

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 22<sup>nd</sup> March, 2022**

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.*

*[The Temporary Speaker (Sen. Pareno) in the Chair]*

### PRAYER

### COMMUNICATION FROM THE CHAIR

#### WELCOME TO HON. SENATORS FROM SHORT RECESS

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, I take this opportunity to welcome you back from the short recess. I hope you had time to meet with your constituents, friends and family over the past week. Sittings for Part II of the Calendar commence from today, Tuesday, 22<sup>nd</sup> March, until the rise of the Senate on Thursday, 7<sup>th</sup> April, 2022.

We resume sittings at a very critical time in the life of the Twelfth Parliament. You will all agree with me that the coming general elections are on every Senator's mind and, indeed, in that of many Kenyans. However, we have a constitutional mandate to fulfill as a House which must be executed.

As I had mentioned at the commencement of the 6<sup>th</sup> Session in February, our plate is already full with 19 Bills at the Second Reading and 11 Bills at the Committee of the Whole Stage. We also have Petitions submitted pursuant to Article 119 of the Constitution; Motions and Statements pursuant to Standing Order Nos. 47 and 48.

However, there are 10 Bills and a number of Statements that have been dropped from the programme of business, pursuant to Standing Order No.59(3) due to the unavailability of Movers to prosecute them at the time which they were scheduled on the Order Paper. Movers of such business who wish to pursue them are urged to make an appeal to the Speaker in writing for reinstatement in the weekly programme of the Senate business.

I urge that we rededicate ourselves to our constitutional role of legislation, oversight and representation of the people of Kenya. I also urge that we ensure that vital legislative business is passed so that attendant processes have necessary legislative backing. In this regard, I call upon the offices of the Senate Majority Whip and the Senate

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Minority Whip to ensure that the requisite number of Senators is achieved so that the Senate may proceed to Divisions.

Hon. Senators, very shortly, pursuant to Section 25 of the Public Finance Management (PFM) Act and Standing Order No.181 of the Senate, the Senate will consider the Division of Revenue Bill. As a standard practice, this Bill is ordinarily introduced in the National Assembly and referred to the Senate.

The Bill was referred to the Senate and read the First Time on 8<sup>th</sup> March, 2022. It has now been scheduled for Second Reading as indicated in today's Order Paper at Order No.15. After enactment of the Division of Revenue Act, the County Allocation of Revenue Bill will be introduced, pursuant to Standing Order No.182 of the Senate.

The passage and assent of these Bills together with the Cash Disbursement Schedule, will ensure that county governments have the necessary resources for their projects and programmes. They can in turn make their individual budgets before the start of the next financial year in July 2022. I urge the offices of the Senate Majority Whip and the Senate Minority Whip, in the same spirit, to ensure there are requisite numbers for the Senate to proceed to Divisions on these financial instruments.

Hon. Senators, a lot of work is pending before Select Committees of the Senate. I urge respective Committees to double their efforts to conclude the pending business before them. In the coming weeks, we shall receive reports pursuant to Standing Order 51 (1) (b), where we look forward to hearing the impact that the work of the Committee is making and their plans for the next few months. I wish you fruitful deliberations and wish all hon. Senators well in the remaining part of the calendar.

I thank you.

Next Order

## PAPERS LAID

### REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTY FUNDS/ COMPANIES/ BOARDS

**The Senate Majority Leader** (Sen. Poghio): Thank you, Madam Temporary Speaker. I beg to lay the following Papers on the table of the Senate today, 22<sup>nd</sup> March, 2022.

Report of the Auditor-General on the financial statement of Kericho County Assembly Staff Car and Mortgage Fund for the year ended 30<sup>th</sup> June, 2018.

Report of the Auditor-General on the financial statement of Kericho County Assembly Staff Car and Mortgage Fund for the year ended 30<sup>th</sup> June, 2019.

Report of the Auditor-General on the financial statement of Baringo County Assembly Catering and Health Services Scheme Fund for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Kakamega County Dairy Development Corporation for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Bomet County Executive Car Loan and Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Narok Water and Sewerage Services Company Limited for the year ended 30<sup>th</sup> June, 2020.

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Report of the Auditor-General on the financial statement of Kapsabet Nandi Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Uasin Gishu County Emergency Fund for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Kisumu County Car and Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2019.

Report of the Auditor-General on the financial statement of Nairobi City County Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Lamu County Emergency Fund for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Lamu County Fisheries Development Revolving Fund for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Tana River County Executive Staff Car Loan and Mortgage Fund for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Garissa Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Garissa County Revolving Fund for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the financial statement of Council of Governors for the year ended 30<sup>th</sup> June, 2020.

Thank you, Madam Temporary Speaker.

*(Sen. Poghiso laid the documents on the Table)*

**The Temporary Speaker** (Sen. Pareno): Next Order.

## STATEMENTS

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker. I have two Statements pursuant to Standing Order Nos.47 (1) and 48 (1). I begin with the one pursuant to Standing Order No.47 (1) on rampant cases of candidates missing exams.

### RAMPANT CASES OF CANDIDATES MISSING EXAMINATIONS

I rise pursuant to Standing Order No. 47(1) to make a Statement on the rampant cases of candidates who went missing on exam day. Forty-six KCPE candidates went missing from Embu County on exam day. Efforts by local authorities to trace them before the KCPE exams started proved futile.

Embu County Director of Education, Mr. James Kairu, confirmed that the pupils were not found and, therefore, missed the national test. It was reported that the efforts of a multiagency team, including police and local government authorities to assist in locating the learners were futile. The Embu County Director of Education explained that some of the missing learners were from families which were evicted from a contested

piece of land believed to be under the ownership of the Tana and Athi River Development Authority (TADA).

Three weeks before the national exams began, Mr. Hillary Lisimba, a journalist, reported that in 2021, thousands of learners went missing. Some of these learners become pregnant, others joined the *boda boda* business while the rest disappeared without a trace. At the height of COVID-19 pandemic when parents lost their sources of income, the situation forced some children to either move out of school or take up menial jobs for survival.

In volatile areas like Mandera and Kapedo, students fled together with their parents due to rising cases of insecurity, lack of teaching staff and recurrent drought.

A learner at Kisole Primary School in Mwingi, Kitui County was unable to write her exam because she lost her eyesight as a result of brain tumor. Two other candidates in the constituency were taken ill and admitted at Mwingi Level 4 Hospital as well, hence missing out on the national exams. These are just very few examples out of the very many cases.

Primary level national exams has a silent role in transitioning pupils to secondary schools. Failure to sit for these exams exposes learners to a precarious state of not transitioning to secondary school with the rest of their classmates.

During this exam period, I call upon the Ministry of Education to intervene in ensuring that supplementary exams are availed to learners who have missed their exams due to unforeseeable and valid reasons. As a society, we need to appreciate that learners hail from diverse socio-economic backgrounds, hence investigations need to be commenced on a case-by-case basis for missing learners to be afforded an opportunity to do their examinations.

I thank you.

Madam Temporary Speaker, I have another statement---

**The Temporary Speaker** (Sen. Pareno): Order, Sen. (Dr.) Musuruve! I will allow a few comments from the Senators.

**Sen. (Dr.) Mwaura:** Thank you, Madam Temporary Speaker. I rise to support the Statement by my good sister Sen. (Dr.) Musuruve. You know the name Musuruve comes from the name Miss Reeves. It is a very interesting mispronunciation, but it was good because it ended up producing a Senator in the name of this indefatigable lady. We can call her the iron lady of disability because she is always present.

If we look at the history of the Twelfth Parliament, the third Senate, Sen. (Dr.) Musuruve will actually rank very highly among the people who have contributed. She is usually the default seconder of many Statements, Bills, Motions and whatever agenda that is put across on the floor of this House.

Madam Temporary Speaker, this Statement is very important because it looks into the idea that candidates can disappear purely because of fear around exams and I think that is not very good.

While the aetiology of their disappearance may not be known for now, it is incumbent upon the country to demystify the exams so that candidates do not look as them as death sentences, making them disappear on the eve of exams.

Madam Temporary Speaker, currently our security apparatus may have failed to locate these students as of now. This is my county in a way, because I am married from Embu. I do not know what is happening to this Embu issue, but I do not think this is a question of reportage. It could be these cases are rampant everywhere else.

We need to put in place measures to ensure that we protect our candidates when they are supposed to do exams. This speaks further to the issue of the fact that our exams are hyped a lot and people feel like if they do not do them they will go against the grain and doing a disservice to their community, especially their families.

We need to ensure that we assure our students that even if they do not do well, that is just a grading system. Those who are not as good as others can end up in polytechnics and will become useful members of the society. In any case, some of the most successful people in the society are not necessarily those who speak fluent English, or that pass all their exams. That is one facet of life. I would want to send the message to the country from the floor of this House that we need to have a system that is very conducive.

I do not know whether this would change with the advent of the Competency Based Curriculum (CBC) because it is competency and outcome based. It will help people to understand that examinations are not just when you are sitting down to write a paper.

Madam Temporary Speaker, this matter should be taken with the seriousness it deserves and the relevant Committee needs to give us an answer so that it does not become a tradition. I do not know whether this matter will be interrogated by the Committee on Education, or the one on National Security, Defence and Foreign Relations, or maybe a combination of both. These candidates, wherever they are, may appear after the exams are over and they might be in bad shape.

Several times in Nigeria, high school girls disappeared because of Boko Haram. By the time they were discovered, most of them were even pregnant. We fear, not only because of their physical security, but also in terms of their mental and other forms of statuses.

I support.

**The Temporary Speaker** (Sen. Pareno): Sen. Cherargei.

**Sen. Cherargei:** Thank you, Madam Temporary Speaker for this opportunity. I thank our very active Sen. (Dr.) Musuruve for this timely Statement. From the start, we wish all our Kenya Certificate of Secondary Education (KCSE) candidates in Nandi County and across the country all the best and good health as they tackle their exams.

I agree with Sen. (Dr.) Musuruve that there are many issues that we need to deal with at this time. The disappearance of these candidates from Embu County is unfortunate. I have seen reports indicating other areas like Kapedo and Mandera, candidates failing to take their exams because of insecurity. I also want to bring to the attention of the nation that two or three days ago, there was an attack around Kerio Valley and it was reported by the media.

As I speak, students doing KCSE in Kerio Valley continue to suffer and live in fear and intimidation. Kerio Valley in Elgeyo-Marakwet County, has suffered a lot of insecurity. A few weeks ago, a bus was attacked in the same vicinity of Kerio Valley.

I have seen the Ministry officials led by the Cabinet Secretary (CS) responding on the issues of exams cheating and irregularities. We also need the Ministry to update the country on the state of many candidates who continue to miss this important exam in their lives.

KCSE is one of the critical yardsticks when it comes to progressing to tertiary learning. It is unfortunate that there are many students who are not doing their exams in Embu, Mandera, Kapedo, Kerio Valley and across the country because of insecurity issues. Therefore, the Ministry of Education should first update the nation on all the learners that have missed their exams because of insecurity and other issues. As they update us on the KCSE, the CS and his Principal Secretary (PS) for education should tell us the number of students registered for national exams and how many are missing. Is it because of insecurity, early pregnancies or other family matters so that we become aware?

Madam Temporary Speaker, we know the importance of KCSE for transitioning to higher learning. Is there should a possibility of the Kenya National Examination Council (KNEC) creating and give them another opportunity to do those exams? Can those students be traced? Can the chiefs and national Government officers be used to trace them and allow them to sit them for exams again, especially in areas like Kerio Valley, Mandera and Embu that are suffering insecurity?

I support.

**The Senate Majority Leader** (Sen. Poghiso): Madam Temporary Speaker, I take this opportunity to congratulate and support our sister Sen. (Dr.) Musuruve for being active in her participation in legislative affairs. I wish and hope that the people she wants to represent are watching and are weighing in on what she can do.

This is an interesting and serious matter. The only problem I have with the Statement is the use of the word ‘disappearance.’ This is because it may create the impression that something such as some kind of rapture is happening to our children. They have just failed present themselves to do the exams. What are the circumstances? So, those are the things we need to think about. The chiefs, teachers and parents in those areas should be able to explain what is happening to our children. Early pregnancies do not stop people from sitting for exams. What are these issues that are stopping children from doing exams?

It is important for me to use this opportunity to wish all our KCSE candidates success, especially those in West Pokot County whom I represent here and those across the country. They need to understand that exams are not a matter of life and death. For example, there are people who are trying to help children cheat in exams. We should condemn these people who want to make our children thieves so early. They are the ones giving the impression that if you do not pass exams the way you are meant to, then you can have a shortcut to passing exams. Such people need to be condemned in the strongest terms possible.

Let our children work hard. Let them understand the subject matter as they go to exams. Let them have the confidence because they have been prepared to do exams and that they can pass.

I do congratulate Sen. (Dr.) Musuruve and also tell her to continue pursuing this issue. It may help us in future to know what are the reasons causing candidates to miss exams or preventing them from reporting to the examination centres.

I support.

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Ali.

**Sen. (Dr.) Ali:** Thank you, Madam Temporary Speaker. I wish to congratulate my Vice Chairperson, Sen. (Dr.) Musuruve for a job well done. When you look at this Statement, she is doing the work that supposed to be done by the Ministry of Education.

