



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)
THE SENATE
VOTES AND PROCEEDINGS
WEDNESDAY, AUGUST 07, 2019 AT 2.30 PM

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer said by the Deputy Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Deputy Speaker conveyed the following Communications from the Chair:-

a) Visiting students and teachers from Starehe Boys Centre and School

“Honorable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of students from the Starehe Boys’ Centre and School, who are undertaking a two-weeks voluntary service in the Senate.

I request the students to stand when called out so that they may be acknowledged in the Senate tradition. They are: -

- | | |
|---------------------|-----------|
| 1) Lashmah Nyakango | - Form 2D |
| 2) Hillary Kirui | - Form 3E |
| 3) Alvin Otieno | - Form 3E |

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

b) Visiting Students and Teachers from AIC Kapkei Secondary School, Uasin Gishu County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from AIC Kapkei Secondary School in Uasin Gishu County.

On behalf of the Senate, and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you.”

c) Visiting Pupils and Teachers from Changoi Primary School, Bomet County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from Changoi Primary School in Bomet County.

On behalf of the Senate, and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you.”

d) Visiting Pupils and Teachers from Korinyang Boarding Primary School, Turkana County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from Korinyang Boarding Primary School, Turkana County.

On behalf of the Senate, and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you.”

e) Visiting Students and Teachers from Bishop Okinda Achuth Secondary School, Migori County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Bishop Okinda Achuth Secondary School in Migori County.

On behalf of the Senate, and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you.”

f) Visiting Pupils and Teachers from Sena Primary School, Homa Bay County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from Changui Primary School, Bomet County.

On behalf of the Senate, and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you.”

4. **PETITIONS**

- a) Pursuant to Standing Order 232(2), the Chairperson of the Standing Committee on Health tabled before the Senate the report of the Standing Committee on Health on a Petition by residents of West Pokot County concerning deteriorating healthcare Services in the County.
- b) Pursuant to Standing Order 230(2)(a), the Senator for Kajiado County (Sen. Philip Mpaayei, MP) reported to the Senate a Petition by residents of Kajiado County concerning siltation of Lake Magadi.

Pursuant to Standing Order 231, the Deputy Speaker invited Senators to comment on the Petition and, subsequently, committed it to the Standing Committee on Land, Environment and Natural Resources, pursuant to Standing Order 232(1).

- c) Pursuant to Standing Order 230 (2)(b), the Deputy Speaker reported to the Senate a Petition concerning the compensation to land owners affected by construction of the Kibwezi–Kitui–Kabati–Migwani (B7) road.

Pursuant to Standing Order 231, the Deputy Speaker invited Senators to comment on the Petition and, subsequently, committed it to the Standing Committee on Land, Environment and Natural Resources, pursuant to Standing Order 232(1).

5. **PAPERS**

The following Papers were laid on the Table of the Senate-

- a) Report of the Sessional Committee on Delegated Legislation on its visit to Machakos and Kajiado Counties.

(Chairperson, Sessional Committee on Delegated Legislation)

- b) Report of the Standing Committee on Health on the fact-finding tour of Kitui, Machakos and Kajiado Counties.

(Chairperson, Standing Committee on Health)

- c) Report of the Standing Committee on Finance and Budget on the Division of Revenue (No. 2) Bill (National Assembly Bills No. 59 of 2019).

(Chairperson, Standing Committee on Finance and Budget)

6. **NOTICE OF MOTION** – (Sen. (Arch.) Sylvia Kasanga, MP)

AWARE THAT, natural and forest resources prevent floods, droughts, erosion and sedimentation, and increase water supply needed to generate more

power, expand farm productivity, and meet the ever-increasing demand for domestic consumption of our exploding population;

NOTING THAT, Article 69 of the Constitution and Section (5), (6) and (21) of the Forests Conservation and Management Act (FCMA) 2016 mandates National & County Governments with the responsibility of protecting, collaborating, maintaining, utilizing and attaining a tree cover of at least 10% of the land area in Kenya;

APPRECIATING THAT, there is need to achieve a holistic ecosystem approach to forest resource management, so as to prevent irreversible consequences of human activities on the environment, it is time to make an urgent call upon our citizenry to actively participate in the protection of forests and plant trees;

NOW, THEREFORE, the Senate urges:

- 1) That, all Citizens as per Article 69(2) of the Constitution, and Sections 48 – 52 of the Forest Conservations Management Act be encouraged through the relevant National Government ministries and County departments to contribute in formation of Community Forest Associations to expedite Community Participation in Forest Resources Management;
- 2) That, the National Government and all the 47 County Governments operationalize Tax & Fiscal Incentives (as per FCMA Section 53 – 55) to promote forest conservation and management, and prevent degradation of tree cover in Public, Private and Community Lands (as measures of ensuring sustainability);
- 3) That the National Government communicates progress towards establishment of a National Tree Planting Week, so that State Agencies, Corporations and Kenyans can adequately prepare for the event; and
- 4) That all County Assemblies initiate processes of enacting legislation on Forestry Functions for County Governments (As per FCMA Section 21).

