REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS - SPECIAL SITTING

MONDAY, AUGUST 17, 2020 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.

2. The Proceedings were opened with Prayer said by the Speaker.

3. **MOTION – APPROVAL OF THE THIRD BASIS FOR REVENUE ALLOCATION AMONG THE COUNTY GOVERNMENTS**

   Order read;

   Motion made and Question proposed;

   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, 13th 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, 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. 270 billion**
      The following formula shall apply

      $\mathbf{CA_i1} = O.45PN_i + 0.26ES_i + 0.18PI_i + 0.08LA_i + 0.02FE_i{}^1 + 0.01DF_i{}^2$

      Where,

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[1] Fiscal Effort Index used in the FY 2019/20
[2] The formula will use the 2009 population & poverty statistics

CA_i1 is revenue allocation of the ith County; PN_i is Population Factor (Population of ith County/total population); ES_i is Basic Equal Share Factor (Total Equal share/47); PI_i is Poverty Gap (Poverty Resources of ith County/total poverty Resources); LA_i Land Area Factor (Land Area (Sq. Kms.) of ith County/Total Land area); FE_i is Fiscal Effort Factor (County's own revenue increment/2009 population of the ith County); and DF_i is Development Factor=

$$\frac{1}{3}\left(\frac{Ei * Ni}{Sumi((Ei * Ni))} + \frac{Wi * Ni}{Sumi(Wi * Ni)} + \left(\frac{URNi}{SumiURNi}\right)\right)$$

Where E_i is proportion of household with access to electricity of the ith County

W_i is proportion of household without access to improved water of the ith County

URN_i is Un-paved road network of class D, E, F, G, H, J, K, M, N & P of the ith County.

b) <u>**Equitable share over and above Kshs. 270 billion**</u>
The following formula shall apply

CA_i2= 0.16*Population Index$_i$+ 0.19*Health Index$_i$+0.11* Agriculture Index$_i$+ 0.05*Urban Index$_i$+0.14* Poverty Index$_i$+ 0.08*Land Area Index$_i$ +0.01*Fiscal Effort$_i$+0.06*Roads Index$_i$ +0.20* Basic Share Index$_i$ [3]

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%) $$\text{Facilty gap factor}_i = \frac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47} \text{facilty gap funding in county i}}$$ $$\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47} \text{No. of primary health care visits in county i}}$$ $$\text{In} - \text{patient days factor}_i = \frac{\text{No. of in} - \text{patient days in county i}}{\sum_{i=1}^{47} \text{No. of in} - \text{patient days in county i}}$$
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	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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[3] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

Land	$\text{Land area index}_i = \dfrac{\text{Land area in county i}}{\sum_i^{47} \text{Land area in county i}}$
Roads	$\text{Roads index}_i = \dfrac{\text{Rural access index in county i}}{\sum_{i=1}^{47} \text{Rural access index in county i}}$
Poverty level	$\text{Poverty index}_i = \dfrac{\text{No. of poor people in county i}}{\sum_{i=1}^{47} \text{No. of poor people in county i}}$
Urban service	$\text{Urban Index } i = \dfrac{\text{urban household in county i}}{\sum_{i=1}^{47} \text{Urban Household in County i}}$
Fiscal effort	$\text{Fiscal effort index}_i = \dfrac{\text{OSR collections of county i}}{\text{GCP of county i}}$

The basis used is as shown

No.	Parameter	Weight
1	Population	16%
2	Health	19%
3	Agriculture	11%
4	Urban	5%
5	Roads	6%
6	Poverty	14%
7	Land	8% **capped**
8	Basic Share	20%
9	Fiscal Effort	1%
10	Fiscal Prudence	0%

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

The following formula shall apply

TES$_i$= CA$_i$1+CA$_i$2

Whereas;

TES$_i$ = Total Equitable share of County$_i$
CA$_i$1= Equitable share not exceeding Kshs. 270 billion
CA$_i$2 =Equitable share over and above Kshs. 270 billion

(Chairperson, Standing Committee on Finance and Budget – 28/07/2020)

SIMULATION FOR ILLUSTRATION ONLY
Simulation using equitable share of Kshs. 316.5 billion for FY 2020/2021

No	County	Actual Allocations 2019/20	Equitable share of Kshs. 270 billion using 2nd generation formula	Application of Remaining Kshs. 46.5 billion using Sen. Linturi Amendment	New Allocation Ksh 316,500)	Net Change between FY19/20 Allocation & Proposed FY 2020/21 Allocation
1	Mandera	10,222.95	8,721.00	1,256.69	9,977.69	(245.26)
2	Kwale	7,785.90	6,642.00	966.00	7,608.00	(177.90)
3	Wajir	8,545.50	7,290.00	1,079.88	8,369.88	(175.62)
4	Marsabit	6,773.10	5,778.00	838.16	6,616.16	(156.94)
5	Kilifi	10,444.50	8,910.00	1,381.08	10,291.08	(153.42)
6	Mombasa	7,057.95	6,021.00	901.77	6,922.77	(135.18)
7	Narok	8,039.10	6,858.00	1,050.68	7,908.68	(130.42)
8	Makueni	7,406.10	6,318.00	980.91	7,298.91	(107.19)
9	Nyamira	4,810.80	4,104.00	608.86	4,712.86	(97.94)
10	Tana-River	5,855.25	4,995.00	780.53	5,775.53	(79.72)
11	Tharaka-Nithi	3,924.60	3,348.00	500.42	3,848.42	(76.18)
12	Garissa	7,026.30	5,994.00	957.15	6,951.15	(75.15)
13	Vihiga	4,652.55	3,969.00	615.47	4,584.47	(68.08)
14	Isiolo	4,241.10	3,618.00	581.37	4,199.37	(41.73)
15	Homa-Bay	6,741.45	5,751.00	961.31	6,712.31	(29.14)
16	Kisii	7,785.90	6,642.00	1,119.16	7,761.16	(24.74)
17	Taita-Taveta	4,241.10	3,618.00	606.96	4,224.96	(16.14)
18	Murang'a	6,298.35	5,373.00	909.37	6,282.37	(15.98)
19	Samburu	4,620.90	3,942.00	675.42	4,617.42	(3.48)
	Total Loss	**126,473.40**	**107,892.00**	**16,771.20**	**124,663.20**	**(1,810.20)**
1	Kitui	8,830.35	7,533.00	1,303.12	8,836.12	5.77
2	Nyandarua	4,874.10	4,158.00	722.01	4,880.01	5.91
3	Nyeri	5,412.15	4,617.00	801.39	5,418.39	6.24
4	Turkana	10,539.45	8,991.00	1,557.89	10,548.89	9.44
5	Lamu	2,595.30	2,214.00	398.51	2,612.51	17.21
6	Elgeyo-Marakwet	3,861.30	3,294.00	586.50	3,880.50	19.20
7	Kisumu	6,836.40	5,832.00	1,031.70	6,863.70	27.30
8	Meru	8,039.10	6,858.00	1,209.33	8,067.33	28.23
9	Migori	6,773.10	5,778.00	1,026.69	6,804.69	31.59
10	Embu	4,304.40	3,672.00	672.60	4,344.60	40.20
11	Siaya	5,791.95	4,941.00	893.94	5,834.94	42.99
12	Busia	6,013.50	5,130.00	928.49	6,058.49	44.99
13	Kericho	5,380.50	4,590.00	836.15	5,426.15	45.65
14	Machakos	7,754.25	6,615.00	1,188.13	7,803.13	48.88
15	Kakamega	10,412.85	8,883.00	1,598.86	10,481.86	69.01
16	Bomet	5,507.10	4,698.00	878.79	5,576.79	69.69
17	Bungoma	8,893.65	7,587.00	1,379.02	8,966.02	72.37
18	Laikipia	4,177.80	3,564.00	689.37	4,253.37	75.57
19	Kirinyaga	4,241.10	3,618.00	702.66	4,320.66	79.56
20	Baringo	5,095.65	4,347.00	831.86	5,178.86	83.21
21	West Pokot	5,000.70	4,266.00	818.24	5,084.24	83.54
22	Kajiado	6,424.95	5,481.00	1,031.13	6,512.13	87.18
23	Trans-Nzoia	5,760.30	4,914.00	940.48	5,854.48	94.18
24	Nairobi City	15,919.95	13,581.00	2,459.53	16,040.53	120.58
25	Uasin-Gishu	6,330.00	5,400.00	1,072.56	6,472.56	142.56
26	Nakuru	10,476.15	8,937.00	1,688.21	10,625.21	149.06
27	Nandi	5,348.85	4,563.00	935.14	5,498.14	149.29
28	Kiambu	9,431.70	8,046.00	1,546.50	9,592.50	160.80
	Total	**190,026.60**	**162,108.00**	**29,728.80**	**191,836.80**	**1,810.20**