She has researched to the level where she knows how many students were missing from Embu and Mandera counties, Kapedo in West Pokot County and many other parts of this country.

This is a very serious issue and the Ministry of Education should be ashamed and come out strongly to tell us what really happened in these areas. The Ministry keeps on telling us that some students disappeared because their houses were razed down to the ground, lacked school fees and so on. There are chiefs in every location. These chiefs should be aware of what is happening, especially to primary school children because this is where students begin their life.

If there are clashes and people have a problem, then those candidates be taken to another location, sub-location or school where they can sit for these exams. If the county administration and the Ministry of Education work together, many of these issues can be resolved.

Madam Temporary Speaker, I hope the Committee will look into this issue seriously and come up with answers. We want answers which will give us more insight into the background than what Sen. (Dr.) Musuruve did. If they cannot do as much as she has done, then I do not know why they should be in those posh offices.

Thank you, Sen. (Dr.) Musuruve for the job well done.

**The Temporary Speaker** (Sen. Pareno): Sen. Musuruve, you can proceed with the next Statement.

#### LACK OF IMPORTANT ROAD SIGNAGE

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker. I rise pursuant to Standing Order 48(1) to seek a Statement from the Standing Committee on Roads and Transportation regarding the danger posed by the lack of important road signage on most Kenyan roads such as the Webuye-Kakamega Road.

In the Statement, the Committee should-

(1) State reasons for lack of important or salient road signs such as marked bumps and rumble strips along most Kenyan roads particularly Ngong' and Webuye-Kakamega Road.

(2) Outline reasons for lack of pedestrian walkways and pedestrian crossing points on these roads. This has led to numerous road accidents and loss of lives.

(3) State measures, if any, that the relevant Ministry and road agencies have put in place to ensure the safety of all road users on these roads.

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Ali, please, proceed.

**Sen. (Dr.) Ali:** Thank you, Madam Temporary Speaker. This is also a very serious issue. Roads in this country nowadays lack signs. Some roads have many corners and bends. I do not know how Kenyan roads outside the major cities are done. Newly constructed roads follow a funny route like a camel path. Instead of creating a straight path, you go to the right, then to the left then back to the right. I do not know what is wrong with engineers in this country.

Apart from that, road signage on recently tarmacked roads in this country disappear quite fast. Instead of harassing *matatu* operators and other road users, the police should look into these issues and deal with these people who vandalise road signage.

Some of contractors do not even do the job they are supposed to do. I do not know what is wrong with the Kenya Roads Board (KRB), Kenya National Highways Authority (KeNHA), Kenya Urban Roads Authority (KURA). They have officers all over the country, but nobody gets arrested for vandalism of road signage. It is very dangerous when you are driving fast, then you suddenly realise there is a corner and yet there is no signage anywhere.

Some areas have too many bumps while others have wildlife or even domestic animals in the case of nomadic areas, but there are no bumps. These are issues which should be looked into by the relevant Committee.

**The Temporary Speaker** (Sen. Pareno): Senate Majority Leader, Sen. Poghisio, proceed.

**The Senate Majority Leader** (Sen. Poghisio): Madam Temporary Speaker, this is an important Statement. I hope that the Committee which will respond to this will take this matter very seriously. I thank and congratulate my colleague, Sen. (Dr.) Musuruve for being attentive to this particular issue.

This is a whole range of issues with our road signage that should guide us to reach places. Sometimes you look for a place that you want to go and you cannot find it. Sometimes a new road bump is erected, but you do not know about it because there is no signage. Sometimes, just knowing who has the right of way is not clear. There are many black spots that are created because of lack of signage.

We have heard that there are people who vandalise signages, bridges and infrastructure. Already, scrap metal dealers have already been communicated to and I hope there will be order in that sector.

Madam Temporary Speaker, it is important that we take cue from other countries. You have travelled this world and you find that big signages. Signages are important and we should be able to see them from far. If you are travelling and you are looking for a place, those signages can direct you. I see a few of them in our country today, but they are not enough.

This kind of Statement must be urgent and should also be given due attention, so that those charged with responsibility of the signages and clearly marking our roads, take this issue seriously.

I congratulate and support her Statement. Keep doing what you do well.

**The Temporary Speaker** (Sen. Pareno): Sen. Faki, proceed.



## NON-PAYMENT OF SALARIES FOR KPC STAFF

**Sen. Faki:** Asante Bi. Spika wa Muda kwa kunipa fursa hii kuleta Hoja ya nidhamu.

Mwaka jana, tulileta Taarifa hapa kuhusiana na kutolipwa mishahara kwa wafanyikazi wa Shirika la Posta la Kenya. Taarifa hiyo ilipelekwa kwa Kamati ya Habari, Teknolojia na Mawasiliano. Baadaye, walileta taarifa hapa iliyosema mishahara imelipwa.

Hata hivyo, jambo hili limekuwa likirudiwa kila mara. Ninapozungumza hapa leo, miezi mitatu imepita sasa tangu wafanyikazi wote wa Shirika la Posta la Kenya hawajalipwa mishahara. Ni jambo la aibu tena la kusikitisha, kwamba Shirika kama hili ambalo lilikuwa na nguvu na uwezo hapo nyuma, sasa linawadhhalisha na kuwatesa wafanyikazi wake. Sasa hawawezi kumudu maisha..

Bi. Spika wa Muda, ninaomba Kamati hii irudie swala hili. Iwapo swala hili limekuwa shida kwa Kamati ya Habari, Teknolojia na Mawasiliano, basi lipelekwe kwa Kamati ya Kazi na Ustawi wa Jamii ili waliingilie kwa makini zaidi. Kamati ya Kazi na Ustawi wa Jamii ina uzoefu wa mambo ya mishahara na haki za wafanyajikazi.

Bi. Spika wa Muda, ilikuwa ni wakati wa homa ya korona ambapo walisema kuwa hawakuweza kufanya kazi vizuri. Homa ya korona imepungua hadi sasa haizungumziwi. Watu wanazungumzia maswala ya Urusi na Ukraine. Kwa hivyo, hili swala lazima tuli---

**The Temporary Speaker** (Sen. Pareno): Order, Sen. Faki! Labda utueleze ni nini kilichokuwa nje ya sheria zetu za Bunge kwa sababu umeinuka kwa hoja ya nidhamu.

**Sen. Faki:** Bi. Spika wa Muda, ni swala la kitaifa kwa sababu kwa miezi mitatu, wafanyikazi hawajalipwa. Shirika ninalozungumzia hapa ni la Kiserikali wala sio la mtu binafsi. Kwa hivyo, lazima Serikali ijue na itueleze kwa nini wafanyikazi hao hawajalipwa.

**The Temporary Speaker** (Sen Pareno): Kwa sababu ulieleza ya kwamba Kamati ya Mawasiliano na Teknolojia ilikuwa inaangazia mambo haya, nitaamrisha Mwenyekiti wa Kamati hiyo, atushauri alipofikisha uchunguzi wa mambo hayo ya kutolipa mishahara kwa wafanya kazi wa shirikal hilo.

Hon. Senators, for the convenience of the business of the Senate this afternoon, we will rearrange the Order Paper, so that we start with Order No. 16 on the Division of Revenue Bill (National Assembly Bills No. 8 of 2022).

**BILL***Second Reading*THE DIVISION OF REVENUE BILL  
(NATIONAL ASSEMBLY BILLS NO.8 OF 2022)

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**The Senate Majority Leader** (Sen. Poghisio): Madam Temporary Speaker, you may have to find out why the House has moved to a corner.

We have ---

*(An hon. Senator spoke off record)*

*(Laughter)*

**The Temporary Speaker** (Sen Pareno): Order, Senators!

**The Senate Majority Leader** (Sen. Poghisio): Madam Temporary Speaker, I beg to move that the Division of Revenue Bill (National Assembly Bills No. 8 of 2022), be now read a Second Time.

As a way of explaining the journey of this Bill; it was published on 25<sup>th</sup> February, 2022, passed by the National Assembly on 3<sup>rd</sup> March, 2022 and thereafter, it was referred to the Senate on the same day.

The Bill seeks to provide for the equitable division of revenue raised nationally, between the national and county levels of governments, for the Financial Year 2022/2023 and connected purposes in accordance with Article 203(2) of our Constitution.

Madam Temporary Speaker, in compliance with Article 218(2) of the Constitution of Kenya, as read together with the Public Finance Management Act, 2012; Standing Order No. 181(1) provides for the Division of Revenue Bill to be presented at least two months before the end of the financial year.

Further, pursuant to Standing Order No.181(3), the Senate is required to consider the Bill not later than 14 days after the Bill is introduced. I, therefore, cannot over-emphasize the importance of this Bill and that we consider and pass it expeditiously.

Madam Temporary Speaker, the division of revenue proposed in this Bill is based on the third basis for allocation of the share of national revenue among county governments, in light of Article 217 of the Constitution.

The Financial Year 2022/2023 budget has been formulated at the time of COVID-19 pandemic when there is still uncertainty of meeting resource mobilization targets due to the economic impact of the pandemic, hence the Bill envisages that it is imperative not to increase the County Equitable Share amidst economic uncertainty.

Additionally, the Bill has taken into account concerns regarding national debts by proposing government spending ceilings, for both levels of governments in order to lower fiscal deficits and slow down debt accumulation.

Madam Temporary Speaker, the Bill also addresses national concerns such as the public debt and other obligations as well as the needs of the disadvantaged groups and areas in line with Article 203(1) of our Constitution.

Madam Temporary Speaker, in concluding, specifically, this is a summary-

(1) The total shareable revenue of the Financial Year 2022/2023 is estimated at Kshs2 trillion. Out of this, the national Government has proposed a revenue allocation of Kshs1.7 trillion, county equitable share of Kshs370 billion and the Equalization Fund of Kshs7.068 billion.

(2) The Bill proposes an additional Kshs5.6 billion to be financed from the national Government share of revenue to the county government, comprising of Kshs5.2

billion for leasing of medical equipment and Kshs454 million to supplement construction of county headquarters.

(3) The Bill also proposes an upward revision of consolidated fund services for the Financial Year 2022/2023 budget, to Kshs46.9 billion, in order to retain a deficit at the 2021 Budget Policy Statement (BPS) level, while the national Government ceiling has already been revised downwards by Kshs15 billion, while maintain the county equitable share at the same level.

Madam Temporary Speaker, I wish to state that the Division of Revenue Bill, 2022, is a very important Bill. It is time bound. It contributes immensely to the achievement of our national policy objectives through the share of national revenue among our county governments. This is the whole purpose of devolution being at the centre of governance in this country.

I, therefore, urge all Senators to pass this expeditiously and to support it.

Madam Temporary Speaker, with those few remarks, I beg to move and ask the Senate Minority Leader, Sen. Orengo, to Second.

I thank you.

**The Senate Minority Leader** (Sen. Orengo): Thank you, Madam Temporary Speaker. I rise to second this Bill.

As already been set out clearly, in the speech by the Senate Majority Leader, this is a very important Bill that is predicated in Article 218 of the Constitution. However, more importantly, whenever this Bill comes for consideration in the Senate, it is the Bill that all Senators should scrutinize and ensure that the counties are getting their fair equitable share from the revenue collected by the Government in any financial year. That is for the purposes of meeting one of the most important obligations of the Constitution in regards to the principles and objectives of devolution.

In my estimation and considered opinion, one of the most important features of our Constitution that departed from the old Constitution, apart from the Bill of Rights and the code on leadership and integrity, the chapter dealing with devolution is probably the single most important innovation in our Constitution. Devolution would not mean much or may not be consequential if the counties were not to get their fair share of revenue as stipulated by the Constitution.

Although on the face of it, this Bill seems to abide by the constitutional requirements, but in my view, counties are still not getting quite what they deserve. This is partly because of the constitutional arrangement that makes it possible for the national Government to remit less to counties on the basis of the last audited accounts as required under the Constitution or simply on the basis of other national considerations that takes precedence over the sharable revenue.

One of them is the issue of debt. As long as the national Government has a huge debt portfolio, the counties will not get their fair share in terms of resources which are collected by the national Government. We know that the Government does not get into debt for no good reason. It gets into debt because there is need, for instance, if there are financial shortfalls, major capital works or needs that require financial allocations. If the debt burden is huge, it means there is less money to go around to the counties.

As we move forward, I urge very strongly the Government to continue looking at the debt portfolio and to ensure we do not fall into debt and therefore, into competition with revenue that is available cheaply to entrepreneurs and Kenyans, generally. The Government should also compete with money available in the financial markets, with ordinary business people and Kenyans to the extent that banks would choose to lend their money to the national Government as opposed to making affordable financial allocations and meeting financial requirements of the ordinary businessman and citizen.

Debt continues to be a major problem in this country. President Kibaki used to repeat time and again that a government does well when it does not borrow. When the Government borrows too much, the person who bears that burden is the taxpayer. At the same time, I appreciate that the country cannot also be at a standstill. There are infrastructure developments happening in the country at the moment that have to be done at some point in time.