7. **STATEMENTS**

a) Statement Pursuant to Standing Order 48(1)

The Senator for Bungoma County (Sen. Moses Wetang'ula, MP) sought a Statement from the Standing Committee on Education regarding the proposed assessment of Grade 3 pupils.

b) Statement Pursuant to Standing Order 51(1)(a)

The Chairperson of the Standing Committee on Devolution and Intergovernmental Relations issued a statement on a matter for which the Committee was responsible, namely the budget stalemate in Taita Taveta County, and the steps the Committee was taking to have the matter resolved.

Thereupon, the Chairperson informed the Senate that, following disagreement between the County Executive and the County Assembly of Taita Taveta with regard to the Budget Estimates for the FY2019/2010, the Governor had initiated a process to collect signatures in support of a Petition for dissolution of the county government.

The Chairperson further informed the House that, in seeking to understand and resolve the dispute, the Committee had met with the Cabinet Secretary for Devolution, representatives of the County Executive and County Assembly, the Council of Governors, the Office of the Controller of Budget, the Intergovernmental Relations Technical Committee, the Commission on Revenue Allocation and the National Treasury. The Chairperson further highlighted the key grievances as advanced by the County Executive, on one hand, and the County Assembly, on the other hand.

From these consultations, the Committee had formed the view that the matter could be resolved, primarily by addressing the interpersonal and institutional relationships between the County Executive and County Assembly.

In concluding, the Chairperson updated the Senate on the next steps the Committee intended to take, as well as its recommendations to the office of the Controller of Budget and the Intergovernmental Relations Technical Committee.

8. **COMMUNICATION FROM THE CHAIR ON CONSIDERATION OF THE DIVISION OF REVENUE (NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 59 OF 2019)**

The Deputy Speaker conveyed the following Communication from the Chair:-

“Honourable Senators,

Before we proceed to Order Number 8 which is the Second Reading of the Division of Revenue (No. 2) Bill (National Assembly Bills No. 59 of 2019), I have the following communication to make.

As you may recall, pursuant to Article 218 of the Constitution and Standing Orders of the National Assembly, the National Assembly published the Division of Revenue Bill (National Assembly Bills No. 11 of 2019). The Bill was passed by the National Assembly on 26th March, 2019 and subsequently referred to the Senate pursuant to Article 110 of the Constitution. As you may further recall, having considered the Bill, the Senate passed it with amendments and referred it to the National Assembly. On 8th May, 2019 the National Assembly rejected Senate amendments leading to the Bill being referred to the Mediation Committee pursuant Article 113 of the Constitution.

Honourable Senators will recall that the Mediation Committee failed to agree on a version of the Bill that both Houses could pass and the Bill therefore stood defeated. This led to a paralysis as Parliament could not proceed to enact the

County Allocation of Revenue Bill, which would in turn allow the counties to conclude on their budgets.

However, as the paralysis was on-going, the National Assembly went ahead to irregularly enact the Appropriations Act, 2019 without resolving the issue of division of revenue between the two levels of government. This led to the Council of Governors moving to the Supreme Court to seek redress on the same. I do not wish to speak further on this matter as it is presently pending before the Supreme Court.

Honourable Senators,

As you are all aware, the mandate of the Senate in Articles 94 and 96 of the Constitution and in particular Article 96(1) is to “represent the counties and serves to protect the interests of the counties and their governments.” For this reason even as the National Assembly appeared unconcerned about the situation and proceeded to adjourn for recess without a clear way forward on the division of revenue process, the Senate, pursuant to its mandate under Article 96 and 218 of the Constitution, published and passed, without amendments, the Division of Revenue Bill (Senate Bills No. 13 of 2019) on 23rd July 2019 and referred the said Bill to the National Assembly for concurrence.

On 25th July, 2019, the Speaker of the National Assembly, conveyed a Message from the Speaker of the Senate on the Bill and directed that the Bill be read a First Time in the National Assembly on 30th July, 2019. The Bill was read a First Time as directed and committed to the Committee on Budget and Appropriations of the National Assembly.

