



**REPUBLIC OF KENYA**  
**TWELFTH PARLIAMENT – (FOURTH SESSION)**  
**THE SENATE**  
**ORDER PAPER**

**TUESDAY, AUGUST 11, 2020 AT 2:30 PM**

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. **MOTION – APPROVAL OF THE THIRD BASIS FOR REVENUE ALLOCATION AMONG THE COUNTY GOVERNMENTS**  
(Chairperson, Standing Committee on Finance and Budget)

**THAT**, the Senate **adopts** the Report of the Standing Committee on Finance and Budget on the Third Basis for Revenue Allocation Among the County Governments, laid on the Table of the Senate on Monday, 13<sup>th</sup> July, 2020, and that pursuant to Article 217 of the Constitution, **approves** the proposed Third Basis for Revenue Allocation Among the County Governments as contained in the Report.

*(Resumption of debate interrupted on Tuesday, 28<sup>th</sup> July, 2020)*

9. **MOTION – APPROVAL OF THE THIRD BASIS FOR REVENUE ALLOCATION AMONG THE COUNTY GOVERNMENTS**  
(Sen. Johnson Sakaja, MP)

**THAT, AWARE THAT** under Article 217 of the Constitution, the Senate by resolution is required to determine the basis for allocating among the counties the share of national revenue that is annually allocated to the county level of government;

...../**Motion**

**FURTHER AWARE THAT**, the Senate mandated the Standing Committee on Finance and Budget to consider the recommendations of the Commission on Revenue Allocation, and consulted the Cabinet Secretary responsible for Finance and the Council of Governors among others and subsequently conducted public participation pursuant to Article 118(1)(b) of the Constitution, as documented in the report tabled in the Senate on Monday, 13<sup>th</sup> July, 2020;

**NOW THEREFORE** the Senate resolves that pursuant to Article 217 (1) of the Constitution, the third Basis for sharing revenue among counties, for the Financial Year 2020/2021 to 2024/2025 be as follows –

**a) Equitable share not exceeding Kshs. 316.50 billion**

The following formula shall apply

**CA<sub>i1</sub>**= Allocation per County for FY 2019/20

**b) Equitable share over and above Kshs. 316.50 billion**

The following formula shall apply

**CA<sub>i2</sub>**= 0.18\*Population Index<sub>i</sub>+ 0.17\*Health Index<sub>i</sub>+0.10\* Agriculture Index<sub>i</sub>+ 0.05\*Urban Index<sub>i</sub>+0.14\* Poverty Index<sub>i</sub>+ 0.08\*Land Area Index<sub>i</sub>+0.01\*Fiscal Effort<sub>i</sub>+0.06\*Roads Index<sub>i</sub>+0.01\* Prudence Index<sub>i</sub> +0.20\* Basic Share Index<sub>i</sub><sup>1</sup>

**Where,**

Parameter	Indicator of Expenditure Need
Health services	<p>Health index- health facility-gaps (20%), three years average number of primary health care visits to levels 2 and 3 health facilities (60%)and three years average in-patient days in levels 4 and 5 hospitals (20%)</p> $\text{Facility gap factor}_i = \frac{\text{Facility gap funding in county } i}{\sum_{i=1}^{47} \text{facility gap funding in county } i}$ $\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county } i}{\sum_{i=1}^{47} \text{No. of primary health care visits in county } i}$ $\text{In – patient days factor}_i = \frac{\text{No. of in – patient days in county } i}{\sum_{i=1}^{47} \text{No. of in – patient days in county } i}$
Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \frac{\text{Rural households in county } i}{\sum_{i=1}^{47} \text{Rural households in county } i}$
Other county services	$\text{Population index}_i = \frac{\text{Population in county } i}{\sum_{i=1}^{47} \text{Population in county } i}$

<sup>1</sup> The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

Minimum share	Basic share index $= 0.19 * \text{Equal Share index} + 0.01 * \frac{\text{inverse of population in county } i}{\sum_{i=1}^{47} \text{inverse of population in county } i}$					
Land	$\text{Land area index}_i = \frac{\text{Land area in county } i}{\sum_{i=1}^{47} \text{Land area in county } i}$					
Roads	$\text{Roads index}_i = \frac{\text{Rural access index in county } i}{\sum_{i=1}^{47} \text{Rural access index in county } i}$					
Poverty level	$\text{Poverty index}_i = \frac{\text{No. of poor people in county } i}{\sum_{i=1}^{47} \text{No. of poor people in county } i}$					
Urban service	$\text{Urban Index } i = \frac{\text{urban household in county } i}{\sum_{i=1}^{47} \text{Urban Household in County } i}$					
Fiscal effort	$\text{Fiscal effort index}_i = \frac{\text{OSR collections of county } i}{\text{GCP of county } i}$					
Fiscal prudence	<b>No.</b>	<b>Variable</b>	<b>Indicator</b>	<b>Score</b>	<b>Responsible</b>	<b>Weighting</b>
	<b>1</b>	Audit Report □	Non-Qualified	4	County Executive Assembly	CE=90% CA=10%
			Qualified	2		
			Adverse	0		
			Disclaimer	0		
	<b>2</b>	Development Expenditure	At least 30%	1	County Government	100%
			Below 30%	0		
	<b>4</b>	Internal Audit Committee	In place	1	County Executive Assembly	CE=90% CA=10%
	<b>4</b>	County Budget Economic Forum	In place	1	County Government	100%
			Not In place	0		

**c) Total Equitable share of a County**

The following formula shall apply

$$\text{TES}_i = \text{CA}_{i1} + \text{CA}_{i2}$$

Whereas;

