



THE COUNTY ASSEMBLY OF MARSABIT

P.O Box 29-60500 Marsabit, Kenya Cell: 0726 975 003
Email: mloltome@yahoo.com Email: info@assembly.marsabit.go.ke
Web: www.assembly.marsabit.go.ke



HON. MATHEW LOLTOME
SPEAKER

Cell: 0726 975 003 Email: mloltome@yahoo.com

Our Ref: MCA2nd/BILLS/ASSENT/003/2020

26th November, 2020

H.E The Governor
County Government of Marsabit
P.O Box 384 – 60500
Marsabit

RE: THE MARSABIT COUNTY CLIMATE CHANGE FUND BILL, 2020

Your Excellency, in exercise of the legislative powers vested upon the County Assembly by Article 185(2) of the Constitution and Section 21(1) of the County Government Act, the County Assembly of Marsabit debated The Marsabit County Climate Change Fund Bill, 2020 and passed it with amendments.

I am forwarding herewith the Passed Marsabit County Climate Change Fund Bill, 2020 for your consideration and assent

Thanks

HON. MATHEW LOLTOME, MBS
SPEAKER, COUNTY ASSEMBLY OF MARSABIT



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SPEAKER, COUNTY ASSEMBLY OF MARSABIT

REPUBLIC OF KENYA



THE MARSABIT COUNTY GOVERNMENT

HIS EXCELLENCY THE GOVERNOR

MOHAMUD MOHAMED ALI

I assent


Governor

26th Nov.

2020

AN ACT of the County Assembly of Marsabit for the establishment of a Climate Change Fund to facilitate and coordinate financing of Climate Change Adaptation and Mitigation activities; and for connected purposes.

REPUBLIC OF KENYA

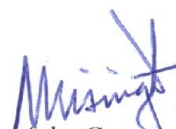


MARSABIT COUNTY GOVERNMENT

THE MARSABIT COUNTY CLIMATE CHANGE FUND BILL, 2020

No. 3 of 2020

I certify that this printed impression is a true copy of the Bill passed by the County Assembly on the 25th November, 2020

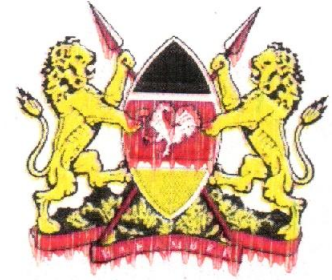

Clerk of the County Assembly.

Presented for assent in accordance with the provisions of the Constitution of Kenya on
the 26th November, 2020 at the hour of 11.00 am


Speaker of the County Assembly.

MARSABIT COUNTY ASSEMBLY
P.O. BOX 29-60500
MARSABIT

REPUBLIC OF KENYA



THE MARSABIT COUNTY GOVERNMENT

HIS EXCELLENCY THE GOVERNOR

MOHAMUD MOHAMED ALI

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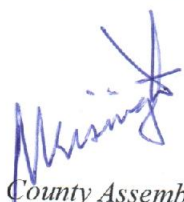


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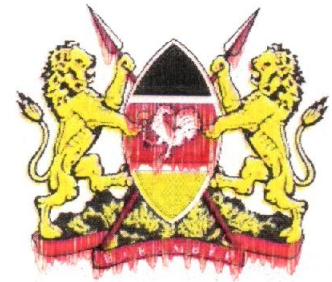
CLERK
COUNTY ASSEMBLY OF MARSABIT
P. O. BOX 29 - 60500,
MARSABIT

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Speaker of the County Assembly

MARSABIT COUNTY ASSEMBLY
P.O. BOX 29-60500
MARSABIT

REPUBLIC OF KENYA



THE MARSABIT COUNTY GOVERNMENT

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I assent

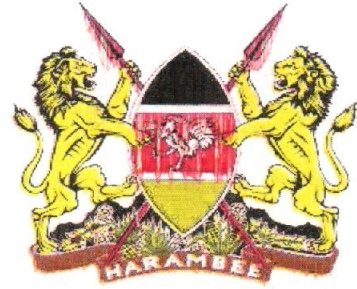
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THE MARSABIT COUNTY CLIMATE CHANGE FUND BILL, 2020

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Clerk of the County Assembly
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COUNTY ASSEMBLY OF MARSABIT
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MARSABIT

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[Signature]
Speaker of the County Assembly
MARSABIT COUNTY ASSEMBLY
P.O. BOX 29-60500
MARSABIT

REPUBLIC OF KENYA



THE MARSABIT COUNTY GOVERNMENT

HIS EXCELLENCY THE GOVERNOR

MOHAMUD MOHAMED ALI

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Governor

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Speaker of the County Assembly

MARSABIT COUNTY ASSEMBLY
P.O. BOX 29-60500
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**THE MARSABIT COUNTY CLIMATE CHANGE FUND BILL,
2020**

ARRANGEMENT OF CLAUSES

Clause

PREAMBLE

PART I—PRELIMINARY

- 1—Short title and commencement
- 2—Interpretation
- 3—Objects and purposes of the Act
- 4—Guiding principles

