

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 20th May, 2025

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

[The Speaker (Hon. Kingi) in the Chair]

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?

(The Clerk-at-the-Table consulted with the Speaker)

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Hon. Senators, we now have quorum. Therefore, we will proceed with the afternoon's business.

Clerk, kindly proceed to call the first Order.

NOTICES OF MOTIONS

The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights (JLAHRC).

EXTENSION OF TIME FOR CONSIDERATION OF PRESIDENTIAL MEMORANDUM ON CONFLICT OF INTEREST BILL (NATIONAL ASSEMBLY BILLS NO.12 OF 2023)

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion-

THAT, AWARE THAT the National Assembly and the Senate
passed the Mediated version of the Conflict of Interest Bill (National

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Assembly Bills No.12 of 2023) on Thursday, 5th December, 2024 and on Tuesday, 8th April, 2025, respectively;

FURTHER AWARE THAT, His Excellency the President had reservations and referred back the Bill to Parliament on 30th April, 2025 pursuant to Article 115 (1) (b) of the Constitution for reconsideration;

NOTING THAT, pursuant to Standing Order No.170(1), the Speaker referred the President's memorandum and reservations to the Standing Committee on Justice, Legal Affairs and Human Rights on Tuesday, 6th May, 2025;

COGNIZANT THAT pursuant to the provisions of Standing Order No.170(2), the 14 days given to the Committee to consider and lay its Report on the Bill lapses on Tuesday, 20th May, 2025;

NOW THEREFORE, notwithstanding the provisions of Standing Order No.170 (2), the Senate resolves to extend the time for the consideration of the Conflict of Interest Bill (National Assembly Bills No.12 of 2023) by a further 45 calendar days to enable the Committee to consider the President's reservations and lay its Report on the Table of the Senate on or before Tuesday, 8th July, 2025.

I give notice.

The Speaker (Hon. Kingi): Sen. Joe Nyutu is not here.

That business is deferred.

IMPLEMENTATION OF AN AUTOMATED AND DECENTRALISED CERTIFICATE OF GOOD CONDUCT SYSTEM

(Notice of Motion deferred)

Clerk, next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No.53(1).
The Senator for Migori County, Sen. Eddy Oketch.

The Statement is dropped.

FRAUDULENT ACTIVITIES TARGETING RETIREES' LUMP-SUM PENSION PAYOUTS

(Statement dropped)

Next, hon. Sen. Tabitha Mutinda. That statement is dropped.

OPERATIONALISATION OF THE VICTIM
PROTECTION TRUST FUND

(Statement dropped)

Sen. Karen Nyamu. That Statement is dropped.

HARASSMENT AND EVICTION OF HAWKERS FROM
THE NAIROBI CENTRAL BUSINESS DISTRICT

(Statement dropped)

The Statement by Sen. Hamida Kibwana is deferred pursuant to the Senator's request.

STATUS OF HOUSING FACILITIES FOR
FOREST RANGERS

(Statement deferred)

The Senator for Nyamira County, Sen. Okong'o Omogeni. That Statement is dropped.

DILAPIDATED STATE OF ROADS IN THE COUNTRY

(Statement dropped)

Next Order, Clerk.

MOTION

EXTENSION OF TIME FOR CONSIDERATION OF PRESIDENTIAL
MEMORANDUM ON CONFLICT OF INTEREST BILL
(NATIONAL ASSEMBLY BILLS NO.12 OF 2023)

The Speaker (Hon. Kingi): The Chairperson, Justice, Legal Affairs and Human Rights Committee, proceed.

Sen. Wakili Sigei: Thank you once again, Mr. Speaker, Sir. I beg to move the following Motion-

AWARE THAT, the National Assembly and the Senate passed the Mediated version of the Conflict of Interest Bill (National Assembly Bills No.12 of 2023) on Thursday, 5th December, 2024 and on Tuesday, 8th April, 2025 respectively;

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FURTHER AWARE THAT, His Excellency the President had reservations and referred back the Bill to Parliament on 30th April, 2025 pursuant to Article 115 (1) (b) of the Constitution for reconsideration;

NOTING THAT, pursuant to Standing Order No.170(1) the Speaker referred the President's memorandum and reservations to the Standing Committee on Justice, Legal Affairs and Human Rights on Tuesday, 6th May, 2025;

COGNIZANT THAT, pursuant to the provisions of Standing Order No.170(2), the 14 days given to the Committee to consider and lay its Report on the Bill lapses on Tuesday, 20th May, 2025;

NOW THEREFORE, notwithstanding the provisions of Standing Order No.170 (2), the Senate resolves to extend the time for the consideration of the Conflict of Interest Bill (National Assembly Bills No.12 of 2023) by a further 45 calendar days to enable the Committee to consider the President's reservations and lay its Report on the Table of the Senate on or before Tuesday, 8th July, 2025.

Mr. Speaker, Sir, this is a Procedural Motion that seeks to ask for more time, that is 45 calendar days, in order to facilitate the Committee to consider the reservations that were referred to this House by His Excellency the President on the Conflict of Interest Bill (National Assembly Bills No.12 of 2023).

Remember, the Bill began from the National Assembly where it was passed and thereafter moved to this House where certain considerations were made and a raft of amendments were done by the House. The report that was ultimately transmitted to the National Assembly comprised of considerations and the decision of this House to amend the Bill, introduce certain clauses and delete some clauses. Ultimately, that Bill was also approved by the National Assembly and it was sent to the President for approval and assent.

Unfortunately, the President had reservations on the Bill and it was referred back to the House. The Bill came to the Senate at the same time it was sent to the National Assembly. There were 12 clauses that the President had rejected. He gave his reservations and proposals, which the Committee is supposed to consider. Thereafter, the Bill will be referred back to the President.