Further amendment proposed

Motion made and Question proposed;

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 at paragraph 26 of the Report and substituting therefor the following new recommendations -

26. The proposed third basis/criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025 be as follows —
   a. **Allocation for FY 2020/21**

   Maintain the FY 2019/20 allocation per County

   b. **Equitable share not exceeding Kshs. 348 billion**

   The following formula shall apply

   CA_i1= O.45PN_i +0.26ES_i+0.18PI_i+0.08LA_i+0.02FE_i+0.01DF_i [4]

   Where,

   CA_i1 is revenue allocation of the ith County; PN_i is Population Factor (Population of ith County/total population); ES_i is Basic Equal Share Factor (Total Equal share/47); PI_i is Poverty Gap (Poverty Resources of ith County/total poverty Resources); LA_i Land Area Factor (Land Area (Sq. Kms.) of ith County/Total Land area); FE_i is Fiscal Effort Factor (County's own revenue increment/2009 population of the ith County); and DF_i is Development Factor=

$$\frac{1}{3}\left(\frac{Ei*Ni}{Sumi((Ei*Ni))}+\frac{Wi*Ni}{Sumi(Wi*Ni)}+\left(\frac{URNi}{SumiURNi}\right)\right)$$

   Where E_i is proportion of household with access to electricity of the i^{th}County

   W_i is proportion of household without access to improved water of the i^{th}County

   $URN_i$is Un-paved road network of class D, E, F, G, H, J, K, M, N & P of the ith County.

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[4] The formula will use the 2009 population & poverty statistics

c. Equitable share over and above Kshs. 348 billion

The following formula shall apply

**CA$_i$2**= 0.18*Population Index$_i$+ 0.17*Health Index$_i$+0.10* Agriculture Index$_i$+ 0.05*Urban Index$_i$+0.14* Poverty Index$_i$+ 0.08*Land Area Index$_i$+0.02*Fiscal Effort$_i$+0.04*Roads Index$_i$ +0.02* Prudence Index$_i$+0.20* Basic Share Index$_i$[5]

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%) $$\text{Facilty gap factor}_i = \frac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47} \text{facilty gap funding in county i}}$$ $$\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47} \text{No. of primary health care visits in county i}}$$ $$\text{In} - \text{patient days factor}_i = \frac{\text{No. of in} - \text{patient days in county i}}{\sum_{j=1}^{47} \text{No. of in} - \text{patient days in county i}}$$
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	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	$$\text{Land area index}_i = \frac{\text{Land area in county i}}{\sum_{i}^{47} \text{Land area in county i}}$$
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	$$\textbf{\textit{Urban Index i}} = \frac{\textbf{\textit{urban household in county i}}}{\sum_{i=1}^{47} \textbf{\textit{Urban Household in County i}}}$$

Fiscal prudence	No.	Variable	Indicator	Score	Responsible	Weighting
	1	Audit Reports	Non-Qualified	4	County Executive Assembly	CE=90% CA=10%
			Qualified	2		

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[5] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

		Adverse	0		
		Disclaimer	0		
2	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 and Economic Forum	In place	1	County Government	100%
		Not In place	0		

SIMULATION FOR ILLUSTRATION ONLY

Simulation using Equitable share over and above Kshs. 348 billion using the proposed amendment by Senator Petronilla Were-

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
1	Mandera	10,222.95	**8,946.67**	**(1,276)**
2	Wajir	8,545.50	**7,813.54**	**(732)**
3	Kwale	7,785.90	**7,227.18**	**(559)**
4	Marsabit	6,773.10	**6,358.76**	**(414)**
5	Kilifi	10,444.50	**10,260.63**	**(184)**
6	Narok	8,039.10	**7,888.39**	**(151)**
7	Tharaka-Nithi	3,924.60	**3,781.58**	**(143)**
8	Nyamira	4,810.80	**4,690.32**	**(120)**
9	Mombasa	7,057.95	**7,010.21**	**(48)**
10	Tana-River	5,855.25	**5,884.65**	**29**
11	Makueni	7,406.10	**7,503.22**	**97**
12	Vihiga	4,652.55	**4,767.77**	**115**
13	Garissa	7,026.30	**7,189.49**	**163**
14	Homa-Bay	6,741.45	**7,072.92**	**331**
15	Taita-Taveta	4,241.10	**4,586.61**	**346**

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
16	Isiolo	4,241.10	**4,609.89**	**369**
17	Elgeyo-Marakwet	3,861.30	**4,317.65**	**456**
18	Lamu	2,595.30	**3,093.81**	**499**
19	Samburu	4,620.90	**5,130.86**	**510**
20	Kisii	7,785.90	**8,312.28**	**526**
21	Nyeri	5,412.15	**5,958.74**	**547**
22	Murang'a	6,298.35	**6,856.69**	**558**
23	Nyandarua	4,874.10	**5,506.60**	**632**
24	Turkana	10,539.45	**11,232.13**	**693**
25	Siaya	5,791.95	**6,590.16**	**798**
26	**Embu**	**4,304.40**	**5,118.58**	**814**
27	**Meru**	**8,039.10**	**8,876.27**	**837**
28	**Kisumu**	**6,836.40**	**7,687.11**	**851**
29	**Kericho**	**5,380.50**	**6,236.26**	**856**
30	**Kitui**	**8,830.35**	**9,754.29**	**924**
31	**Busia**	**6,013.50**	**6,956.83**	**943**
32	**West Pokot**	**5,000.70**	**5,972.45**	**972**
33	**Migori**	**6,773.10**	**7,774.54**	**1,001**
34	**Kirinyaga**	**4,241.10**	**5,268.65**	**1,028**
35	**Bomet**	**5,507.10**	**6,548.36**	**1,041**
36	**Baringo**	**5,095.65**	**6,194.56**	**1,099**
37	**Laikipia**	**4,177.80**	**5,305.73**	**1,128**
38	**Machakos**	**7,754.25**	**8,928.67**	**1,174**
39	**Trans-Nzoia**	**5,760.30**	**7,012.06**	**1,252**
40	**Bungoma**	**8,893.65**	**10,225.50**	**1,332**
41	**Nandi**	**5,348.85**	**6,760.87**	**1,412**