For Nairobi to be a hub like Dubai, Ankara in Turkey or Singapore, there has to be infrastructure. A lot of these nations that are so-called “tigers” are becoming hubs in the communication and transport systems that go across borders. For Kenya to be part of that hub, there are major developments that the country must undertake in competition with the other nations that are around us

Rwanda is a small nation but it may overtake us. By some miracle because of the problems in Ethiopia, we have a great opportunity if at all that commitment in making Nairobi a hub continues. That can only happen if the communication and transport sectors and also the banking services meet the world standards. I think there is something good happening in that direction.

Infrastructure is important. One does not want to live in a country in which-when you want to do business and want to get the next plane out, you are stuck in traffic for four to five hours. What is happening along Mombasa Road in terms of the expressway is a major development. Countries that have undertaken such major developments had to look for money somewhere in order to fund such significant projects.

The issue of infrastructure started with the Grand Coalition Government and has continued to be a theme since then. If there is anything that the Jubilee Government can take home is within the area of infrastructure where they have done extremely well but at great expense. We have to pay for it. I dare say some of it is happening more efficiently in the last four years than in the first five years.

*(Laughter)*

The reason why it is happening is not a laughing matter. It is an issue that demonstrates that when a government is functioning, I said it here a long time ago in the last Senate, that there was dysfunction within the Jubilee Government and the people did not take that seriously. A lot of friends who sat across were not taking those words seriously yet we could see that the dysfunctional government was making it impossible for the Government to undertake major economic activities in all sectors.

I am not saying that we do not have any problems, but a lot of progress has been made in the last three years. Prices of essential commodities are going up and that needs

to be looked at. We cannot run away from that because people must have food and shelter. Overall, if you look at what has happened in the last three years, it has made it possible for this Government to make some kind of achievements in a climate or environment of peace.

I hope that the debt incurred by the Government in making it possible for us to have appropriate infrastructure will be paid back. One of the projects that is underway is to make sure that there is a dual carriageway from Nairobi up to Nakuru and beyond. I hope that goes on up to Kisumu and Malaba.

My friend from Nandi County will find it easier to go to Nandi if we have a dual carriageway between Nairobi, Nakuru, Eldoret and Malaba. These things do not just happen. They require planning and happily, we can say without fear of contradiction that some of the things that are happening during the Jubilee Government - the good ones - were planned during the Grand Coalition Government but they wasted five years thinking about 2022. Now that 2022 has come, we can see the panic that is driving some people crazy.

Madam Temporary Speaker, if you look at the allocation of resources that are going to the counties, in terms of the constitutional requirements, it is commendable because it is 26.17 percent of the revenue raised nationally. This percentage is of the last audited accounts for financial year, 2017/2018. What about if there was financial years 2018 /2019, 2019 /2020 or 2021/2022?

Without even talking about the amount that is going to the counties Kshs370 billion; in my estimation the counties should be getting close to Kshs600 billion. Just imagine a good percentage of that going to West Pokot County. You can provide a lot of essential services particularly if the budgeting and procurement process is done right. There are statutory requirements under the Public Finance Management (PFM) Act on the amount of money that can be used for development and recurrent expenditure.

The counties would be in a stable financial situation if governors also managed those funds properly. We must also take some of the blame because Parliament, particularly the National Assembly, is required to play a role.

We need to put more pressure to ensure that we either go by the current or accounts of the last financial year. If it has to be the last audited accounts, then the Office of the Auditor-General (OAG) and relevant parliamentary committees must make sure that Parliament does not delay auditing of public accounts for more than two financial years. This is because, as you can see quite clearly, there has been a delay in auditing the accounts of the past four financial years, which then puts the counties at a disadvantage. Instead of getting more money, they are getting less.

Having said that, if the counties are getting less, then it means the national Government gets more. With those extra resources they have, if used prudently or if on its own volition, the Government made a choice of making these funds available to the counties, we would have not just governance units but strong devolved economies in terms of counties.

Having talked about the issue of public debt and the disadvantages of delaying auditing of public accounts, the other thing I would like to briefly talk about is the

Judiciary. The Judiciary, love or hate it, need resources because they play a very critical role.

Many of the cases that go to court are disputes between citizens. Some of them are commercial disputes as opposed to issues relating to administration or constitutional rights or even the public law sector like criminal law. In order to make an economy function properly, you need a dispute resolution system that works efficiently.

Without the Judiciary getting sufficient funds, you can see what they are getting as a percentage of money that is available to the national Government. That is not good enough. We want a system of courts that is devolved not only to the sub counties but even to smaller units, so that dispute resolution processes and mechanisms are also adequately devolved.

Madam Temporary Speaker, this then brings me to the point that, looking into the future, which will be with us in four months, we have a team that is committed in taking more funds to the counties. They are saying that they would avail more than 35 per cent of the revenue collected nationally to the counties.

For this reason alone, I do not know why any Senator sitting here would not want to be associated with Azimio la Umoja. The big point about this Constitution, and why we are here as Senators, is to make sure that counties not only work but also get sufficient resources.

I know the Senator for Marsabit is strongly supporting Azimio la Umoja---

**Sen. Cherargei:** On a point of order.

**The Temporary Speaker** (Sen. Pareno): What is it, Sen. Cherargei?

**Sen. Cherargei:** Madam Temporary Speaker, this is a point of relevance. Is it in order for Sen. Orengo to introduce strange things on the Floor of the House? We are not discussing party manifesto on the Floor of the House. If we are to do that, then you will have to allow Members of Kenya Kwanza to also share our manifesto.

The point is on the issue of relevance. We are discussing a very important matter that does not involve Azimio la Umoja or Kenya Kwanza. This is about devolution. I know he might want to get the Orange Democratic Movement (ODM) ticket for Siaya County but I do not think this is the right platform to do that.

**The Temporary Speaker** (Sen. Pareno): Sen. Orengo, you may continue.

**The Senate Minority Leader** (Sen. Orengo): Madam Temporary Speaker, Sen. Cherargei is fond of getting some time when I am speaking, so that when he goes back home to Nandi and Kapsabet, he can ask people whether they heard how he argued with Orengo and that gets him some points. I am ready to live with that.

What I am saying is in this document that we are looking at. You have a copy of this Bill stating what you will get in this financial year. Counties will get 26.17 per cent. Out there, there is a proposition that this figure should not be 26.17 per cent. They are talking about 35 per cent.

I know you were on a question of relevance. I am not talking about bottom-up but real issues that we can manage. As a Senate, we can make a decision for purposes of ensuring that that constitutional objective is met. I am making this point with all the seriousness it deserves.

Overall, on the question as to whether this Bill meets the constitutional requirements, yes, it does. This is because the minimum percentage that should go to the counties is 15 per cent. It seeks to allocate more than 10 per cent of the minimum required under the Constitution. The case I am making is that it could have been better. I therefore commend the Bill to the House.

This is the last such Bill before this Senate. Some of us will be here, some of us will not be here, but I know that the decision that we will make on 9<sup>th</sup> August this year will have an impact on the percentage that we are going to get in the next financial year. Hopefully, Sen. Poghio will still be here to move it again. I might not be here to second but I commend the Bill.

I beg to second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Pareno): Sen. Cherargei, you may have the Floor.

**Sen. Cherargei:** Madam Temporary Speaker, I rise to support this Division of Revenue Bill, 2022. This is part of our mandate as provided for under Article 218 of the Constitution of Kenya 2010. Ours is to ensure that we expeditiously process this Bill.

The total shareable revenue is Kshs2.1 trillion. The national Government will get Kshs1.7 trillion, Equalization Fund will have Kshs7 billion, while county governments equitable share will be Kshs370 billion.

I cannot be bamboozled by the percentages. The national Government will get Kshs2.1 trillion. The President admitted that we lose Kshs2 billion daily. I would have expected county governments to get at least Kshs500 billion, so that we can have meaningful developments in our counties.

We fought for the third generation formula and it was protracted until all counties had an opportunity of getting additional money. Nandi County got an additional Kshs1.6 billion through equitable shareable revenue. It is sad that as the national budget increases, it is approaching more than Kshs2.1trillion and yet counties are still stuck on Kshs370 billion.

There is the issue of the County Grants Bill which is at the mediation level between both Houses that will have served development partners to give more funds to counties.

Madam Temporary Speaker, in as much as this amount of Kshs370 billion looks very nice to some people but I believe the numbers are more critical. In future, this amount of Kshs370 billion is not enough for our counties. We need a minimum of Kshs500 billion. The challenge should be on how to fast track latest audited accounts so that counties can get what they deserve. In fact, most of these functions that have been devolved are more critical and are things that touch *mwananchi* more directly.

When we talk of that feeder road somewhere in Kajiado, it so personal to that person that is using it before you get to the main tarmac road. It is so personal before you come to that expressway here in Nairobi.

When you talk about a dispensary lacking medicine, somewhere in Mombasa in Tindiret Sub County it is very critical. When you talk about a child in Cheptewrai

missing school because of not getting county bursary it is so critical. So, we should be investing more.

Madam Temporary Speaker, that is what we meant when we talked about the bottom-up economy, where we need to build more on the lowest level as opposed to the highest level where we propose trickle down.

This is the assurance that some of us in our formations believe that we should allocate more resources to counties. When you talk about health, you need that Universal Health Coverage at the lowest level. Access to NHIF, access to good roads and feeder roads that are developed at the village level, dispensaries, county bursaries, access to water; all these have continued to become a challenge.

Many people are sick in our villages where we come from. This is a period when all of us are active. I was in Aldai Sub County somewhere in Terik Ward and Kemeloi/Maraba Ward and their main challenge is access to water and you know water is a basic need.

So, if we do not increase funds to our counties that access to water in Kajiado County where you come from will continue to be a problem. We must increase funds. I do not know why we would want a national Government that has more funds than our counties.

The biggest challenge that we face as a country is threefold. One is public debt. Looking at the revenue that has gone down because of the pandemic, I have seen they have tried to reduce it to around Kshs930 billion. We need to check public debt because the more public debt continues to increase where it is now more than Kshs670 trillion, the more it will continue to affect revenue sharing.

The priority number one is that the standing charge that will always be there will always be about public debt. Therefore, the public debt that we are having continues to eat into the revenue. You know revenue is not doing very well.

My only concern is how we ensure that we harmonise our own-source revenues. Counties have a problem with own source revenue. They need to tighten the issue of their own cess, rents and rates. You will find that some counties like Mombasa County which used to have municipal houses, the rent they are charging is still low.

In counties that have municipalities like Eldoret, you find somebody is still living in a house and paying rent of Ksh1,500. I am not saying that it should be increased but the county should be more innovative to increase their own portfolio on own-source revenue. Public debt continues to be a threat to the success of devolution because the argument is that this is something that we must pay.

Corruption and abuse of resources is also another factor that continues to affect us. One of the biggest single cancerous threats to the success of devolution continues to be corruption. The more larceny and graft continues to bedevil our devolved units, it continues to be a threat.

Therefore, the county assemblies and the Senate should tighten the oversight role by ensuring that the governors do not in any way infiltrate into corruption that we are facing. For example, a few years ago, there was a mega scandal in Nandi County where Early Childhood Development (ECD) cement and around Kshs200 million was lost, tyres and many other things were lost, and 18 county government officers are in court over



allegations of corruption. I have seen it has been reported in some of the dailies today that a number of governors are under active investigation of corruption.

Madam Temporary Speaker, the more this continues, it is a threat. We are aware that all these governors wherever they are in the formations they are in; they continue to be a threat to corruption. That incompetency continues to affect service delivery. That is why going forward, and as the fourth Senate is inaugurated in the next few months; we must agree as a Senate and the future Senate that we must have a county oversight mechanism.

How do Senators do oversight? Although we get audit reports, we need to do what is called forensic audit and social audit where the Senator goes and visits a cattle dip or a dispensary in the wards.

Where are the mechanisms that ensure that this House does not only push for resources? Can we ensure that the money we are pushing to be added to Kilifi County for example, where Sen. Madzayo comes from is accounted for?

Is there ECD? Was it used in the correct way? In Nandi County they are calling it ECC centres and are using up to Kshs2 million. When you look at the ECD that are done by the Ministry of Education are doing them at Kshs800,000.

That is why in the next Senate we must agree on the tools of county oversight mechanisms. Do we need to create county senate audit team at the level of each Senator? Do we need to create social audit where the Senator is given an auditor and a project manager to check the project status of the county and visit those areas? These are hard questions.

*Wananchi* will tell when you are campaigning this season, thank you Senator for pushing for more resources but we did not see the money. They will ask you, what did you do about it?

I think that is also the same challenge you are also facing in Kajiado County. They will say Senators you are doing a good job, you have added resources but they will tell you there is no road and water. I saw that a bridge collapsed in your county. It means there was poor work that was done.

Madam Temporary Speaker, I know that you and your governor are on the same page in terms of national political formation but the bridge collapsed barely after being launched. How do we put in place mechanisms that ensure there is value for money? How do we put in place the social audit mechanisms? How do we use community mobilisers or community committees?

In the future, the Senate we must agree that we come up with a community committee oversight teams where the Senators will ensure that in every village--- Just the same way governors have village administrators, we can also have committees in the community that assist in the oversight of the funds that we devolve.