Mr. Speaker, Sir, under the provisions of Standing Order No.171, this Committee is expected to remit its report on consideration of those 12 clauses among others before the House at the lapse of 14 days. The Committee has since received this communication from your desk and considered its report. However, it has not been able to conclude within the 14 days that the Standing Order provides. That is the basis upon which we are placing this Motion for consideration, so that we are given another 45 calendar days within which the Committee is expected to consider and remit its report back to the House.

In the same breath, there is communication that has come and has been referred to the Committee from the National Assembly. It is aimed at ensuring that the process of consideration of those reservations is made neat because the National Assembly as well

as this House are expected to debate on the reservations and pass a version of the Bill that has been agreed upon by the two Houses.

It only then behooves this House to grant us some time, so that we can have an engagement with the counterpart Committee from the National Assembly, so that we agree on a version that the two Houses will have on the Bill. This cannot and will not be done within the 14 days, which are lapsing today.

At the same time, the National Assembly is still on recess. They will be resuming on the 26th of this month, I believe. The Standing Orders of the National Assembly gives them 28 days to consider such reservations - whether from the President or otherwise - coming to the House on a Bill that has been rejected.

Mr. Speaker, Sir, that means that even if we agree to do a joint consideration of those reservations with the counterpart Committee from the National Assembly, it can only be done when the period within which our Standing Orders provides has been enlarged and we are, therefore, within that period legally.

The issue that this Procedural Motion is asking is just one; give us 45 calendar days, so that we can accommodate the consideration of those reservations and consider whether it is possible to have a joint meeting with our counterparts from the National Assembly to consider this Report.

Mr. Speaker, Sir, I beg to move and request Sen. Chimera to second this Motion.

I thank you.

Sen. Chimera: Thank you, Mr. Speaker, Sir. I wish to second the Motion as moved by my very able Chair of the Justice, Legal Affairs and Human Rights Committee (JLAHRC).

This Motion is pretty much straightforward as it speaks to the need to seek to extend the time within which the Committee will be allowed to consider the reservations as sent forward by the President. You will notice, this is the second time this Bill is being referred back to Parliament for further amendments. If you look at the reservations from the President, what has been proposed raises quite serious concerns and very weighty would-be amendments.

As a Committee, we wish to be allowed much more time to caucus, discuss and thoroughly look into the proposed amendments, the clauses as they are so that we can come up with a much more acceptable version that will be ready for presidential assent.

Mr. Speaker, Sir, with those many remarks, I beg to second this Motion.

The Speaker (Hon. Kingi): Hon. Senators, this is a procedural Motion. I may propose the question and open the Floor for debate, or with your concurrence, I may proceed to put the question so that you vote on it and we proceed with other business.

Do I have your concurrence that I proceed to put the question?

Hon. Senators: Put the question.

The Speaker (Hon. Kingi): Very well. I will now proceed to propose the question.

(Question proposed)

Having heard your concurrence before proposing the question, I will now proceed to put the question.

(Question put and agreed to)

Next Order. The Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries, proceed.

MOTION

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE COFFEE BILL (SENATE BILLS No.10 OF 2023)

Sen. Wafula: Thank you, Mr. Speaker, Sir. I beg to move the following Motion-
THAT, the National Assembly amendments to the Coffee Bill (Senate Bills No. 10 of 2023) be now considered.

I take this opportunity to thank the Senate Committee for taking us through the Coffee Bill. The Coffee Bill (Senate Bills No.10 of 2023) seeks to provide for the development and regulation of the coffee industry in Kenya. The Coffee Bill proposes to re-organise the Coffee Industry by transitioning the regulatory and commercial roles currently undertaken by the Agriculture and Food Authority (AFA) to the Coffee Board of Kenya.

The Bill further seeks to transition the research of coffee currently undertaken by the Coffee Research Institute under the Kenya Agricultural and Livestock Research Organisation (KALRO) to the Coffee Research Institute.

Mr. Speaker, Sir, the Coffee Bill (Senate Bills No.10 of 2023) was published on 10th March, 2023 and read for the first time in the Senate on Tuesday 11th April, 2023. Further, the Bill stood committed to the Senate Standing Committee on Livestock, Agriculture and Fisheries for consideration.

The Bill was advertised in the *Daily Nation* and *The Standard* newspapers on 15th June, 2023. The Bill was passed in the Senate with amendments on 1st August, 2024 and thereafter referred to the National Assembly where it was passed with amendments on 26th November, 2024.

The Bill was referred back to Senate on 19th November, 2024. Subsequently, the Speaker of the Senate conveyed the Message of referral of the Bill and amendments to the House on 3rd December, 2024 and further referred the National Assembly amendments to the Committee to consider and table a report in the Senate.

Following the referral, the Committee considered the National Assembly amendments to the Bill on 25th and 26th March, 2025 and made the following observations and recommendations-

(1) Limiting the role of AFA: The Bill seeks to amend the Crops Act, 2013 so as to unbundle the regulation and management of coffee that falls within the ambit of the AFA and establish a stand-alone agency for its regulations.

The Committee took note that the transfer of coffee management to AFA has not improved the sector in any significant way. Therefore, the Bill proposes to re-organise the coffee industry by transitioning the regulatory and commercial roles currently undertaken by the AFA. This way, coffee will have a specialised institution to handle the operative affairs as opposed to the current structure where AFA is handling a host of other scheduled crops.

(2) Critical role of the coffee crop: The Committee stressed on the importance of the coffee crop both locally and globally. Coffee export is the fifth foreign exchange earner after tourism, tea, horticulture and remittances from the diaspora. Coffee is the second most traded commodity in the world after oil and is one of the most strategic cash crops contributing to Kenya's economic growth. Coffee is one of the major crops in Kenya, coming third after tea and horticultural produce.

(3) Decline in the market dominance: The Committee further noted that even with the decline over the years, the coffee industry injected billions of shillings in the country's Gross Domestic Product (GDP) over the years. Therefore, the enactment of the Bill is key in reviving the industry.