The Bill was subsequently scheduled for Second Reading on 1st August, 2019. The Hansard record of the National Assembly indicates that during Second Reading, some Members of the National Assembly claimed that it was unconstitutional for a Division of Revenue Bill to originate from the Senate. Thereafter and on the basis of this claim, the Speaker of the National Assembly ruled that the Division of Revenue Bill (Senate Bills No. 13 of 2019) be withdrawn and the Bill was therefore not proceeded with.

Honourable Senators,

I would like to draw your attention to Article 218 of the Constitution of Kenya which states *inter alia*,

“At least two months before the end of each financial year, there shall be introduced in Parliament—

A Division of Revenue Bill which shall divide revenue raised by the National Government among the national and county levels of government in accordance with this Constitution”

The Constitution expressly states that the Division of Revenue Bill shall be introduced in Parliament which means that a Division of Revenue Bill may be

introduced and can originate in either the National Assembly or the Senate. Honourable Senators will recall that in 2013 when the National Assembly questioned the role of the Senate in the process of the division of revenue, the Supreme Court in its advisory opinion clearly affirmed the role of the Senate in the division of revenue process.

There is therefore no doubt, from a reading of the Constitution as buttressed by the advisory opinion, that the Senate has a critical role to play in originating, considering and passing of the Division of Revenue Bill.

Honourable Senators,

Indeed, this Senate, by this mandate, has previously introduced and passed the Division of Revenue (Amendment) Bill (Senate Bills No. 14 of 2018) on 13th July, 2018 which was referred to the National Assembly for concurrence. The National Assembly considered and passed the said Bill on 30th August, 2018 and the President assented to it on 5th October, 2018. It is therefore baffling to say the least that the same National Assembly can argue that the Senate cannot originate a Division of Revenue Bill.

Honourable Senators,

As you have observed Order Number 8 lists the Division of Revenue (No. 2) Bill (National Assembly Bill No. 59 of 2019) for Second Reading. The Bill was passed by the National Assembly on 25th July, 2019. On 31st July, 2019, the Senate received a Message from the National Assembly on the passage of the Division of Revenue (No. 2) Bill (National Assembly Bills No. 59 of 2019) and its referral to the Senate for concurrence. The Speaker of the Senate directed that the Bill be read a First Time the following day.

The National Assembly Bill was indeed read a First Time on Thursday, 1st August, 2019 and referred to the Standing Committee on Finance and Budget. In compliance with the Constitution and the Standing Orders, the Committee undertook public participation on Tuesday, 6th August, 2019.

Honourable Senators,

We are at a critical constitutional moment that calls the Senate to rise above, as it has always done, to provide a clear and concise way forward on the division of revenue process. While the National Assembly may have, without any constitutional or legal justification withdrawn the Senate Bill, the Senate must nevertheless remain true to its calling under Article 3 of the Constitution (to respect, uphold and defend this Constitution). I therefore implore the Senate to rise above the external aberration, and politics of brinkmanship that may be displayed by other quarters and proceed with the usual focus to discharge our mandate.

Honourable Senators, it is for this reason that the leadership of the Senate recognizing the importance of the division of revenue process to the operations of both the national and county levels of government resolved to prioritize the

consideration of the Division of Revenue (No. 2) Bill (National Assembly Bills No. 59 of 2019) as evidenced in today's Order Paper.

With this in mind, we shall now proceed to the next Order.

I thank you.”

9. **THE DIVISION OF REVENUE (NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 59 OF 2019)**

Order for Second Reading read;

Motion made and Question proposed: -

THAT, the Division of Revenue (No. 2) Bill (National Assembly Bills No. 59 of 2019) be now Read a Second Time.

(Chairperson, Standing Committee on Finance and Budget on behalf of the Senate Majority Leader)

Debate arising;

Motion for closure of debate:

Rising in her place on a point of order pursuant to Standing Order 104 (1), the Senator for Isiolo County (Sen. Fatuma Dullo, MP) claimed to move “that the Mover be now called upon to reply”;

And the Deputy Speaker, acceding to the claim, put the Question;

Question put and negatived.

Debate interrupted resumed;

And there being no other Senator wishing to contribute;

The Mover replied;

The House proceeded to a Division;

The Deputy Speaker directed that electronic voting be taken pursuant to Standing Order 81 (2) and that the Division Bell be rung for five (5) minutes;

The Deputy Speaker directed the Division Bell be rung for additional two (2) minutes;

Upon the expiry of two minutes, 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 provisions of Standing Order 81 (5), the Deputy Speaker allowed three (3) Senators to record their votes verbally.