The issue of corruption continues to be a threat. In the interest of time and to allow my colleagues to contribute, another threat that continues to bedevil this country - and I can see no one wants to discuss about this in either of our formations - is the issue of claw back. For example, the Ministry of Health has ensured that it must sanction any donation, grants and conditional grants that go to the counties. I have seen and I am shocked because we are on record in this same House as saying that medical leasing

equipment was a public rip-off. It is a report that was presented before this House by Sen. Dullo's Committee. They said at that time that the issue of medical equipment, supplies and leasing to counties was a money rip-off by the counties.

I can see they have an added Kshs7 billion in this proposal.

I do not know, as the Senate, what we can do. I know we might end up going to mediation. I do not think we can go against our word as the Senate. We agreed here that this was a public rip off but, again, we want to pass another Kshs7 billion that goes to the Medical Equipment Leasing Scheme.

Counties have complained that some of these things that we are leasing like gloves, reagents, Intensive Care Unit (ICU) beds and oxygen plants are things that can be purchased one off by counties. County governments should be allowed to buy even diagnostic machines and dialysis machines. They do not need to lease them.

Putting additional money to medical leasing again; allocating Kshs7billion continues to be a threat and abet the corruption. We must relook at these issue of medical equipment supply because counties almost 10 years down the line are yet to realize---

When you go to these hospitals that have received leased medical equipment, they are in a pathetic state. I read an item on Kajiado County Referral Hospital in one of the media houses. It is in a pathetic state same to Kapsabet County Referral Hospital. People even buy Panadol and gloves. Doctors cannot do anything because of Corona Virus Disease (COVID-19) and many others. You need to go buy gloves in Kapsabet Town, bring it to Kapsabet County Referral Hospital so that the doctor can serve you.

When we talk about counties leasing equipment, I disagree that it should not be added here. I hope that when it goes to mediation, it will be important.

There was the issue of subsidies. I have seen in the items that we have is the fertilizer subsidy. They have indicated National Irrigation and Fertilizer Clearance. I do not know what that means. For us and even in Narok, we are in a planting season. It is sad that a bag of DAP fertilizer that was retailing the other day at Kshs2,500, goes for Kshs7,000. Our farmers in Nandi, Uasin Gishu, Elgeyo Marakwet, Narok and many other parts including Kilifi have to buy fertilizer at Kshs7,000. It is very expensive.

I want to warn the country that if our farmers in the North Rift and in Nandi do not farm, there will be hunger. I am told that 3.5 million Kenyans as today are facing a crisis of hunger. If there will be no food in this country, Kenyans will go hungry and it will be a threat to the national security. The issue of National Fertilizer Subsidy Programme must be reinstated as soon as possible so the we buy fertilizer at Kshs2,500 as opposed to Kshs7,000.

Unfortunately, Sen. Orenge has left early. He was alluding that since the Government after "handshake" things have become better. For me, things have become worse. How can you explain to Kenyans- my farmers -that under the handshake of His Excellence President Uhuru Kenyatta and Rt. hon. Raila Odinga, we are buying a 50-kilogram DAP bag at Kshs7,000 but during the first term of the Jubilee Government, we were buying it at Kshs2,500? The cost of living has gone up, and you cannot tell us that because of---

I heard a very lame excuse and I laughed to myself because it was funny. That you know the reason we have fuel going up and the cost of living is because there is fight

in Ukraine and Russia. These are the same people who are telling us if we take the government, we will bring the cost of living down and yet they are now in government. What will they---

**The Temporary Speaker** (Sen. Pareno): Order, Sen. Cherargei. There is an intervention by Sen. Olekina.

**Sen. Olekina:** Madam Temporary Speaker, is the distinguished Senator from Nandi in order to mislead the world - not only Kenya - that the price of fuel is not going up because of the war in Ukraine but because of a “handshake”? The distinguished Senator should substantiate his claim because the last I checked, Kenya does not produce enough oil to be refined and sold locally in this country.

I know it is a political season, *mwenye nguvu nipishe* or propagandist *nipishe* but as a distinguished Senators, we should remain relevant. We are discussing the issue of division of revenue to our counties. Let us be clear.

I would like to request you for the distinguished Senator to substantiate his claim that the war in Ukraine or Russia where the entire world is facing all these problems we are facing that is one which is causing the rising cost of products. Even the cost of wheat, where we import a lot from Ukraine and Russia is going to go up. That is not because of the “hand shake”.

**The Temporary Speaker** (Sen. Pareno): Sen. Cherargei

**Sen. Cherargei:** Madam Temporary Speaker, I wish Sen. Olekina was here early enough because the Senate Majority Leader made serious comments on the Floor of the House about the performance. I know he was listening but he just wants to play to the gallery because we were being told the other day that the cost of fertilizer---

I am a farmer and I represent farmers. It is a fact because majority of my voters are farmers just like in Narok where he comes from. We believe that it is under the “hand shake” government that fertilizer has gone to Kshs7,000. They are promising us that if they take government---

**The Temporary Speaker** (Sen. Pareno): Order, Sen. Cherargei.

**The Temporary Speaker** (Sen. Pareno): Order, Sen. Cherargei. There is a point of order by Sen. Madzayo.

**Sen. Madzayo:** Bi Speaker wa Muda, Seneta wa Nandi, Sen. Cherargei, ni mtu ambaye yuko karibu sana na mimi, lakini naona anavyosema kwamba bidhaa zile za *fertilizer* zimeenda juu wakati wa “*handshake*”. Nataka kumweleza ya kwamba “*hand shake*” ilikuja baadaye.

Hata mtu akitaka kupata mtoto, mama akishika mimba, inachukua miezi tisa ndipo azae. Kwa hivyo, sisi tukiingia wakati wa “*hand shake*”, ile mimba ya ule ubaya ilikuwa iko tayari.

(*Laughter*)

Asiseme saa hizi. Sisi tumekuja tukaipata juu tu. Asiseme kwamba, *fertilizer* imeenda juu baada ya watu kufanya “*hand shake*”. *Fertilizer* bei yake ilikuwa juu wakati uleule wakiwa wao wakiharibu serikali wakati ule wa miaka minne ya kwanza.

**The Temporary Speaker** (Sen. Pareno): Sen. Cherargei, please conclude.

**Sen. Cherargei:** Madam Temporary Speaker, nitamjibu kwa Kiswahili. Amesema ya kwamba hawakuwa wametunga mimba wenyewe. Walipata kama mimba iko ndani. Nafikiri---

**The Temporary Speaker (Sen. Pareno):** You are out of order, Sen. Cherargei. You cannot shift from English to Kiswahili. You stick to the language that you started with.

**Sen. Cherargei:** Okay, my apologies. What I am saying in a nutshell is that the cost of living and everything--- I want Kenyans to know this because I heard that there is a proposal of increasing to 40 percent. Us, we are pushing for “bottom up” where we invest more on that level.

What I am saying in an upshot is that let us stop this playing to the gallery. The cost of living, the cost of fertilizer has gone up. Whether the Senate Deputy Minority Leader or Senator for Narok likes it or not, they are in Government. They should intervene now. There will be no magic that they will do and yet they have reins of government as we talk.

I was just concluding on the issue of national irrigation and fertilizer clearance. I appeal to the Government that if our farmers do not go to plant, we will not produce; the country will be faced with hunger and it will be an issue of national security.

Finally, on the issue of Equalization Fund, I have seen they have allocated around Kshs7 billion. We need to operationalize it.

Madam Temporary Speaker, in Nandi County, Tinderet and Nandi Hills sub-counties continue to be the biggest beneficiaries of this equalisation fund.

We know the aim of this fund under Article 204 of the Constitution. That was my argument during the debate on the Third Generation Revenue Sharing Formula. If we operationalised the equalisation fund, counties in the North Eastern region and many others that face problems due to marginalisation, will be at a better place. According to statistics of the Poverty Index, poverty is much more in Western and Northern Kenya.

We should ensure that we operationalise this Fund and ensure this Kshs7 billion is used. This money is more targeted to hospitals and schools as was envisaged under Article 204.

On this note, I thank my colleagues. During the Third Generation Revenue Sharing Formula, I served with my colleague, Sen. Madzayo. The Committee that you formed then to resolve the stalemate and impasse did very well. Sen. Olekina was also a Member of that Committee and it was out of our consensus that we brought this. I assure that Kenya Kwanza will ensure that this devolution works for the betterment of every one of us.

**The Temporary Speaker (Sen. Pareno):** Let us now listen to Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for this opportunity to support the Division of Revenue Bill, 2020/2023. This Bill clearly states that there is equitable division of revenue between the National and county governments. This is key for the purpose of ensuring service delivery to everyone in this country. People live in counties and that is where people need service delivery.

In the proposition of this Bill, the national Government is supposed to look for mechanisms of raising revenue. However, if there is any shortfall, then it should not be borne by county governments. This is a plus because it will ensure that the national Government is really looking for ways and means of ensuring that there is money that will eventually go to counties. This is because when it comes to real service delivery to wananchi, it is actually in the money that goes to county governments.

Madam Temporary Speaker, I commend the author of this Bill because in the past years, the country has really been hit hard by COVID-19 Pandemic. So, even raising Kshs370 billion to go counties will be no mean effort. With the impact of COVID-19, it is s expected that there is no money and only a little money will be in circulation to go the counties.

However, Kshs370 billion is well-meaning especially with the parameters that have been put into consideration. The parameters in Article 203 of the Constitution come in handy, when it comes to, for example, issues of national interest like school fees. Education is core and no country can fail to invest a substantial amount of money in education.

Article 203(d) of the Constitution comes out clearly, that the parameters of the functions of county governments need to be factored in. Additionally, the Fourth Schedule of the Constitution gives about 14 functions of county governments. That means that county governments must have money in order to function independently as stipulated by the Constitution.

One example of functions of county governments is Early Childhood Development Education (ECDE). The Committee on Education has been going round the counties looking at the status of ECDE centres. In some counties, the status is really pathetic. So, allocation of money to counties especially to education is important in order to ensure that ECDE and technical colleges are functioning in the counties is very important.

ECDE centres are in pathetic situation in some counties. Some of them do not have ablution blocks or water. Water is important. Article 43 is very clear that clean water must be availed to everyone. Clean water should reach everyone. With ample amount of monies, counties can look for ways of harvesting water.

Very soon, we will have a lot of rain. Much of the rain water will be wasted because most counties do not prepare in advance on how to make use of this natural resource, so that it can be used later on.

Madam Temporary Speaker, it is in good breath for this money to go in equal measure from the national Government to the county governments equitably. That way, county governments will be able to do what they need to do.

I also want to state that constitutionally, counties too have a leeway to look for ways of raising money. If they raise their own money, then it will help to pay salaries and the debt of the counties will reduce.

May I also comment on a proposed low cost housing development that I have seen coming up in Kakamega County. I commend the Kakamega County Government under the leadership Hon. Oparanya. The County Government has allocated free land to

the Government for investors to build houses. This will be a financial break through for Kakamega County because they will collect land rates from the housing estates.

It is just well-meaning that county governments should be strong enough financially and look for ways of sourcing money and being independent. If county governments become independent, then it will be good for Kenyans. Kenyans will not have to travel all the way to Nairobi City County and other cities to look for employment. We have to look for ways to stop rural-urban migration in search of employment. This can happen if counties look for ways of employing the youth in order to retain them in counties.

The proposition and projection of the analysis of division of revenue that is before us is quite in order. This is because it looks at the national interests under Article 203(1)(a). In the last financial year, it was over Kshs83 billion but in the financial year 2022/2023 it comes to Kshs90 billion. This is a plus. It means that the national interest has been increase.

Looking at the public debt analysis, last year it was Kshs1.174 billion. However, it will now reduce to Kshs930 billion, which is also an improvement. Emergencies is projected to remain the same as last year. The Equalisation Fund goes higher from approximately Kshs6.825 billion to over Kshs7 billion. This means that if the Equalization Fund is used properly, then the underdeveloped areas will improve by some margin.

When you look at the balance to be shared by the two levels of government last year 2021/2022, it was Kshs7,429, but right now, the projection of the balance is Kshs547,843. Therefore, this big improvement will not have a balance as a negative. This means the surplus money can be used in other areas where there is under funding like affirmative action and other needy areas.

When you look at the balance left for the national Government, last year it was Kshs384,966 but now it will not be negative but plus Kshs172,189. If this analysis is correct, followed up to the latter and the money is not misappropriated, there will be an increase in productivity in the counties and they will be better placed.

When we look at the national interest at the moment, farmers are waiting for the rains so that they can plant. If money is taken to the counties, it is expected that county executives will ensure that farmers get subsidized fertilizers to enhance productivity. The high price of fertilizer will hit hard on the farmers. Therefore, we must agree and be alive to the fact that farmers have a big role to play in the economy.

Farmers are self-employed because it is difficult to secure employment in the country. Out of their own accord, they till their land at their own cost as they wait for the rain. It is in good faith that the prices of fertilizers go down. There should be subsidy for farmers. We have to look for ways and means of encouraging our farmers.

I support this Bill and hope that my colleagues will also support it so that it sees light at the end of the tunnel.

