KSh. 5 billion:** The Project Development Objective (PDO) of this program, financed by this additional conditional allocation, is to improve water supply and sanitation services in six select counties located in the coastal and north eastern regions of Kenya. This is achieved by investing in water supply and sanitation infrastructure in urban centres in these counties. The project will also improve services by strengthening institutional capacity in areas, such as, reducing Non-Revenue Water (NRW), improving billing and revenue collection systems, and developing medium-term business plans. In addition, the WSDP will establish a results-based financing mechanism at the national level to provide incentives to the Water Services Providers (WSPs) to accelerate access to water supply and sanitation services and improve operational and financial performance.
- The conditional allocation for the project, which is in its Fourth year of implementation, is expected to increase from an allocation of KSh. 3.4 billion in Financial Year 2020/21 to the proposed allocation of KSh. 5 billion in the Financial Year 2021/22. This significant increase in allocation to the project, is attributed to finalization of preparatory activities and the project implementation being at advanced stages in the six counties.
- **Agricultural Sector Development Support Programme (ASDSP) II - KSh. 1.3 billion-** ASDSP II, which is in its fourth year of implementation, is part of the implementation strategy of the Agricultural Policy (AP) for the national and county governments. In line with the AP, the overall goal of ASDSP II is to contribute to “transformation of crop, livestock and fishery production into commercially oriented enterprises that ensure sustainable food and nutrition security”. The Programme Purpose is “to Develop Sustainable Priority Value Chains (PVCs) for

improved income, food and nutrition security”, which will contribute to achievement of the “BIG FOUR” agenda of the Government on food security. This additional conditional allocation has significantly increased from an allocation of KSh. 652 million in FY 2020/21 to the proposed allocation of KSh. 1.3 billion in the FY 2021/22. This is attributed to a balance carried forward of KSh. 725 million for disbursement to county governments that had previously not met conditions set, which they have since then fulfilled.

- **Drought Resilience Programme in Northern Kenya (DRPNK) - KSh. 370 million** - This is a project financed by proceeds of a loan and grant from the German Development Bank in Turkana and Marsabit counties. The programme objective is "to ensure that Drought resilience and climate change adaptive capacities of the pastoral and agro-pastoral production systems and livelihoods in selected areas of Turkana and Marsabit County are strengthened on a sustainable basis by expanding and rehabilitating relevant infrastructure." The expected projects outputs are to ensure: - access to water is improved for humans and livestock; fodder basis is improved; access to market infrastructure is improved; and rural transportation is improved in the two counties.

This programme is in its third year of implementation and the additional conditional allocation towards its financing has increased significantly from an allocation of KSh. 100 million in FY 2020/21 to the proposed allocation of KSh. 370 million in FY 2021/22. The increase can be attributed to the successful procurement of the project consultant who will support the identification and implementation of projects in the two beneficiary counties.

- **Kenya Devolution Support Program (KDSP) Performance (“level 2”) Grant amounting to KSh. 4.6 billion.** The KDSP “Level 2”, financed by a World Bank credit, is a performance grant which will be utilized by beneficiary counties toward physical investments articulated in their respective County Integrated Development Plans (CIDPs). As such, this grant is intended to incentivize county governments that achieve good results in the following key areas:
  - (a) Strengthening Public Financial Management (PFM) systems;
  - (b) Strengthening County Human Resource Management;

- (c) Improving County Planning and Monitoring & Evaluation systems;
- (d) Civic Education and Public Participation; and,
- (e) Strengthening Intergovernmental relations.

Performance of counties in the above areas is to be assessed by an independent firm to be recruited through a competitive process. The budget allocation for this grant, is balance carried forward of KSh. 4.6 billion in Financial Year 2019/20, not disbursed to respective county governments, to cater for counties that met the performance score after the fourth Annual Capacity and Performance Assessment (ACPA) carried out by the State Department for Devolution. This assessment determined that 38 county governments were eligible for allocation of the respective amounts they qualified for. This outcome was endorsed by the KDSP Technical Committee.

Although the allocations were in County Allocation of Revenue Act, 2019/20, due to Covid-19 Pandemic it became necessary to create fiscal space to fund priority interventions/Programmes to mitigate effects of Covid-19 pandemic. Government also entered into negotiations with development partners with a view to restructure some donor funded Programmes to realign resources towards interventions targeted at Covid-19 pandemic. This realignment targeted donor funded Programmes, including those implemented by the counties through additional conditional allocations, such as the allocation to the KDSP Level 2 grant which had zero absorption rate then. This was meant to create fiscal space in the fiscal framework for FY 2019/20 in order to accommodate high priority expenditures towards addressing the Covid-19 pandemic.

Consequently, the Budget allocation to the Kenya Devolution Support Programme (KDSP) Level 2 was revised to nil in the approved Supplementary II budget estimates alongside other conditional allocations which had dismal absorption rates. In this regard, there being no budgetary provision for KDSP Level 2 conditional allocation in the approved Supplementary II budget estimates, no funds could be transferred to county governments in respect of the allocation in FY 2019/20.

It is therefore proposed that the balances carried forward of KSh. 4.6 billion be allocated to KDSP Level 2 in FY 2021/22.