Thereupon, the following Senators recorded their votes as “**Yes**”-

- 1) Sen. Kindiki Kithure
- 2) Sen. Mbogo George Ochilo Ayacko
- 3) Sen. Millicent Omanga – voted on behalf of Nairobi City County Delegation

The results of the Division were as follows:

AYES – 26

NOES – 0

ABSTENTION – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Boy Issa Juma
3. Sen. Hargura Godana
4. Sen. Kabaka Boniface Mutinda
5. Sen. Kamar Margaret Jepkoech
6. Sen. Prengei Victor - voted on behalf of Nakuru County Delegation
7. Sen. Mwaura Isaack – voted on behalf of Kiambu County Delegation
8. Sen. Kindiki Kithure - voted verbally
9. Sen. Langat Christopher Andrew
10. Sen. Linturi Franklin Mithika
11. Sen. Mahamud Mohamed Maalim
12. Sen. Inimah Getrude Musuruve – voted on behalf of Kakamega County Delegation
13. Sen. Mbiti Michael Maling’ a
14. Sen. Mbogo George Ochilo Ayacko - voted verbally
15. Sen. Mpaayei Phillip Salau
16. Sen. Mwangi Paul Githiomi
17. Sen. Mwaruma Johnes Mwashushe
18. Sen. Mwinyihaji Mohamed Faki
19. Sen. Nderitu John Kinyua
20. Sen. Ndwiga Peter Njeru
21. Sen. Olekina Ledama
22. Sen. Poghisio Samuel Losuron
23. Sen. Omanga Millicent – voted verbally on behalf of Nairobi City County Delegation
24. Sen. Wambua Enock Kiio
25. Sen. Wario Golich Juma
26. Sen. Wetang’ula Moses Masika

Question agreed to.

Bill read a Second Time and committed to the Committee of the Whole today.

10. **THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL (SENATE BILLS NO. 9 OF 2019)**

Order for Second Reading read;

Motion made and Question proposed-

THAT, the Cancer Prevention and Control (Amendment) Bill (Senate Bills No. 9 of 2019) be now read a Second Time.

(Sen. (Dr.) Abdullahi Ali, MP – 30.07.2019)

Debate interrupted on Wednesday, 31st July, 2019 resumed on a Division;

The House proceeded to a Division;

The Deputy Speaker directed that electronic voting be taken pursuant to Standing Order 81 (2) and that the Division Bell be rung for one (1) minute;

Upon 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 provisions of Standing Order 81 (5), the Deputy Speaker allowed one (1) Senator to record his vote verbally.

Thereupon, the following Senator recorded his vote as **“Yes”**-

Sen. Kindiki Kithure

The results of the Division were as follows:

AYES – 27

NOES – 0

ABSTENTION – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Boy Issa Juma
3. Sen. Hargura Godana
4. Sen. Kabaka Boniface Mutinda
5. Sen. Kamar Margaret Jepkoech
6. Sen. Kibiru Charles Reubenson
7. Sen. Prengei Victor - voted on behalf of Nakuru County Delegation
8. Sen. Mwaura Isaack – voted on behalf of Kiambu County Delegation
9. Sen. Kindiki Kithure - voted verbally
10. Sen. Langat Christopher Andrew

11. Sen. Linturi Franklin Mithika
12. Sen. Mahamud Mohamed Maalim
13. Sen. Inimah Getrude Musuruve – voted on behalf of Kakamega County Delegation
14. Sen. Mbito Michael Maling'a
15. Sen. Mbogo George Ochilo Ayacko
16. Sen. Mpaayei Phillip Salau
17. Sen. Mwangi Paul Githiomi
18. Sen. Mwaruma Johnes Mwashushe
19. Sen. Mwinyihaji Mohamed Faki
20. Sen. Nderitu John Kinyua
21. Sen. Ndwiga Peter Njeru
22. Sen. Olekina Ledama
23. Sen. Poghisio Samuel Losuron
24. Sen. Omanga Millicent – voted on behalf of Nairobi City County Delegation
25. Sen. Wambua Enock Kiio
26. Sen. Wario Golich Juma
27. Sen. Wetang'ula Moses Masika

Question agreed to.

Bill read a Second Time and committed to the Committee of the Whole tomorrow.

11. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. (Prof.) Margaret Kamar) – in the Chair)

The Division of Revenue (No. 2) Bill (National Assembly Bills No. 59 of 2019)

Clauses 3 – 5

Motion made and Question proposed;

That, Clauses 3 – 5 be part of the Bill.