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
42	Kajiado	6,424.95	7,899.10	1,474
43	Kakamega	10,412.85	11,896.16	1,483
44	Uasin-Gishu	6,330.00	7,980.33	1,650
45	Nakuru	10,476.15	12,333.57	1,857
46	Kiambu	9,431.70	11,821.97	2,390
47	Nairobi City	15,919.95	18,857.41	2,937
	Total	**316,500**	**348,000**	**31,500**

(Sen. Petronila Were Lokorio, MP – 11/08/2020)

Debate interrupted on Monday, 17th August, 2020 – Morning Sitting – on the amendment resumed.

Rising on a Point of Order pursuant to Standing Order 105, the Senator for Tharaka Nithi County (Sen. (Prof.) Kithure Kindiki, MP) claimed to move –

THAT, the debate be now adjourned.

(Sen. (Prof.) Kithure Kindiki, MP)

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79(1), the Deputy Speaker ruled that the Motion does not affect counties.

The Deputy Speaker directed that electronic voting be taken pursuant to Standing Order 81 and that the division bell be rung for one minute;

After the expiry of one minute, the Deputy Speaker directed that the doors be locked and the bars be drawn, and asked Senators to log-in for electronic voting;

The Deputy Speaker put the Question and directed Senators to cast their votes by pressing either the **"Yes", "No"** or **"Abstain"** button;

Before the results of the Division were announced and pursuant to Standing Order 81(5), the Deputy Speaker allowed twenty eight Senators to record their vote verbally.

Thereupon, the following Senators recorded their votes verbally as-

Yes
1. Sen. Boy Issa Juma
2. Sen. Gona Christine Zawadi
3. Sen. Halake Abshiro Soka
4. Sen. Iman Falhada Dekow
5. ~~Sen. Imana Malachy Charles Ekal~~
6. Sen. Madzayo Stewart Mwachiru
7. Sen. Mogeni Erick Okong'o
8. Sen. Mwaruma Johnes Mwashushe
9. Sen. Wario Golich Juma
10. Sen. Zani Agnes Philomena

Noes
1. Sen. Chebeni Mercy
2. Sen. Inimah Getrude Musuruve
3. Sen. Kamar Margaret Jepkoech
4. Sen. Kang'ata Irungu
5. Sen. Kihika Susan Wakarura
6. Sen. Loitiptip Anuar
7. Sen. Makori Beatrice Kwamboka
8. Sen. Masitsa Naomi Shiyonga
9. Sen. Mbito Michael Maling'a
10. Sen. Mbogo George Ochilo Ayacko
11. Sen. Milgo Alice Chepkorir
12. Sen. Moi Gideon Kipsielei Towett
13. Sen. Mpaayei Phillip Salau
14. ~~Sen. Nderitu John Kinyua~~
15. Sen. Nyamunga Rose
16. Sen. Ongeri Samson Kegengo
17. Sen. Pareno Judith Ramaita

The results of the Division were as follows: -

AYES - 28   NOES - 28   ABSTENTIONS - 0

AYES
1. Sen. Adan Fatuma Dullo
2. Sen. Ali Abdullahi Ibrahim
3. Sen. Boy Issa Juma- voted verbally
4. Sen. Cheruiyot Aaron Kipkirui
5. Sen. Franklin Mithika
6. Sen. Gona Christine Zawadi- voted verbally
7. Sen. Haji Farhiya Ali
8. Sen. Haji Mohamed Yusuf
9. Sen. Halake Abshiro Soka- voted verbally
10. Sen. Iman Falhada Dekow- voted verbally

11. Sen. Imana Malachy Charles Ekal – voted verbally
12. Sen. Kabaka Boniface Mutinda
13. Sen. Khaniri George
14. Sen. Kilonzo Mutula Junior
15. Sen. Kindiki Kithure
16. Sen. Madzayo Stewart Mwachiru – voted verbally
17. Sen. Mahamud Mohamed Maalim
18. Sen. Mogeni Erick Okong'o– voted verbally
19. Sen. Murkomen Onesimus Kipchumba
20. Sen. Mwaruma Johnes Mwashushe- voted verbally
21. Sen. Mwinyihaji Mohamed Faki
22. Sen. Olekina Ledama
23. Sen. Omanga Millicent
24. Sen. Sakaja Johnson Arthur
25. Sen. Wambua Enoch Kiio
26. Sen. Waqo Naomi Jilo
27. Sen. Wario Golich Juma – voted verbally
28. Sen. Zani Agnes Philomena- voted verbally

Noes
1. Sen. Chebeni Mercy- voted verbally
2. Sen. Inimah Getrude Musuruve- voted verbally
3. Sen. Kajwang' Moses Otieno
4. Sen. Kamar Margaret Jepkoech- voted verbally
5. Sen. Kang'ata Irungu – voted verbally
6. Sen. Kibiru Charles Reubenson
7. Sen. Kihika Susan Wakarura – voted verbally
8. Sen. Kimani Wamatangi Paul
9. Sen. Kirinyaga Ephraim Mwangi Maina
10. Sen. Loitiptip Anuar – voted verbally
11. Sen. Lokorio Petronilla Were
12. Sen. Makori Beatrice Kwamboka- voted verbally
13. Sen. Masitsa Naomi Shiyonga- voted verbally
14. Sen. Mbito Michael Maling'a – voted verbally
15. Sen. Mbogo George Ochilo Ayacko- voted verbally
16. Sen. Milgo Alice Chepkorir- voted verbally
17. Sen. Moi Gideon Kipsielei Towett- voted verbally
18. Sen. Mpaayei Phillip Salau- voted verbally
19. Sen. Mwangi Paul Githiomi
20. Sen. Mwaura Isaack
21. Sen. Nderitu John Kinyua- voted verbally
22. Sen. Nyamunga Rose- voted verbally
23. Sen. Ongeri Samson Kegengo – voted verbally
24. Sen. Orengo James
25. Sen. Outa Frederick Otieno
26. Sen. Pareno Judith Ramaita – voted verbally
27. Sen. Poghisio Samuel Lesuron

28. Sen. Wetang'ula Moses Masika

Pursuant to Article 122 (2) (b) of the Constitution, Question put and, **negatived.**

4. **MOTION – EXTENSION OF TIME PURSUANT TO STANDING ORDER 31 (3) (a)**

Motion made and Question proposed;

THAT, pursuant to Standing Order 31(3)(a), the Senate resolves to extend its sitting until the conclusion of business listed in the Order Paper.

(Sen. Irungu Kang'ata, MP)

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79(1), the Speaker ruled that the Motion does not affect counties.