**Sen. Faki:** Asante Bi. Spika wa Muda kwa kunipa fursa hii kuchangia Mswada wa ugavi wa raslimali kwa kaunti zetu.

Ningependa kupongeza kwa Mswada huu kwa sababu unaongeza kiasi fulani cha pesa kwa serikali za kaunti. Inavyojulikana, kaunti zetu zinaongeza huduma katika

maeneo yao. Vilevile, miradi wanayoifanya inanza kukamilika na hivyo kuhitaji pesa nyingi kuweza kutekelezwa kila mwaka. Kwa hivyo, ongezeko la pesa italeta afueni sana kwa kaunti zetu kwa sababu pesa hizo zitasaidia pakubwa katika kurahisisha huduma.

Kuna mambo matano ningependa kugusia katika swala hili. La kwanza, kuna pesa za *Managed Equipment Services* (MES). Hapo nyuma, Kamati yetu ya Seneti iliyochunguza mradi huu ilipata kulikuwa na utepetevu mwingi katika kupeleka hivi vifaa kwenye kaunti zetu. Mpaka sasa, kuna kaunti zingine ambazo hazijaweza kutumia vifaa vile.

Uchunguzi niliofanya ni kwamba ongezeko la Kshs7 bilioni utasaidia kufunga pengo lililoko sababu kandarasi nyingi zinakamilika mwaka huu. Hakuna mipango yeyote iliyofanywa kuweza kuzifungua tena upya ili ule mradi huweze kuendelea.

Kaunti zimelipa pesa nyingi na hatima ya vifaa vile haijajulikana. Hatujui kwa mfano kama watakuja wachukue vifaa vyao maana ilikuwa ni kukodisha. Walikua wamekodisha kisheria na kama umekodisha chombo chochote kisheria, ni lazima baada ya yule muhula kuisha ukirejeshe kwa mwenyewe.

Hatujui hatima ya vile vifaa vilivyochukuliwa wakati ule. Je, vitarejeshwa kwa zile kaunti ama mwenye kuzikodisha atazichukua na kuziua sehemu zingine?

Kuna maswala ya vile vyombo ambavyo havikuweza kutumika. Kwa mfano, tulipozunguka na Kamati ya Covid-19, tulifika hospitali nyingine tukaona vifaa vinavyohitajika kutumika kama *dialysis machine* lakini hospitali haikuwa na maji ya kutosha ili kutumia vile vifaa vya *dialysis* ambavyo vinahitaji maji yaliyosafishwa kikamilifu.

Sehemu zingine zilikuwa na mashine za *X-ray* lakini hazikuweza kutumika kwa sababu hospitali au zahanati hazikuwa na umeme. Ina maana kwamba, kaunti imelipia pesa kwa muda wa miaka mitano au kumi lakini vifaa havijaweza kutumika kabisa katika sehemu zile. Zingine zilikuwa zinaharibika kidogo lakini hakukuwa na wataalamu ambao wangesaidia kurekebisha kwa haraka ili wanainchi waendeleo kupata huduma.

Jambo lingine ni kwamba tuliona hapo nyuma kwamba Baraza la Magavana walipinga kuzinduliwa upya ama kuongezwa kwa kandarasi hii. Kwa hakika walikua na sababu zao. Swala la hivi vifaa ni kaunti zinazoangalia mbele kama Mombasa, zimetumia vifaa vile na kupata pesa nyingi ambazo zimefidia zile wanazokatwa kulipia vile vifaa.

Kaunti zinazoangalia mbele zimetumia vifaa kikamilifu na kupata pesa nyingi kwa sababu zimesaidia kuleta huduma karibu na mwananchi. Ukiangalia kwa sasa, huduma za *X-ray* hazipatikani sehemu zingine kabisa. Inambidi mgonjwa kwenda na kurudi hospitalini akisubiri huduma hii.

Kaunti zinazoangalia mbele zimeweza kutumia vifaa hivi vizuri sana na kupata pesa nyingi kutokana na matumizi yao. Kaunti ambazo ziko katika fikra za nyuma zimepata hasara kwa sababu pesa zimeenda, ilhali vifaa havijatumika kisawasawa.

Iwapo tutakubaliana kwamba pesa hizi ziwekwe katika hii sheria, lazima tuwe na uhakika vile zitatumika na kuwe na mikataba maalum baina ya serikali za kaunti ili zisiletewe vifaa zisivyohitaji. Kaunti zingine zimepelekewa vifaa zisisohitaji. Ina maana kuwa pesa imetumika kwa njia isiyokuwa sawa.

Kaunti zingine bado zinasubiri Serikali kuu ilete fedha ilhali tumeona kwamba Serikali kuu pia imebanwa katika matumizi yake. Utapata kwamba mara nyingi inachelewa kupeleka pesa kwenye kaunti na hivyo kuna kuwa na misukosuko. Wafanyi kazi hawajui watapata mishahara yao lini na huduma zinadorora katika kaunti zetu.

Njia ya kutatua swala hili ni kaunti zidhibiti njia zao za kuokota kodi katika maeneo yao. Sehemu nyingi zinakusanya kodi kizamani. Utapata afisa wa kaunti anazunguka barabarani na kitabu cha risiti akikusanya fedha za kaunti. Hii imepitwa na wakati kwa sababu haijulikana kama wanarudisha pesa hizi kisawasawa. Wengine wanachapisha vitabu vyao wanapozunguka kukusanya kodi.

Hivyo basi mapato kamili ya kaunti zile hayajulikani. Ni lazima kaunti zidhibiti mapato yake kwa sababu hiyo ndio njia pekee itakayofanya wajiokoe kutokana na hili lindi la kuomba kila siku kutoka kwa Serikali kuu.

Kwa hivyo tupitisha sheria hii na kutoa muongozo wa lini pesa zitalipwa. Mara kwa mara, utapata wizara ya fedha imechelewesha malipo kwa kaunti na kusababisha huduma kudorora.

Bi. Spika wa Muda, jambo la tatu ni swala la uangalizi wa kaunti hizi. Kama alivyotangulia kusema Sen. Cherargei, Maseneta hawana jukumu lolote baada ya kupitisha sheria hii na pesa kuenda katika kaunti. Hawana jukumu lolote mpaka Mhasibu Mkuu alete ripoti katika Bunge hili kusema kwamba pesa hizi hazikutumika vizuri katika sehemu hii.

Ijapokuwa sisi tunatoka katika kaunti zile, hatuna utaalumu wa kutosha kuweza kuangalia tukasema katika ripoti zetu kwamba hii barabara imegharimu milioni mia moja au milioni ishirini kutokana na vile imetengenezwa. Swala la pesa za *evaluation and monitoring* kwa maseneta ni swala muhimu kabisa kwa sababu hiyo ndio itasaidia pakubwa kuweza kujua kama pesa zile zimetumika kikamilifu au la.

Tunaona kwamba Maseneta wengine wana kaunti kubwa ambazo huwezi kuzitembea peke yao bila ya usaidizi wa feda zaidi kutokana na hizi pesa ambazo tunazoitishwa za *evaluation and monitoring*. Kwa hivyo, hili ni swala ambalo lazima kama tunataka ugatuzi ufaulu, lazima iwe kuna nafasi ya Maseneta kupata fursa ya kutembelea miradi pamoja na maafisa wa kitaalamu na kuhakikisha kwamba kweli fedha zinatumiwa kisawasawa katika miradi. La sivyo itakuwa tunasubiri ripoti za *postmortem* baada ya mambo ishafanyika ndio tunaletewa ripoti hapa miaka minne au mitano baadaye kuja kuangalia kama pesa ilitumiwa kisawasawa au la.

Sisi Maseneta tunatumika kama wale wanaofanya uchunguzi wa *postmortem*. Yani mambo yameshafanyika miaka minne mitano ndio tunarudi kuitwa sisi kama Maseneta kuwachunguza. Hiyo haitasaidia ugatuzi kwa sababu ugatuzi inataka huduma ziweze kutolewa mwaka ule kama hazikutolewa tujuwe kwa nini hazikutolewa mwaka ule. Kusubiri miaka mitatu au minne baadaye haisaidii.

Tumeona kuwa ipo haja ya kuangalia tena zile huduma ambazo zinatolewa na kaunti zetu kwa mfano, huduma za afya. Ijapokuwa ni muhimu na ziligatuliwa lakini kuna wengi wanaosema kuwa huduma hii inafaa irejeshwe kwa serikali kuu kwa sababu wananchi bado wanapata shida katika sehemu nyingi. Migomo haimaliziki na utapata kwamba wanaohujumiwa zaidi ni wafanyikazi wa afya ambao wanaodumia wananchi moja kwa moja katika maeneo yao.



Mheshimiwa Spika, tunaona migomo kila mara. Kwa mfano, Kaunti ya Mombasa imekuwa na migomo mara kwa mara ya madaktari kwa sababu ya kucheleweshwa kulipwa kwa mshahara na malumbukizi ya madeni pamoja na zile mikato ya kisheria kama National Hospital Insurance Fund (NHIF), National Social Security Fund (NSSF) na mengineo. Hata kodi ya income tax inacheleweshwa kulipwa katika Kenya Revenue Authority (KRA) na inasababisha wananchi wengi kupata shida ya kuweza kupata mikopo au kuweza kulipwa mikopo yao ambayo wamechukuwa katika bengi na taasisi nyingine za kibinafsi.

Ipo haja ya kuweza kuangalia tena hii mfumo wa ugatuzi kuhusiana na vile ambavyo tutaweza kuviboresha kaunti zetu kwa sababu mifumo ambao uko sasa wa maendeleo na vile wa usimamizi unatoa fursa kubwa kuhakikisha kwamba mambo mengi yanafanyika katika kaunti zetu bila ya kuwa na uangalizi ya kutosha. Juzi nilibahatika na kamati yangu kuweza kuangalia kanuni ambazo zililetwa katika kamati yetu ya Mamlaka Kasimishwa kuhusiana na vile ambavyo mdhibiti Bajeti ataweza kuhakikisha kwamba kuna stakabadhi za kisawasawa ili aweze kutoa pesa zote.

Ijapokuwa tuliona zile kanuni zimeletwa kwa njia nzuri, tuliona kwamba upo unyonge mkubwa katika ofisi ya Mdhibiti Bajeti. Kwanza, ofisi ile haipati fedha za kutosha. Vile, kazi ambayo wanatakakikana kufanya ni kazi kubwa kabisa kwa sababu kuangalia kaunti arubaini na saba, kuangalia pia na serikali kuu ambayo ina wizara zaidi ya ishirini zote zina karibu kaunti na taasisi karibu sitini na saba. Ikiwa hawakupata fedha za kutosha inamaanisha kwamba matumizi ya fedha katika kaunti hizi yatakuwa bila uangalizi wa kisawasawa.

Kwa hivyo, ipo haja ya kutilia nguvu ugatuzi na uwazi katika ugawaji wa fedha katika upelekaji wa pesa katika serikali. Hii ofisi ya Mdhibiti Bajeti lazima itiliwe nguvu kwa sababu ni kitengo muhimu katika maswala ya fedha na kuleta uwazi katika usimamizi wa fedha katika serikali yetu.

Naunga mkono Mswada huu kwa kuwa ni wa mwisho kabla ya kwenda katika uchaguzi. Ningependa kuipongeza Serikali kwa kuongeza fedha hizo. Wale waliokuwa wakisema kwamba mkurupuko wa mabeo umeongezeka, mambo haya ni mbegu ambazo zilipandwa mwaka elfu mbili kumi na tatu mpaka kumi na saba na sasa ndizo zinaonesha matunda yake kwa sababu ya *Handshake* au uelewano uliofanyika baina ya Rais Kenyatta na Mhe. Raila Amolo Odinga. Umeleta utulivu katika uchumi na usalama katika nchi yetu na vile kutoa nafasi ya maendeleo kufanyika.

Nairobi Expressway iko karibu kuwa tayari. Kule Mombasa, barabara yetu ya Makupa Courseway iko tayari. Daraja pia nafikiri iko tayari. Katika muda wa miezi mitatu au minne tutakuwa na daraja mpya katika Makupa Courseway badala ya Makupa Courseway, tutakuwa daraja la Makupa. Katika sehemu nyingi tumeona barabara zikijengwa na maendeleo yameweza kusongea katika kaunti hizi.

Kwa hivyo ule uelewano baina ya Rais Kenyatta pamoja na Mhe. Raila Amolo Odinga umesaidia pakubwa kuleta utulivu ule kwa sababu yale yote ambayo serikali ya Jubilee iliahidi katika muhula wake wa kwanza kama stadium, laptop, mabwawa ambayo yalikusudiwa kujengwa kama Arror na Kimwaror hatukuyaona ijapokuwa pesa zililipwa kufadhili miradi hiyo. Maendeleo yamekuja sasa. Hii budget ya mwaka huu kuhusiana na

ugawaji ya rasilimali kwa kaunti zetu inamaanisha kwamba Serikali inaitakia kaunti hii zina ugatuzi kwa jumla heri kubwa.

Asante kwa kunipa fursa hii.

**The Temporary Speaker** (Sen. Pareno): Proceed, Sen. Olekina Ledama.

**Sen. Olekina:** Madam Temporary Speaker, thank you for the giving me an opportunity to support this timely Bill, the Division of Revenue Bill (National Assembly Bills No. 8 of 2022).