The Committee proceeded to a Division;

The Acting Chairperson (Sen. (Prof.) Margaret Kamar, MP) directed that electronic voting be taken pursuant to Standing Order 81 (2) and that the Division Bell be rung for one (1) minute;

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

The Acting Chairperson 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 provisions of Standing Order 81 (5), the Acting Chairperson allowed one (1) Senator to record her vote verbally.

Thereupon, the following Senator recorded her vote as “**Yes**”-

Sen. Kamar Margaret Jepkoech

The results of the Division were as follows:-

AYES – 27

NOES – 0

ABSTENTION – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Boy Issa Juma
3. Sen. Hargura Godana
4. Sen. Kabaka Boniface Mutinda
5. Sen. Kamar Margaret Jepkoech – voted verbally
6. Sen. Kibiru Charles Reubenson
7. Sen. Prengei Victor – voted on behalf of Nakuru County Delegation
8. Sen. Kindiki Kithure
9. Sen. Mwaura Isaac – voted on behalf of Kiambu County Delegation
10. Sen. Langat Christopher Andrew
11. Sen. Linturi Franklin Mithika
12. Sen. Mahamud Mohamed Maalim
13. Sen. Inimah Getrude Musuruve – voted on behalf of Kakamega County Delegation
14. Sen. Mbito Michael Maling’ a
15. Sen. Mbogo George Ochillo Ayacko
16. Sen. Mpaayei Phillip Salau
17. Sen. Mwangi Paul Githiomi
18. Sen. Mwaruma Johnes Mwashushe
19. Sen. Mwinyihaji Mohamed Faki
20. Sen. Nderitu John Kinyua
21. Sen. Ndwiga Peter Njeru
22. Sen. Olekina Ledama
23. Sen. Poghisio Samuel Losuron
24. Sen. Omanga Millicent – voted on behalf of Nairobi City County Delegation
25. Sen. Wambua Enoch Kiio
26. Sen. Wario Golich Juma
27. Sen. Wetang’ula Moses Masika

Clauses 3 - 5 - agreed to.

The Schedule - amendment proposed

THAT the Bill be amended by deleting the schedule and substituting therefor the following new schedule-

SCHEDULE

(s.4)

**ALLOCATION OF REVENUE RAISED NATIONALLY AMONG THE
NATIONAL AND COUNTY GOVERNMENTS FOR THE FINANCIAL YEAR
2019/20**

Type/level of allocation	Amount in Ksh.	Percentage (%) of 2014/15 audited and approved Revenue i.e. Ksh.1,038,035 Millions
A. National Government	1,535,746,497,191	
Of which:		
1. <i>Leasing of Medical Equipment</i>	-	
2. <i>Compensation for user fees forgone</i>	900,000,000	
3. <i>Level 5 hospitals</i>	4,326,000,000	
4. <i>Supplement for construction of county headquarters</i>	485,152,184	
5. <i>Rehabilitation of Youth Polytechnics</i>	2,000,000,000	
B. Equalization Fund	5,760,000,000	0.60%
C. County equitable share	335,670,000,000	32.34%
D. Total shareable revenue	1,877,176,497,191	
Memo items		
1. County equitable share	335,670,000,000	
2. Additional conditional allocations (National Government share of Revenue) of which;	7,711,152,184	
2.1. <i>Leasing of Medical Equipment</i>	-	
2.2. <i>Compensation for user fees forgone</i>	900,000,000	
2.3. <i>Level 5 hospitals</i>	4,326,000,000	
2.4. <i>Supplement for construction of county headquarters</i>	485,152,184	
2.5. <i>Rehabilitation of Youth Polytechnics</i>	2,000,000,000	
3. Allocation from Fuel Levy Fund (15%)	8,984,062,500	
4. Conditional allocations (Loans & grants) of which:	39,089,877,210	

Type/level of allocation	Amount in Ksh.	Percentage (%) of 2014/15 audited and approved Revenue i.e. Ksh.1,038,035 Millions
4.1 IDA-Kenya Devolution Support Program (KDSP) Level 1	1,410,000,000	
4.2 IDA-Kenya Devolution Support Program (KDSP) (Level 2 Grant)	4,890,000,000	
4.3 IDA-Transforming Health Systems for Universal Care Project	2,994,247,736	
4.4 DANIDA-Universal Healthcare For Devolved System Program	986,583,544	
4.5 IDA-National Agriculture & Rural Inclusive Growth Project (NARIGP)	7,232,719,940	
4.6 EU-Instruments for Devolution Advice and Support (IDEAS)	492,698,583	
4.7 IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP)	3,643,298,670	
4.8 World Bank- Kenya Urban Support Program (KUSP)- UDG	11,464,702,500	
4.9 World Bank- Kenya Urban Support Program (KUSP)- UIG	396,000,000	
4.10 IDA- Water and Sanitation Development Project (WSDP)	3,500,000,000	
4.1 1 Sweden Agriculture Sector Development Programme II (ASDP II)	849,626,237	
4.12 EU- Water Tower Protection and Climate Change Mitigation and Adaptation Programme (WaTER)	880,000,000	
4.13 Drought Resilience Programme in Northern Kenya	350,000,000	
Total County Allocations= (1+2+3+4)	391,455,091,894	37.71%
*The National Government share includes Ksh. 4,300 million which is a special grant to the National Health Insurance Fund (NHIF) for free Maternal health care, to be disbursed as a reimbursement to county governments.		