The Speaker directed that a roll call voting be taken pursuant to Standing Order 83(1) and that the Division bell be rung for one minute;

The names of the Tellers were annouced as follows -
1. Sen. Charles Kibiru, MP - AYES
2. Sen. Boniface Kabaka, MP - NOES

After the expiry of one minute, the Speaker directed that the doors be locked and the bars be drawn;

The Speaker put the Question and directed the Clerk to call out the names of Senators in alphabetical order;

The results of the Division were as follows -

AYES – 31   **NOES - 28**   **ABSTENTION – 0**

AYES
1. Sen. Chebeni Mercy
2. Sen. Cherarkey Samson Kiprotich
3. Sen. Inimah Getrude Musuruve
4. Sen. Kajwang' Moses Otieno
5. Sen. Kamar Margaret Jepkoech
6. Sen. Kang'ata Irungu
7. Sen. Kibiru Charles Reubenson

8. Sen. Kihika Susan Wakarura
9. Sen. Kimani Wamatangi Paul
10. Sen. Kirinyaga Ephraim Mwangi Maina
11. Sen. Loitiptip Anuar
12. Sen. Lokorio Petronilla Were
13. Sen. Makori Beatrice Kwamboka
14. Sen. Masitsa Naomi Shiyonga
15. Sen. Mbito Michael Maling'a
16. Sen. Mbogo George Ochilo Ayacko
17. Sen. Milgo Alice Chepkorir
18. Sen. Moi Gideon Kipsielei Towett
19. Sen. Mpaayei Phillip Salau
20. Sen. Mwangi Paul Githiomi
21. Sen. Mwaura Isaac
22. Sen. Nderitu John Kinyua
23. Sen. Ndwiga Peter Njeru
24. Sen. Nyamunga Rose Ogendo
25. Sen. Ongeri Samson Kegengo
26. Sen. Orengo James
27. Sen. Outa Fredrick Otieno
28. Sen. Pareno Judith Ramaita
29. Sen. Poghisio Samuel Losuron
30. Sen. Wako Sitswila Amos
31. Sen. Wetang'ula Moses Masika

NOES

1. Sen. Adan Dullo Fatuma
2. Sen. Ali Abdullahi Ibrahim
3. Sen. Boy Issa Juma
4. Sen. Cheruiyot Aaron Kipkirui
5. Sen. Gona Christine Zawadi
6. Sen. Haji Farhiya Ali
7. Sen. Haji Mohammed Yusuf
8. Sen. Halake Abshiro Soka
9. Sen. Iman Falhada Dekow
10. Sen. Imana Malachy Charles Ekal
11. Sen. Kabaka Boniface Mutinda
12. Sen. Khaniri George
13. Sen. Kilonzo Mutula Junior
14. Sen. Kindiki Kithure
15. Sen. Linturi Franklin Mithika
16. Sen. Madzayo Stewart Mwachiru
17. Sen. Mahamud Mohamed Maalim
18. Sen. Mogeni Erick Okong'o
19. Sen. Murkomen Onesimus Kipchumba
20. Sen. Mwaruma Johnes Mwashushe

21. Sen. Mwinyihaji Mohamed Faki
22. Sen. Olekina Ledama
23. Sen. Omanga Millicent
24. Sen. Sakaja Johnson Arthur
25. Sen. Wambua Enoch Kiio
26. Sen. Waqo Naomi Jilo
27. Sen. Wario Golich Juma
28. Sen. Zani Agnes Philomena

Question put and, **agreed to.**

5. **MOTION – APPROVAL OF THE THIRD BASIS FOR REVENUE ALLOCATION AMONG THE COUNTY GOVERNMENTS**

Motion made and Question proposed;

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, 13th 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, 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. 270 billion**
   The following formula shall apply

   $$CA_i1 = 0.45PN_i + 0.26ES_i + 0.18PI_i + 0.08LA_i + 0.02FE_i{}^{[6]} + 0.01DF_i{}^{[7]}$$

   Where,
   CA_i1 is revenue allocation of the ith County; PN_i is Population Factor (Population of ith County/total population); ES_i is Basic Equal Share Factor (Total Equal share/47); PI_i is Poverty Gap (Poverty Resources of ith County/total poverty Resources); LA_i Land Area Factor (Land Area (Sq. Kms.) of ith County/Total Land area); FE_i is Fiscal Effort Factor (County's own revenue increment/2009 population of the ith County); and DF_i is Development Factor=

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[6] Fiscal Effort Index used in the FY 2019/20
[7] The formula will use the 2009 population & poverty statistics

$$\frac{1}{3}\left(\frac{Ei*Ni}{Sumi((Ei*Ni))}+\frac{Wi*Ni}{Sumi(Wi*Ni)}+\left(\frac{URNi}{SumiURNi}\right)\right)$$

Where E_i is proportion of household with access to electricity of the ith County

W_i is proportion of household without access to improved water of the ith County

URN_i is Un-paved road network of class D, E, F, G, H, J, K, M, N & P of the ith County.

b) <u>**Equitable share over and above Kshs. 270 billion**</u>
The following formula shall apply

**CA$_i$2=** 0.16*Population Index$_i$+ 0.19*Health Index$_i$+0.11* Agriculture Index$_i$+ 0.05*Urban Index$_i$+0.14* Poverty Index$_i$+ 0.08*Land Area Index$_i$ +0.01*Fiscal Effort$_i$+0.06*Roads Index$_i$ +0.20* Basic Share Index$_i$ [8]

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%) $\text{Facilty gap factor}_i = \dfrac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47}\text{facilty gap funding in county i}}$ $\text{Primary health care factor}_i = \dfrac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47}\text{No. of primary health care visits in county i}}$ $\text{In} - \text{patient days factor}_i = \dfrac{\text{No. of in} - \text{patient days in county i}}{\sum_{i=1}^{47}\text{No. of in} - \text{patient days in county i}}$
Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \dfrac{\text{Rural households in county i}}{\sum_{i=1}^{47}\text{Rural households in county i}}$
Other county services	$\text{Population index}_i = \dfrac{\text{Population in county i}}{\sum_{i=1}^{47}\text{Population in county i}}$
Minimum share	Basic share index $= 0.19 * \text{Equal Share index} + 0.01 * \dfrac{\text{inverse of population in county i}}{\sum_{i=1}^{47}\text{inverse of population in county i}}$
Land	$\text{Land area index}_i = \dfrac{\text{Land area in county i}}{\sum_{i}^{47}\text{Land area in county i}}$
Roads	$\text{Roads index}_i = \dfrac{\text{Rural access index in county i}}{\sum_{i=1}^{47}\text{Rural access index in county i}}$
Poverty level	$\text{Poverty index}_i = \dfrac{\text{No. of poor people in county i}}{\sum_{i=1}^{47}\text{No. of poor people in county i}}$

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[8] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

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	$$\text{Fiscal effort index}_i = \frac{\text{OSR collections of county } i}{\text{GCP of county } i}$$

The basis used is as shown

No.	Parameter	Weight
1	Population	16%
2	Health	19%
3	Agriculture	11%
4	Urban	5%
5	Roads	6%
6	Poverty	14%
7	Land	8% capped
8	Basic Share	20%
9	Fiscal Effort	1%
10	Fiscal Prudence	0%

c) Total Equitable share of a County

The following formula shall apply

TES$_i$= CA$_i$1+CA$_i$2

Whereas;