**TES<sub>i</sub>** = Total Equitable share of County i

**CA<sub>1</sub>1**= Allocation per County for FY 2019/20

**CA<sub>1</sub>2**=Equitable share over and above Kshs. 316.50 billion

**The basis used is as shown**

<b>No.</b>	<b>Parameter</b>	<b>Weight</b>
<b>1</b>	Population	<b>18%</b>
<b>2</b>	Health	<b>17%</b>
<b>3</b>	Agriculture	<b>10%</b>
<b>4</b>	Urban	<b>5%</b>
<b>5</b>	Roads	<b>6%</b>
<b>6</b>	Poverty	<b>14%</b>
<b>7</b>	Land	<b>8% capped</b>
<b>8</b>	Basic Share	<b>20%</b>
<b>9</b>	Fiscal Effort	<b>1%</b>
<b>10</b>	Fiscal Prudence	<b>1%</b>

10. **MOTION – PROVISION OF CEMETERY, FUNERAL PARLOURS AND CREMATORIA IN ALL COUNTIES**

(Sen. (Dr.) Alice Milgo, MP)

**THAT, AWARE THAT** under Article 61 of the Constitution of Kenya, land in Kenya is classified into three categories, public, Community and private land;

**FURTHER AWARE THAT**, public land is vested in both the County and National Governments and is managed on their behalf by the National Land Commission, and that Article 62 (2) clarifies the distribution of public land between the two levels of government.;

**COGNIZANT THAT**, the Fourth Schedule of the Constitution delegates cemeteries, funeral parlours and crematoria as a function of County Governments;

**CONCERNED THAT**, cemeteries in the Country are filling up, and counties are finding it increasingly difficult to identify land to allocate as “public” for use as a cemetery with the knowledge that any cemetery or burial-place that is crowded and therefore dangerous to health is defined as constituting a nuisance in the Public Health Act;

...../Motion

**NOW THEREFORE**, the Senate calls upon the county governments to ensure that funds are allocated in the County Annual Development Plans for FY 2020/2021, towards the planning and development of cemetery, funeral parlours and crematory facilities.

***(Resumption of debate interrupted on Thursday, 12<sup>th</sup> March, 2020)  
(Division)***

11. **MOTION – CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO. 19 OF 2018)**

(Chairperson, Standing Committee on Information and Technology)

**THAT**, the National Assembly amendments to the County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018) be now considered.

12. **\*THE PROMPT PAYMENT BILL (SENATE BILLS NO. 3 OF 2020)**

(Sen. (CPA) Farhiya Haji, MP and Sen. Sakaja Johnson, MP)

*(Second Reading)*

***(Resumption of debate interrupted on Tuesday, 23<sup>rd</sup> June, 2020 –  
Afternoon Sitting)***

13. **\*THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 5 OF 2020)**

(Sen. (Dr.) Agnes Zani, MP)

*(Second Reading)*

***(Resumption of debate interrupted on Tuesday, 4<sup>th</sup> August, 2020)***

14. **\*\*\*THE EQUALIZATION FUND BILL (NATIONAL ASSEMBLY BILLS NO. 43 OF 2019)**

(The Senate Majority Leader)

*(Second Reading)*

15. **\*\*\*THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 51 OF 2017)**

(The Senate Majority Leader)

*(Second Reading)*

16. **\*THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2019)**

(Sen. Johnes Mwaruma, MP)

*(Second Reading)*

...../Bills

17. **\*THE LAW OF SUCCESSION (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2020)**

(Sen. Abshiro Halake, MP)

*(Second Reading)*

18. **\*THE COUNTY RESOURCE DEVELOPMENT BILL (SENATE BILLS NO. 2 OF 2020)**

(Sen. Rose Nyamunga, MP)

*(Second Reading)*

19. **\*\*\*THE SECTIONAL PROPERTIES BILL (NATIONAL ASSEMBLY BILLS NO. 23 OF 2019)**

(The Senate Majority Leader)

*(Second Reading)*

20. **\*\*\*THE LIVESTOCK AND LIVESTOCK PRODUCTS MARKETING BOARD BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2019)**

(The Senate Majority Leader)

*(Second Reading)*

21. **MOTION – ADJOURNMENT OF THE SENATE**

(The Senate Majority Leader)

**THAT**, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday, 8<sup>th</sup> September, 2020.

----**XXX**----

...../Notice

**NOTICE**

The Senate resolved on 18<sup>th</sup> February, 2020 as follows:-

- i. **THAT**, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

- ii. **THAT**, notwithstanding the provisions of Standing Order 106 (4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put; Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

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**KEY**

**\*\*\*\*-** Denotes a Majority / Minority Party Bill

**\*\*\*-** Denotes a National Assembly Bill

**\*\*-** Denotes a Committee Bill

**\***- Denotes any other Bill

...../Notice of Amendments

NOTICE OF AMENDMENTS**A. MOTION – APPROVAL OF THE THIRD BASIS FOR REVENUE ALLOCATION AMONG THE COUNTY GOVERNMENTS**

(Chairperson, Standing Committee on Finance and Budget)

- 1) **NOTICE** is given that Sen. Mutula Kilonzo Junior, MP intends to move the following amendment to the Motion on the Report of the Standing Committee on Finance and Budget on the third basis/ criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025-

**THAT** the Motion be amended by deleting the full stop at the end and inserting the following words-

‘subject to the deletion of recommendation appearing as paragraph 26 of the Report and substituting therefor the following new recommendation-

- 26) The Senate resolves that pursuant to Article 217 (1) of the Constitution, the Third Basis for sharing revenue among counties, for the Financial Year 2020/2021 to 2024/2025 be as follows –