PART II—ESTABLISHMENT OF THE FUND

- 5—Establishment of the Fund
- 6—Sources of funds

PART III—ADMINISTRATION OF THE FUND

- 7—Establishment of the Steering Committee
- 8—Removal of the Steering Committee Chairperson
- 9—Functions of the Steering Committee
- 10—Conduct of the affairs of the Steering Committee
- 11—Fund Administrator
- 12—Functions of the Fund Administrator
- 13—Removal of the Fund Administrator
- 14—Climate Finance Framework

**PART IV—ESTABLISHMENT OF COUNTY CLIMATE CHANGE
FUND PLANNING COMMITTEE**

- 15—Establishment of County Planning Committee
- 16—Functions of the County Planning Committee
- 17—Conduct of affairs of the County Planning Committee

**PART V—ESTABLISHMENT OF WARD CLIMATE CHANGE
FUND PLANNING COMMITTEE**

- 18—Ward Planning Committee
- 19—Functions of Ward Planning Committee
- 20—Conduct of the affairs of Ward Planning Committee

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PART VI—DISBURSEMENT OF FUNDS

- 21—Allocation of Fund
- 22—Eligibility Criteria
- 23—Community Consultation Forums
- 24—Development of Project Proposals
- 25—Disbursement of funds for projects
- 26—Complaints mechanism

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SCHEDULES

- FIRST SCHEDULE
- SECOND SCHEDULE
- THIRD SCHEDULE
- FOURTH SCHEDULE

M. N. K.
MARSABIT COUNTY ASSEMBLY
P.O. BOX 29-60500
MARSABIT

**THE MARSABIT COUNTY CLIMATE CHANGE BILL,
2020**

AN ACT of the County Assembly of Marsabit for the establishment of a Climate Change Fund to facilitate and coordinate financing of Climate Change Adaptation and Mitigation activities; and for connected purposes.

ENACTED by the County Assembly of Marsabit as follows—

PART I – PRELIMINARY

Short title and
commencement

1. This Act may be cited as the Marsabit County Climate Change Fund Act, 2020 and shall come into operation on such date the County Executive Member may, by the notice in the Gazette, appoint.

Interpretation

2. In this Act, unless the context otherwise requires—

No. 11 of 2016

“adaptation” has the meaning assigned to it under section 2 of the Climate Change Act, 2016;

“administrator” means the County climate change fund administrator appointed in accordance with section 11 of this Act;

“Steering Committee” means the Marsabit County Climate Change Fund Committee established under section 7 of this Act;

No. 11 of 2016

“climate change” has the meaning assigned to it under section 2 of the Climate Change Act, 2016;

“climate change adaptation” means adjustment in natural or human systems in response to actual or anticipated adverse effects of climate change or stimuli or their effects to moderate or exploit beneficial opportunities;

“climate change awareness” means publicity and capacity activities aimed at creating an awareness about Climate Change in the County;

“climate change mitigation” means measures undertaken to

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prevent or reduce the emission of greenhouse gases;

No. 11 of 2016

“climate finance” has the meaning assigned to it under section 2 of the Climate Change Act, 2016;

“climate finance framework” means a context specific policy items established under section 14 of this Act to guide in the application of the Fund;

“community projects” means climate change adaptation and mitigation projects that are initiated and implemented within a Ward by the Ward Planning Committees

No. 15 of 2013

“contract node” has the meaning assigned to it under section 2 of the Public Private Partnerships Act 2013;

“contracting authority” has the meaning assigned to it under section 2 of the Public Private Partnerships Act 2013;

“County” means Marsabit County;

“County Assembly” means the County Assembly of Marsabit;

“County Executive Committee” means the County Executive Committee established in Marsabit County in accordance with Article 179 the Constitution;

No. 17 of 2012

“County Executive Member” means the County Executive Committee Member for the time being responsible for Environment in the County and appointed in accordance with section 35 of the County Governments Act 2012;

“County government” means the County Government of Marsabit;

“County climate change fund planning committee” means the County climate change planning committee established under section 15 of this Act;

“County planning framework” means a county planning

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framework established by the County Government and includes the County Integrated Development Plan as defined in the County Governments Act 2012 and the Public Finance Management Act, 2012;

No. 18 of 2012 “County Treasury” has the meaning assigned to it under section 2 of the Public Finance Management Act, 2012;

“County wide projects” are projects implemented for the benefit of more than one Ward and directly supervised by the County Planning Committee;

No. 15 of 2015 “environmental impact assessment” has the meaning assigned to it under section 58 of the Environmental Management and Co-ordination (Amendment) Act, 2015

No. 18 of 2012 “Financial year” means a period of twelve months ending on 30th June each year which is in conformity with the timelines for the County budget outlined in sections 125 and 131 of the Public Finance Management Act;

“Fund” means the climate change fund established under section 5 of this Act;

“Governor” means the Governor of Marsabit County;

No. 11 of 2016 “Greenhouse gases” means the gaseous substances defined under section 2 of The Climate Change Act, 2016;

No. 11 of 2016 “mitigation” has the meaning assigned to it under section 2 of the Climate Change Act, 2016;

“national government agencies” means any National Government institution that deals with climate change related activities which have operations in the County, including the National Climate Change Council and the Directorate established under section 5 of the Climate Change Act, National Environment Management Authority and the National Climate Change Secretariat;

“panel” means the conciliation panel established under section

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26 of this Act;

