



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – FOURTH SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, SEPTEMBER 22, 2020**

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Hon. Speaker
4. **MESSAGES**

The following Message was conveyed: -

**APPROVAL , BY THE SENATE, OF THE THIRD BASIS FOR ALLOCATION OF THE SHARE OF NATIONAL REVENUE AMONG COUNTY GOVERNMENTS (THIRD GENERATION FORMULA)**

**Honourable Members**, Standing Order 41 requires the Speaker to expeditiously report to the House any Messages received from the Senate. In this regard, I wish to report that on Friday, 18th September, 2020, I received a Message from the Senate regarding the approval of the Third Basis for allocation of the share of national revenue among county governments in accordance with Article 217(3) of the Constitution.

**Honourable Members**, the Message states that the Senate resolved, *inter alia*, “...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 consist of the Allocation Ratio and the Formula...”. The Allocation Ratio refers to the shareable revenue allocated to the counties in the financial year 2019/2020, while the Formula contains parameters and the respective various thresholds to be considered in determining the criteria for the horizontal distribution of the shareable revenue among the Forty-Seven County Governments.

The parameters contained in the Formula include Population, Health, Agriculture, Urban, Poverty, Land Area, Roads and the Basic Share.

**Honourable Members**, the Message containing the specific formula is as published by the Clerk on the parliamentary website and circulated to all Members. As you will appreciate, the basis for revenue sharing among county governments is a very critical element in facilitating the seamless execution of the devolved functions by our County Governments. It is for this reason that, as soon I received the Message, I thereupon invoked the provisions of Standing Order 1 and the existing precedence. This resulted in my immediate forwarding and committal of the Message together with the accompanying Third Basis for Revenue Allocation Formula to the Budget & Appropriations Committee for consideration. I am aware that the Clerk of the National Assembly has since published the formula in local dailies and sought submissions of public views by way of Memoranda in keeping with the requirements of Article 118 of the Constitution.

**Honourable Members**, as the Chairperson of the House Business Committee, I reiterate my undertaking that I made through my Communication No. 53 of 2020 on Unlocking Funds Transfer to County Governments for FY 2020/2021 of 8th September 2020, that the Committee will prioritize this matter due to its urgent nature. As such, debate on the formula is scheduled to commence in the morning sitting of Thursday, 24th September 2020. To facilitate this, I direct as follows –

- i. **THAT**, the Clerk of the National Assembly publicizes the report of the Budget and Appropriations Committee immediately upon its conclusion, preferably before end of day tomorrow, **Wednesday, 23<sup>rd</sup> September 2020**;
- ii. **THAT**, the Committee tables its report during the morning sitting of **Thursday, 24<sup>th</sup> September 2020** to enable debate on the Senate's resolution to proceed in the same Sitting; and,
- iii. **THAT**, any Member with further views or proposed amendments to the formula should submit the same to the Committee as soon as possible.

Having said that, Honourable Members, it is instructive to note that Article 217(4) of the Constitution provides that the National Assembly may, within sixty days, consider the resolution of the Senate in its determination on the Basis for allocating the Share of National Revenue among the Counties, and may approve, amend or reject the resolution as passed by the Senate. An amendment or veto of the Senate's resolution would however require the support of at least two-thirds of the Members of the National Assembly, being not less than two hundred and thirty-three (233) Members of this House.

In conclusion Honourable Members, the approval of the Third Basis for revenue allocation will pave way for the Chairperson of the Budget and Appropriations Committee to move consideration of the County Allocation of Revenue Bill, 2020, soonest thereafter. I therefore encourage Members to avail themselves during the consideration of these businesses so as to facilitate their timely conclusion and the unlocking of funding to our County Governments. I thank you!

5. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) Legal Notice No. 172 on the exemption from the provisions of Stamp Duty Act on instruments executed for the transfer of LR. No. 209/3869 and the Explanatory Memorandum from the National Treasury.
- (ii) The Agreement between the Kingdom of Denmark and the Republic of Kenya on Defence Cooperation and the Explanatory Memorandum from the Ministry of Defence.
- (iii) The Annual Report and Financial Statements of the National Police Service Commission for the Financial Year 2018/2019.
- (iv) The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30th June, 2019 and the certificates therein: -
  - a) National Safety Net Programme for Results - Project No. P131305 (State Department for Social Protection); and
  - b) Kenya Youth Employment and Opportunities Project - Credit No. 58120-KE (State Department for Labour).