TES$_i$ = Total Equitable share of County$_i$
CA$_i$1= Equitable share not exceeding Kshs. 270 billion
CA$_i$2 =Equitable share over and above Kshs. 270 billion

(Chairperson, Standing Committee on Finance and Budget – 28/07/2020)

SIMULATION FOR ILLUSTRATION ONLY
Simulation using equitable share of Kshs. 316.5 billion for FY 2020/2021

No	County	Actual Allocations 2019/20	Equitable share of Kshs. 270 billion using 2nd generation formula	Application of Remaining Kshs. 46.5 billion using Sen. Linturi Amendment	New Allocation Ksh 316,500)	Net Change between FY19/20 Allocation & Proposed FY 2020/21 Allocation
1	Mandera	10,222.95	8,721.00	1,256.69	9,977.69	(245.26)
2	Kwale	7,785.90	6,642.00	966.00	7,608.00	(177.90)
3	Wajir	8,545.50	7,290.00	1,079.88	8,369.88	(175.62)
4	Marsabit	6,773.10	5,778.00	838.16	6,616.16	(156.94)
5	Kilifi	10,444.50	8,910.00	1,381.08	10,291.08	(153.42)
6	Mombasa	7,057.95	6,021.00	901.77	6,922.77	(135.18)
7	Narok	8,039.10	6,858.00	1,050.68	7,908.68	(130.42)
8	Makueni	7,406.10	6,318.00	980.91	7,298.91	(107.19)
9	Nyamira	4,810.80	4,104.00	608.86	4,712.86	(97.94)
10	Tana-River	5,855.25	4,995.00	780.53	5,775.53	(79.72)
11	Tharaka-Nithi	3,924.60	3,348.00	500.42	3,848.42	(76.18)
12	Garissa	7,026.30	5,994.00	957.15	6,951.15	(75.15)
13	Vihiga	4,652.55	3,969.00	615.47	4,584.47	(68.08)
14	Isiolo	4,241.10	3,618.00	581.37	4,199.37	(41.73)
15	Homa-Bay	6,741.45	5,751.00	961.31	6,712.31	(29.14)
16	Kisii	7,785.90	6,642.00	1,119.16	7,761.16	(24.74)
17	Taita-Taveta	4,241.10	3,618.00	606.96	4,224.96	(16.14)
18	Murang'a	6,298.35	5,373.00	909.37	6,282.37	(15.98)
19	Samburu	4,620.90	3,942.00	675.42	4,617.42	(3.48)
	Total Loss	**126,473.40**	**107,892.00**	**16,771.20**	**124,663.20**	**(1,810.20)**
1	Kitui	8,830.35	7,533.00	1,303.12	8,836.12	5.77
2	Nyandarua	4,874.10	4,158.00	722.01	4,880.01	5.91
3	Nyeri	5,412.15	4,617.00	801.39	5,418.39	6.24
4	Turkana	10,539.45	8,991.00	1,557.89	10,548.89	9.44
5	Lamu	2,595.30	2,214.00	398.51	2,612.51	17.21
6	Elgeyo-Marakwet	3,861.30	3,294.00	586.50	3,880.50	19.20
7	Kisumu	6,836.40	5,832.00	1,031.70	6,863.70	27.30
8	Meru	8,039.10	6,858.00	1,209.33	8,067.33	28.23
9	Migori	6,773.10	5,778.00	1,026.69	6,804.69	31.59
10	Embu	4,304.40	3,672.00	672.60	4,344.60	40.20
11	Siaya	5,791.95	4,941.00	893.94	5,834.94	42.99
12	Busia	6,013.50	5,130.00	928.49	6,058.49	44.99
13	Kericho	5,380.50	4,590.00	836.15	5,426.15	45.65
14	Machakos	7,754.25	6,615.00	1,188.13	7,803.13	48.88
15	Kakamega	10,412.85	8,883.00	1,598.86	10,481.86	69.01
16	Bomet	5,507.10	4,698.00	878.79	5,576.79	69.69
17	Bungoma	8,893.65	7,587.00	1,379.02	8,966.02	72.37
18	Laikipia	4,177.80	3,564.00	689.37	4,253.37	75.57
19	Kirinyaga	4,241.10	3,618.00	702.66	4,320.66	79.56
20	Baringo	5,095.65	4,347.00	831.86	5,178.86	83.21
21	West Pokot	5,000.70	4,266.00	818.24	5,084.24	83.54
22	Kajiado	6,424.95	5,481.00	1,031.13	6,512.13	87.18
23	Trans-Nzoia	5,760.30	4,914.00	940.48	5,854.48	94.18
24	Nairobi City	15,919.95	13,581.00	2,459.53	16,040.53	120.58
25	Uasin-Gishu	6,330.00	5,400.00	1,072.56	6,472.56	142.56
26	Nakuru	10,476.15	8,937.00	1,688.21	10,625.21	149.06
27	Nandi	5,348.85	4,563.00	935.14	5,498.14	149.29
28	Kiambu	9,431.70	8,046.00	1,546.50	9,592.50	160.80
	Total	**190,026.60**	**162,108.00**	**29,728.80**	**191,836.80**	**1,810.20**

Further amendment proposed

Motion made and Question proposed;

      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 at paragraph 26 of the Report and substituting therefor the following new recommendations -

26. The proposed third basis/criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025 be as follows —

    a. **Allocation for FY 2020/21**

        Maintain the FY 2019/20 allocation per County

    b. **Equitable share not exceeding Kshs. 348 billion**

        The following formula shall apply

        CA_i1= $O.45PN_i + 0.26ES_i + 0.18PI_i + 0.08LA_i + 0.02FE_i + 0.01DF_i$ [9]

        Where,

        CA_i1 is revenue allocation of the ith County; PN_i is Population Factor (Population of ith County/total population); ES_i is Basic Equal Share Factor (Total Equal share/47); PI_i is Poverty Gap (Poverty Resources of ith County/total poverty Resources); LA_i Land Area Factor (Land Area (Sq. Kms.) of ith County/Total Land area); FE_i is Fiscal Effort Factor (County's own revenue increment/2009 population of the ith County); and DF_i is Development Factor=

$$\frac{1}{3}\left(\frac{Ei * Ni}{Sumi((Ei * Ni))} + \frac{Wi * Ni}{Sumi(Wi * Ni)} + \left(\frac{URNi}{SumiURNi}\right)\right)$$

        Where E_i is proportion of household with access to electricity of the i^{th}County

        W_i is proportion of household without access to improved water of the i^{th}County

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[9] The formula will use the 2009 population & poverty statistics

URN_i is Un-paved road network of class D, E, F, G, H, J, K, M, N & P of the ith County.

c. <u>**Equitable share over and above Kshs. 348 billion**</u>

The following formula shall apply

CA_i2= $0.18*$Population Index$_i$+ $0.17*$Health Index$_i$+$0.10*$ Agriculture Index$_i$+ $0.05*$Urban Index$_i$+$0.14*$ Poverty Index$_i$+ $0.08*$Land Area Index$_i$+$0.02*$Fiscal Effort$_i$+$0.04*$Roads Index$_i$ +$0.02*$ Prudence Index$_i$+$0.20*$ Basic Share Index$_i$[10]