**a) Equitable share not exceeding Kshs. 316.50 billion**

The following formula shall apply

**CA<sub>i1</sub>**= Allocation per County for FY 2019/20

**b) Equitable share over and above Kshs. 316.50 billion**

The following formula shall apply

**CA<sub>i2</sub>**= 0.18\*Population Index<sub>i</sub>+ 0.17\*Health Index<sub>i</sub>+0.10\* Agriculture Index<sub>i</sub>+ 0.05\*Urban Index<sub>i</sub>+0.14\* Poverty Index<sub>i</sub>+ 0.08\*Land Area Index<sub>i</sub>+0.01\*Fiscal Effort<sub>i</sub>+0.06\*Roads Index<sub>i</sub>+0.01\* Prudence Index<sub>i</sub>+0.20\* Basic Share Index<sub>i</sub><sup>2</sup>

**Where,**

Parameter	Indicator of Expenditure Need
Health services	Health index- health facility-gaps (20%), three years average number of primary health care visits to levels 2 and 3 health facilities (60%)and three years average in-patient days in levels 4 and 5 hospitals (20%)

<sup>2</sup> The formula will use the 2019 population and 2015/16 KIHBS poverty statistics



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Other county services	$\text{Population index}_i = \frac{\text{Population in county } i}{\sum_{i=1}^{47} \text{Population in county } i}$					
Minimum share	$\text{Basic share index} = 0.19 * \text{Equal Share index} + 0.01 * \frac{\text{inverse of population in county } i}{\sum_{i=1}^{47} \text{inverse of population in county } i}$					
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Fiscal effort	$\text{Fiscal effort index}_i = \frac{\text{OSR collections of county } i}{\text{GCP of county } i}$					
Fiscal prudence	<b>No.</b>	<b>Variable</b>	<b>Indicator</b>	<b>Score</b>	<b>Responsible</b>	<b>Weighting</b>
	<b>1</b>	Audit Reports	Non-Qualified	4	County Executive Assembly	CE=90% CA=10%
			Qualified	2		
			Adverse	0		
			Disclaimer	0		
	<b>2</b>	Development Expenditure	At least 30%	1	County Government	100%
			Below 30%	0		

	4	Internal Audit Committee	In place	1	County Executive Assembly	CE=90% CA=10%
	4	County Budget Economic Forum	In place	1	County Government	100%
			Not In place	0		

**c) Total Equitable share of a County**

The following formula shall apply

$$\mathbf{TES_i = CA_i1 + CA_i2}$$

Whereas;

**TES<sub>i</sub>** = Total Equitable share of County <sub>i</sub>

**CA<sub>i1</sub>** = Allocation per County for FY 2019/20

**CA<sub>i2</sub>** = Equitable share over and above Kshs. 316.50 billion

**The basis used is as shown**

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<b>8</b>	Basic Share	<b>20%</b>
<b>9</b>	Fiscal Effort	<b>1%</b>
<b>10</b>	Fiscal Prudence	<b>1%</b>

...../Amendments

**SIMULATION FOR ILLUSTRATION ONLY**

**Simulation using Equitable share of Kshs. 325.7 billion for FY 2021/22 (as per budget estimates FY 2020/21) using Committee proposal 1 for Illustration Purpose**

<b>No</b>	<b>County</b>	<b>Actual Allocations 2020/21</b>	<b>Additional allocation in FY 2021/22</b>
<b>1</b>	Baringo	5,095.65	164.90
<b>2</b>	Bomet	5,507.10	172.10
<b>3</b>	Bungoma	8,893.65	270.13
<b>4</b>	Busia	6,013.50	182.45
<b>5</b>	Elgeyo-Marakwet	3,861.30	115.20
<b>6</b>	Embu	4,304.40	132.25
<b>7</b>	Garissa	7,026.30	190.92
<b>8</b>	Homa-Bay	6,741.45	189.83
<b>9</b>	Isiolo	4,241.10	117.20
<b>10</b>	Kajiado	6,424.95	207.43
<b>11</b>	Kakamega	10,412.85	313.29
<b>12</b>	Kericho	5,380.50	163.69
<b>13</b>	Kiambu	9,431.70	308.37
<b>14</b>	Kilifi	10,444.50	275.08
<b>15</b>	Kirinyaga	4,241.10	136.46
<b>16</b>	Kisii	7,785.90	218.52
<b>17</b>	Kisumu	6,836.40	201.71
<b>18</b>	Kitui	8,830.35	258.82
<b>19</b>	Kwale	7,785.90	190.52
<b>20</b>	Laikipia	4,177.80	136.33
<b>21</b>	Lamu	2,595.30	80.17
<b>22</b>	Machakos	7,754.25	232.84
<b>23</b>	Makueni	7,406.10	195.41
<b>24</b>	Mandera	10,222.95	250.32
<b>25</b>	Marsabit	6,773.10	168.57
<b>26</b>	Meru	8,039.10	236.25
<b>27</b>	Migori	6,773.10	203.10

<b>28</b>	Mombasa	7,057.95	180.39
<b>29</b>	Murang'a	6,298.35	178.20
<b>30</b>	Nairobi City	15,919.95	494.52
<b>31</b>	Nakuru	10,476.15	332.22
<b>32</b>	Nandi	5,348.85	183.14
<b>33</b>	Narok	8,039.10	209.09
<b>34</b>	Nyamira	4,810.80	121.30
<b>35</b>	Nyandarua	4,874.10	143.03
<b>36</b>	Nyeri	5,412.15	155.29
<b>37</b>	Samburu	4,620.90	134.32
<b>38</b>	Siaya	5,791.95	175.54
<b>39</b>	Taita-Taveta	4,241.10	119.75
<b>40</b>	Tana-River	5,855.25	156.01
<b>41</b>	Tharaka-Nithi	3,924.60	98.91
<b>42</b>	Trans-Nzoia	5,760.30	186.23
<b>43</b>	Turkana	10,539.45	307.91
<b>44</b>	Uasin-Gishu	6,330.00	212.02
<b>45</b>	Vihiga	4,652.55	122.57
<b>46</b>	Wajir	8,545.50	216.29
<b>47</b>	West Pokot	5,000.70	161.43
	<b>Total</b>	<b>316,500.00</b>	<b>9,200.00</b>