“Participating institutions” means national or international institutions that have made contributions to the Fund;

No. 18 of 2013

“Public Benefit Organization” has the meaning assigned to it under section 2 of the Public Benefits Organizations Act, 2013;

“Public Officer” has the same meaning assigned to it under Article 260 of the Constitution;

“Ward” has the meaning assigned to it under Article 89 of the Constitution;

“ward climate change fund planning committee” means the ward climate change fund Committee established under section 18 of this Act;

Object and Purpose
of the Act

3. The object of this Act is to create a fund in the County to provide for—

- (a) financing of climate change programs in the County;
- (b) initiating and coordinating of climate change adaptation and mitigation activities at the community level in the County;
- (c) facilitating incorporation of Climate Finance in the County planning and budgetary framework;
- (d) seeking and receiving grants from international sources, the National Government, the County Government and other organizations;
- (e) co-ordinating support from National Government climate change policy and legislative framework; and
- (f) co-ordinating the collection and dissemination of climate change information to the public to create awareness and preparedness.

Guiding Principles
and Values

4. (1) The guiding values and principles of climate resilient and low carbon development in this section shall bind the County Government and all persons when—

- (a) enacting, applying or interpreting any provisions of this Act; and

MARSABIT COUNTY ASSEMBLY
P.O. BOX 29-60500
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(b) making or implementing public policy decisions on climate change adaptation and mitigation.

(2) in discharging their functions under this Act, the Steering Committee, County Planning Committee, Ward Planning Committee, Fund Administrator or any organ of the County Government shall be guided by the following—

- (a) national values and principles of governance in Article 10 of the Constitution and the values and principles of public service in Article 232 of the Constitution;
- (b) provisions of Article 42 and 69 of the Constitution;
- (c) promote sustainable development in a changing climate;
- (d) promote equity and social inclusion in allocation effort, costs and benefits to cater for special needs, vulnerabilities, capabilities, disparities and responsibilities;
- (e) transparency and accountability; and
- (f) public participation.

PART II—ESTABLISHMENT OF THE FUND

Establishment of
the Fund

5. (1) There is established a fund to be known as the Marsabit County Climate Change Fund which shall be used to fund Climate Change projects, programs and activities provided for in the Climate Finance Framework established under this Act.

(2) The moneys in the Fund shall be disbursed according to criteria set out in the second Schedule to this Act.

(3) The Fund shall be used to finance priority climate change projects, programs and activities, including those provided for in the Climate Finance Framework established under this Act.

Sources of funds

6. The fund shall be financed through—

- (a) moneys appropriated by the County Assembly, constituting up to two percent of the county revenue account in a financial year;
- (b) grants and loans from the National Climate Fund;
- (c) climate finance from national and international sources;
- (d) moneys received from Public Benefit Organizations; and
- (e) grants and donations.

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PART III—ADMINISTRATION OF THE FUND

Establishment of
the Steering
Committee

7. (1) There shall be an established Marsabit Climate Change Fund Steering Committee.

(2) The Steering Committee shall comprise—

- (a) County Executive Member, who shall be the chairperson.
- (b) The Chief Officer for the time being responsible for Environment, who shall be the Secretary to the Steering Committee ;
- (c) The Fund Administrator;
- (d) The County Executive Member for the time being responsible for County Treasury or as may be designated;
- (e) The County Executive Member for the time being responsible for Agriculture, Livestock and Fisheries or as may be designated;
- (f) The County Executive Member for the time being responsible for Health or as may be designated;
- (g) One person representing Public Benefit Organizations, nominated by Fund Participating Institutions;
- (h) One person representing business community in the County;
- (i) One person representing women in the County;
- (j) One person representing youth in the County; and
- (k) One person representing people living with disability in the County.

(3) A person shall not be qualified for appointment as a member appointed under subsection (2) (g), (h), (i) and (k) unless the person—

- (a) is a resident of Marsabit County;
- (b) holds at least a degree qualification from a reputable academic institution;
- (c) has relevant experience in any aspect of Environmental Management or a related field for at least three; and
- (d) meets the requirements of Chapter Six of the Constitution;

(4) The appointment of a member appointed under subsection

(2) (g), (h), (i) and (k) above shall be approved by the County

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Removal of the
Steering Committee
Chairperson

Assembly.

8. Subject to existing laws and procedures, the Steering Committee chairperson may—

- (a) be removed from office by the Governor on either of the following grounds—
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence; or
 - (v) bankruptcy.

Functions of the
Steering Committee

9. The Steering Committee shall—

- (a) approve and oversee implementation of the Climate Finance framework in the County;
- (b) approve the Fund Eligibility Criteria developed by the County Planning Committee;
- (c) approve the Climate Change Awareness Strategy developed by the County Planning Committee;
- (d) approve the climate change projects and programs list compiled by the Fund Administrator;
- (e) ensure that projects approved for funding conform to the Climate Finance Framework;
- (f) approve and oversee execution of the County Climate Finance Budget in compliance with the Public Finance Management principles under article 201 of the Constitution of Kenya;
- (g) oversee the coordination of research and development for climate finance in the County;
- (h) approve the list of pre-qualified research consultants for Climate Finance research in the County;
- (i) approve the curriculum for capacity building and climate change awareness in the County;
- (j) mobilize additional funding for projects, programs and activities listed in the Climate Finance Framework;
- (k) provide the essential linkages between the County Executive Committee and the County Assembly with

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MARSABIT COUNTY ASSEMBLY
P.O. BOX 29600
MARSABIT

Conduct of the
affairs of the
Steering Committee

- regard to management of the Fund;
- (l) approve a Strategic Plan and Service Charter for the Fund developed by the County Planning Committee;
- (m) approve the ward and county-wide disbursement proposals by the Fund Administrator; and
- (n) any other matter relevant to the execution of the mandate of the Steering Committee.