*(The Leader of the Majority Party)*

- (v) Report of the Departmental Committee on Transport, Public Works and Housing on its inquiry into the use of the Standard Gauge Railway (SGR).

*(Hon. Tom Mboya Odege- Member, Departmental Committee on Transport, Public Works and Housing)*

6. **NOTICE OF MOTION**

The following Notice of Motion was issued–

- (i) **THAT**, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on its inquiry into the use of the Standard Gauge Railway (SGR).

*(Hon. Tom Mboya Odege- Member, Departmental Committee on Transport, Public Works and Housing)*

7. **QUESTIONS**

The following Questions were asked: -

- (i) **Question by Private Notice No.024/2020** by the Member for Endebess Constituency (Hon. (Dr.) Robert Pukose,) regarding the status of investigations into the killing of the late Tom Wekesa Sirengo of ID No. 9838943 on 11th September 2020 at around 9.00am at Mowlem Centre, Endebess Constituency and subsequent injury to three other persons.

*(To be replied by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)*

- (ii) **Question No. 176/2020** by the Member for Lamu East Constituency (Hon. Sharif Athman Ali) regarding construction of the stalled Kizingitini, Ndaa, Faza and Mbwejumwali sea walls in Lamu East Constituency.

*(To be replied by the Cabinet Secretary for Cabinet for Transport, Infrastructure, Housing, Urban Development and Public Works before the Departmental Committee on Transport, Public Works and Housing)*

- (iii) **Question No. 180/2020** by the Member for Kathiani Constituency (Hon. Robert Mbui) regarding rerouting of power line passing through Kaiani Secondary School in Kathiani Constituency.

*(To be replied to by the Cabinet Secretary for Energy before the Departmental Committee on Energy)*

- (iv) **Question No. 193/2020** by the Member for Moyale Constituency (Hon. Qalicha Gufu) regarding enhancement of bilateral cooperation and trade with the Federal Republic of Ethiopia.

*(To be replied to by the Cabinet Secretary for Foreign Affairs before the Departmental Committee on Defence and Foreign Relations)*

- (v) **Question No. 195/2020** by the Member for Mandera West Constituency (Hon. Adan Haji Yussuf,) regarding service delivery in the Ministry of Education offices at the Mandera West Sub-county headquarters.

*(To be replied to by the Cabinet Secretary for Education before the Departmental Committee on Education and Research)*

- (vi) **Question No. 202/2020** by the Member for Ainabkoi Constituency (Hon. William Chepkut) regarding issuance of title deeds to the owners of Land Reference No. 77/505 in Munyaka Area of Ainabkoi Constituency.

*(To be replied to by the Cabinet Secretary for Lands and Physical Planning before the Departmental Committee on Lands)*

- (vii) **Question No. 203/2020** by the Member for Keiyo North Constituency (Hon. (Dr.) James Murgor) regarding compensation of persons affected by the expansion and rehabilitation of a 12 kilometre section of the Iten-Burgar Road to Bitumen standards that was undertaken in December 2016.

*(To be replied to by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development before the Departmental Committee on Transport, Public Works and Housing)*

- (viii) **Question No. 207/2020** by the Member for Lafey Constituency (Hon. Ibrahim Mude) regarding establishment of a Sub-county office in Lafey by the Teachers' Service Commission.

*(For Written Reply by the Teachers Service Commission)*

- (ix) **Question No. 240/2020** by the Member for Starehe Constituency (Hon. Charles Njagua) regarding the status of investigations into the deaths of four persons and damage of properties that occurred as a result of collapse of a perimeter wall in *Kamongo* area in *Landi Mawe* Ward, Starehe Constituency on 12th September 2019.

*(To be replied to by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)*

The following Questions were deferred: -

- (i) **Question No. 198/2020** by the Member for Baringo County (Hon. Edith Nyenze) regarding deplorable state of the Ravine -Sigoro-Ochi Road in Eldama Ravine Constituency, Baringo County.

*(To be replied to by the Cabinet Secretary for Cabinet for Transport, Infrastructure, Housing, Urban Development and Public Works before the Departmental Committee on Transport, Public Works and Housing)*

- (ii) **Question No. 211/2020** by the Member for Kitui West Constituency (Hon. Edith Nyenze) regarding progress of the on-going transfer of Deputy head teachers in Kitui County and the criteria used in the transfers.