...../Amendments

**2) NOTICE** is given that Sen. Ledama Olekina, MP intends to move the following amendment to the Motion on the Report of the Standing Committee on Finance and Budget on the third basis/ criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025-

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<b>3</b>	Bungoma	8,893.65	270.13
<b>4</b>	Busia	6,013.50	182.45
<b>5</b>	Elgeyo-Marakwet	3,861.30	115.20
<b>6</b>	Embu	4,304.40	132.25
<b>7</b>	Garissa	7,026.30	190.92
<b>8</b>	Homa-Bay	6,741.45	189.83
<b>9</b>	Isiolo	4,241.10	117.20
<b>10</b>	Kajiado	6,424.95	207.43
<b>11</b>	Kakamega	10,412.85	313.29
<b>12</b>	Kericho	5,380.50	163.69
<b>13</b>	Kiambu	9,431.70	308.37
<b>14</b>	Kilifi	10,444.50	275.08
<b>15</b>	Kirinyaga	4,241.10	136.46
<b>16</b>	Kisii	7,785.90	218.52
<b>17</b>	Kisumu	6,836.40	201.71
<b>18</b>	Kitui	8,830.35	258.82
<b>19</b>	Kwale	7,785.90	190.52
<b>20</b>	Laikipia	4,177.80	136.33



<b>21</b>	Lamu	2,595.30	80.17
<b>22</b>	Machakos	7,754.25	232.84
<b>23</b>	Makueni	7,406.10	195.41
<b>24</b>	Mandera	10,222.95	250.32
<b>25</b>	Marsabit	6,773.10	168.57
<b>26</b>	Meru	8,039.10	236.25
<b>27</b>	Migori	6,773.10	203.10
<b>28</b>	Mombasa	7,057.95	180.39
<b>29</b>	Murang'a	6,298.35	178.20
<b>30</b>	Nairobi City	15,919.95	494.52
<b>31</b>	Nakuru	10,476.15	332.22
<b>32</b>	Nandi	5,348.85	183.14
<b>33</b>	Narok	8,039.10	209.09
<b>34</b>	Nyamira	4,810.80	121.30
<b>35</b>	Nyandarua	4,874.10	143.03
<b>36</b>	Nyeri	5,412.15	155.29
<b>37</b>	Samburu	4,620.90	134.32
<b>38</b>	Siaya	5,791.95	175.54
<b>39</b>	Taita-Taveta	4,241.10	119.75
<b>40</b>	Tana-River	5,855.25	156.01
<b>41</b>	Tharaka-Nithi	3,924.60	98.91
<b>42</b>	Trans-Nzoia	5,760.30	186.23
<b>43</b>	Turkana	10,539.45	307.91
<b>44</b>	Uasin-Gishu	6,330.00	212.02

<b>45</b>	Vihiga	4,652.55	122.57
<b>46</b>	Wajir	8,545.50	216.29
<b>47</b>	West Pokot	5,000.70	161.43
	<b>Total</b>	<b>316,500.00</b>	<b>9,200.00</b>

...../Amendments

**3) NOTICE** is given that Sen. Johnson Sakaja, MP intends to move the following amendment to the Motion on the Report of the Standing Committee on Finance and Budget on the third basis/ criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025-

**THAT** the Motion be amended by deleting the full stop at the end and inserting the following words-

‘subject to the deletion of recommendation appearing as paragraph 26 of the Report and substituting therefor the following new recommendation-

26) The Senate resolves that pursuant to Article 217 (1) of the Constitution, the Third Basis for sharing revenue among counties, for the Financial Year 2020/2021 to 2024/2025 be as follows –

**a) Equitable share not exceeding Kshs. 316.50 billion**

The following formula shall apply

**CA<sub>i</sub>1**= Allocation per County for FY 2019/20

**b) Equitable share over and above Kshs. 316.50 billion**

The following formula shall apply

**CA<sub>i</sub>2**= 0.18\*Population Index<sub>i</sub>+ 0.17\*Health Index<sub>i</sub>+0.10\* Agriculture Index<sub>i</sub>+ 0.05\*Urban Index<sub>i</sub>+0.14\* Poverty Index<sub>i</sub>+ 0.08\*Land Area Index<sub>i</sub> +0.01\*Fiscal Effort<sub>i</sub>+0.06\*Roads Index<sub>i</sub>+0.01\* Prudence Index<sub>i</sub> +0.20\* Basic Share Index<sub>i</sub> <sup>4</sup>

**Where,**

Parameter	Indicator of Expenditure Need
Health services	<p>Health index- health facility-gaps (20%), three years average number of primary health care visits to levels 2 and 3 health facilities (60%)and three years average in-patient days in levels 4 and 5 hospitals (20%)</p> $\text{Facility gap factor}_i = \frac{\text{Facility gap funding in county } i}{\sum_{i=1}^{47} \text{facility gap funding in county } i}$ $\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county } i}{\sum_{i=1}^{47} \text{No. of primary health care visits in county } i}$ $\text{In – patient days factor}_i = \frac{\text{No. of in – patient days in county } i}{\sum_{i=1}^{47} \text{No. of in – patient days in county } i}$
Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \frac{\text{Rural households in county } i}{\sum_{i=1}^{47} \text{Rural households in county } i}$