(4) County Government and Functions: The Committee observed that most of the amendments were undermining the role of county governments in the agricultural sector. Since agriculture is devolved in function, it is essential to ensure that the provisions of the Bill accurately reflect this by ensuring that county governments are responsible in implementing agricultural policies and programmes.

(5) Assignment of Roles: The effective performance of devolved functions requires clear assignment of responsibilities to a specific office to ensure accountability. The County Executive Committee (CEC) plays a pivotal role in policy formulation. In this case, the body responsible for policy decisions in this county executive committee, where such decisions are made collectively.

Additionally, the Committee noted that the policy head within relevant ministries is the County Executive Committee Member (CECM) who is responsible for translating policies into actionable programmes.

The Committee recommends that the Senate adopts the report of the Committee and the Senate adopts the committee recommendations of the National Assembly as per the attached schedule.

I beg to move and request my good friend, Commissioner Sen. Wamatinga to second.

Sen. Wamatinga: Thank you very much, Mr. Speaker, Sir. I rise to second the Motion as moved by the Chairperson of the Agriculture, Livestock and Fisheries Committee. Indeed, the coffee sector is one of the backbones of the Kenyan economy.

We have witnessed a lot of success in terms of improved prices across the country. More so, it is good to report to this House that one of the leading factories that got the best payment is from Othaya, which got 162 kilogrammes. This is a record payment and most of our factories enjoyed very good returns. Therefore, streamlining the sector by ensuring we seal the leakages and put sound regulations that will regulate and operationalize the value chain in the coffee sector will go a long way in encouraging our farmers.

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Mr. Speaker, Sir, as it has been ably presented by my Chair, it is not lost to us that there has been a lot of exploitation of the coffee farmers by cartels because of complicated marketing structures that this Bill seeks to address. On top of that, the Bill is also seeking to mainstream, by creation of a board, that will ensure that the farmers get not only their due share of the coffee returns, but also do not get exploited by the cartels.

It is quite unfortunate that in this time and age, we need to regulate even the marketing and auctioning of coffee. Those of us who are exposed to information technology know that you do not need to have an office or a licence to buy anything from Amazon. This is one of the approaches that we will use to ensure that coffee farmers sell their crop where they want, when they want and at a price that they have agreed on.

Moreover, we know that most of the coffee farmers who have sold their crop have to wait for so long to get paid. Therefore, they do not get money to till their farms. This Bill seeks to address some of these shortcomings and, therefore, encourage coffee farming.

Mr. Speaker, Sir, as we do so, I urge my colleagues, especially those that come from coffee farming areas, that it is now time we start talking to coffee farmers. We know that the average age of coffee farmers is 50 years and above. Therefore, we need to get a strategy of mainstreaming the young generation, so that we do not have a gap when these ageing farmers exit the market.

That said, it must also be pointed out that the unfortunate practice of subdividing pieces of land into small segments has also made coffee farming quite unproductive. Achieving economies of scale, when you are tilling very small pieces of land is something that is becoming a major challenge. It has also become a major challenge for the farmers to access the markets that they would want to sell their coffee to because of the reducing volumes from each factory.

Mr. Speaker, Sir, as we talk about improving the regulations around the Coffee Bill and mainstreaming the young generation towards coffee farming, we must also be quite intentional in addressing value addition so that we do not only sell coffee as beans, but also as a finished product. This will ensure that we create employment within the coffee sector along the value chain and most importantly, Kenyans will enjoy one of the best qualities of coffee in the world.

Mr. Speaker, Sir, I beg to Second.

The Speaker (Hon. Kingi): Hon. Senators, the Motion having been moved and seconded, I will now proceed to propose the question.

(Question proposed)

The Floor is open for debate. Proceed, Sen. Ledama Olekina.

(Sen. Olekina spoke off record)

All right, so gather your thoughts.

Let us have the Sen. Alexander Mundigi.

Sen. Munyi Mundig: Asante, Bw. Spika. Naunga mkono Hoja hii ambayo inahusika na mambo ya kilimo cha kahawa. Siku hizi tuna uwezo wa kusherehekea mambo ya kilimo kwa sababu yako katika serikali gatuji. Pia tunashukuru Serikali ya Kenya Kwanza kwa sababu imekuwa ikiangalia vile mkulima ataweza kufaidika.

Tumegundua ya kwamba wakati Serikali hii iliingia mamlakani, watu wengi walikuwa wameanza kukata miti ya kahawa mashinani na wakaanza kupanda mimea mingi. Hata hivyo, wakati huu tunasherehekea. Katika kaunti zingine utakuta viwanda vingine vya kahawa vinauzwa kahawa kwa Shilingi 150 kwa kilo zingine shilingi 130 kwa kilo kutoka Shilingi 40 kwa kilo. Kwa hivyo, ninaunga mkono tuweze kuangalia vile mkulima ataweza kufaidika.

Tunakumbuka wazazi wetu wazamani walikuwa wanafunzwa kuhusu kilimo cha kahawa. Zile kaunti zilizokuwa zinapanda kahawa zilikuwa zinasherehekea sana. Familia zao zilikuwa zinaendelea vizuri.

Hata hivyo, kwa miaka mingi iliyopita, mambo iligeuka lakini sasa tunasherehekea kwa sababu Rais wa Kenya, Mhe. William Ruto, alikuja akawaunganisha watu wote pamoja. Alisema mambo ya *cartels* iondolewe na akaondoa ushuru kwa mambo mengi. Sasa tunajivunia.