This is the sole reason I must argue while in this House. We are here to defend the interests of our counties and their governments, to ensure that we represent people who elected us and give them an opportunity to be served by their government.

I am quite proud of this Senate even though today it is quite empty. I might be the only one standing here now but the reason why I came to contribute to this Bill on the division of revenue is because of the solid work that the distinguish Senators from the entire 47 counties including the nominated senators did to ensure that counties get their money.

I am so happy that we remained adamant to force for an increase of the money which is allocated to the counties. If there is anything that we will be remembered in history and credited for, is having fought for devolution.

As I support this Bill, I am quite pleased that over a period of about 5 years, the money that has been going to counties as well as the money that has been left in the national government has steadily increased. If you compare what was allocated to counties way back in the year FY2018/2019, it was about Kshs371 billion in total. That is not the correct figure. Let me get the correct figure. Sorry, we are getting old so the font is quite small but I will get the right figure.

What makes me happy is that this and last year, we have increased revenue from Kshs327 billion to Kshs370 billion. What bothers me is that there is additional revenue, which could have been sent to the county governments in terms of conditional grants, but the money is still stuck at the National Treasury because the Senate and the National Assembly have not agreed to come up with a legislation that can support how the money is going to be distributed.

It is important for Kenyans to know - I will be specific that since devolution started, the amount of money that has been sent to the county government of Narok is around Kshs71.6 billion. Narok County has received about Kshs2.29 billion from the National Government-Constituencies Development Fund (NG-CDF) for the constituency offices. Those Funds have helped.

I hope that in the FY 2022/2023 budget, the money allocated for the youth in the Division of Revenue Bill--- Looking at and evaluating the Bill against Article 203 of the Constitution, there is about Kshs14.67 billion. Even though we do not expect everybody in this country to be treated equally, I hope there will be some form of equity.

If you look at the amount of money that has supported the youth since devolution started, the money that has gone to Narok County is only Kshs5.48 million. If this time around we are solid and have some form of equity, when you divide Kshs14.6 billion equally amongst the 47 counties, Narok residents will get at least Kshs312 million that can support the youth projects.

We keep talking about the youth being an integral part of the economy of this country. Unless we support by allocating money to allow the youth in this country to develop, then we will be failing in our work.

I know this is a tough period where everyone is fighting to be re-elected but I hope that our colleagues will not forget that unless we pass the Division of Revenue Bill, there is no way our counties will get the money. Even the next Government, which is expected to take over in the next financial year, will not be able to perform its duties.

I call upon my colleagues to come and contribute to this important Bill, so that we can get an opportunity to do the County Allocation of Revenue Bill to ensure that services are rendered to our people in the counties.

Madam Temporary Speaker, when the drafters of this Bill were allocating revenue to be shared among the two levels of government, which are national and county governments, I am quite happy that they put the repayment of our debt as a priority. They put the national loans interest of our country as a priority. The national Government will remain with about Kshs160 billion to fund most of its activities.

Of importance is that out of a budget of about Kshs2.4 trillion, about Kshs930 billion will be set aside to pay for the national debt. So, the Division of Revenue Bill is crucial. I hope that all Members will support it and follow through to ensure that their counties get money.

When we got to this Parliament, my county of Narok was receiving about Kshs4.2 billion. Because of the good work we have done by remaining adamant, Narok County will at least get Kshs8.8 billion, which is almost double the amount of money the previous Senator pushed to go to there.

When you look at the content of this Bill, it is drafted in a way that money sent to the county governments will enable them to perform their duties. However, there is a big challenge.

When you sit in the County Public Accounts and Investments Committee (CPAIC) and get a chance to go through the Auditor-General's reports, you will realise that we still have a big problem when it comes to the wage bill. This is as a result of the defunct local authorities' staff who were seconded to county governments.

When drafting the Division of Revenue Bill, I would have hoped that the Committees on Budget and Finance in the National Assembly and the Senate would have considered a onetime honorarium or rather sendoff package for the staff who are yet to reach retirement age but are rendered useless in the workforce.

In some counties, you will find the establishment is supposed to be about 10 people but they have about 200 people, where 190 of them were from the defunct local authorities and are not doing anything. Instead of allocating a lot of money to the Managed Equipment Services (MES), which has not worked, money would have been allocated to county governments to retire staff who are increasing the wage bill but not helping, so that at least counties can become efficient.

If you go to Narok County, you will find about 300 staff in the payroll but their productivity level is low because they do not qualify, even if it is in administration or any other category, because their work is not defined in the current county government

structure. We need to figure out how to solve this problem once and for all. Otherwise, it will continue being an audit query year in year out.

Another reason why I support this Bill, but it leaves a lot to be desired, is because of the issue of the Equalization Fund. I know the Constitution defines how much should be set aside for the Equalization Fund, but I hope that Kenyans who used to work in the past 10 years will be paid their money.

The Equalization Fund has been allocated Kshs7 billion to support marginalized counties. What happens to the money that is still in that Fund that has not been utilized? This is a question I hope the National Treasury will resolve once and for all.

We passed the regulations in this House and appointed people to serve in that board. I hope that this time around, Kenyans who were given tenders to build clinics, boreholes and roads in marginalized counties will be paid their money. I also hope that part of the Kshs7.068 billion, which has been reserved for the Equalization Fund, will be used to support youth initiatives and projects in marginalized communities.

It is evident that in this country, it depends on who you know for you to be given a tender in order to uplift your standards of living or your community. I hope that every institution, including the county governments where money will go to, will give priority to the youth and women, so as to narrow down on the gap between the rich and the poor.

The total shared revenue is about Kshs2.1 billion and about Kshs1.7 billion will remain with the national Government. Nevertheless, sometimes when people see those big numbers like Kshs1.7 trillion, they say that the county government should get more money. However, I think people should be alive to the fact that our debt is quite high and that the National Government carries out so many other functions that county governments do not carry.

Madam Temporary Speaker, on the issue of the evaluation of the Bill against Article 203 of the Constitution, it is important for Kenyans to know that there is money which is set aside for the interest of the security sector and to provide for assessment to the extent required by Article 203 in terms of helping the agricultural sector.

Right now, we are all crying and talking about challenges with the cost of fertilizer. I am sure the unavailability of fertilizer affects our food security. The money from the national Government, which is part of this Kshs1.7 trillion, should find its way to the farmers.

I hope that in their budget, the Ministry of Agriculture, Livestock, Fisheries and Irrigation can be able to put in a lot of resources to provide local solutions instead of us relying on the outside world.

Look at what is happening today; there is war now in Ukraine and Russia where we import a lot of wheat from and sanctions have been imposed to Russia. There is no way that this war will not affect our people. Very soon - whether we are in a political season or whether we want to agree and separate facts from fiction - the price of *unga* will go high; the price of *unga ngano* will make eating *chapati* or bread a luxury because it will become too expensive. I do hope that the Ministry of Agriculture, Livestock, Fisheries and Irrigation, when formulating its own budget, can be able to try and invest in local solutions to improve our food security.

The challenge is that all these Ministries in the national Government, like if you go to the Ministry of Devolution or the Ministry of Agriculture, Livestock, Fisheries and Irrigation; when they draft their budgets, most of the money is left here in Nairobi. That money does not go to the counties. A lot of money is used for conferences, seminars and research and development in Nairobi in boardrooms or travel abroad.

This time around, we need to now look at the amount of money that we have and more money should be sent to the devolved units so that they can be able to perform their functions. Agriculture is devolved but you will find that a lot of money is left in Nairobi.

We know of big Government parastatals like the Agricultural Development Corporation (ADC). ADC gets its money from either the Ministry of Agriculture, Livestock, Fisheries and Irrigation or some money is allocated to them to do their research and development.

However, if you follow, instead of the ADC doing the work that it is supposed to do, which is to support the local people, they end up only supporting a few individuals. There is a lot of land, which is idle that could be used to be able to produce food to support local communities.

Every year, between the months of March and April when the rains decide not to come, this country is littered with carcasses of dead animals. If we can take advantage of the flood rains and use money which we are dividing now between the two levels of government, and allocate a lot of money to agencies like ADC and plant fodder for our animals, then our pastoralists - either in Narok or northern Kenya will not suffer because they will have grass that county government will be able to acquire or to distribute to them.

We spend more money buying food yet corruption gets in the way during delivery and people do not benefit. This time around, I hope that the Ministry of Agriculture, Livestock, Fisheries and Irrigation will become a little bit creative and allocate resources to agencies and require results. Every year we hear of Rapid Results Initiative. We want to see results that will protect and defend our national interest.

When people are hungry, it becomes a national security risk. When people are jobless, they also end up suffering. We have a lot of money that is reserved because of these national security issues. When you look at the Division of Revenue Bill against Article 203, that when utilized properly, it can be able to solve most of the problems that we have here.

Madam Temporary Speaker, there are issues that affect us the Maasai as an example. We know today, our brothers in Tanzania, who cross back and forth and are able to bring in their cows to Narok and Kajiado are now suffering because of the actions being taken by their government, where we have over 80,000 Maasai who are facing eviction from their homes because of the interest of protecting wild animals.

I do hope that because of the interest of the East African Community, our brothers in the Tanzanian government can save these Maasai from being forcefully evicted from their areas because once they are evicted, they cross into Narok and Kajiado, then of course stress our economy. We have brothers and sisters in Tanzania.

So, I want to take this advantage and call upon even the President of Tanzania to save our people from being forcefully moved out of their land in Ngorongoro in Loliondo

District. Whenever you see about 80,000 people praying to God because they are facing eviction from their land, you should not only think about what is happening to them then but also think about the consequences. They will cross into Narok and Kajiado. Although we welcome them but it will be stressing to our limited resources.

Madam Temporary Speaker, in conclusion, I fully support the Division of Revenue Bill and I do hope that this issue of the Medical Equipment Scheme (MES) can become a thing of the past. We need to agree whether we are going to continue leasing this equipment or we are going to buy them because this issue of leasing these equipment is really a scandal.

We know we debated that issue in this Parliament, but the truth of the matter is, if you go to West Pokot and Narok County today, you will find equipment from MES that are lying in stores that have never been used, yet county governments are paying for those equipment.

I think it is about time for all of us to remember that we will be judged harshly by history if we continue allowing scandals. We know they are scandals, but because of political interest we end up keeping quiet. It is about time that we say no to impunity. If health is devolved, let us support more monies to go to counties.

I know when Building Bridges Initiative (BBI) finally comes back, the former prime minister and our party leader and hopefully our fifth president, will send about a minimum of 35 per cent of the revenue to go back to the counties. At that point we will not need to be leasing. I would rather each county leases and controls, so that they can lease what they require. However, this issue of the Ministry of Health leasing all the equipment in a central location really disfranchises many other counties.

Madam Temporary Speaker, this is a very important Bill. The only way we can ensure that everything, which is here is implemented, is for the county assemblies to also read this Bill because they are supposed to ensure that they carry out their functions with the money that is sent to them.

There is no reason as to why we should have pending bills. Those pending bills come in as a result of lack of fiduciary responsibility in the hands of the accounting officers. They need to be accountable. They need to know that, we in the Senate, are pushing money to them and are fighting heavy battles to be able to send that money to them.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Pareno): Proceed, Sen. (Eng.) Hargura.

**Sen. (Eng.) Hargura:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to the Division of Revenue Bill debate. This is one of the main responsibilities of this House; participating in the division of revenue of the equitable share amongst the National and the county governments, what is known as the vertical division.

I always like to refer to the clauses. For example, in this case, Clause 5 of the Bill, which states very clearly in part one, in the event that there is under collection then the counties should get whatever they have been allocated and in the event of the over collection of the revenue, then it goes to the National government. We have to keep this

in mind always because, there was a time there was an attempt to reduce the revenues going to the county because there was under collection.

If you look at the main items in the Schedule, we are talking of the total sharable revenue, then the National government, the equalization fund and the county funds.

This year, the total sharable revenue is estimated to be Kshs2.114 trillion where the National government is to get Kshs1.764 trillion. Kenya shillings 7 billion is supposed to go to equalisation fund and the county government equitable share is proposed to be Kshs370 billion.

It should not be lost on anybody that this is exactly the same amount allocated in the last financial year to the counties, while the total sharable revenue has increased by 20 per cent. This is because the last financial year it was Kshs1.7 trillion and now, this financial year we are having, Kshs31.765 trillion and this financial year we are having Kshs2.141 trillion. That is an increase of about 20 per cent and yet, there is no increase to the county governments.

Even if you just take into account inflation which is estimated to be 5.4 per cent this year, that will mean that, for you to still maintain that level of budget in terms of service delivery, then you should have increased at least by that 5.4 per cent which will be some extra Kshs22 billion. If you go by the increase in revenue, that would mean an increase of 20 per cent, which would be about Kshs74 billion.

The total increase of the equitable share could have been between Kshs450 billion to Ksh470 billion in total. That would be an increase of Ksh80 billion to Kshs100 billion but we do not see that. The rationale behind keeping the county share fixed or stagnant at Kshs370 billion while the sharable revenue has increased by 20 per cent and there is inflation of 5 per cent, needs to be explained.