10. The conduct of the affairs of the Steering Committee shall be as set out in the First Schedule.

Fund Administrator

11. (1) The fund shall be administered by a Fund Administrator, who shall be appointed by the County Executive Member.

(2) The County Executive Member shall designate a Fund Administrator from the Department for the time being responsible for Environment in the County.

(3) To qualify for appointment as a Fund Administrator, a person must—

- (a) hold the position of a Director in the Department for the time being responsible for Environment in the County;
- (b) possess at least a Bachelors Degree from a recognized university preferably in Environmental Management, Climate Change or a related field;
- (c) have a minimum of five years working experience in the core profession of the person; and
- (d) meet the Leadership and Integrity criteria set out under Chapter Six of the Constitution.

Functions of the
Fund Administrator

12. The Fund Administrator shall—

- (a) prepare a framework receiving and evaluating project proposals in consultation with the Steering Committee;
- (b) prepare and publish a yearly projects and program evaluation and implementation schedule stating—
 - (i) the key activities in a financial year;
 - (ii) the persons responsible for each task; and
 - (iii) the performance period for each process.
- (c) maintain a updated database of matters related to the fund;

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MARSABIT COUNTY ASSEMBLY
P.O. BOX 29-60500
MARSABIT

-
- (d) publish the eligibility criteria for projects under this Act;
 - (e) organize and coordinate the disbursement of moneys allocated to approved projects;
 - (f) co-ordinate capacity building for the Ward Planning Committees;
 - (g) facilitate and implement monitoring and evaluation framework established by the Steering Committee;
 - (h) develop a complaints handling mechanism;
 - (i) facilitate the functions of the institutions created under this Act where appropriate;
 - (j) co-ordinate and compile a budget for the administrative costs for each institution under this Act; and
 - (k) any other duty assigned by the Steering Committee.

Removal of the
Fund Administrator

13. The Fund Administrator may—

- (a) at any time resign from office by issuing notice in writing to the County Executive Member;
- (b) subject to existing disciplinary procedures, be removed from office by the County Executive Member on either on the following grounds—
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence; or
 - (v) bankruptcy.

Climate Finance
Framework

- 14. (1)** The County Executive Member shall publish a Climate Finance Framework for the County every three years.
- (2)** The Climate Finance Frameworks shall be developed through a consultative process.

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(3) The Climate Finance Framework shall address inter alia—

- (a) the status of climate change awareness in the County;
- (b) context specific items in the national climate change policy, legislation and plans relevant to the County;
- (c) the impact of climate change in the County;
- (d) human activities in the county that may impact climate change;
- (e) compliance and enforcement of climate change related county laws and community bylaws;
- (f) climate change adaptation and mitigation activities relevant to the County and anticipated impact; and
- (g) any other relevant issues.

(4) The Climate Finance Framework shall be aligned to the County Planning Framework.

PART IV—ESTABLISHMENT OF COUNTY CLIMATE CHANGE FUND PLANNING COMMITTEE

Establishment of
County Planning
Committee

15. (1) There is established a County Climate Change Fund Planning Committee and which shall include Directors of the following departments nominated by their respective Chief Officers or relevant authority —

- (a) Department of Environment, as the Secretary;
- (b) County Treasury;
- (c) Department of Health;
- (d) Department of Agriculture, Livestock and Fisheries;
- (e) National Drought Management Authority in the County;
- (f) National Environment Management Authority in the County;
- (g) Kenya Meteorological Department in the County;
- (h) Kenya Wildlife Service in the County;
- (i) Kenya Forest Service in the County;
- (j) One person representing the business community, nominated by Fund Participating Institutions; and
- (k) One person representing Public Benefit Organizations, nominated by Fund Participating Institutions.

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P.O. BOX 29-60500
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(2) Members of the County Planning Committee shall elect a Chairperson from its membership.

Functions of the
County Planning
Committee

16. The functions of the County Planning Committee shall be to—

- (a) Develop a Climate Finance Framework for the County;
- (b) develop, consultatively, Eligibility Criteria for selecting and prioritizing climate change projects and programs for approval by the Steering Committee;
- (c) evaluate, validate and recommend climate change proposals developed by the Ward Planning Committee and submit to the Steering Committee for approval;
- (d) provide oversight to the project evaluation process by the Ward Planning Committee and prepare appropriate reports to the Climate Change Fund Steering Committee;
- (e) facilitate and monitor the implementation of projects and programs financed by the Fund in the County;
- (f) develop a Climate Finance research priority needs for the county;
- (g) develop a Climate Awareness Strategy for the County;
- (h) develop a Strategic Plan and Service Charter for the Fund;
- (o) assign and coordinate technical assistance from County departments to projects funded under this Act;
- (i) facilitate the coordination of Climate Finance projects and programs with other programs in the County; and
- (j) any other matter relevant to the execution of its mandate.