<sup>4</sup> The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

Other county services	Population index <sub>i</sub> = $\frac{\text{Population in county } i}{\sum_{i=1}^{47} \text{Population in county } i}$					
Minimum share	Basic share index = 0.19 * Equal Share index + 0.01 * $\frac{\text{inverse of population in county } i}{\sum_{i=1}^{47} \text{inverse of population in county } i}$					
Land	Land area index <sub>i</sub> = $\frac{\text{Land area in county } i}{\sum_i^{47} \text{Land area in county } i}$					
Roads	Roads index <sub>i</sub> = $\frac{\text{Rural access index in county } i}{\sum_{i=1}^{47} \text{Rural access index in county } i}$					
Poverty level	Poverty index <sub>i</sub> = $\frac{\text{No. of poor people in county } i}{\sum_{i=1}^{47} \text{No. of poor people in county } i}$					
Urban service	<i>Urban Index i = <math display="block">\frac{\text{urban household in county } i}{\sum_{i=1}^{47} \text{Urban Household in County } i}</math></i>					
Fiscal effort	Fiscal effort index <sub>i</sub> = $\frac{\text{OSR collections of county } i}{\text{GCP of county } i}$					
Fiscal prudence	<b>No.</b>	<b>Variable</b>	<b>Indicator</b>	<b>Score</b>	<b>Responsible</b>	<b>Weighting</b>
	<b>1</b>	Audit Reports	Non-Qualified	4	County Executive Assembly	CE=90% CA=10%
			Qualified	2		
			Adverse	0		
			Disclaimer	0		
	<b>2</b>	Development Expenditure	At least 30%	1	County Government	100%
			Below 30%	0		
	<b>4</b>	Internal Audit Committee	In place	1	County Executive Assembly	CE=90% CA=10%
	<b>4</b>	County Budget Economic Forum	In place	1	County Government	100%
			Not In place	0		

**c) Total Equitable share of a County**

The following formula shall apply

$$\mathbf{TES_i = CA_{i1} + CA_{i2}}$$

Whereas;

**TES<sub>i</sub>** = Total Equitable share of County i

**CA<sub>i1</sub>** = Allocation per County for FY 2019/20

**CA<sub>i2</sub>** = Equitable share over and above Kshs. 316.50 billion

**The basis used is as shown**

<b>No.</b>	<b>Parameter</b>	<b>Weight</b>
<b>1</b>	Population	<b>18%</b>
<b>2</b>	Health	<b>17%</b>
<b>3</b>	Agriculture	<b>10%</b>
<b>4</b>	Urban	<b>5%</b>
<b>5</b>	Roads	<b>6%</b>
<b>6</b>	Poverty	<b>14%</b>
<b>7</b>	Land	<b>8% capped</b>
<b>8</b>	Basic Share	<b>20%</b>
<b>9</b>	Fiscal Effort	<b>1%</b>
<b>10</b>	Fiscal Prudence	<b>1%</b>

...../Amendments

**SIMULATION FOR ILLUSTRATION ONLY**

**Simulation using Equitable share of Kshs. 325.7 billion for FY 2021/22 (as per budget estimates FY 2020/21) using Committee proposal 1 for Illustration Purpose**

<b>No</b>	<b>County</b>	<b>Actual Allocations 2020/21</b>	<b>Additional allocation in FY 2021/22</b>
1	Baringo	5,095.65	164.90
2	Bomet	5,507.10	172.10
3	Bungoma	8,893.65	270.13
4	Busia	6,013.50	182.45
5	Elgeyo-Marakwet	3,861.30	115.20
6	Embu	4,304.40	132.25
7	Garissa	7,026.30	190.92
8	Homa-Bay	6,741.45	189.83
9	Isiolo	4,241.10	117.20
10	Kajiado	6,424.95	207.43
11	Kakamega	10,412.85	313.29
12	Kericho	5,380.50	163.69
13	Kiambu	9,431.70	308.37
14	Kilifi	10,444.50	275.08
15	Kirinyaga	4,241.10	136.46
16	Kisii	7,785.90	218.52
17	Kisumu	6,836.40	201.71
18	Kitui	8,830.35	258.82
19	Kwale	7,785.90	190.52
20	Laikipia	4,177.80	136.33
21	Lamu	2,595.30	80.17
22	Machakos	7,754.25	232.84
23	Makueni	7,406.10	195.41
24	Mandera	10,222.95	250.32
25	Marsabit	6,773.10	168.57
26	Meru	8,039.10	236.25
27	Migori	6,773.10	203.10

<b>28</b>	Mombasa	7,057.95	180.39
<b>29</b>	Murang'a	6,298.35	178.20
<b>30</b>	Nairobi City	15,919.95	494.52
<b>31</b>	Nakuru	10,476.15	332.22
<b>32</b>	Nandi	5,348.85	183.14
<b>33</b>	Narok	8,039.10	209.09
<b>34</b>	Nyamira	4,810.80	121.30
<b>35</b>	Nyandarua	4,874.10	143.03
<b>36</b>	Nyeri	5,412.15	155.29
<b>37</b>	Samburu	4,620.90	134.32
<b>38</b>	Siaya	5,791.95	175.54
<b>39</b>	Taita-Taveta	4,241.10	119.75
<b>40</b>	Tana-River	5,855.25	156.01
<b>41</b>	Tharaka-Nithi	3,924.60	98.91
<b>42</b>	Trans-Nzoia	5,760.30	186.23
<b>43</b>	Turkana	10,539.45	307.91
<b>44</b>	Uasin-Gishu	6,330.00	212.02
<b>45</b>	Vihiga	4,652.55	122.57
<b>46</b>	Wajir	8,545.50	216.29
<b>47</b>	West Pokot	5,000.70	161.43
	<b>Total</b>	<b>316,500.00</b>	<b>9,200.00</b>