Bw. Spika, mimi ninaunga mkono jambo hili. Tukiendelea vile tunaendelea, mkulima wa kahawa katika Kenya nzima atakuwa anajivunia. Hii kwa sababu bei ya kahawa itafika Shilingi 200. Sio kahawa pekee yake, kuna mambo mengi tunastahili tuyaunge mkono. Kuna mambo ya majani, macadamia, maembe, avocados na pia miraa au *'muguka.'*

Katika nchi ya Kenya, mambo ya kazi imekosekana. Wazazi wengi pia wamekosa pesa ya kupeleka watoto wao shule. Hata wale watoto wetu ambao wamesoma vizuri na wakasoma katika shule hata ya juu na kuenda vyuo vikuu vya degree, imekuwa hakuna kazi.

Bw. Spika, tukiendelea hivi, utakuta katika kaunti 47, mambo ya kilimo itaweza kupewa kipaa umbele. Mambo ya kilimo iko katika serikali za kaunti. Kwa hivyo, tungeomba serikali gatuji ziweze kuipa kilimo kipa umbele. Tumeona magavana na wafanyi kazi wengine hawasaidii katika mambo ya kilimo.

Nikiongea juu ya mambo ya kahawa, wiki jana tulitembea kule Bungoma na Kisumu. Tuliona kuna watu wengine ambao wanauza kahawa kwa Shilingi 145 lakini katika kaunti zingine, kahawa ni Shilingi 35. Katika kaunti zingine maziwa inauzwa kwa Shilingi 52 ilhali kaunti zingine maziwa ni Shilingi 44. Haya ni mambo ya kuhuzunisha kwa sababu kuna matapeli wengi.

Kuna watu wanaosimamia mambo ya vyama. Ningeomba mambo mengi yaweze kulainishwa. Tukifanya hivyo, mkulima wa kahawa na wakulima wa mazo mengine watafaidika vizuri.

Bw. Spika, naunga mkono nikiwa Seneta wa Embu Kaunti. Ninafurahia katika Embu Kaunti mambo ya kahawa yamepewa kipaa umbele.

Mwisho ni kuomba serikali za kaunti na wizara husika na ukulima na mifugo iweze kupelekwa mashinani ili tuweze kujivunia katika mambo ya kilimo.

Asante, Bw. Spika.

The Speaker (Hon. Kingi): Proceed, Senator Omtatah.

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Sen. Okiya Omtatah: Mr. Speaker, Sir, I rise to contribute to the Motion on the Coffee Bill that is on the Floor. I have looked at the amendments proposed by the National Assembly. Most of them are technical in nature. I hope that when it goes to the Committee of the Whole, we will interrogate them in detail. They seem to be supportive of the Bill. Therefore, we should finalise this Bill because it is extremely important to the economy of this country.

Coffee growing, right from the colonial days, was made a political crop. We hope that this Bill will look into studies that have suggested that Nyanza and Western Kenya, that is, Homa Bay, Siaya, Kisumu, Kakamega, Busia and Migori counties, have very high potential of producing very high-quality coffee.

These studies are documented. I would request that as we look at this Bill, we will be able to unlock the potential of these crops. As you can see, the sugar barons have already invaded Western Kenya and they have made mincemeat off the sugar industry. It is hardly there. I support this Bill and I pray that the Committee will give its best attention.

As I am still on my feet, I want to raise a matter of great concern to the Senate in terms of our emergency preparedness. Today I just learnt that we are sitting ducks. Should an emergency happen where you need an intervention from a medic, I just learnt that the Senate does not have an emergency department. We do not even have first aid. We have to rely on St Johns Ambulance to give us first aid.

The challenge we had this morning should be an eye opener. It also occurred to me that the Bunge Tower as high as it is, does not have a lift where a stretcher can fit. We are only lucky that the emergency we had today happened on the first floor. Therefore, we were able to carry the victim using a stretcher by the staircase. Imagine if it had happened at the top of that building, what could have happened?

I think it was a terrible thing and time has come for us to hold people to account. That building cannot continue being like that. When I leave my office, I have to go and look for a shoe shiner to shine my shoes because the carpet gets off and sticks on my shoes. I need the service of a shoe shiner when leaving my office. It is very sad.

These people need to be arrested and locked away. Right from people who designed it, those people who supervised it and people who stood for it. We know there are people who made millions of shillings out of that building. We know there are people in this House who bought houses in Karen from---

The Speaker (Hon. Kingi): Sen. Omtatah, I just want to know, we are in Order No.9, debating the amendments as proposed by the National Assembly on the Coffee Bill. I am struggling to find relevance.

What you are raising is a heavy matter, but I am just struggling to find relevance with what you are saying and the matter at hand. I will give you an opportunity maybe later on to ventilate on the very important matter you are raising. However, for now, just restrict yourself to Order No.9.

Sen. Okiya Omtatah: Going back to the question of coffee, we also realised that coffee is a political crop. It is an international crop that requires heavy lobbying and value addition, which for us should be a very important consideration. We cannot continue exporting raw beans or raw leaves and then reimport as finished products.

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I think when you consider this Bill, I will be requesting that those responsible take it upon themselves to make sure that the question of value addition is seriously addressed. Perhaps, we should even make it illegal like European countries have done, that you cannot export raw materials.

We should try to just make sure that we do whatever it takes to export finished products from Kenya. This idea of raw materials has created poverty among our farmers. If you go to Central Kenya where they are growing coffee and look at what the farmer takes home against a tin of Nescafe, you will find that this farmer hardly makes anything.

Let us really try to think of ways we can invest in the coffee industry on the value addition systems, the factories and so on, so that we can begin exporting Kenyan coffee as a finished product and ensuring that we get maximum value from the raw material.

Sometimes most of the value comes from value addition and not necessarily in raw material. However, I pray that these studies that have come up showing that there are many areas in this country that can grow coffee and do it profitably, are also looked at and investments are prepared for it. This is to ensure that the culture, fear and the politics of coffee locally can be opened up to many sectors. We also need to develop a proper industry, right from the farm to the coffee cup. We should have Kenyan control.

