

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

THE HANSARD

Thursday, 24th September 2020

The House met at 10.00 a.m.

[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]

PRAYERS

Hon. Deputy Speaker: Hon. Members, interestingly, we have a big turnout this morning. We meet the required quorum and business will begin. It will be a brief one. I urge you to be very keen because we will only transact business for 45 minutes.

PAPERS LAID

Hon. Deputy Speaker: Under this Order, we have the Chairperson of the Budget and Appropriations Committee, and the Chairperson, Departmental Committee on Justice and Legal Affairs. We will start with the Chairperson of the Budget and Appropriations Committee.

Hon. Kanini Kega (Kieni, JP): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Budget and Appropriations Committee on its Consideration of the Third Basis for Revenue Allocation among the County Governments

Hon. Deputy Speaker: Very well. Let us have the Chairman of the Departmental Committee on Justice and Legal Affairs, the Member for Kangema. We will have to indulge the Member for Kangema. He has been in this battle for too long; from 1974 to date is a serious business.

You have the Floor, Hon. Kigano.

Hon. Clement Kigano (Kangema, JP): Hon. Deputy Speaker, please, indulge me for five minutes to put my house in order.

Hon. Deputy Speaker: The House is definitely in order. We will indulge you.

Hon. Clement Kigano (Kangema, JP): I am getting some documents from the Office of the Speaker.

Hon. Deputy Speaker: We will allow you to do so. We will proceed to the next Order. Once you are ready, we will give you an opportunity to table that Paper. That is quite straightforward. I think you should do so now. If we go back and forth, it will not be very tidy. Are you ready now? Please, proceed.

Hon. Clement Kigano (Kangema, JP): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Justice and Legal Affairs on the Vetting of nominees for appointment as Registrar and Assistant Registrars of Political Parties, respectively.

Hon. Deputy Speaker: Let us move on to the next Order.

NOTICES OF MOTIONS

Hon. Deputy Speaker: We will start this particular one with the Chairperson, Budget and Appropriations Committee.

THIRD BASIS FOR SHARING OF NATIONAL REVENUE ALLOCATED TO COUNTIES

Hon. Kanini Kega (Kieni, JP): I beg to give Notice of the following Motion:

THAT, pursuant to the provisions of Article 217(1) and (4) of the Constitution on allocation of the share of national revenue among the counties, this House concurs with the Senate and approves the Third Basis for the Annual Allocation of the Share of National Revenue to the county level of government for the Financial Years 2020/2021 to 2024/2025 which shall consist of the Allocation Ratio and the Formula, where-

- (i) Allocation Ratio = the shareable revenue allocated to the counties in the financial year 2019/2020.
- (ii) Formula= $0.18 * \text{Population Index}_i + 0.17 * \text{Health Index}_i + 0.10 * \text{Agriculture Index}_i + 0.05 * \text{Urban Index}_i + 0.14 * \text{Poverty Index}_i + 0.08 * \text{Land Area Index}_i^1 + 0.08 * \text{Roads Index}_i + 0.20 * \text{Basic Share Index}_i^2$

¹ Land Area capped at 7%

²The formula will use the 2019 population and 2015/16 KIHBS poverty statistics
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%) $\text{Facility gap factor}_i = \frac{\text{Facility gap funding in county } i}{\sum_{i=1}^{47} \text{facility gap funding in county } i}$ $\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county } i}{\sum_{i=1}^{47} \text{No. of primary health care visits in county } i}$ $\text{In - patient days factor}_i = \frac{\text{No. of in - patient days in county } i}{\sum_{i=1}^{47} \text{No. of in - patient days in county } i}$
Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \frac{\text{Rural households in county } i}{\sum_{i=1}^{47} \text{Rural households in county } i}$

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Other county services	Population index _i = $\frac{\text{Population in county } i}{\sum_{i=1}^{47} \text{Population in county } i}$
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 _i = $\frac{\text{Land area in county } i}{\sum_i \text{Land area in county } i}$
Roads	Roads index _i = $\frac{\text{Rural access index in county } i}{\sum_{i=1}^{47} \text{Rural access index in county } i}$
Poverty level	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	Urban Index $i = \frac{\text{urban household in county } i}{\sum_{i=1}^{47} \text{Urban Household in County } i}$

AND FURTHER RESOLVES THAT, the Third Basis for allocating among the counties the share of national revenue that is annually allocated to the county level of government for the financial years 2020/2021 to 2024/2025 shall be applied as follows-

- (i) Equitable Share for 2020/2021
County Allocation = Allocation Ratio + 0(Formula).
- (ii) Equitable share for 2021/2022 to 2024/2025 of Kshs.370 billion and above
County Allocation = 0.5 (Allocation Ratio) + (((Equitable Share - 0.5 (Allocation Ratio))* (Formula)).

PROVIDED THAT, for the duration of the operation of the Third Basis for allocating revenue among the counties, no county shall receive in any financial year an amount of shareable revenue that is less than the amount of shareable revenue received by the county in the financial year 2019/2020.

Thank you.

Hon. Deputy Speaker: Let us have the Chairperson of the Departmental Committee on Justice and Legal Affairs, Hon. Member for Kangema.