...../Amendments

**4) NOTICE** is given that Sen. Kimani Wamatangi, MP intends to move the following amendment to the amendment by Sen. Johnson Sakaja, MP on the Report of the Standing Committee on Finance and Budget on the third basis/ criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025-

**THAT** the proposed amendments be amended by deleting parts (b) and (c) and replacing with the following-

**b) Equitable share for FY 2021/22**

The following formula shall apply

$$CA_i = 0.18 * \text{Population Index}_i + 0.17 * \text{Health Index}_i + 0.10 * \text{Agriculture Index}_i + 0.05 * \text{Urban Index}_i + 0.14 * \text{Poverty Index}_i + 0.08 * \text{Land Area Index}_i + 0.02 * \text{Fiscal Effort}_i + 0.04 * \text{Roads Index}_i + 0.02 * \text{Prudence Index}_i + 0.20 * \text{Basic Share Index}_i^5$$

**Where,**

Parameter	Indicator of Expenditure Need
Health services	<p>Health index- health facility-gaps (20%), three years average number of primary health care visits to levels 2 and 3 health facilities (60%) and three years average in-patient days in levels 4 and 5 hospitals (20%)</p> $\text{Facility gap factor}_i = \frac{\text{Facility gap funding in county } i}{\sum_{i=1}^{47} \text{facility gap funding in county } i}$ $\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county } i}{\sum_{i=1}^{47} \text{No. of primary health care visits in county } i}$ $\text{In - patient days factor}_i = \frac{\text{No. of in - patient days in county } i}{\sum_{i=1}^{47} \text{No. of in - patient days in county } i}$
Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \frac{\text{Rural households in county } i}{\sum_{i=1}^{47} \text{Rural households in county } i}$
Other county services	$\text{Population index}_i = \frac{\text{Population in county } i}{\sum_{i=1}^{47} \text{Population in county } i}$
Minimum share	<p>Basic share index</p> $= 0.19 * \text{Equal Share index} + 0.01 * \frac{\text{inverse of population in county } i}{\sum_{i=1}^{47} \text{inverse of population in county } i}$
Land	$\text{Land area index}_i = \frac{\text{Land area in county } i}{\sum_{i=1}^{47} \text{Land area in county } i}$

<sup>5</sup> The formula will use the 2019 population and 2015/16 KIHBS poverty statistics



Roads	Rural access index in county i Roads index <sub>i</sub> = $\frac{\text{Rural access index in county i}}{\sum_{i=1}^{47} \text{Rural access index in county i}}$					
Poverty level	No. of poor people in county i Poverty index <sub>i</sub> = $\frac{\text{No. of poor people in county i}}{\sum_{i=1}^{47} \text{No. of poor people in county i}}$					
Urban service	<i>Urban Index i = <math>\frac{\text{urban household in county i}}{\sum_{i=1}^{47} \text{Urban Household in County i}}</math></i>					
Fiscal effort	OSR collections of county i Fiscal effort index <sub>i</sub> = $\frac{\text{OSR collections of county i}}{\text{GCP of county i}}$					
Fiscal prudence	<b>No.</b>	<b>Variable</b>	<b>Indicator</b>	<b>Score</b>	<b>Responsible</b>	<b>Weighting</b>
	<b>1</b>	Audit Reports	Non-Qualified	4	County Executive Assembly	CE=90% CA=10%
			Qualified	2		
			Adverse	0		
			Disclaimer	0		
	<b>2</b>	Development Expenditure	At least 30%	1	County Government	100%
			Below 30%	0		
	<b>4</b>	Internal Audit Committee	In place	1	County Executive Assembly	CE=90% CA=10%
	<b>4</b>	County Budget Economic Forum	In place	1	County Government	100%
			Not In place	0		

The basis used is as shown

No.	Parameter	Weight
1	Other County Services	18%
2	Health	17%
3	Agriculture	10%
4	Urban	5%
5	Roads services	4%
6	Poverty	14%

7	Land	8% capped
8	Basic Share	20%
9	Fiscal Effort	2%
10	Fiscal Prudence	2%

### **SIMULATION FOR ILLUSTRATION ONLY**

**Simulation using Equitable share of Kshs. 316.5 billion for FY 2021/22 using CRA Proposed Formula for Illustration Purpose**

No	County	Total Allocation	Difference between FY 19/20 allocation and proposed Allocation for FY 2021/22
1	Kiambu	10,752	1,320
2	Nairobi City	17,150	1,231
3	Uasin-Gishu	7,258	928
4	Nandi	6,149	800
5	Kajiado	7,184	759
6	Nakuru	11,217	741
7	Laikipia	4,825	648
8	Trans-Nzoia	6,377	617
9	Kirinyaga	4,792	551
10	Baringo	5,634	538
11	Bomet	5,956	449
12	West Pokot	5,432	431
13	Kakamega	10,819	407
14	Bungoma	9,300	406
15	Machakos	8,120	366
16	Embu	4,655	351
17	Busia	6,327	314
18	Migori	7,071	298
19	Kericho	5,672	291
20	Lamu	2,814	218
21	Siaya	5,994	202
22	Kisumu	6,991	155
23	Nyandarua	5,008	134
24	Elgeyo-Marakwet	3,927	66
25	Kitui	8,871	41
26	Samburu	4,666	46
27	Meru	8,073	34
28	Nyeri	5,419	7
	<b>Total Gains</b>	<b>196,455</b>	<b>12,347</b>
29	Isiolo	4,193	(48)
30	Murang'a	6,236	(62)
31	Taita-Taveta	4,171	(70)
32	Kisii	7,560	(226)
33	Homa-Bay	6,433	(309)
34	Vihiga	4,336	(316)
35	Turkana	10,215	(324)
36	Garissa	6,539	(488)
37	Tharaka-Nithi	3,439	(485)
38	Tana-River	5,352	(503)