Mr. Speaker, Sir, with those few remarks, I thank you for the opportunity.

The Speaker (Hon. Kingi): Next is Sen. Cheruiyot, the Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I rise to oppose this Motion. Probably, it will be good for me to explain why, so that Members do not think that I am at variance with what the Committee is proposing.

There is a little technicality on how this Motion is drafted. The Motion before us, as moved by the Chairperson of the Committee on Agriculture, Livestock and Fisheries, is that the National Assembly amendments to the Coffee Bill be now considered, yet if you look at the report of the Committee, they have rejected quite a number of those amendments. That means the Committee wants us to go through a mediation process.

If you consider, it means we have to sit as a Committee of the Whole, reject those amendments and then send them to the National Assembly for us to have a mediation to consider the amendments again. Therefore, there is no proper fluency based on how this Motion was drafted.

The easiest thing that I urge my colleagues to do is that for us to achieve what the Committee wants us to do, which is to reject some of the amendments by the National Assembly, is to defeat this Motion to necessitate formation of a mediation committee between us and the National Assembly. Thereafter, we will pass the mediated version of the Bill, which will be agreed on by the two Houses.

Mr. Speaker, Sir, it is a very simple and straightforward matter. For that reason, I oppose this Motion and agree to the reasoning behind the rejection of the amendments by the National Assembly because coffee is not just any ordinary crop.

I am a proud representative of coffee, tea and sugarcane farmers. Hardly do farmers appreciate the Government effort in any particular industry. In my time here in the Senate, there are only two or three occasions that I have done that.

In 2021 when we passed the Tea Bill that was sponsored by yours truly and farmers began receiving their payments by 5th of every month as opposed to the previous

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practice where they would wait sometimes for two months. Many other accruing benefits, including the ability of farmers to vote in directors of their factories on the principle of one man, one vote. That should not be confused by another mantra that is common in our political parlance.

Farmers really appreciated and celebrated. At that particular time, tea farmers were happy. Of course the story is different right now, and there are serious challenges that need to be addressed.

In this particular day and time, coffee farmers are extremely happy. When I go to parts of my county that have farmers growing coffee, they appreciate the coming into place of this administration. They used to receive Kshs30 and sometimes even Kshs20. Today, one of my largest coffee societies known as Kipkelion Coffee Growers Association is giving prices of up to Kshs140 or Kshs150. Something that is unprecedented.

Mr. Speaker, Sir, we must guard our farmers to ensure that every amendment that we move in this particular House serves to protect their interests more. They should be earning more than that. However, because of middlemen and how the Nairobi Coffee Exchange (NCE) was being handled, there were serious challenges. I must appreciate the efforts that have been made to get them to that level. The bigger challenge for us is how to ensure that farmers continue to gain and appreciate the value of coffee.

For the very first time, there is a reverse trend in my own county. Previously when I went to the coffee growing areas, they would challenge me and tell me that the same way we worked hard for tea farmers, they also want to see benefits. That was the song for last term. This term, the noise is now on the tea side. They are asking why we focused too much on the coffee side and now the tea crop has all those problems. You also know the benefits in the sugarcane sector.

Ordinarily, as representatives of farmers, we need to take such Bills with the seriousness that they deserve. If there is a responsibility that you can have particular as a Senator, because agriculture is a devolved function, the policies and legislative proposals that we pass in this particular House must reflect the spirit of our Constitution. We should ensure that we protect the interests of our farmers by passing legislation that captures the understanding that there are two levels of government; the national and county governments. Therefore, as the representatives of the people, we must ensure that in all the conversations, a farmer does not get any loss in all the jargon that comes up in the legislative-making procedure.

Mr. Speaker, Sir, I thank Members of the Committee on Agriculture, Livestock and Fisheries for their industry. I know we have gone to public fora many times and people have spoken on the need to conclude on this particular exercise. Sometimes it makes sense to hold on, even just for a few more days, but get the right piece of legislation. It is not easy to legislate on such a political crop like coffee. Therefore, for the legislative journey that this particular Bill has travelled, beginning in this House to the National Assembly and now back and about to go through a mediation exercise, I believe it is worth it.

Mr. Speaker, Sir, we have to expedite because we have to lock in the gains at this particular time when farmers are happy and there are many Kenyans who continue to

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plant coffee, so that we take advantage of the good vibes that farmers have at this particular point. I hope that Members who will eventually get an opportunity to serve in the mediation committee when we reject this particular Motion and follow through with the reasoning by Members of our Committee on Agriculture, Livestock and Fisheries, will expedite that exercise.

I am particularly concerned because previously while mediation exercises would take between two to three weeks on average, some of our mediation exercises are beginning to take fairly long. I request Chairpersons and Members that we grant opportunity to serve in mediation committees to consider expediting especially people-centric legislation like this particular one and many others. That is something worth to consider and make sure that we conclude on such Bills.

For example, in the past two to three months, the country has been conversing about the menace of gambling in our Republic and the need to rein in betting firms and all these institutions, yet we have a mediation committee that has served for almost 70 days and counting. We have our Members and those of the National Assembly. That Bill began its life in the National Assembly before it came here. They disagreed with our amendments and now there is a mediation team that we formed in March. We are now nearing June, but that exercise has not been concluded.

I urge colleagues that when we have a matter that is people-centric, especially which is topical in the country and people feel that there is need to provide guidance, we need to expedite it. I cannot recall Members who sit in that committee. I am talking about Members who the Senate sent to represent us in that particular committee. My plea is that when we form this particular one, we should expedite it, so that we represent our farmers.

Mr. Speaker, Sir, with those many remarks, I beg to oppose the Motion for the reasons that I have explained. I hope that we will conclude this exercise quick enough, so that we begin the mediation exercise as soon as our colleagues from the other House resume next week.

I thank you.

The Speaker (Hon. Kingi): Next is Sen. Olekina.