Conduct of affairs
of the County
Planning
Committee

17. (1) The County Planning Committee shall meet at least once in every quarter during the financial year and —

- (a) the County Planning Committee shall prioritize the development of Eligibility Criteria, submit to the Steering Committee for approval and circulate it

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MARSABIT COUNTY ASSEMBLY
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- before the start of the financial year;
- (b) the County Planning Committee can meet any other time on a needs basis provided the limit on administrative costs per quarter is not exceeded; and
 - (c) prepare and present Climate Change report quarterly to the Steering Committee.

(2) The quorum for the meetings of the County Planning Committee shall be more than one-half of the membership.

(3) A resolution of the County Planning Committee shall require an affirmative vote of more than one-half of the membership present at a meeting, excluding the chairperson's vote which shall be a casting vote.

(4) In the absence of the designated chairperson, the members present shall elect one person from its membership as the chairperson.

PART V—ESTABLISHMENT OF WARD CLIMATE CHANGE FUND PLANNING COMMITTEE

Ward Planning
Committee

18. (1) There is established a Marsabit County Ward Climate Change Fund Planning Committee in each Ward in the County.

(2) The Ward Planning Committee shall comprise the following persons who shall be appointed by the County Executive Member—

- (a) one person who shall be the chairperson and who shall meet following minimum qualifications—
 - (i) must not be a public officer;
 - (ii) must be a resident of the respective Ward;
 - (iii) able to read and write in English;
 - (iv) exhibits good leadership and trusted by the Ward community;
 - (v) proven track record of engaging in Ward development initiatives;
- (b) four persons, representing interest groups in the ward comprising of—
 - (i) one person nominated by elders in the Ward;
 - (ii) one person nominated by women in the Ward;
 - (iii) one person nominated by the youth in the Ward;
 - (iv) one person nominated by persons with disabilities in the Ward.
- (c) one person representing Ward based Public Benefit

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- Organizations or community based organization, nominated by Participating Institutions;
- (d) three *ex officio* members with no voting rights comprising of—
- (i) Sub-County Environment officer of the respective sub-county or as may be designated to provide advisory services, establish inter linkages and provide necessary coordination;
 - (ii) Ward Administrator of the respective ward or as may be designated as the secretary to the committee;
 - (iii) Ward Manager of the respective Ward; and
- (e) One representative of each of the three key economic activities in the Ward.

(3) At least one-third of members under subsection (1) shall be from the other gender, a competent person living with disability and a competent youth should be included provided that the total number of members does not exceed eleven.

Functions of Ward
Planning
Committee

19. (1) The Ward Planning Committee shall—

- (a) consult with the community on the relevant Climate Finance activities at the Ward level;
- (b) facilitate public participation at the Ward level to develop and prioritise proposals for investments in public goods that promote climate change mitigation and adaptation;
- (c) receive project proposals from the community at the Ward level and develop technical components of the project proposals;
- (d) monitor project implementation at the Ward level;
- (e) prepare the Climate Finance Budget at the ward level;
- (f) ensure compliance with the provisions in this Act and regulations made hereunder;
- (g) prepare the Ward level project reports; and
- (h) any other duty assigned by the County Planning Committee.

(2) The Ward Planning Committee shall consult other County departments for technical assistance as may be required.

Conduct of the
affairs of Ward

20. (1) The Ward Planning Committee shall meet at least once every quarter during the financial year or any other time

MARSABIT COUNTY ASSEMBLY
P.O. BOX 29-01500
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Planning
Committee

on a needs basis provided the limit on administrative costs per quarter is not exceeded.

(2) The quorum for meetings of the Ward Planning Committee shall be more than one-half of the membership.

(3) A resolution of the Ward Planning Committee shall require affirmative vote of more than one-half of the membership present at a meeting, excluding the chairperson's vote which shall be a casting vote.

(4) Meetings of the Ward Planning Committee shall be held in respective Wards.

PART VI—DISBURSEMENT OF FUNDS

Allocation of Fund
to the Wards

21. (1) The County Executive Member shall prepare, publish and circulate information on the allocation of funds to each Ward which shall be approved by the Steering Committee.

(2) Disbursement of funds shall be based on cash flow projections submitted by implementers of the activities financed by the Fund and approved by the Steering Committee.

(3) The Fund Administrator shall be guided by the Climate Fund Sharing Criteria detailed in the Second Schedule to this Act.

Eligibility criteria

22. (1) The Steering Committee shall approve and publish an Eligibility Criteria for Climate Finance projects that will be eligible for funding under this Act.

(2) The eligibility criteria in subsection (1) above shall be as set out in the second schedule.

Community
Consultation
Forums

23. (1) Each Ward Climate Change Fund Planning Committee shall convene community consultation forums in at least three different locations in the Ward before commencement of every Financial Year.

(2) The agenda for the community consultation forums shall include—

- (a) climate change awareness;
- (b) the nature of projects that are eligible for financing from the Fund; and
- (c) identify and prioritize projects from community members.