*(For Written Reply by the Teachers Service Commission)*

## 8. **STATEMENTS**

### **(a) Request for Statements**

Pursuant to Standing Order 44 (2)(c), the following statements were requested by: -

- (i) the Member for Embakasi West Constituency (Hon. George Theuri) from the Chairperson, Departmental Committee on Transport, Public Works and Housing regarding overdue expansion of Kangundo Road; and
- (ii) the Member for Nairobi County (Hon. Esther Passaris) from the Chairperson, Departmental Committee on Health regarding implementation of the *Linda Mama* Programme,

### **(b) Response to Statements**

The Chairperson of the Departmental Committee on Finance and National Planning (Hon. Gladys Wanga) responded to the following Requests:

- (i) by the Member for Soy Constituency (Hon. Caleb Kositany) on the utilization of COVID funds;
- (ii) by the Member for Kiambu Town Constituency (Hon. Jude Njomo) on taxes allegedly being charged on Personal Protective Equipment;
- (iii) by the Member for Ruaraka Constituency (Hon. T.J Kajwang) on tax evasion and repackaging of alcoholic beverages by several companies in the country; and

(iv) by the Member for Kilifi North Constituency (Hon. Owen Baya) on disbursement of Equalization Fund pursuant to Article 204 of the Constitution.

Rising on a point of order, the Member for Suna East (Hon. Junet Mohamed) sought to bring to the attention of the Speaker on the advisory by the Chief Justice of the Republic of Kenya to H. E the President to dissolve Parliament as contemplated under Article 261 (7) of the Constitution. The advisory was as a result of six Petitions submitted to the Judiciary in the course of 2019 and 2020 on the grounds that despite four Court orders compelling Parliament to enact the legislation required to implement the two thirds gender rule, Parliament has blatantly failed, to do so.

Despite the matter having been considered by the Parliamentary Service Commission which decided to move to court to challenge the advisory, the Speaker allowed as many Members as possible to extensively and comprehensively deliberate on the matter.

9. **THE COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL (SENATE BILL NO. 34 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed –

**THAT**, the County Wards (Equitable Development) Bill (Senate Bill No.34 of 2018) be now read a Second Time.

*(Chairperson, Select Committee on National Government- Constituencies Development Fund)*

Debate having been concluded on *Thursday, September 17, 2020- Afternoon sitting;*

Question put and negatived.

10. **MOTION –AUDITED FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND FOR CONSTITUENCIES IN KIAMBU COUNTY**

Motion made and Question proposed –

**THAT**, this House adopts the Ninth Report of the Special Funds Accounts Committee on the Audited Financial Statements for the National Government Constituencies Development Fund (NG-CDF) for the Constituencies in Kiambu County, laid on the Table of the House on Tuesday, February 25, 2020.

*(The Chairperson, Special Funds Accounts Committee)*

Debate having been concluded on *Thursday, September 17, 2020- Afternoon sitting*;

Question put and agreed to.

11. **PROCEDURAL MOTION - EXTENSION OF PERIOD FOR CONSIDERATION OF SPECIFIED PETITIONS**

Motion made and Question proposed –

**THAT**, notwithstanding the provisions of Standing Order 227(2) (Committal of petitions), and aware of the challenges posed by the Covid-19 pandemic in hindering House Committee sittings, cognizant of the requests by the the relevant Ministries to have additional time to make submissions on the petitions before the Committee and recognizing the need to engage other stakeholders for detailed information, this House resolves to extend the period for consideration of the public petitions before the Departmental Committee on Environment and Natural Resources specified hereunder by a further period of sixty (60) days-

1. Public petition regarding an alleged Demolition of Houses and Repossession of Land within Langata Constituency by the Hon. Nixon Korir, MP presented on 30<sup>th</sup> June, 2020;
2. Public petition regarding the Encroachment of Nairobi National Park presented on 2<sup>nd</sup> July, 2020; and
3. Public petition regarding Mitigation of Perennial Flooding by River *Sondu Miriu* in Homa Bay and Kisumu counties presented on 12<sup>th</sup> August, 2020.

*(The Chairperson, Departmental Committee on Environment and Natural Resources)*

There being no debate arising;

Question put and agreed to.

And the time being one minute past Seven O'clock, the Speaker interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

12. **HOUSE ROSE** - at one minute past Seven O'clock.
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**M E M O R A N D U M**

The Speaker will take the Chair on  
Thursday, September 24, 2020 at 10.00 a.m.

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