APPROVAL OF APPOINTMENT OF REGISTRAR
AND ASSISTANT REGISTRARS OF POLITICAL PARTIES

Hon. Clement Kigano (Kangema, JP): Hon. Deputy Speaker, I beg to give Notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Justice and Legal Affairs in its report on the vetting of the nominees for the appointment of the Registrar and Assistant Registrars of Political Parties laid on the Table of the House on Thursday 24th September, 2020 and pursuant to the provisions of paragraph six of the Sixth Schedule to the Political Parties Act, 2011, this House:

- (a) Approves the appointment of the following persons to the Office of the Registrar of Political Parties as indicated:
 - (i) Ms. Ann Nderitu - Registrar of Political Parties.

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- (ii) Mr. Ali Abdullahi Sulo - Assistant Registrar.
- (iii) Mr. Lawrence Taabu Mbiria - Assistant Registrar.
- (b) Rejects the appointment of Makore Wilson Muhoji as an Assistant Registrar of Political Parties.

Thank you.

Hon. Deputy Speaker: Very well. Next Order!

BILL

Second Reading

THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL

(Hon. (Ms.) Gladys Wanga on 10.9.2020)

(Debate concluded on 17.9.2020)

Hon. Deputy Speaker: This had been canvassed and concluded. What remained was for the Question to be put. I can confirm that we have the required numbers to put the Question. So, I will proceed to put the Question.

(Question put and agreed to)

Hon. Deputy Speaker: Next Order!

MOTION

APPROVAL OF A SECOND SITTING

Hon. Deputy Speaker: The Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Deputy Speaker, I beg to move:

THAT, pursuant to the provisions of Standing Order 30(3)(b), this House resolves to hold another sitting today, Thursday 24th September, 2020 after the 10.00 a.m. sitting.

As Members could be aware, we have waited for a long time to get a resolution on how funds will be disbursed to the counties. It has been a protracted issue. Eventually, the Senate agreed on some basis. That will be presented and its notice has been given. We want this House to demonstrate to the Kenyan people that we care for counties and lives out there, and we are the real protectors of devolution. Much as we have 60 days to facilitate and expedite the process of approval of what has come from the Senate, we decided in the House Business Committee (HBC) that we need to accelerate this process. So, HBC proposed we create two sittings this morning, so that tabling of the Report is done in the first sitting. That has been done.

If you recall, the Speaker had communicated that the Report will be uploaded for Members to have the information so that this morning we just go through the processes procedurally unlike before. We will table in one sitting and create a second sitting to debate. So, we will have two sittings

today. It will be good for Members in terms of having a break and ensuring that what happens in this sitting will be different from the next one.

Basically, that is what I am asking Members to approve. This is purely to ensure that we are within the spirit of our procedures and do not deviate from processes. You cannot table a report and debate it in one sitting. The Report has been tabled, we will now have a break of 10 to 15 minutes, and then we will come back and go through the Report. I am also conscious that, as the HBC, we had promised that Thursday will be a Private Members day. We have transacted one Private Members Motion. When we will be through with the business on the third basis of allocation of money to the counties, we will go back to the Private Members business.

The HBC is conscious to give Private Members Bills priority. In the greater public interest, we will allocate some of that time to the business on the third basis of allocation of money to the counties and thereafter we go back to the Private Members business. I urge Members that we create this sitting, we fast-track the process of money going to counties, so that we are not seen to be delaying the process as it happened elsewhere.

With those few remarks, I urge Members to support this Motion. I ask Hon. John Mbadi, the Leader of the Minority Party, to second.

Hon. Deputy Speaker: The Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Deputy Speaker. In addition to what the Leader of the Majority Party has said, we considered this matter. This Morning, Hon. Kanini Kega, on behalf of the Budget and appropriations Committee, tabled a Report on the third basis for sharing of national revenue allocated to our 47 counties. We are all aware that our procedures do not allow us to deal with more than one stage of a Bill or a Motion in the same sitting. Therefore, we are requesting this House to approve another sitting so that we are able to debate and approve this Report. However, I do not want to conclude my seconding of this Motion without saying that all this could not have happened if the Senate had acted within the required time.

The people of Kenya should be aware that the Commission on Revenue Allocation (CRA) proposal for the third generation formula, as it is widely called, was introduced in the Senate on 30th April 2019. From then to mid this year, the Senate sat on that formula and never gave it any consideration. Even when they started considering the proposal, we all saw the theatrics and the drama in the Senate - sittings were adjourned for a record over 10 times. The Constitution provided for the National Assembly to also be engaged in considering the formula. I think the Senate needs to be aware that even though they have more powers in approving the formula, the people of Kenya also allowed the National Assembly to engage with this formula. I sit in the Budget and Appropriations Committee and we barely had two hours to look at this formula critically. This is a very important formula that is going to be used for five years. It is unfair and unjust. I hope this is the last time we are witnessing this kind of negligence and abdication of duty on the part of the Senate. I want to request this House to allow us to have a second sitting so that we can consider this formula and possibly conclude it.

Thank you, Hon. Deputy Speaker. I second.

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

ADJOURNMENT

Hon. Deputy Speaker: Order, Members! The time being 10.22 a.m., this House stands adjourned until today at 10.35 a.m.

The House rose at 10.22 a.m.