(3) The Ward Planning Committee Secretary shall prepare a report on the community consultation forums under this part, and

submit it to the County Planning Committee.

Development of
Project Proposals

24. (1) The Ward Planning Committee shall develop project proposals from the project priorities identified in section (26 (2)(c)) above, and include any necessary technical details for each project.

(2) The Ward Planning Committee shall submit project proposals to the County Planning Committee for evaluation and validation.

(3) Upon receiving the project proposals from the Ward Planning Committee, the County Planning Committee shall within four weeks after receiving the project proposals—

- (a) validate the project proposals and communicate their decision to the respective Ward Planning Committee; or
- (b) reject project proposals, giving reasons in writing and communicate this decision to the respective Ward Planning Committee; or
- (c) instruct the respective Ward Planning Committee to make necessary amendments to a project proposal and validate the amended project proposal within a further two weeks from the date of resubmission.

(4) Financing of the project proposals developed by the Ward Planning Committee shall be subject to the amount of money allocated to the Ward.

Disbursement of
funds for projects

25. (1) The Fund Administrator shall submit a list of validated and ranked climate change projects to the Steering Committee for approval, including proposed procurement plans for each project.

(2) Only projects submitted and approved by the Steering Committee may be funded.

(3) Upon approval by the Steering Committee, the Fund Administrator shall release moneys for the approved projects upon receiving the procurement plans together with cash flow projections.

(4) The County Executive Member may develop regulations for the better administration of this part.

Complaints
mechanism

26. (1) Community members who are aggrieved by any decision of the Ward Planning Committee shall submit the

complaints to the Fund Administrator, one week before the County Planning Committee begins evaluation of the project proposals.

(2) The Fund Administrator shall forward all complaints to the Steering Committee which shall constitute a Conciliation Panel comprising three persons.

(3) The Conciliation Panel formed in subsection (2) above shall make a final determination within a period of fourteen days and submit a report to the Steering Committee.

PART VII—FINANCIAL PROVISIONS

Bank account of the Fund

27. (1) A bank account of the Fund shall be opened and maintained at a public commercial bank by the Fund Administrator in accordance with the provisions of the Public Finance Management Act.

(2) The signatories to the bank account maintained in accordance with subsection (1) above shall be—

- (a) the Chief Officer for the time being responsible for Environment;
- (b) Chief Officer for the time being responsible for County Treasury or as may be designated; and
- (c) The Fund Administrator.

(3) The signing instructions in subsection (2) above shall be such that the signatures of the Chief Officer for the time being responsible for County Treasury, Chief Officer for the time being responsible for Environment and the Fund Administrator shall be mandatory on all payment in cheques and/or instruments intended for actual release of money from the Fund.

(4) Authority to open and operate a bank account shall be sought from the County Executive Committee Member for the time being responsible for County Treasury.

Financial Year

28. The financial year of the Fund shall be the period of twelve months commencing on the first of July and ending on the thirtieth of June of the subsequent year.

Annual Estimates

29. (1) In every budget cycle, the Fund Administrator shall cause to be prepared estimates of the Fund's income and expenditure for the given fiscal year.

(2) The annual estimates shall make provisions for all estimates of expenditure relating to administration and

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management of the Fund for the given fiscal year.

(3) The estimates developed in subsection (1) above shall be submitted to the Executive Committee Member for the time being responsible for County Treasury for approval and forwarding to the County Assembly.

Accounts of the
Committees

30. (1) The Fund Administrator shall keep proper books of account of the funds of the Steering Committee, County Planning Committee and the Ward Planning Committees.

(2) Within three months after the closure of the Financial Year, the Fund Administrator shall prepare an audit report for the Fund, County Planning Committee and the Ward Planning Committees.

(3) The County Executive Member shall prepare accounts and a report for the County Assembly quarterly or as may be needed.

PART VIII—MISCELLANEOUS

Regulations

31. The County Executive Member shall make regulations for all matters necessary for the proper administration of this Act including—

- (a) sitting allowances for the Steering Committee, County Planning Committee and the Ward Planning Committees;
- (b) the banking arrangements for the Fund;
- (c) the disbursement of funds for approved projects; and;
- (d) any matter in respect of which it is necessary or expedient to make regulations in order to achieve the objects of this Act.

(3) The County Executive Member shall ensure that public participation is properly conducted under this part.

Protection from
liability

32. Nothing done by a person exercising authority or a power under this Act shall, if the matter or thing was done or omitted in good faith for the purpose of executing this Act or any rule, regulation or order made under this Act, subject such a person in his personal capacity to any action, suit, claim or demand whatsoever.

Annual Report

33. (1) As soon as practicable after the end of each financial

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year, the County Executive Member shall submit a report to the County Assembly in accordance with the forms contained in the Fourth Schedule to this Act.

2) The report of the County Executive Member shall, in respect of the financial year to which it relates, contain—

- (a) the financial statements of the Fund;
- (b) a description of the activities of the Steering Committee, County Planning Committee, Ward Planning Committee and the Fund Administrator;
- (c) information relating to the progress made in implementing the Act;
- (d) recommendations made by the Steering Committee to the County Government and the action taken on such recommendations;
- (e) any impediments to the work of the Steering Committee, County Planning Committee, Ward Planning Committee and the Fund Administrator; and
- (f) such other information as the County Executive Member considers appropriate or relevant in relation to any of its functions under the Act.