39	Nyamira	4,266	(545)
40	Makueni	6,824	(582)
41	Mombasa	6,376	(682)
42	Narok	7,174	(865)
43	Marsabit	5,783	(990)
44	Kilifi	9,332	(1,113)
45	Kwale	6,573	(1,213)
46	Wajir	7,106	(1,439)
47	Mandera	8,137	(2,086)
	<b>Total Losses</b>	<b>120,045</b>	<b>(12,347)</b>
	<b>Total</b>	<b>316,500</b>	<b>-</b>

### **c) Cushioning losing Counties for FY 2021/22**

The National Treasury to provide additional funds equal to the losses arising from the application of the formula (part (b)) for the FY 2021/22 to cushion the losing counties. The following formula shall apply to calculate the cushioning;

**Loss of County i/Total Loss \* total loss**

### **SIMULATION FOR ILLUSTRATION ONLY**

Simulation using additional Kshs. 12.35 billion (loss occurring with equitable share of Kshs. 316.5billion) for cushioning the losing counties for FY 2021/22 using CRA proposal for Illustration Purpose -

No	County	2019/20 Allocation	CRA Recommendation 316.5b	Kshs. 12,347 cushion	New Allocation Ksh 316,500)	Net change with CRA formula	Net Change after Cushioning with N.Treasury additional Funds
		A	B	C	D=B+C	E=B-A	F=D-A
1	Mandera	10,223	8,137	2,086	10,223	(2,086)	0
2	Kwale	7,786	6,573	1,213	7,786	(1,213)	0
3	Wajir	8,546	7,106	1,439	8,546	(1,439)	0
4	Kilifi	10,445	9,332	1,113	10,445	(1,113)	0
5	Marsabit	6,773	5,783	990	6,773	(990)	0
6	Narok	8,039	7,174	865	8,039	(865)	0
7	Mombasa	7,058	6,376	682	7,058	(682)	0
8	Makueni	7,406	6,824	582	7,406	(582)	0
9	Nyamira	4,811	4,266	545	4,811	(545)	0
10	Tharaka-Nithi	3,925	3,439	485	3,925	(485)	0
11	Garissa	7,026	6,539	488	7,026	(488)	0
12	Tana-River	5,855	5,352	503	5,855	(503)	0
13	Vihiga	4,653	4,336	316	4,653	(316)	0
14	Kisii	7,786	7,560	226	7,786	(226)	0
15	Homa-Bay	6,741	6,433	309	6,741	(309)	0
16	Isiolo	4,241	4,193	48	4,241	(48)	0
17	Murang'a	6,298	6,236	62	6,298	(62)	0
18	Taita-Taveta	4,241	4,171	70	4,241	(70)	0
19	Turkana	10,539	10,215	324	10,539	(324)	0
	<b>Totals</b>	<b>132,392</b>	<b>120,045</b>	<b>12,347</b>	<b>132,392</b>	<b>(12,347)</b>	<b>0</b>

**d) Equalization Fund**

The Senate resolves to expedite approval of the Equalization Fund Bill (National Assembly Bills No. 43 of 2019. Further that, the National Treasury shall expedite operationalization of the equalization fund within a period of three (3) months of the passage of this motion to ensure the quality of services in the marginalized areas are brought to a level generally enjoyed by the rest of the nation.

...../Amendments

5) **NOTICE** is given that Sen. James Orengo, MP intends to move the following amendment to the Motion on the Report of the Standing Committee on Finance and Budget on the third basis/ criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025-

**THAT**, the Motion be amended by deleting the full stop at the end and inserting the following words-

‘subject to insertion of a new recommendation after paragraph 26 of the Report as follows-

27) The Senate, pursuant to Article 217 (2) (b) of the Constitution, recommends that the Commission on Revenue Allocation take into consideration the Report of the Standing Committee on Finance and Budget on the Third Basis for Revenue Allocation and the debate thereon by the Senate and review its original recommendation on the third basis/ criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025, and submit the revised recommendations to the Senate within three months, taking into account additional factors including pastoralism; the livestock sector; the blue economy; the extractive industries; and wildlife and conservation in determining principles and parameters of equitable sharing of national revenue among the counties”.

...../Amendments

**B. \*THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO. 19 OF 2018)**

(Sen. Samuel Poghio, MP)

***(Consideration of the National Assembly amendments)******Schedule of amendments to the Bill, as passed by the National Assembly on Thursday, June 25, 2020*****CLAUSE 2**

Clause 2 of the Bill be amended by inserting the following definition in its proper alphabetical sequence—

“rate card” means a document containing prices and descriptions for various advertisement placement options available from a service sector, which sets out the minimum and maximum price of a service.

**CLAUSE 3**

Clause 3 of the Bill be amended—

(a) by deleting the expression “(1)”;

(b) in paragraph (c) by inserting the words “that has a licence from another county” immediately after the words “a moving vehicle” appearing in subparagraph (vi).

**CLAUSE 4**

Clause 4 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) the written consent of the owner of the site or any other person with an interest in the site entitled to give consent”.