Sen. Olekina: Mr. Speaker, Sir, I rise to make some submissions on this report. Let me begin by appreciating the work of the Committee for going through clause by clause on the amendments made by the National Assembly. There are few amendments made by the National Assembly that I agree with and there are some that I would have wished my good Committee on Agriculture, Livestock and Fisheries to have given us guidance on what to amend or the language to be used.

The first amendment, which has been made that I support is on a broker. When a person is called a broker, given that this commodity is being sold abroad, you have to go to a market and brokerage the deal between the buyer and the seller. In my opinion, it is imperative that you are licensed by the marketing authorities. That is a good amendment and I fully support it. However, I do not support entirely the amendment on who the buyer is. I do not need to be licensed.

Sometimes, I think we just over-legislate. I do not need to be licensed to buy coffee to resell. If you look at the amendment as drafted by the National Assembly, you will be shocked that whoever buys coffee must be licensed. It is absolutely ludicrous. If I

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was to buy coffee, I should go to the broker, bid my price and buy coffee and if I wish, add value.

Mr. Speaker, Sir, in Narok County, we are now growing coffee in Kilgoris, Narok South and part of Emurua Dikikir. It is imperative that we encourage our population to venture into the agricultural sector and grow. However, if one has to use a broker to be able to sell, you are going back to the colonial era when the crops in our country were defined by the cash crops economy. In fact, at that particular time, we were only growing goods to feed the British in the United Kingdom (UK) and the West.

The definition of who a buyer should be completely rejected. I wish that the Committee would have said we delete this. I have gone through the report and I must say that the Committee has done a fantastic job. Let me thank the Chairperson on the Senate Standing Committee on Agriculture, Livestock and Fisheries. However, I wish that the Chairperson would have gone on and said- "The Committee rejected this amendment and suggested the following---", so that it guides us. This way, even when we select a team to go through mediation, they can go and say, this is the language to be used. I wish they would have said, "In terms of the buyer, delete that. Let everybody be able to buy."

The second part, which I also detest is where a buyer is defined. Even a grower should be defined. So, before I grow coffee, I have to go and say, "Which plant can I grow here?" I strongly believe that we should have that completely deleted. I noted that the Committee had accepted that amendment to the clause. However, I am of the view that every Kenyan who has an interest should be allowed to.

We are training students. I am currently recruiting 100 students of Narok County to offer scholarships and train them in agribusiness. I do not want to guide those students and tell them that they can only plant this tree. So, certain definitions need to be removed.

Mr. Speaker, Sir, without wasting so much time, I wish to request my colleagues to go through these amendments one by one. When we go through the Committee of the Whole, by just rejecting it does not help. We should be able to figure out. We can work with the Secretariat on how we can also further amend those clauses. Then when we shall go to the mediation, there is a version that will be coming from the Senate. However, if we are just saying that we have rejected because of the following reason, and not giving an alternative, that is what will lead to the mediation Committee taking more than the 70 days that the Senate Majority Leader has alluded to.

Mr. Speaker, Sir, I equally oppose these amendments and root for liberalization of the coffee industry. Let everyone grow. I have seen that in reference to marketing you also have to be licensed. Does this mean that if I travel to the United States of America (USA), sit with Starbucks, and they tell me that they want to buy coffee in Kenya, I cannot market coffee there as a Kenyan? That, I have to look for a licensed marketer? This should be a willing buyer, willing seller. Let us liberalize this economy and allow more people to grow coffee as they wish. We must divorce ourselves from this colonial mentality of defining our agricultural sector as a cash crop and other crops. We are still following through. *Hii maneno ya nyayo---* I am sorry. We need to stop it.

We need to say if you can grow coffee in Narok County, do so. If you can even add value and consume it locally, so be it. However, if you can grow and sell abroad, then it would make sense to go through the brokerage so that you earn more money.

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Mr. Speaker, Sir, dwelling more on this matter, I oppose these amendments. However, I support the Committee report fully for having done their work, but I oppose the Motion.

Thank you.

The Speaker (Hon. Kingi): Sen. Omogeni, please proceed.

Sen. Omogeni: Mr. Speaker, Sir, I am also speaking on behalf of the farmers in my county. Of my four constituencies in Nyamira County, in three of them, there are farmers who grow and sell coffee. That is North Mugirango, West Mugirango and Kitutu. North Mugirango neighbours my good friend, Sen. Cheruiyot. However, for both my tea and coffee farmers, I have never understood why farmers from central Kenya and even Kericho County earn more money than farmers from Nyamira County. Sen. Cheruiyot, I do not know whether you are aware that our farmers were paid Kshs239 for dry coffee. Where Sen. Wamatinga comes from, they were paid Kshs500.

(An Hon. Senator spoke off record)

Is it Kshs356 not Kshs500? At least this time we are almost at par and I am happy. The other time they were earning one and a half times more than others. We want fairness for all our farmers. When we sell coffee or tea, we are selling coffee coming from Kenya. We never sell coffee coming from Nyanza or from central. Rather, we sell it as coffee from a country called Kenya. We want fairness for farmers, both from Central Kenya, where our brothers are, we have in-laws there, and also farmers from Nyanza and Rift Valley.

We have the same problem with tea, where we understand that farmers from central Kenya fetch better prices than farmers from Nyamira County. We want the Government, even if it means to regulate the auctions and the selling of tea, we get fairness. The farmer in Nyamira County and the farmer in central Kenya want to pay school fees and buy a kilogramme of meat for themselves. They also want to wear nice suits, so we want fairness. Whatever laws we are passing here should ensure fairness to all the farmers in Kenya. We all should benefit. I am told in Brazil there was very bad weather that has affected coffee production. So, we are now gaining here. Let us all gain. If we are earning Kshs350, let it so.