(3) Without prejudice to subsection (1), the County Assembly may at any time require the County Executive Member to submit a report on a particular issue.

Public participation

34. (1) Any procedures undertaken under this Act that directly affect community interests shall be subject to public participation.

(2) The County Executive Member shall take special measures to ensure that vulnerable groups are represented in public participation forums conducted under this Act.

Public Private Partnership

35. (1) Subject to provisions of the Public Private partnerships Act, 2013, the County Government may enter into a public private partnership agreement with any person for the execution of climate change adaptation and mitigation activities in the County.

(2) The Chief Officer for the time being responsible for Environment shall serve as the contracting authority when instituting a public private partnership.

(3) In establishing a public private partnership under this section, the Fund Administrator shall be part of the contract node.

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SCHEDULES

(S. 10)

FIRST SCHEDULE— CONDUCT OF THE AFFAIRS OF THE STEERING COMMITTEE

Meetings

1. (1) The meetings of the Steering Committee shall be convened at least once every quarter by the chairperson, but not more than eight times in a financial year.

(2) The chairperson may at anytime convene a special meeting of the Steering Committee and shall do so within one month of the receipt by him of a written request signed by at least two members.

(3) In the absence of the chairperson, from any Steering Committee meeting, the members present shall elect one of the members to preside, and such member shall, as concerns that meeting, have all the powers and attributes of the chairperson under this Act.

(4) The quorum for the meetings of the Steering Committee shall be more than one-half of the membership.

Committees

2. (1) The Steering Committee may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine

(2) The Steering Committee shall appoint the chairperson for each committee established under sub-paragraph (1) from amongst its members.

(3) The Steering Committee may, where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subparagraph (1) shall be ratified by the Steering Committee.

Declaration of Interest

3. (1) A member who has an interest in any business before the Steering Committee or other matter present at a meeting shall at the meeting and as soon as reasonably practicable declare his/her interest and shall not take part in the consideration or discussion of, or vote on, any question with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter

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(2) A disclosure of interest made under sub-paragraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Subject to existing laws, a member of the Steering Committee who contravenes sub-paragraph (1) shall cease to be a member of the Steering Committee upon direction of the County Executive Committee.

(4) The Chairperson shall make arrangements for the appropriate representation with regard to sub-paragraph (3) above.

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S. 5 (2)
Fund sharing
criteria

SECOND SCHEDULE—SHARING OF FUNDS

1. The funds available in the Fund may be shared according to the following criteria —

- (a) ten percent of the moneys available in the Fund shall be allocated for administrative costs;
- (b) twenty percent of the moneys available in the Fund shall be allocated to Climate Change awareness and research;
- (c) seventy percent of the moneys available in the Fund shall be allocated to projects received from the Ward Planning Committee and approved by the County Planning Committee ; and
- (d) moneys not spent at the end of any financial year shall be retained in the Fund for uses that are allowable under this Act.

Fund Allocation
criteria

2. Allocation of funds to various projects may be done by the County Planning Committee considering the following agreed criteria:

- (a) **Relevance:** The intervention —
 - (i) will benefit many people including the most vulnerable groups with clear evidence of gender considerations;
 - (ii) supports the economy, livelihoods or important services on which many people depend, and has been identified, prioritized and included in ward, sub-county, county and cross-county plan or strategy for public good projects and promotes low carbon climate resilient growth and adaptive livelihoods;
 - (iii) proof that it is relevant to building resilience to and mitigating climate change and has been identified and prioritised through community participation, based on identifiable vulnerabilities, as captured in risk assessment, vulnerability mapping and greenhouse gas emission reports available for the county.
- (b) **Programme or project description and risk analysis:** The target programme/project, is

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accompanied by detailed situation analysis with clear problem statement to facilitate clarity on level and urgency of vulnerability, and risks arising from delayed intervention e.g. impact on community livelihoods, environment, economy, etc.

(c) **Gender and community cohesion considerations:**
The Programme or project—

- (i) demonstrates evidence of expected improvement on the socio-economic status and resilience to the most vulnerable groups and incorporates gender considerations.
- (ii) encourages peaceful coexistence; builds mutual relations and understanding among the beneficiaries; and
- (iii) provide platforms for effective stakeholder engagement and demonstrates sensitivity to diverse cultures and religions.

(d) **Intervention Benefits:**

- (i) Contributes to adaptation or mitigation and improving community resilience and other community benefits including poverty reduction
- (ii) supports livelihoods through income generation, and improved livelihoods.

(e) **Non duplication of funding:** Avoids duplication, where similar projects have been undertaken or provide complementarily and value addition to similar projects and has linkages with the existing projects with evidence of coordination.

(f) **Learning and knowledge management:** provides opportunity for capacity building through training, awareness creation and sensitization, and capture, document and disseminate information and lessons learnt on climate change and its impacts.

(g) **Sustainability:** Proof that the project is sustainable, beyond implementation with adequate arrangements to protect assets created after project completion and contributes to long-term beneficial impacts to the community.

(h) **Innovation:** Proof that the project is innovative, demonstrates use of indigenous knowledge, technology and emerging trends.