**Emergency Locust Response Project (ELRP):—A World Bank Credit of KSh. 800 Million:** - The Project Development Objective (PDO) of this program, financed by this additional

conditional allocation, is to prevent and respond to the threat to livelihoods posed by the Desert Locust outbreak and to strengthen Kenya's system for preparedness. Citizen engagement will be monitored by tracking awareness raising communication campaigns conducted and grievances registered and resolved by the program.

Among the four components of the programme, the following two main components will be key at the counties: - **a) Component 1: Surveillance and Control Measures:** - The objective of activities under this component is to limit the growth of existing climate-change-induced Desert Locust populations and curb their spread, while mitigating the risks associated with control measures and their impacts on human health and the environment. Activities to be supported would be continuous surveillance and monitoring, spraying of hopper bands and adult swarms, and delivery of training and capacity building to field teams to ensure that operations are carried out in a safe and effective manner; and **b) Component 2: Livelihoods Protection and Rehabilitation:-** Beyond the immediate control measures deployed to curtail the proliferation and spread of the locusts, the next priority and the objective of Component 2 would be to help protect the poor and vulnerable in locust affected areas from human capital and asset loss, enhance their access to food, and restore livelihoods that have been damaged or destroyed by swarms.

Component 2 will be implemented in specific wards that are most impacted in the 12 of the most severely impacted counties in the country. The primary project beneficiaries will be affected farmers, pastoralists and households that have been affected by the locust upsurge and are food insecure. Vulnerable and marginalized households and female headed households will be prioritized in the targeting process.

This programme is proposed to be allocated KSh. 800 million in FY 2021/22.

- **UNFPA - 9th Country Programme Implementation: - KSh. 73.9 Million:** - The 9th country programme responds to national priorities as articulated in the third Kenya Medium-term Plan (2018-2022), including the President's 'Big Four' Agenda, the 2030 Agenda for Sustainable Development, the Africa Union Agenda 2063, the Kenya United Nations Development Assistance Framework 2018-2022.

The programme will support advocacy for policy implementation at the national level and will mobilize resources for capacity

building and service delivery interventions in 12 counties, selected based on key performance indicators: Homabay, Kilifi, Narok, Kitui, Nairobi (the Kibera informal settlement), Turkana (as a 'delivering as one' county), Mandera, Migori, Marsabit, Wajir, Isiolo and Lamu (under the Joint Programme on Reproductive Maternal, Newborn, Child and Adolescent Health). In addition, the UNFPA-UNICEF Joint Programme on Female Genital Mutilation will be implemented in Baringo, West Pokot, Elerayo-Marakwet, Narok, Marsabit and Samburu counties.

The programme has focuses on three outcomes namely: - a) UNDAF Outcome 1: By 2022, people in Kenya have increased and equitable access to and utilize high-quality health, including sexual, reproductive, maternal, new-born, child and adolescent health in emergency and non-emergency settings; b) UNDAF Outcome 2: By 2022, marginalized and vulnerable people, especially women and children, have increased access to and utilize social protection, and services for prevention and response to gender-based violence and violence against children; and c) UNDAF Outcome 3: By 2022, management of population Programmes and access to high-quality, affordable and adequate housing is improved in socially and environmentally sustainable settlements, with particular focus on vulnerable groups. It is proposed that the programme be allocated KSh. 73.9 million in FY 2021/22. This programme, whose major component is reproductive health, will be implemented through Ministry of Health.

*Section 41 of which it is proposed to amend*

**41. Consideration by Parliament of Division of Revenue and County Allocation of Revenue Bills**

*Parliament shall consider the Division of Revenue and County Allocation of Revenue Bills not later than thirty days after the Bills have been introduced with a view to approving them, with or without amendments.*

*Section 191 of which it is proposed to amend*

**191. Division of Revenue Bill and County Allocation of Revenue Bill**

*(1) Each year when the Budget Policy Statement 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 as provided in this Act for the financial year to which that Budget relates.*

(2) *The Division of Revenue Bill shall specify the share of each level of government of the revenue raised nationally for the relevant Financial year.*

(3) *The County Allocation of Revenue Bill shall specify—*

(a) *each county's share of that revenue under subsection (2); and*

(b) *any other allocations to the counties, from the national government's share of that revenue, and any conditions on which those allocations shall be made.*

(4) *Before the submission of the legislative proposals on the Division of Revenue and County Allocation of Revenue, the Cabinet Secretary shall notify—*

(a) *the intergovernmental Budget and Economic Council; and*

(b) *the Commission on Revenue Allocation.*

(5) *When the legislative proposal on the Division of Revenue and County Allocation of Revenue is submitted, it shall be accompanied by a memorandum which explains—*

(a) *how the Bill takes into account the criteria listed in Article 203(1) of the Constitution;*

(b) *the extent of the deviation from the Commission on Revenue Allocation's recommendations;*

(c) *the extent, if any, of deviation from the recommendations of the Intergovernmental Budget and Economic Council; and*

(d) *any assumptions and formulae used in arriving at the respective shares mentioned in subsections (2) and (3).*