As Senators, our main responsibility is to protect the interest of the counties and their governments, and one of the major interest is what they get as equitable share. In that case, I personally do not agree with giving the counties Kshs370 billion. It should be from Kshs450 billion upwards. This is because, even if you take into account only the inflation without any change of revenue, we should be talking about KShs392 billion.

However, we know very well revenue has increased by 20 per cent and therefore, it should be much more than that. Therefore, a minimum of Kshs450 billion to the counties, should be what you should be advocating for as Senate, whose responsibility is to take care of the interests of the counties and their governments.

Madam Temporary Speaker, on the issue of the Equalization Fund, this is a fund which is clearly in our Constitution because of our acknowledging that parts of this country have been left behind. There has been marginalization in many parts of this country and that is why in Article 204 of the Constitution we clearly indicated that there shall be an equalisation fund, which will be 0.5 per cent of the most recent audited revenue.

This fund has never been utilized to date. It was only once when it was attempted and even then it was stopped. If you go by the Constitution, it is very clear, it says that, 0.5 per cent of the most recent amount need to be allocated. It then says, for it to be used, the Commission for Revenue Allocation (CRA) shall be consulted and its

recommendations considered before Parliament passes any Bill appropriating money out of the Equalization Fund.

This means, the fund will still be there; monies will still be going into that fund since the promulgation of this Constitution. It is only the usage which will require that CRA recommendation. The first CRA recommendation which was adopted by this House in the last Parliament was the funds going to 14 counties.

If you look at what has been allocated to date, in the first three years since the promulgation of the Constitution 2010 that is from financial year 2011/2012 to 2013/2014, there was no allocation to the Equalization Fund. The Fund was there, created by the Constitution but there was no allocation. If you look at the argument being used, it is that, there was no recommendation from CRA as to how the funds shall be shared.

The Constitution is very clear; the Fund is supposed to be 0.5 per cent of the most recent audited account from the first year of the Fund being created that is 2011/2012 after the Constitution. Then from there onwards, there should have been monies allocated to the Fund.

The funds were not allocated for the first three years, then there was allocation for the next three years that is from, Fy2014/2015 up to Fy2016/2017. There was then still no allocation in Fy2017/2018 and Fy2018/2019. Somebody was not following the Constitution. Up to now, we are told, there was only Kshs12.4 billion allocated to the Equalization Fund up to Fy2019/2020.

Going by the Constitution, if the allocation was done from Fy2011/2012 to Fy2019/2020, then it should be having Kshs34 billion. Which means already because of not following the law, the fund has lost Kshs22 billion not being deducted for six years. That is already an issue.

If you add the last two years, then you are talking about another extra Kshs13 billion, which should be Kshs48 billion by now. However, if you add now, then you would just be having Kshs25 billion. We have lost close to Kshs23 billion because somebody was not doing the deduction during budgeting.

That Fund had not yet been utilised. It is only this year when the Advisory Board has been established. We therefore would like to know how that Fund will be utilized. Taking into account that this is a Fund, which has a sunset close, it is supposed to be 20 years from 2010. By 2030, the Fund should have lapsed and we only have eight years to go but we have not utilised any of that money. That shows how serious we are as Kenyans when it comes to tackling marginalisation.

There is very little seriousness in terms of trying to tackle marginalisation in parts of this country. That is why even funds which are in the Constitution, are not being set aside as required by law and even when they are set aside, they are not being utilised. If the problem was having a board, then the National Treasury should have seen this from the beginning and in the first Senate, that is the 11<sup>th</sup> Parliament, the issue should have been handled.

If I may say, there was no goodwill in addressing marginalisation. That fund has not been utilised and proper deduction has not been done. Up to now, there is no implementation. The National Treasury should take serious action so that from this year



and with the Advisory Board in place, we need to see how the Kshs25 billion that has been collected by now will be utilised.

Madam Temporary Speaker, right now, we have the second formula by the Commission on Revenue Allocation (CRA) on recommendation, which covers many more parts of this country. This is because of the definition of “marginalised areas”. I hope there will be good news this time in utilising whatever has been collected, taking into account that it is not even the actual amount as per the Constitution, and so far, there has been no implementation.

On the part of the equitable share, I have said that the figure given there is not realistic. In the last financial year, we gave the same figure. We need to increase it, taking into account the current situation. There is inflation and less revenue was generated.

While we tackle this, counties also need to improve their own source revenue collection. From the audit reports that have been brought to the Senate, counties have been collecting less than what they had set as their targets. At the beginning when they do their budget each year, they estimate the revenue they are supposed to collect. At the end of the year when auditing is done, very few if any county, meets its set targets. These are targets that they set themselves, based on the revenue streams they have and previous years’ collections. They still do not attain those targets.

Counties need to understand that they are governments with the capacity to generate their own revenue. Therefore, they need to properly map their revenue streams and seal loopholes through which money is lost. When they do manual collections, there is loss of funds at source by the revenue officers.

There are also cases where counties collect money, but spend at source without first submitting it to the County Revenue Fund (CRF) or establishing proper funds the way the law allows them. For example, they can collect money from health institutions and deposit it into a fund. The money can be spent and does not have to come to CRF. However, they do not do even this. We have all these questions.

Basically, let them focus on what they can do for themselves, instead of concentrating on what comes from the national Government. They have the capacity to collect revenue. In some cases, they collect less than what the defunct local authorities used to collect, whilst they have better facilities. Considering the resources they have, they can employ more revenue collectors and automate all their revenue streams.

Currently, we are struggling with counties, which, 10 years down the line, have not updated their nominal roles on land rates. It seems the mentality in counties is to wait for what comes to the National Government. They are not putting effort in collecting revenue, yet it is their own source revenue.

Madam Temporary Speaker, while we advocate for more funds to go to counties – like what we went through the other year when we were working on the formula – may I urge counties that to endeavour to collect their own revenue and improve their own source revenue generation. At the end of the day, we should head where county governments can fund half or most of their budgets. The more they generate, the more services they can provide and the more they can improve and develop their counties.

With devolution, there must be responsibility. We should not be waiting for funds from the centre or always expecting more funds from the same centre. With the kind of

revenues we are generating and the debts we have, the funds available for sharing will decrease because we have more debts to service at the national level, so that they have to concentrate on their own-source generated revenue.

Madam Temporary Speaker, I do not support the Kshs370 billion going to the counties. Much as it is campaign time, and we may not focus on this and may lose it, we have to make sure that counties get more money because of the existing conditions like inflation and where revenue has increased.

**The Temporary Speaker** (Sen. Pareno): Sen. Sakaja, proceed.

**Sen. Sakaja:** Thank you, Madam Temporary Speaker, for this opportunity. I rise to support The Division of Revenue Bill (National Assembly Bills No.8 of 2022). I thank the Senate Majority Leader for moving this important Bill.

This is the most important function of both the Senate and the National Assembly because it underpins the most important part of our Constitution, which is devolution and our county governments. In terms of the philosophy around devolution, we must get it right that devolution is not about the national Government supporting county governments. Devolution is a relationship between two levels of Government.

Division of Revenue is not the national Government's money being given to counties. It is revenue raised throughout the country and then we say that since as Kenyans we have raised this amount, this particular amount goes to the national Government and this amount goes to the county governments.

Madam Temporary Speaker, this is going to be the last year of the second term of devolution. As we pass this Bill, it is important for us to stock-take and see how successful we have been and what needs to be refined.

In the last Parliament, I was pleased when the Hon. Mutava Musyimi led Budget Committee, came up with an audit of devolution of the new structures of the Government. It was a constitutional audit. That would have informed a lot of provisions in any attempt to change our laws because they looked at the practicality of the provisions and the challenges the county governments were facing.

I am happy that when I became the Senator for Nairobi City County – contrary to what some people are saying out there – Nairobi City County was getting Kshs15 billion. We have fought and pushed. We had a fight here in the Senate when Nairobi City County was going to get an increase of Kshs135 million, but the outcome of that was that we got an increase of Kshs3.3 billion. Currently, we are at Kshs19 billion.

Madam Temporary Speaker, if you look at the increases from 2013, it would have taken another 20 years to get that kind of an increase. The increase has been Kshs50 million and Kshs100 million. To move Nairobi City County from Kshs15 billion to Kshs19 billion is something I am proud of as the Senator. I am proud of the Senate because everyone was able to score. We said we could have a win-win situation if we got more money. That is why we have Kshs370 billion, which I think is a good amount.

I like what Sen. (Eng.) Hargura said, that it is very important for us to look at this money in terms of what it ends up doing. Earlier on, Sen. Olekina spoke of the same. Counties were not designed to be competitive especially because of the formula used.

Madam Temporary Speaker, if a formula is focussing a lot on population or poverty, there is no index or an indicator of how well a county is doing. In their formula,

India has the Provincial Gross Domestic Product (GDP) as one of the variables, such that a county is able to produce or grow in terms of its production.

Of course, you will not compare the economic growth of Nairobi City County to Mandera County. It is incentivised to do those activities that increase the amount of money that the county gets. Therefore, we have variables that measure darkness and not light, and we need to move that. In this next phase, we need to look at that.

Secondly, counties have not been thinking out of the box on how to increase their revenue. We always talk about dividing the pie and the bread, but no one talks about baking the bread. Soon, we might need a committee on revenue generation because we only have a Commission on Revenue Allocation (CRA).

When everybody talks on paper about allocation in a middle-income economy like ours, then you are in trouble. You will have a challenge down the line. Remember our debt levels, the challenge of unemployment and the cost of living. We really need to have creativity within our governors.

I pray and hope, God willing, if the people of Nairobi give me the mandate, to increase the revenue of Nairobi County to Kshs50 billion. We passed the Sectional Properties law here. We need to have an efficient county government that has automated all revenue streams, that is not fighting with its people and carry the people along.

Last week I was in Gikomba and the ladies said that they want to pay, but they never see anyone cleaning. Why should they pay that Kshs50? There is the Kenya Revenue Authority (KRA) and General Service Unit (GSU) officers who force out money from people. You will never raise revenue that way. President Kibaki told us that *'kulipa ushuru ni kujitegemea'* and because of that, we were able to increase our revenue generation.

With that creativity of showing Nairobians the actual service they will get from what they are paying, I am confident that we will increase the revenue. It is critical because majority of the budget in Nairobi County, for instance, goes to pay salaries. That means Nairobians are paying taxes just to keep people in offices. We need to address that.

There was a programme by the World Bank that was coming in to help ease the wage burden in Nairobi City County. It is still very necessary.

The good thing is that Nairobi Metropolitan Services (NMS) can make certain decisions that will be very difficult for politicians to make. I spoke to General Badi so that before he finishes his term, he can help us rationalise that aspect in the best and humane way possible. This will ensure that we have some headroom.

We might blame the governors who have been there. However, without headroom to do development, a county government is just like a cash office. It is like a cashier who receives money and pay salaries. You do very little development.

Madam Temporary Speaker, all Senators are sent Exchequer release reports. I do not know whether anyone looks at them, but I look at mine, for Nairobi City County. We have an approved budget of Kshs39 billion. We are now in March. At the end of February, the approved requisitions of money spent, Recurrent, was Kshs12.5 billion. Look at the time we are in.

Development money that has been spent throughout the financial year is Kshs771,509,137. That tells you that there is a huge problem. That is 6 per cent of what should have been spent throughout the year and we are already going to the end of the financial year. That tells you that very little is happening apart from paying of salaries.

That is why you are seeing your streets not being cleaned and no new projects being done on roads. We are unable to address the water issues and the Nairobiian is being pinched because of these low releases, yet from the Exchequer release report, Nairobi Emergency Fund whose budget was Kshs940 million, has been overdrawn as of 28<sup>th</sup> February and already spent Kshs202 million on emergency. What emergency has occasioned the expenditure of Kshs202 million?

Madam Temporary Speaker, if we are not keen about these reports that we get, then there is no oversight we can play. Last week, I requested for a statement on assets and liabilities and the financial state of Nairobi, including the Kshs4.4 billion loan that they wanted to auction assets. I have seen a response that has been sent. Therefore, the NMS and the county government must come and answer to Nairobians.

Madam Temporary Speaker, if you look at that report, which is relevant because we are talking about division of revenue, in areas such as development, urban renewal and housing, nothing has been spent. The NMS is what has been receiving and in total, on development, they have received only Kshs7.3 billion in a year. Where are they getting money? That is what I was showing you. That is 7.9 per cent. In total, it has been 6 per cent.

Meanwhile, they have spent Kshs202 million of the Emergency Fund. There is a problem somewhere and we must be vigilant. This is because when you go round this City, people are suffering and not getting services from the county. Garbage has crept back. There are a lot of heaps and piles of garbage when you go round the City of Nairobi and many counties. Therefore, these are questions that must be answered by Major General Badi.

I have seen that Major General Badi and Anne Kananu have extended the NMS beyond August. I do not know about the constitutionality of that. They say that the three months are meant to hand over to the next governor. That handover process must be expedited because it is through that process that cracks emerge. That is why we have already asked for a schedule of all those assets and liabilities.

I know that we passed The Assumption of Office of Governor Act, which provides for that to be done within either 28 or 30 days after the announcement of the results of who becomes the governor. Three months of another entity actively implementing constitutional mandate of devolution of a county governor is stretching it. They should start the handover now, so that we just have one month after the election of the governor.