- (i) **Efficiency and effectiveness or fiduciary management:**
- (i) Programme or project is cost-effective and gives value for money.
 - (ii) Administrative costs of the project to be incurred at the County and Ward level (usually estimated but not to exceed 5% of total project cost)
 - (iii) Contingency costs (estimated administrative costs not to exceed 5% - 10% of the total project cost) or as may be provide in Public Finance Management Act and Regulations made thereunder.
 - (iv) have clear accountability and reporting procedures;
- (j) **Monitoring and evaluation:** have a clear budgeted monitoring evaluation and Reporting plan with indicators to measure progress.
- (k) **Alignment to county development priorities:** The Steering Committee to finance only climate change projects and activities—
- (i) included in or aligned to the County Integrated Development Plan,
 - (ii) Approved programme or project in subsequent financial period; and
 - (iii) no money may be used for unapproved project or activity.

THIRD SCHEDULE—PROCUREMENT MATRIX

Approach to Seeking Quotation	Minimum Number	Cost of Goods and services (Kenya Shillings)
Direct Purchase (single sourcing).	1	As specified in the Public Procurement and Disposal Act and its Regulations.
Targeted invitation to already Known or new suppliers, not widely circulated.	2	As specified in the Public Procurement and Disposal Act, 2015 and its Regulations.
Open Tender widely Circulated.	3	As specified in the Public Procurement and Disposal Act, 2015 and its Regulations.

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Ward Name.....Financial Year.....

Ward Name.....Financial Year.....

[illegible]

Reasons for Re-Allocation.....

Signature.....Date.....

Name.....Position.....

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Financial Year.....

[illegible]

Signature.....Date.....

Name.....Designation.....

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FORM D: PROJECT EVALUATION (PROPOSED PROJECTS)

Financial Year.....(Cost in Kshs unless otherwise advised)

Ward Name.....

Project title and location

1. Project Priority Rank

2. Short Description and target beneficiaries

2.1. Justification

2.2. Description of proposed measures

3. Project Costs

3.1. Pre-construction costs

3.2. Construction Cost

3.3. Additional Infrastructure

3.4. Design and supervision

3.5. Contingencies

3.6. Total project cost

3.7. Estimated annual operating costs

Total Estimated costs (for the year)

4. Sources of Finance

4.1. Development Costs

4.2. Operations and Maintenance costs

5. Staffing Arrangements

6. Relationship with other Projects

7. Project timeframe: (period of implementation)

MEMORANDUM OF OBJECTS

Statement of the objects and reasons of the Bill

Article 185 of the Constitution empowers County Governments to make laws that are necessary for, or incidental to, the effective performance and exercise of the powers of the County Governments as set out in the Fourth Schedule to the Constitution.

The Bill provides for establishment and management of Climate Change Fund in the County, financing of priority climate change initiatives, initiating and co-ordinating of climate change adaptation and mitigation activities at the community level, incorporation of Climate Finance in the county planning and budgetary framework, mobilizing additional resources for climate response in the County, co-ordinating support from the National government on climate change matters, collection and dissemination of climate change information to the public, and related matters.

PART I of the Bill provides for preliminaries, which include the short title and interpretation of terms as used in the Bill and the guiding principles.

Part II of the Bill provides the establishment of Marsabit County Climate Change Fund, including sources of the said funds.

Part III provides the administrative setup of the Fund which comprises the Steering Committee and Fund Administrator, functions of the Steering Committee and Fund Administrator, conduct of affairs of the Steering Committee, removal from office and County Climate Finance Framework.

Part IV establishes the County Climate Change Fund Planning Committee, membership, functions and the conduct of affairs of the Committee.

Part V establishes the Ward Climate Change Fund Planning Committee, membership, functions and the conduct of affairs of the Committee.

Part VI provides for allocation of the Fund, eligibility criteria, community consultation forums, evaluation and development of project proposals, disbursement of project funds, procurement procedures and complaints handling mechanisms.

Part VII details the financial provisions including bank account of the Fund, financial year, annual estimates, and accounting procedures.

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Part VIII provides the miscellaneous provisions such as the power to make regulations by the County Executive, protection from liability, public participation and Public Private Partnerships.

Statement on how the Bill concerns County Governments

County Governments are mandated to mainstream climate change in their functions, including the enactment legislation that clarifies their obligations on climate change response as provided for in Section 19 of the Climate Change Act (2016). This legislative proposal provides a legal framework for mainstreaming climate finance in the county planning and budgeting cycle. This Bill affects the powers and functions of the County Government and, therefore, a Bill that concerns counties within the meaning of Article 110(1)(a) of the Constitution.

The Bill shall occasion additional expenditure to the county. The expenditure will be appropriated by the County Assembly

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative power. However, the County Government may delegate legislative authority to the relevant County Executive Committee Member or as may be appropriate.

Statement on the constitutionality and conflict of laws

The Bill does not contravene any of the provisions of the Constitution and is not *ultra vires* to any of the provisions of any national law relating to environment. In case of any conflict between the Bill and any National laws, the provisions of Article 191 of the Constitution shall take effect.

Dated this, 2020.

.....
Hon. Hassan Waqo Jarso,
Chairperson: Water, Environment and Natural Resources Committee,
County Assembly of Marsabit.

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