(Chairperson, Standing Committee on Finance and Budget)

The Committee proceeded to a Division;

The Acting Chairperson (Sen. (Prof.) Margaret Kamar, MP) directed that electronic voting be taken pursuant to Standing Order 81 (2) and that the Division Bell be rung for one (1) minute;

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

The Acting Chairperson 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 provisions of Standing Order 81 (5), the Acting Chairperson allowed four (4) Senators to record their votes verbally.

Thereupon, the following Senators recorded their vote as **“Yes”**-

- 1) Sen. Kamar Margaret Jepkoech
- 2) Sen. Mwaura Isaac – voted on behalf of Kiambu County Delegation
- 3) Sen. Kindiki Kithure
- 4) Sen. Omanga Millicent – voted on behalf of Nairobi City County Delegation

The results of the Division were as follows: -

AYES – 27

NOES – 0

ABSTENTION – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Boy Issa Juma
3. Sen. Hargura Godana
4. Sen. Kabaka Boniface Mutinda
5. Sen. Kamar Margaret Jepkoech – voted verbally
6. Sen. Kibiru Charles Reubenson
7. Sen. Prengei Victor – voted on behalf of Nakuru County Delegation
8. Sen. Kindiki Kithure – voted verbally
9. Sen. Mwaura Isaac – voted verbally on behalf of Kiambu County Delegation
10. Sen. Langat Christopher Andrew
11. Sen. Linturi Franklin Mithika
12. Sen. Mahamud Mohamed Maalim
13. Sen. Inimah Getrude Musuruve – voted on behalf of Kakamega County Delegation
14. Sen. Mbiti Michael Maling’ a
15. Sen. Mbogo George Ochillo Ayacko
16. Sen. Mpaayei Phillip Salau
17. Sen. Mwangi Paul Githiomi
18. Sen. Mwaruma Johnes Mwashushe
19. Sen. Mwinyihaji Mohamed Faki
20. Sen. Nderitu John Kinyua
21. Sen. Ndwiga Peter Njeru
22. Sen. Olekina Ledama
23. Sen. Poghio Samuel Losuron
24. Sen. Omanga Millicent – voted verbally on behalf of Nairobi City County Delegation

25. Sen. Wambua Enoch Kiio
26. Sen. Wario Golich Juma
27. Sen. Wetang'ula Moses Masika

The Schedule (as amended) - agreed to.

Clause 2, the Title and Clause 1

Motion made and Question proposed;

That Clause 2, the Title and Clause 1 be part of the Bill.

The Committee proceeded to a Division;

The Acting Chairperson (Sen. (Prof.) Margaret Kamar, MP) directed that electronic voting be taken pursuant to Standing Order 81 (2) and that the Division Bell be rung for one (1) minute;

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

The Acting Chairperson 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 provisions of Standing Order 81 (5), the Acting Chairperson allowed one (1) Senator to record her vote verbally.

Thereupon, the following Senator recorded her vote as **“Yes”**-

Sen. Kamar Margaret Jepkoech

The results of the Division were as follows: -

AYES – 27

NOES – 0

ABSTENTION – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Boy Issa Juma
3. Sen. Hargura Godana
4. Sen. Kabaka Boniface Mutinda
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8. Sen. Kindiki Kithure
9. Sen. Mwaura Isaac – voted on behalf of Kiambu County Delegation
10. Sen. Langat Christopher Andrew

11. Sen. Linturi Franklin Mithika
12. Sen. Mahamud Mohamed Maalim
13. Sen. Inimah Getrude Musuruve – voted on behalf of Kakamega County Delegation
14. Sen. Mbito Michael Maling’ a
15. Sen. Mbogo George Ochillo Ayacko
16. Sen. Mpaayei Phillip Salau
17. Sen. Mwangi Paul Githiomi
18. Sen. Mwaruma Johnes Mwashushe
19. Sen. Mwinyihaji Mohamed Faki
20. Sen. Nderitu John Kinyua
21. Sen. Ndwiga Peter Njeru
22. Sen. Olekina Ledama
23. Sen. Poghisio Samuel Losuron
24. Sen. Omanga Millicent – voted on behalf of Nairobi City County Delegation
25. Sen. Wambua Enoch Kiio
26. Sen. Wario Golich Juma
27. Sen. Wetang’ula Moses Masika

Clause 2, the Title and Clause 1 - agreed to.