A pragmatic governor, like I hope to be, would say that the certain aspects of NMS that are working should be maintained and change what is not working. It can be a department under Nairobi County Government, if you are pragmatic. It is not just about getting glory and thinking about yourself.

They should not have that panic because when I come in, *inshallah*, God willing, we will maintain what is working. The Americans say, 'if it is not broken, do not fix it.'

You will find they have bought so many cars and painted them blue. Will they change? They have branded everything in blue and red. Will they change back because the county assembly has a law that talks about the colours that it needs to have? All those things need to be done.

In this Division of Revenue Bill, I expected a very important thing to be addressed. When you look at the factors, one of them is national interest. National interest at a time like this must factor what is happening globally and will affect us. What is happening in Ukraine and Russia will affect our cost of living and food.

Already, 70 per cent of all our wheat and fertiliser comes from that region. We have seen prices going up, and people are suffering. At least, I can speak for my people. They are suffering and no one is talking the language of the common man. For example, cooking oil increased from Kshs250 to Kshs400 and rice from Kshs70 to Kshs120 per kilogramme, as we speak. Bread, even before the crisis creeps in, moved from Kshs45 to Kshs60. Maize flour is another case; from Kshs90 to Kshs110 thereabout, and it keeps going up.

In fact, I have discussed with many people who deal with retail and they are saying that in the next two months, our people might revolt because prices are going up. It is a bad time to be an incumbent. They might even go up to almost Kshs600 for that oil. What do you want the common person in Nairobi to do if you cannot cushion them?

That is why a good Parliament, you can see how many we are here, at this time, should be talking about Basic Commodity Subsidy Bill on basic commodities. This is not to introduce prices control, but if it goes beyond a certain amount of money for the common *mwananchi*, the Government should cushion through that Basic Commodities Subsidy law that I would love to sponsor. It is just that when you sponsor something in this House, they say it is a money Bill. That is the most important thing that needs to be addressed.

Madam Temporary Speaker, that conflict will affect the trading routes. It is going to affect the fact that farmers themselves do not feel safe enough to go to their farms in that area of the world, and therefore, they are not farming.

It is going to affect the fact that farmers themselves do not feel safe enough to go to their farms in that area of the world, and so they are not farming. It is going to affect the potash areas of potassium and what not for fertilizers, is actually under threat. I think that should have been incorporated so that we have a cushion.

Madam Temporary Speaker, we have seen the transfer of functions from the Nairobi City County Government to the national Government. I am speaking for my county of Nairobi when I say that we want to see certain functions of the national Government to be transferred to Nairobi. One of them is giving food to our people, especially in schools. The school feeding programme should be transferred to the counties. Many of our children go to schools and have nothing to eat. It is very painful.

Sen. Poghisiu, you have gone to schools in your county. When you interact with the children and ask them what they want, they will tell you that they want a school bus or balls to play. I remember when I went to a school in Dagoreti North last year, I asked the children what they wanted, and they said that they wanted food. As a parent, I wanted to cry because children have nothing and there is nothing at home. Under the

programme that we are partnering with Food 4 Education that was founded by a lady called Ms. Wawira, the children are being given 650 grammes of food. The children eat half of what they get and take the other half home to their siblings. That issue of national interest with respect to food needs to be addressed by both the national Government and county governments in this Division of Revenue Bill.

Further to that, we hope that we will have proper accountability. Many times, we think that it is the counties that are corrupt but, remember, that is a small percentage. A lot of it stays at the national level. We had a very big push where we saw a lot of razzmatazz. We saw a lot of arrests and what not, but I think it cooled down. We need to see real accountability and responses to the concerns of Kenyans.

I hope that the next Senator for Nairobi will be somebody who will make sure that we get another Kshs3 billion increased as we increase the revenue. I am sure that you and the other Senators will be in this House, so you will make sure that my replacement helps us.

*(Laughter)*

This Senate must congratulate itself because it has moved funds going to the counties up to Kshs370 billion. I know that there are fight about the conditional grants and allocations. However, it is a milestone that the funds went up from Kshs316.5 billion to Kshs370 billion. That is actually a serious feather in the cap of the Senate.

I urge those who will move from this House to other positions; to be Members of National Assembly and especially those who are going to be Governors, not to forget the good work and the fight that this Senate has done. If you hear that Gov. Sakaja has refused to be summoned by the Senate, you should come and pinch me by the ear and pick me up from the City Hall. I have given you the permission to do that and remind me what we used to stand for. I am not being presumptuous; it is hope. They say that hope is a good breakfast, but a bad supper. We must be hopeful and optimistic that we shall do this.

Madam Temporary Speaker, it says here that from Kshs370 billion, an allocation which remains unchanged, and conditional allocation which means that the county governments can plan budgets and spend. Of course, we could have wanted it to be more, but that amount in itself is a sacrifice. I thank the President for getting us there. It was a sacrifice for that deal to be done. I hope that the next president will be one who supports devolution. Of course, you know whom I have in mind. The next president should support devolution and can make sure that we move beyond that Kshs370 billion and not stagnate.

Madam Temporary Speaker, I know that you must truncate the debate because the Senate Majority Leader is here to reply. It is unfortunate that very few Senators have spoken to the most important legislation; The Division of Revenue Bill. I am sure many are following online. When it comes to the Committee of the Whole, we shall hear suggestions that can improve this Division of Revenue Bill, so that it is not just a rubberstamp. The Senate Majority Leader says that we can be a conveyor belt, but sometimes, some improvement can help to improve this situation.

Madam Temporary Speaker, I said that I was going to wind up, but after this business, we might have no business. Not unless you are creative as a governor and only depend on the funds from the National Government, your county cannot completely grow. I have explained to you the Kshs18 billion wage bill in Nairobi County and that is what we are giving them, yet that is what they are also raising.

If you want to sort out the mass transit problem in Nairobi, for instance, traffic, we need like proper six lanes of proper heavy rail in this City to sort out. There is no other way that you can sort it out. To sort out the mass transit, then the water system, which is the actual physical infrastructure of water, just the water infrastructure such as the piping, skater technology plus the northern collector, which is coming in. Just those two things and solid waste. You need Kshs200 billion. Where are you going to get Kshs200 billion in a Kshs20 billion allocation? You need to be creative. Johannesburg is listed. They have done an infrastructure bond, where we say that we discount our revenue for the next 10 to 15 years, then get that money at a go and transform this City. There is no other way.

I support.

**The Temporary Speaker** (Sen. Pareno): Thank you, Sen. Sakaja, of course, with a rider that you have hopes for all of us. We leave it to God to answer that prayer.

We have no other request.

Sen. Poghio, you may reply.

**The Senate Majority Leader** (Sen. Poghio): Madam Temporary Speaker, I beg to reply and decry the fact that in other jurisdictions, when they are dealing with the Division of Revenue Bill, Senators would be scrambling to speak to this kind of Bill.

Madam Temporary Speaker, as you can imagine, this is the most important thing that we do here. This is what defines devolution and the reason the Senate exists. I know that people are busy looking for votes, but this is the time they should all be stooping back to the Senate to speak to this one. Very soon, we will of course have the County Allocation of Revenue Bill (CAR), the disbursement schedule and so on.

Madam Temporary Speaker, I commend all those who have spoken, starting with the Senator for Nairobi here, who has a lot to say, hoping that he becomes the Governor of Nairobi City County. A number of Senators have spoken here starting with Sen. Orenge who seconded. I say thank you because the perspective that he brings to the table is very interesting. We had Sen. Cheragei, Sen. (Dr.) Musuruve, Sen. Faki, Sen. (Eng.) Hargura, and I do not know who else. I think those are the ones who spoke.

**The Temporary Speaker** (Sen. Pareno): Sen. Olekina also spoke.

**The Senate Majority Leader** (Sen. Poghio): Sen. Olekina also spoke. I thank them for understanding the importance of this Bill. At this moment in time, this is the most important Bill. The governors who will be elected next, will be very fortunate, because they will have to be creative. Unfortunately, they will inherit so many pending bills and things like that, so they have to be creative to deal with them.

Madam Temporary Speaker, this year's Division of Revenue Bill has been prepared under very difficult circumstances of revenue collection and trying to balance between the national Government and the devolved units. We appreciate the fact that at least, as a country, in spite of all these challenges, our economy has been strong and we

have a budget of Kshs2.1 trillion and the counties will receive Kshs370 billion. That is a good indicator that we have not gone below what we were getting the last financial year.

I commend the Kenya Revenue Authority (KRA) and the National Treasury who work to ensure that we collect revenue. I thank them for looking at what is in the best interest of the country.

We have talked about the challenges. We spoke about the fact people have to be creative in order to survive. We have also talked about the difficulty of life and the cost of living today. As Sen. Sakaja has said, we have a challenge of people living especially in the cities.

For those of us who come from the rural areas, we can express even worse fears not only in crop farming, but also in the livestock sector. The problems anticipated because of the lack of rains have exacerbated the situation.

I do not want to revisit what Members have said, but to thank everyone. It is an important Bill and I do not want to overemphasize that it is part of our constitutional duty especially for the Senate.

With those remarks, I hope we will expedite the passing of this Bill.

I request that you defer putting of the question to a later date, pursuant to Standing Order No.61 (3).

I beg to reply.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, this Bill is a matter that touches on counties, and we cannot proceed for division. The putting of the question on the Bill is, therefore, deferred to the next sitting.

*(Putting of the question on the Bill deferred)*

Hon. Senators, earlier on, I had rearranged the Order Paper for us to deal with the Bill that touches on revenue allocation to the counties. I, therefore, now proceed to defer Order Nos.8, 9, 10, 11, 12, 13, 14, and 16. These are Orders that were to proceed for division, but we do not have the numbers.

I also defer Order Nos. 17, 18, 19, 20, 21 and 22.

## **BILLS**

### *Second Reading*

#### THE LANDLORD AND TENANT BILL (NATIONAL ASSEMBLY BILLS NO.3 OF 2021)

*(Division)*

*(Bill deferred)*



*Second Reading*THE PERSONS WITH DISABILITIES (AMENDMENT)  
BILL (SENATE BILLS NO.29 OF 2020)*(Division)**(Bill deferred)***MOTION**ADOPTION OF AUDIT REPORTS FOR COUNTY EXECUTIVES FOR FYS 2018/2019,  
2016/2017, AND 2017/2018 (VOLUMES I, II AND III)

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on consideration of the Reports by the Auditor General on the Financial Statements of the following County Executives for the Financial Year 2018/2019- Embu; Homa-Bay; Kericho; Kilifi; Kirinyaga; Kisii; Kwale; Machakos; Mombasa; Nandi; Baringo; Bomet; Garissa; Kajiado; and West Pokot as contained in Volume 1 of the Report and the following County Executives- Isiolo; Kakamega; Kisumu; Laikipia; Mandera; Marsabit; Nakuru; Narok; Nyandarua; Samburu; Taita Taveta; Trans-Nzoia; Uasin-Gishu; Vihiga; and Wajir, as contained in Volume 2 of the Report, Laid on the Table of the Senate on Thursday 2<sup>nd</sup> December, 2021.

*(Division)**(Motion deferred)***COMMITTEE OF THE WHOLE**THE INTERGOVERNMENTAL RELATIONS (AMENDMENT)  
BILL, (SENATE BILLS NO.37 OF 2021)*(Division)**(Committee of the Whole deferred)***COMMITTEE OF THE WHOLE**THE LAW OF SUCCESSION (AMENDMENT) BILL,  
(SENATE BILLS NO.15 OF 2021)

*(Division)*

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE PRESERVATION OF HUMAN DIGNITY AND  
PROTECTION OF ECONOMIC AND SOCIAL  
RIGHTS BILL (SENATE BILLS NO.21 OF 2021)

*(Division)*

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE LIFESTYLE AUDIT BILL  
(SENATE BILLS NO.36 OF 2021)

*(Division)*

*(Committee of the Whole deferred)*

**BILL**

*Second Reading*

THE ELECTION CAMPAIGN FINANCING (AMENDMENT)  
BILL (SENATE BILLS NO.51 OF 2021)

*(Bill deferred)*

**BILLS**

*Second Reading*

THE ELECTIONS (AMENDMENT) (No. 2)  
BILL (SENATE BILLS NO.43 OF 2021)

*(Bill deferred)*

*Second Reading*

THE COTTON INDUSTRY DEVELOPMENT BILL

(SENATE BILLS NO.55 OF 2021)

*(Bill deferred)*

*Second Reading*

THE EMPLOYMENT (AMENDMENT) BILL  
(SENATE BILLS NO.54 OF 2021)

*(Bill deferred)*

**COMMITTEE OF THE WHOLE**

THE ELECTIONS (AMENDMENT) (NO.3)  
BILL (SENATE BILLS NO.48 OF 2021)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE COUNTY RESOURCE DEVELOPMENT BILL  
(SENATE BILLS NO.45 OF 2021)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE SPECIAL NEEDS EDUCATION BILL  
(SENATE BILLS NO.45 OF 2021)

*(Committee of the Whole deferred)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, there being no other business, the Senate stands adjourned until tomorrow, Wednesday, 23<sup>rd</sup> March, 2022, at 2.30 p.m.

The Senate rose at 5.33 p.m.