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%) $$\text{Facilty gap factor}_i = \frac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47} \text{facilty gap funding in county i}}$$ $$\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47} \text{No. of primary health care visits in county i}}$$ $$\text{In}-\text{patient days factor}_i = \frac{\text{No. of in}-\text{patient days in county i}}{\sum_{i=1}^{47} \text{No. of in}-\text{patient days in county i}}$$
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	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	$$\text{Land area index}_i = \frac{\text{Land area in county i}}{\sum_{i}^{47} \text{Land area in county i}}$$
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	$$\textbf{\textit{Urban Index i}} = \frac{\textbf{\textit{urban household in county i}}}{\sum_{i=1}^{47} \textbf{\textit{Urban Household in County i}}}$$
Fiscal prudence	<table><tr><td>**No.**</td><td>**Variable**</td><td>**Indicator**</td><td>**Score**</td><td>**Responsible**</td><td>**Weighting**</td></tr><tr><td>1</td><td>Audit Reports</td><td>Non-Qualified</td><td>4</td><td>County Executive Assembly</td><td>CE=90% CA=10%</td></tr></table>

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[10] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

		Qualified	2		
		Adverse	0		
		Disclaimer	0		
2	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 and Economic Forum	In place	1	County Government	100%
		Not In place	0		

SIMULATION FOR ILLUSTRATION ONLY

Simulation using Equitable share over and above Kshs. 348 billion using the proposed amendment by Senator Petronilla Were-

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
1	Mandera	10,222.95	8,946.67	(1,276)
2	Wajir	8,545.50	7,813.54	(732)
3	Kwale	7,785.90	7,227.18	(559)
4	Marsabit	6,773.10	6,358.76	(414)
5	Kilifi	10,444.50	10,260.63	(184)
6	Narok	8,039.10	7,888.39	(151)
7	Tharaka-Nithi	3,924.60	3,781.58	(143)
8	Nyamira	4,810.80	4,690.32	(120)
9	Mombasa	7,057.95	7,010.21	(48)
10	Tana-River	5,855.25	5,884.65	29
11	Makueni	7,406.10	7,503.22	97
12	Vihiga	4,652.55	4,767.77	115
13	Garissa	7,026.30	7,189.49	163
14	Homa-Bay	6,741.45	7,072.92	331

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
15	Taita-Taveta	4,241.10	**4,586.61**	**346**
16	Isiolo	4,241.10	**4,609.89**	**369**
17	Elgeyo-Marakwet	3,861.30	**4,317.65**	**456**
18	Lamu	2,595.30	**3,093.81**	**499**
19	Samburu	4,620.90	**5,130.86**	**510**
20	Kisii	7,785.90	**8,312.28**	**526**
21	Nyeri	5,412.15	**5,958.74**	**547**
22	Murang'a	6,298.35	**6,856.69**	**558**
23	Nyandarua	4,874.10	**5,506.60**	**632**
24	Turkana	10,539.45	**11,232.13**	**693**
25	Siaya	5,791.95	**6,590.16**	**798**
26	**Embu**	**4,304.40**	5,118.58	814
27	**Meru**	**8,039.10**	8,876.27	837
28	**Kisumu**	**6,836.40**	7,687.11	851
29	**Kericho**	**5,380.50**	6,236.26	856
30	**Kitui**	**8,830.35**	9,754.29	924
31	**Busia**	**6,013.50**	6,956.83	943
32	**West Pokot**	**5,000.70**	5,972.45	972
33	**Migori**	**6,773.10**	7,774.54	1,001
34	**Kirinyaga**	**4,241.10**	5,268.65	1,028
35	**Bomet**	**5,507.10**	6,548.36	1,041
36	**Baringo**	**5,095.65**	6,194.56	1,099
37	**Laikipia**	**4,177.80**	5,305.73	1,128
38	**Machakos**	**7,754.25**	8,928.67	1,174
39	**Trans-Nzoia**	**5,760.30**	7,012.06	1,252
40	**Bungoma**	**8,893.65**	10,225.50	1,332

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
41	Nandi	5,348.85	6,760.87	1,412
42	Kajiado	6,424.95	7,899.10	1,474
43	Kakamega	10,412.85	11,896.16	1,483
44	Uasin-Gishu	6,330.00	7,980.33	1,650
45	Nakuru	10,476.15	12,333.57	1,857
46	Kiambu	9,431.70	11,821.97	2,390
47	Nairobi City	15,919.95	18,857.41	2,937
	Total	**316,500**	**348,000**	**31,500**

(Sen. Petronila Were Lokorio, MP – 11/08/2020)

Debate interrupted resumed.

6. **SUSPENSION OF THE SENATE TO ENABLE SENATORS TO CONSULT ON THE WAY FORWARD REGARDING THE DETERMINATION OF THE THIRD BASIS FOR REVENUE ALLOCATION AMONG THE COUNTY GOVERNMENTS**

The Speaker suspended the Senate at ten minutes past Seven O'clock to enable Senators to consult on the way forward regarding the determination of the Third Basis for Revenue Allocation Among the County Governments.

7. **THE SENATE RESUMED -** at forty minutes past Seven O'clock

8. **MOTION – APPROVAL OF THE THIRD BASIS FOR REVENUE ALLOCATION AMONG THE COUNTY GOVERNMENTS**

Motion made and Question proposed;

   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, 13th 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, 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. 270 billion**
   The following formula shall apply

   CA_i1 = O.45PN$_i$ +0.26ES$_i$+0.18PI$_i$+0.08LA$_i$+0.02FE$_i$[11]+0.01DF$_i$ [12]

   Where,
   CA$_i$1 is revenue allocation of the i[th] County; PN$_i$ is Population Factor (Population of ith County/total population); ES$_i$ is Basic Equal Share Factor (Total Equal share/47); PI$_i$ is Poverty Gap (Poverty Resources of ith County/total poverty Resources); LA$_i$ Land Area Factor (Land Area (Sq. Kms.) of ith County/Total Land area); FE$_i$ is Fiscal Effort Factor (County's own revenue increment/2009 population of the ith County); and DF$_i$ is Development Factor=

   $$ \frac{1}{3} \left(\frac{Ei * Ni}{Sumi((Ei * Ni))} + \frac{Wi * Ni}{Sumi(Wi * Ni)} + \left(\frac{URNi}{SumiURNi} \right) \right) $$

   Where E$_i$ is proportion of household with access to electricity of the ith County
   W$_i$ is proportion of household without access to improved water of the ith County
   URN$_i$ is Un-paved road network of class D, E, F, G, H, J, K, M, N & P of the ith County.

b) **Equitable share over and above Kshs. 270 billion**
   The following formula shall apply

   CA_i2= 0.16*Population Index$_i$+ 0.19*Health Index$_i$+0.11* Agriculture Index$_i$+ 0.05*Urban Index$_i$+0.14* Poverty Index$_i$+ 0.08*Land Area Index$_i$ +0.01*Fiscal Effort$_i$+0.06*Roads Index$_i$ +0.20* Basic Share Index$_i$ [13]
   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%)