Motion made:

That, the Bill be reported with amendments

(The Deputy Senate Majority Leader)

Before the Question was put and pursuant to Standing Order 79, the Acting Chairperson (Sen. (Prof.) Margaret Kamar, MP) ruled that the Question did not affect counties;

Question put and agreed to.

12. **HOUSE RESUMED** – The Deputy Speaker in the Chair

13. **THE DIVISION OF REVENUE (NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 59 OF 2019)**

Bill reported with amendments;

Motion made and Question proposed;

That, the House do agree with the Committee of the Whole in the said report.

(The Deputy Senate Majority Leader)

Debate arising;

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the question did not affect counties;

Question put and agreed to.

Motion made and question proposed-

That, the Division of Revenue (No. 2) Bill (National Assembly Bills No. 59 of 2019) be now read a Third Time.

(The Deputy Senate Majority Leader)

There being no Senator wishing to contribute;

The House proceeded to a Division;

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 Senators asked 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 provisions of Standing Order 81 (5), the Deputy Speaker allowed three (3) Senators to record their votes verbally.

Thereupon, the following Senators recorded their vote as **“Yes”**-

- 1) Sen. Kindiki Kithure
- 2) Sen. Mwangi Paul Githiomi
- 3) Sen. Omanga Millicent – voted on behalf on Nairobi City County Delegation

The results of the Division were as follows: -

AYES – 27

NOES – 0

ABSTENTION – 0

AYES

1. Sen. Adan Fatuma Dullo
2. Sen. Boy Issa Juma
3. Sen. Hargura Godana
4. Sen. Kabaka Boniface Mutinda
5. Sen. Kamar Margaret Jepkoech
6. Sen. Kibiru Charles Reubenson
7. Sen. Prengei Victor – voted on behalf of Nakuru County Delegation
8. Sen. Mwaura Isaac – voted on behalf of Kiambu County Delegation
9. Sen. Kindiki Kithure – voted verbally

10. Sen. Langat Christopher Andrew
11. Sen. Linturi Franklin Mithika
12. Sen. Mahamud Mohamed Maalim
13. Sen. Inimah Getrude Musuruve – voted on behalf of Kakamega County Delegation
14. Sen. Mbito Michael Maling’ a
15. Sen. Mbogo George Ochillo Ayacko
16. Sen. Mpaayei Phillip Salau
17. Sen. Mwangi Paul Githiomi – voted verbally
18. Sen. Mwaruma Johnes Mwashushe
19. Sen. Mwinyihaji Mohamed Faki
20. Sen. Nderitu John Kinyua
21. Sen. Ndwiga Peter Njeru
22. Sen. Olekina Ledama
23. Sen. Poghisio Samuel Losuron
24. Sen. Omanga Millicent – voted verbally on behalf of Nairobi City County Delegation
25. Sen. Wambua Enoch Kiio
26. Sen. Wario Golich Juma
27. Sen. Wetang’ula Moses Masika

Question agreed to.

Bill read a Third Time and passed.

14. **COMMITTEE OF THE WHOLE**
THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 31 OF 2018)

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

Order deferred.

15. **COMMITTEE OF THE WHOLE**
THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 3 OF 2019)

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

Order deferred.

16. **COMMITTEE OF THE WHOLE**
THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)

(Sen. Ledama Olekina, MP)

Order deferred.

17. **COMMITTEE OF THE WHOLE**
THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)

(Sen. Mary Seneta, MP)

Order deferred.

18. **THE CONTROL OF STRAY DOGS BILL (SENATE BILLS NO. 4 OF 2019)**
(Sen. Mary Seneta, MP)

Order deferred.

19. **MOTION – CREATION OF SUPPORT SERVICES FOR MEMBERS OF THE DISCIPLINED FORCES AND THEIR FAMILIES**

Order read;

Motion made and Question proposed -

THAT, APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counseling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Co-ordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

(Sen. (Arch.) Sylvia Kasanga, MP on behalf of Sen. George Khaniri, MP)

Debate arising;

The Nominated Senator (Sen. Sylvia Kasanga) claimed “that the debate be now adjourned”, pursuant to Standing Order 105 (1);

And the Temporary Speaker (Sen. Judith Pareno, MP), acceding to the claim, put the Question;

Question agreed to.