Mr. Speaker, Sir, we also want the Government to assist our farmers. Since coffee has now become the black gold, farmers are facing a lot of problems. When you bring your coffee and store it in a coffee society, chances are that somebody somewhere will plan and rob you. I do not know about central Kenya. However, I can speak for coffee societies where I come from. If you go to West Mugirango in Nyangoko, Kemera in West Mugirango, or Eyaka in North Mugirango, there is no proper fencing of our coffee factories.

The Government should step in and create a fund. Fence these coffee societies nicely since the farmers are also contributing to foreign earnings. We want to have a good entry to the coffee factory, connect them to electricity and improve the beds that they use for drying coffee, so that they can also enjoy and say the environment they are trying to make money from is good and appreciates the farmer.

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Mr. Speaker, Sir, last year, a night guard was attacked and killed by thieves who were stealing coffee from Eyaka Coffee Society. As I speak today, the person or persons who attacked have not been arrested to date. We also need to understand that the environment under which we process and store our coffee exposes our farmers to a lot of risk. I would want the Government to step in and assist these farmers. Some of the societies have loans that have been outstanding for many years. Any time they make good earning, their money goes to repaying their loans. I hope the Government can step in and help.

Some of the proposals in this report from the National Assembly are hard to understand. Surely, why does the Salaries and Remuneration Commission (SRC) want to come in to set the sitting allowances for members of coffee societies? I mean, we are overstretching the mandate of the SRC. The SRC wants to come to Nyamira to sit in North Mugirango, Kitutu and West Mugirango to tell farmers what their sitting allowance should be. You can set a sitting allowance that the farmers will never afford. The allowance should be commensurate to the earnings of the farmers from that coffee society. You do not set a blanket sitting allowance.

Maybe farmers in Embu County make more money and they want to pay their directors a sitting allowance that cannot be matched by farmers in Nyamira. If you make good money there, pay them more. If we are not able to make good money in Nyamira, we want to save on the allowances we pay to our directors. I do not agree with this proposal that the SRC should now come in meddling and say they are the ones setting allowances for farmers.

I hope the Members who will go to do mediation will strike off that amendment. It appears as if our brothers in the National Assembly do not live in our counties, where we come from. This is something they should be able to understand. The SRC will think a board member attending a meeting should be paid Kshs25,000. If you pay a director for four months, you will wipe out the earnings from the cooperative society. So, let that be a matter that will be dealt with by the farmers themselves. They will see the earnings from that society and then decide the remuneration they are going to give their directors.

Mr. Speaker, Sir, I like this idea of value addition. We have spoken about value addition for ages. Sen. Cherarkey, I was in Uasin Gishu County on Friday. I went to take a cup of coffee. Do you know how much I was charged? Now, you want to pay farmers in Nyamira Kshs239 per kilogramme of dry coffee and yet a cup of coffee is Kshs350 in Eldoret City, in Uasin Gishu County, which is not even the Capital City of Nairobi. I paid Kshs350 for a cup of coffee. Eldoret City is a nice, beautiful city. However, the farmer who produced the coffee for a whole kilogramme, ile *goro goro*, is earning Kshs239.

We are not being fair to our farmers. One kilogramme should fetch more than Kshs1,000. How many cups of coffee will one kilogramme produce? Many! That small sachet is the one that is making me to pay Kshs350---

The Speaker (Hon. Kingi): Sen. Omogeni, What is *goro goro*? You referred to that word and I am struggling to understand what you mean.

Sen. Omogeni: Mr. Speaker, Sir, *goro goro* is that tin. When you take that coffee in that tin, that is the one we call two kilogrammes. In Nyamira, we call it *goro goro*.

When I speak that language, my people in Nyamira understand. It is used everywhere; I am sure even in Kilifi.

The point I am making is this; imagine you deliver that two-kilogramme tin of coffee and all you are earning is Kshs239. When you go to London you will pay three dollars or about Kshs450 for that cup of coffee, which we took in Eldoret for which we paid Kshs350. We must do something so that we make the farmer to be the one who is benefiting more because they are the ones toiling. The person taking a cup of coffee, he is just enjoying it, but the farmer has toiled. He needs to earn money that will pay fees for his child, afford medical bills in hospital and dress nicely like the farmers I saw in Uasin Gishu, wearing very nice suits. That is what we want for our farmers.

Also, let us not steal a lot of money from our farmers. This Bill is proposing the introduction of other levies. The moment you introduce a levy, who will meet the cost? It is the farmer. I went to school in Kabianga. The Kenya Coffee Research Foundation was situated opposite the school. So, you still want farmers to continue paying money for research up to today? We will do research for how long? For eternity and that cost is being transferred to the farmer. You are proposing another levy here which you are calling development levy. What is it for? Let us reduce this taxation on our farmers. Let us be fair, Senators. This is more taxation on our farmers.

Let us not allow passage of laws that add more pain to the farmer. If they are lucky to get the good earnings they are getting this year, let that money be for the benefit of the farmer. We will pay the taxes. We are paying enough taxes to the Government, but let us spare the farmer. Already they are facing enough pain.

I really hope that the Senators who will sit in this mediation committee will ensure that they do not allow these proposals from the National Assembly that want to tax the farmers' earnings more. Already the taxation they are facing is enough. They are the ones who pay the directors, they are buying coffee, they are paying the person tilling the shamba, the one plucking and society expenses. That is enough. Let the extra income go to the pockets of the farmer.

I hope the Government will continue supporting our farmers. We were in this Senate last time. The Coffee Cherry Fund (CCF) never benefited us in Western Kenya. It never benefited us. Kericho benefited---

The Speaker (Hon. Kingi): What is your point of order, Sen. Cheruiyot?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I think Sen. Omogeni was doing so well on this issue, representing his farmers, who incidentally are also my farmers because we come from the same region. He knows that when Sen. Moses Wetangula moved the House on that particular matter, it was because only four counties had been picked to benefit. It was Nyeri, Embu, Murang'a and Kiambu. Kericho was not one of them. So, the record of the House should reflect that we never got a shilling from the CCF by former Cabinet Secretary Hon. Munya.