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[11] Fiscal Effort Index used in the FY 2019/20
[12] The formula will use the 2009 population & poverty statistics
[13] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

	$$\text{Facilty gap factor}_i = \frac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47}\text{facilty gap funding in county i}}$$ $$\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47}\text{No. of primary health care visits in county i}}$$ $$\text{In} - \text{patient days factor}_i = \frac{\text{No. of in} - \text{patient days in county i}}{\sum_{i=1}^{47}\text{No. of in} - \text{patient days in county i}}$$
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	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	$$\text{Land area index}_i = \frac{\text{Land area in county i}}{\sum_i^{47}\text{Land area in county i}}$$
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	$$\textbf{Urban Index } i = \frac{\textbf{urban household in county i}}{\sum_{i=1}^{47}\textbf{Urban Household in County i}}$$
Fiscal effort	$$\text{Fiscal effort index}_i = \frac{\text{OSR collections of county i}}{\text{GCP of county i}}$$

The basis used is as shown

No.	Parameter	Weight
1	Population	16%
2	Health	19%
3	Agriculture	11%
4	Urban	5%
5	Roads	6%
6	Poverty	14%
7	Land	8% **capped**
8	Basic Share	20%
9	Fiscal Effort	1%
10	Fiscal Prudence	0%

c) Total Equitable share of a County

The following formula shall apply

$\mathbf{TES_i} = CA_i1 + CA_i2$

Whereas;

$\mathbf{TES_i}$ = Total Equitable share of County$_i$
$\mathbf{CA_i1}$ = Equitable share not exceeding Kshs. 270 billion
$\mathbf{CA_i2}$ = Equitable share over and above Kshs. 270 billion

(Chairperson, Standing Committee on Finance and Budget – 28/07/2020)

SIMULATION FOR ILLUSTRATION ONLY
Simulation using equitable share of Kshs. 316.5 billion for FY 2020/2021

No	County	Actual Allocations 2019/20	Equitable share of Kshs. 270 billion using 2nd generation formula	Application of Remaining Kshs. 46.5 billion using Sen. Linturi Amendment	New Allocation Ksh 316,500)	Net Change between FY19/20 Allocation & Proposed FY 2020/21 Allocation
1	Mandera	10,222.95	8,721.00	1,256.69	9,977.69	(245.26)
2	Kwale	7,785.90	6,642.00	966.00	7,608.00	(177.90)
3	Wajir	8,545.50	7,290.00	1,079.88	8,369.88	(175.62)
4	Marsabit	6,773.10	5,778.00	838.16	6,616.16	(156.94)
5	Kilifi	10,444.50	8,910.00	1,381.08	10,291.08	(153.42)
6	Mombasa	7,057.95	6,021.00	901.77	6,922.77	(135.18)
7	Narok	8,039.10	6,858.00	1,050.68	7,908.68	(130.42)
8	Makueni	7,406.10	6,318.00	980.91	7,298.91	(107.19)
9	Nyamira	4,810.80	4,104.00	608.86	4,712.86	(97.94)
10	Tana-River	5,855.25	4,995.00	780.53	5,775.53	(79.72)
11	Tharaka-Nithi	3,924.60	3,348.00	500.42	3,848.42	(76.18)
12	Garissa	7,026.30	5,994.00	957.15	6,951.15	(75.15)
13	Vihiga	4,652.55	3,969.00	615.47	4,584.47	(68.08)
14	Isiolo	4,241.10	3,618.00	581.37	4,199.37	(41.73)
15	Homa-Bay	6,741.45	5,751.00	961.31	6,712.31	(29.14)
16	Kisii	7,785.90	6,642.00	1,119.16	7,761.16	(24.74)
17	Taita-Taveta	4,241.10	3,618.00	606.96	4,224.96	(16.14)
18	Murang'a	6,298.35	5,373.00	909.37	6,282.37	(15.98)
19	Samburu	4,620.90	3,942.00	675.42	4,617.42	(3.48)
	Total Loss	**126,473.40**	**107,892.00**	**16,771.20**	**124,663.20**	**(1,810.20)**
1	Kitui	8,830.35	7,533.00	1,303.12	8,836.12	5.77
2	Nyandarua	4,874.10	4,158.00	722.01	4,880.01	5.91
3	Nyeri	5,412.15	4,617.00	801.39	5,418.39	6.24
4	Turkana	10,539.45	8,991.00	1,557.89	10,548.89	9.44
5	Lamu	2,595.30	2,214.00	398.51	2,612.51	17.21
6	Elgeyo-Marakwet	3,861.30	3,294.00	586.50	3,880.50	19.20
7	Kisumu	6,836.40	5,832.00	1,031.70	6,863.70	27.30
8	Meru	8,039.10	6,858.00	1,209.33	8,067.33	28.23
9	Migori	6,773.10	5,778.00	1,026.69	6,804.69	31.59
10	Embu	4,304.40	3,672.00	672.60	4,344.60	40.20
11	Siaya	5,791.95	4,941.00	893.94	5,834.94	42.99
12	Busia	6,013.50	5,130.00	928.49	6,058.49	44.99
13	Kericho	5,380.50	4,590.00	836.15	5,426.15	45.65
14	Machakos	7,754.25	6,615.00	1,188.13	7,803.13	48.88
15	Kakamega	10,412.85	8,883.00	1,598.86	10,481.86	69.01
16	Bomet	5,507.10	4,698.00	878.79	5,576.79	69.69
17	Bungoma	8,893.65	7,587.00	1,379.02	8,966.02	72.37
18	Laikipia	4,177.80	3,564.00	689.37	4,253.37	75.57
19	Kirinyaga	4,241.10	3,618.00	702.66	4,320.66	79.56
20	Baringo	5,095.65	4,347.00	831.86	5,178.86	83.21
21	West Pokot	5,000.70	4,266.00	818.24	5,084.24	83.54
22	Kajiado	6,424.95	5,481.00	1,031.13	6,512.13	87.18
23	Trans-Nzoia	5,760.30	4,914.00	940.48	5,854.48	94.18
24	Nairobi City	15,919.95	13,581.00	2,459.53	16,040.53	120.58
25	Uasin-Gishu	6,330.00	5,400.00	1,072.56	6,472.56	142.56
26	Nakuru	10,476.15	8,937.00	1,688.21	10,625.21	149.06
27	Nandi	5,348.85	4,563.00	935.14	5,498.14	149.29
28	Kiambu	9,431.70	8,046.00	1,546.50	9,592.50	160.80
	Total	**190,026.60**	**162,108.00**	**29,728.80**	**191,836.80**	**1,810.20**

Further amendment proposed

Motion made and Question proposed;

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 at paragraph 26 of the Report and substituting therefor the following new recommendations -

26. The proposed third basis/criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025 be as follows —

a. **Allocation for FY 2020/21**

   Maintain the FY 2019/20 allocation per County

b. **Equitable share not exceeding Kshs. 348 billion**

   The following formula shall apply

   CA_i1= O.45PN$_i$ +0.26ES$_i$+0.18PI$_i$+0.08LA$_i$+0.02FE$_i$+0.01DF$_i$ [14]