RESOLVED ACCORDINGLY

That, the debate be now adjourned.

20. **MOTION – PLANTING OF TREES ALONG MAJOR INFRASTRUCTURE PROJECTS IN KENYA**

(Sen. Charles Kibiru, MP)

THAT, AWARE of the numerous benefits that trees play in environmental conservation, combating climate change, air and water purification, carbon sequestration, flood control, prevention of soil erosion, human and wildlife sustenance, urban planning, as well as other social and economic benefits;

NOTING THAT Kenya has and continues to implement various infrastructure projects across the country, among them railways, roads and highways, airports, sea and inland ports, pipelines, dams, among others;

CONCERNED by the extent of environmental degradation that takes place when undertaking such infrastructure projects, entailing clearance of trees, foliage, soils, rocks, excavation of quarries, interference with forests, wetlands, rivers, drainage systems and other embankments, as well as human and wildlife displacement along the paths of the infrastructure projects;

ACKNOWLEDGING THAT the Environmental Management and Coordination Act (No. 8 of 1999) and the Guidelines issued thereon require an environmental audit to be undertaken before any infrastructure projects are undertaken, with a view to identifying potential environmental impacts of the proposed projects, assessing the significance of those impacts, and proposing mitigation measures to address the negative impacts of the said projects on the environment;

CONCERNED HOWEVER THAT the implementation of these provisions has failed to comprehensively address the continued large-scale environmental degradation that takes place during construction of these infrastructure projects, and that the mitigation measures undertaken thereon have failed to compensate for the damage done to the environment as well as the negative effects to human and wildlife populations along the infrastructure project paths;

AWARE THAT the National Government has launched an ambitious plan to plant 1.8 billion trees by the year 2022, with a view to enhancing the country's tree cover from 6.2% to the globally accepted minimum of 10%, and that this entails, among others, planting at least 1 million trees annually in each of the forty-seven Counties;

UNDERSCORING the need to balance between development and sustainable environmental management, for the benefit of present and future generations, as enshrined in the preamble to the Constitution of Kenya;

NOTING that planting of tree buffers alongside and around major infrastructure projects in the country would help offset the carbon footprint of these projects, enhance the beauty and aesthetics of the projects, create safe spaces for human recreation and for wildlife to thrive, and help in meeting the target of 10% national tree cover by the year 2022;

NOW THEREFORE, the Senate resolves that the National Government, together with the County Governments, formulate a policy mandating the planting of trees alongside and around all major infrastructure projects across the country, setting out the roles of various actors at both the national and county levels, and outlining incentives and penalties to ensure that the policy is complied with, in ensuring a balance is attained between development and environmental conservation.

Order deferred.

21. **MOTION – RETIREMENT AGE FOR PERSONS WITH DISABILITIES IN PUBLIC SERVICE AND ACADEMIA**

Order read;

Motion made -

THAT, AWARE THAT, Persons with Disabilities (PWDs) and their families are among the world's poorest and are disadvantaged in terms of their late entry into the labour-force;

FURTHER AWARE THAT the reality of employing disabled people does not match the presumptions held by employers, the influence of how they think about disability remains a potent issue for disabled people seeking to work;

COGNIZANT THAT Article 19 of the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD) affirms the equal right of all persons with disabilities to live in a community with choices equal to others, and with equal access to services and facilities that are responsive to their needs;

NOTING THAT, unlike current trends around the world, employers in Kenya are not incentivized to employ Persons with Disabilities and therefore most public organizations and parastatals have not yet achieved the threshold of Article 54(2) of the Kenyan Constitution that obligates 5% appointment of PWDs in elective and appointive positions;

CONCERNED THAT, Article 27(e) of the UNCPRD advocates for party states, of which Kenya is one, to promote employment opportunities and career advancements of PWDs in the labour market as well as assistance in finding, obtaining, maintaining and returning to employment;

NOW THEREFORE; the Senate calls upon the Ministry of Labour and Social Protection and county governments to develop a policy to ensure that:

1. PWDs in gainful employment in public service retire at the age of 65 years instead of 60 years; and,
2. PWDs in academia, such as Universities and colleges retire at the age of 75 years, instead of 70 years.

(Sen. (Dr.) Getrude Musuruwe, MP)

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Judith Pareno) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

22. **SENATE ROSE** – at thirty minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, August 08, 2019 at 2.30 p.m.*

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