**CLAUSE 10**

Clause 10 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) the written consent of the owner of the site or any other person with an interest in the site entitled to give consent”.

...../Amendments

**CLAUSE 15**

Clause 15 of the Bill be amended by inserting the words “regulate and” immediately after the words “government entity shall”.

**CLAUSE 21**

Clause 21 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) a rate card that shall be reviewed every seven years stating the fees and charges to be paid in respect of any matter required for the purposes of this Act”.

**APPENDIX****1. PETITIONS**

- i. Report of the Standing Committee on Justice, Legal Affairs and Human Rights on consideration of a Petition to the Senate by Bernard Waheire and Jacqueline Mutere on implementation of the report of the Truth, Justice and Reconciliation Commission (TJRC)

*(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)*

- ii. Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate by the Kenya Union on Clinical Officers regarding alleged refusal by the Ministry of Health and county governments, to conclude on the collective bargaining agreement negotiations.
- iii. Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate by Mr. Patrick Wambua regarding the plight of former Machakos County Ward Representative staff.

*(Chairperson, Standing Committee on Labour and Social Welfare)*

**2. STATEMENTS****a) Pursuant to Standing Order 47 (1)**

- i) Nominated Senator (Sen. (Dr.) Alice Milgo, MP) to make a statement regarding the appointment of Sen (Dr.) Gertrude Musuruvu Inimah, MP, to the position of Co-chair of the International Parliamentary Network on Education.
- ii) The Senator for Trans- Nzoia County (Sen. (Dr.) Michael Mbiti, MP) to make a statement concerning boosting of domestic tourism in Kenya.
- iii) Nominated Senator (Sen. (Dr.) Gertrude Musuruvu Inimah, MP) to make a statement concerning the alleged approval of the vaginal ring to curb the spread of HIV/Aids in Africa.

**b) Pursuant to Standing Order 48 (1)**

- i) Nominated Senator (Sen. Beatrice Kwamboka, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources concerning pollution of the environment by industrial emissions.
- ii) The Senator for Kakamega County (Sen. Cleophas Malalah, MP) to seek a statement from the Standing Committee on Finance and Budget concerning the proposed increase of Excise Duty on beer made from sorghum, millet and cassava.

...../Appendix



- iii) The Senator for Nairobi County (Sen. Johnson Sakaja, MP) to seek a statement from the Sessional Committee on County Public Accounts and Investments concerning the source and utilization of funds on the beautification and “ng’arisha jiji” programme by Nairobi City County government.
- iv) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) to seek a statement from the Standing Committee on Labour and Social welfare regarding misappropriation of Staff emoluments, statutory deductions and other labour relations violations.
- v) The Senator for Trans – Nzoia County (Sen. (Dr.) Michael Mbiti, MP) to seek a statement from the Standing Committee on Health concerning payment of allowances to Office Administrative Personnel working in the health sector in county governments.
- vi) The Senator for Mombasa County (Sen. Mohamed Faki Mwinyihaji, MP) to seek a statement from the Standing Committee on Information and Technology regarding the state of affairs at the Postal Corporation of Kenya.
- vii) Nominated Senator (Sen. (Dr.) Alice Milgo, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding alleged continued destruction by fires, of the conservation area around the Tsavo National Park.
- viii) The Senator for Isiolo County (Sen. Fatuma Dullo, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding an alleged assault against a resident of Isiolo County by police officers at Barambate Police Post in the County.
- ix) The Senator for Lamu County (Sen. Anwar Loitiptip, MP) to seek a statement from the Standing Committee on Roads and Transportation concerning the status of dock work job opportunities at the Lamu Port for youths in Lamu County.
- x) The Senator for Isiolo County (Sen. Fatuma Dullo, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources concerning alleged human – wildlife conflict in Isiolo County.
- xi) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) to seek a Statement from the Ad-hoc Committee on COVID-19 Situation in Kenya concerning the status of preparedness for COVID-19 by the Wajir County Government.
- xii) The Senator for Kericho County (Sen. Aaron Cheruiyot, MP) to seek a statement from the Standing Committee on Labour and Social Welfare regarding the operations of the Anti-Doping Agency of Kenya (ADAK) and the alleged rampant doping test failure by Kenyan athletes.

- xiii) Nominated Senator (Sen. Beatrice Kwamboka, MP) to seek a statement from the Standing Committee on Education concerning the status of graduations in various learning institutions that are due in the year 2020.
- xiv) Nominated Senator (Sen. Falhada Iman, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding alleged use of excessive force by the police when engaging with civilians.
- xv) The Senator for Homa Bay County (Sen. Moses Kajwang', MP) to seek a Statement from the Standing Committee on Health regarding alleged industrial strike by health workers in Homa Bay County in the midst of the COVID-19 Pandemic, as well as the general state of health services in the county.

**c) Pursuant to Standing Order 51 (1) (a)**

- i) The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights to make a statement relating to matters for which the Committee is responsible.
- ii) The Chairperson, Standing Committee on Labour and Social Welfare to make a statement regarding the passing-on of renowned artist, the late Mr. Charles Bukeko, popularly known as Papa Shirandula.

**d) Pursuant to Standing Order 51 (1) (b)**

- i) The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries to make a statement relating to the activities of the Committee;
- ii) The Chairperson, Standing Committee on Devolution and Intergovernmental Relations to make a statement relating to the activities of the Committee;
- iii) The Chairperson, Standing Committee on Education to make a statement relating to the activities of the Committee;

**e) Pursuant to Standing Order 52 (1)**

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 8<sup>th</sup> September, 2020.

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