   Where,

   CA_i1 is revenue allocation of the ith County; PN$_i$ is Population Factor (Population of ith County/total population); ES$_i$ is Basic Equal Share Factor (Total Equal share/47); PI$_i$ is Poverty Gap (Poverty Resources of ith County/total poverty Resources); LA$_i$ Land Area Factor (Land Area (Sq. Kms.) of ith County/Total Land area); FE$_i$ is Fiscal Effort Factor (County's own revenue increment/2009 population of the ith County); and DF$_i$ is Development Factor=

   $$\frac{1}{3}\left(\frac{Ei*Ni}{Sumi((Ei*Ni))} + \frac{Wi*Ni}{Sumi(Wi*Ni)} + \left(\frac{URNi}{SumiURNi}\right)\right)$$

   Where E$_i$ is proportion of household with access to electricity of the i^{th}County

   W$_i$ is proportion of household without access to improved water of the i^{th}County

   URN$_i$is Un-paved road network of class D, E, F, G, H, J, K, M, N & P of the ith County.

c. **Equitable share over and above Kshs. 348 billion**

The following formula shall apply

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[14] The formula will use the 2009 population & poverty statistics

**CA$_i$2**= 0.18*Population Index$_i$+ 0.17*Health Index$_i$+0.10* Agriculture Index$_i$+ 0.05*Urban Index$_i$+0.14* Poverty Index$_i$+ 0.08*Land Area Index$_i$+0.02*Fiscal Effort$_i$+0.04*Roads Index$_i$ +0.02* Prudence Index$_i$+0.20* Basic Share Index$_i$[15]

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%) $\text{Facilty gap factor}_i = \dfrac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47} \text{facilty gap funding in county i}}$ $\text{Primary health care factor}_i = \dfrac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47} \text{No. of primary health care visits in county i}}$ $\text{In} - \text{patient days factor}_i = \dfrac{\text{No. of in} - \text{patient days in county i}}{\sum_{i=1}^{47} \text{No. of in} - \text{patient days in county i}}$
Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \dfrac{\text{Rural households in county i}}{\sum_{i=1}^{47} \text{Rural households in county i}}$
Other county services	$\text{Population index}_i = \dfrac{\text{Population in county i}}{\sum_{i=1}^{47} \text{Population in county i}}$
Minimum share	Basic share index $= 0.19 * \text{Equal Share index} + 0.01 * \dfrac{\text{inverse of population in county i}}{\sum_{i=1}^{47} \text{inverse of population in county i}}$
Land	$\text{Land area index}_i = \dfrac{\text{Land area in county i}}{\sum_{i}^{47} \text{Land area in county i}}$
Roads	$\text{Roads index}_i = \dfrac{\text{Rural access index in county i}}{\sum_{i=1}^{47} \text{Rural access index in county i}}$
Poverty level	$\text{Poverty index}_i = \dfrac{\text{No. of poor people in county i}}{\sum_{i=1}^{47} \text{No. of poor people in county i}}$
Urban service	$\textit{Urban Index i} = \dfrac{\textit{urban household in county i}}{\sum_{i=1}^{47} \textit{Urban Household in County i}}$

Parameter	No.	Variable	Indicator	Score	Responsible	Weighting
Fiscal prudence	1	Audit Reports	Non-Qualified	4	County Executive Assembly	CE=90% CA=10%
			Qualified	2		
			Adverse	0		
			Disclaimer	0		
	2	Development	At least	1	County	100%

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[15] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

		Expenditure	30%		Government	
			Below 30%	0		
	4	Internal Audit Committee	In place	1	County Executive Assembly	CE=90% CA=10%
	4	County Budget and Economic Forum	In place	1	County Government	100%
			Not In place	0		

SIMULATION FOR ILLUSTRATION ONLY

Simulation using Equitable share over and above Kshs. 348 billion using the proposed amendment by Senator Petronilla Were-

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
1	Mandera	10,222.95	**8,946.67**	**(1,276)**
2	Wajir	8,545.50	**7,813.54**	**(732)**
3	Kwale	7,785.90	**7,227.18**	**(559)**
4	Marsabit	6,773.10	**6,358.76**	**(414)**
5	Kilifi	10,444.50	**10,260.63**	**(184)**
6	Narok	8,039.10	**7,888.39**	**(151)**
7	Tharaka-Nithi	3,924.60	**3,781.58**	**(143)**
8	Nyamira	4,810.80	**4,690.32**	**(120)**
9	Mombasa	7,057.95	**7,010.21**	**(48)**
10	Tana-River	5,855.25	**5,884.65**	**29**
11	Makueni	7,406.10	**7,503.22**	**97**
12	Vihiga	4,652.55	**4,767.77**	**115**
13	Garissa	7,026.30	**7,189.49**	**163**
14	Homa-Bay	6,741.45	**7,072.92**	**331**
15	Taita-Taveta	4,241.10	**4,586.61**	**346**
16	Isiolo	4,241.10	**4,609.89**	**369**
17	Elgeyo-Marakwet	3,861.30	**4,317.65**	**456**

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
18	Lamu	2,595.30	3,093.81	499
19	Samburu	4,620.90	5,130.86	510
20	Kisii	7,785.90	8,312.28	526
21	Nyeri	5,412.15	5,958.74	547
22	Murang'a	6,298.35	6,856.69	558
23	Nyandarua	4,874.10	5,506.60	632
24	Turkana	10,539.45	11,232.13	693
25	Siaya	5,791.95	6,590.16	798
26	Embu	4,304.40	5,118.58	814
27	Meru	8,039.10	8,876.27	837
28	Kisumu	6,836.40	7,687.11	851
29	Kericho	5,380.50	6,236.26	856
30	Kitui	8,830.35	9,754.29	924
31	Busia	6,013.50	6,956.83	943
32	West Pokot	5,000.70	5,972.45	972
33	Migori	6,773.10	7,774.54	1,001
34	Kirinyaga	4,241.10	5,268.65	1,028
35	Bomet	5,507.10	6,548.36	1,041
36	Baringo	5,095.65	6,194.56	1,099
37	Laikipia	4,177.80	5,305.73	1,128
38	Machakos	7,754.25	8,928.67	1,174
39	Trans-Nzoia	5,760.30	7,012.06	1,252
40	Bungoma	8,893.65	10,225.50	1,332
41	Nandi	5,348.85	6,760.87	1,412
42	Kajiado	6,424.95	7,899.10	1,474
43	Kakamega	10,412.85	11,896.16	1,483

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
44	Uasin-Gishu	6,330.00	7,980.33	1,650
45	Nakuru	10,476.15	12,333.57	1,857
46	Kiambu	9,431.70	11,821.97	2,390
47	Nairobi City	15,919.95	18,857.41	2,937
	Total	316,500	348,000	31,500

(Sen. Petronila Were Lokorio, MP – 11/08/2020)

Debate interrupted resumed.

Rising on a Point of Order pursuant to Standing Order 105, the Senate Minority Leader (Sen. James Orengo, MP) claimed to move –

THAT, the debate be now adjourned.

(The Senate Minority Leader)

Debate arising;

And there being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79(1), the Speaker ruled that the Motion does not affect counties.

Question put and, **agreed to.**

RESOLVED ACCORDINGLY

THAT, the debate be now adjourned.

Thereupon, the Speaker interrupted the proceedings and adjourned the Senate at Eight O'clock, without Question put, pursuant to the Standing Orders.

9. **SENATE ROSE**   -   at Eight O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, September 8th, 2020 at 2:30 p.m.

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