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REPUBLIC OF KENYA

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CONTENT

Bill for Introduction into the National Assembly—

	PAGE
The Constitution of Kenya (Amendment) (No. 2) Bill, 2013.....	767



**THE CONSTITUTION OF KENYA (AMENDMENT)
(NO. 2) BILL, 2013**

A Bill for

**AN ACT of Parliament to amend the Constitution
of Kenya**

ENACTED by the Parliament of Kenya, as follows—

1. This Bill may be cited as the Constitution of Kenya (Amendment) Bill, 2013.

Short title.

2. Article 204 of the Constitution is amended—

Amendment of
Article 204 of the
Constitution of
Kenya.

(a) in clause (2) by deleting the words “national government shall use the Equalization Fund only” and substituting therefor the words ‘Equalization Fund shall be used only’;

(b) by deleting clause 3 (b) and substituting therefor a new clause as follows—

(3) The Equalization Fund shall be used—

(a) only to the extent that the expenditure of those funds has been approved in an Appropriation Bill enacted by Parliament; and

(b) by remitting the monies appropriated under paragraph (a) to the respective constituencies of the areas identified under Article 216 (4) to be used by those constituencies for the purpose for which the appropriation was made in accordance with such fund as Parliament may establish.

MEMORANDUM OF OBJECTS AND REASONS

The primary objective of this Bill is to amend Articles 204 of the Constitution so as to remove the disbursement of the Equalisation Fund from the purview of the national government and transfer it to the constituencies in which the marginalized areas exist.

This Bill is informed by the fact that the Equalisation Fund was established to assist marginalized areas attain the same level of development as the rest of the Country. Constituencies are therefore better placed to ensure implementation of the identified programmes within their areas of jurisdiction.

This Bill does not infringe or limit any fundamental rights or freedoms nor does it propose to delegate any legislative authority.

The enactment of this Bill shall not occasion additional expenditure on public funds as no referendum is required for its enactment.

Dated the 30th July, 2013.

LATI LELELIT,
Member of Parliament.

Article 204 of the Constitution of Kenya which it is proposed to amend—

Equalisation Fund.

204. (1) There is established an Equalisation Fund into which shall be paid one half per cent of all the revenue collected by the national government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

(2) The national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.

(3) The national government may use the Equalisation Fund—

- (a) only to the extent that the expenditure of those funds has been approved in an Appropriation Bill enacted by Parliament; and
- (b) either directly, or indirectly through conditional grants to counties in which marginalised communities exist.