The Speaker (Hon. Kingi): Proceed to conclude your remarks, Sen. Omogeni.

Sen. Omogeni: Surely, Mr. Speaker, Sir, if those four counties benefited, for equity, for fairness, let us also benefit this time around. I am pleading with the President, if he is watching me, let him also remember the farmers from Nyamira, Kisii and Kericho counties. At least the farmers in Nandi do not pay a lot of attention to coffee. Let

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us also benefit. Let us have fairness. Let us have equity. We debated that issue on this Floor. Just imagine how those farmers felt just seeing four counties from one region being picked to benefit, then others are isolated.

I am appealing to the Cabinet Secretary, Hon. Mutahi Kagwe, let him be fair to all the farmers of the Republic of Kenya. Last time farmers from central benefited. This time around, let also the farmers in West of Kenya benefit. We also pay taxes. We also want to live good life. We want our farmers to live good life. I am appealing to the Cabinet Secretary and the President of the Republic to remember the farmers of West of Kenya this time round. We did not feel happy. Our farmers did not feel happy that we were discriminated. I hope this time there will be fairness.

Mr. Speaker, with those remarks, I oppose the Motion.

I thank you.

The Speaker (Hon. Kingi) The Senator for Nandi County, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. It is good that we are discussing serious issues.

One of the biggest agenda of President William Ruto was on fixing the mess in farming through guaranteed minimum returns, coffee and tea sector. The President continued to perform exceptionally very well in fulfilling the agenda.

Even today, a few hours ago, I congratulate His Excellency the President because he continues to prove wrong the naysayers by launching the 2010 Mukuru Estate Affordable Housing Programme. The unfortunate part is that the Senator of Nairobi City County did not turn up, but the entire leadership of Nairobi was there to prove---

The Speaker (Hon Kingi): Senator of Nandi, confine your contributions to the matter at hand. You know our Standing Orders on the issue of relevance. I do not want to rule you out of order. Please, proceed with your contribution on the subject at hand.

Sen. Cherarkey: I am coming there. I am bringing it home.

The Speaker (Hon Kingi): You are already there; proceed.

Sen. Cherarkey: I wanted to show the nation that the President continues to fulfill his agenda. One of the agendas apart from affordable housing is guaranteed minimum returns, the coffee and tea sector reforms. We continue to prove our naysayers wrong. Even in the dairy sector, it is a fulfillment that will not go unnoticed.

Mr. Speaker, Sir, you should rein in Sen. Eddy. He is shouting, yet he is the Chairman of the Committee on Roads, Transport and Housing. I did not see him there. I also want to correct a total misnomer that has been advanced by the Senior Counsel that Nandi does not grow coffee. We grow coffee. He should know that he was in Uasin Gishu not Nandi County. Would it be in order that the Clerk's office guides the good Senior Counsel on how counties are because he was in Eldoret, which is in Uasin Gishu; not Nandi County. I want to correct that record. Where we border Kericho, we plant coffee in Tinderet over 80 per cent. We plant coffee in Nandi Hills, Mosop, in Chesumei up to Uasin Gishu, where he was.

I was disappointed when Kshs10 billion came from CCF through the World Bank. In the last session the current Speaker of the National Assembly moved this House because at that time, only the people from *murima* benefited from the World Bank Coffee Cherry Fund.

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I hope Cabinet Secretary Mutahi Kagwe will correct this travesty of justice against the farmers in Nandi and across the nation. In fact, as we talk, a number of cooperative societies, from Kipchele and Kabunyeria Cooperative Society Coffee, and many others across Nandi County are yet to get the start-up.

Mr. Speaker, Sir, I have challenged the Cabinet Secretary in charge of Ministry of Cooperatives, Micro, Small and Medium Enterprises, Hon. Oparanya, to bring a special package to jump-start most of our cooperative societies which are struggling. Under guaranteed minimum returns, that the President, by the covenant that he had with Kenyans, we must relook and ensure that farmers get value.

It is said that the average age of farmers in this country is 50 years. We encourage the Gen Zs and the Millennials to be part of bringing agri-business in terms of running of our farms.

I am happy, Mr. Speaker, Sir, there is a wake-up call of ensuring that coffee is being grown. I saw the Commissioner in Parliamentary Service Commission. I inform him that even as we sit in our restaurant here in Parliament, they charge us Kshs350 for coffee. I do not know, espresso or cappuccino house coffee, chicken coffee or something like that. They serve us coffee.

You can imagine the frustration of first-time Members of Parliament who are still putting their financials in order. It is unfair that you are charging Kshs350 for coffee here. Across at the Java House is Kshs450, yet it is being financed by our budget from Parliament. This is around US\$3.

Mr. Speaker, Sir, I want to say this because I am a farmer and I represent farmers. I feel so pained that our farmers wake up very early in the morning to work, but the biggest beneficiaries are middlemen and brokers in this country.

There is a calculated discrimination of farmers in this country. You remember we brought a statement that Kshs34 billion worth of tea from Western Kenya had not been sold. What offence have Western Kenya farmers committed? We are struggling with sugar crisis leasing at the moment.

Tea, coffee, dairy sector and sugar cane is correlated. In Nandi, we are being paid up to Kshs17 for tea bonus, yet when you go to some parts of this country, they are being paid up to Kshs58. It is not fair. We must be deliberate reform as in the coffee sector reforms. I want to challenge the chairperson of the Committee on agriculture, Livestock and fisheries. I have never seen them participate in coffee caucus sector reforms.

I saw only the Member of Parliament from Nyeri Town, Hon. Duncan Mathenge, who is the Chair of Coffee Parliamentary Caucus. I have not seen Senate becoming proactive. I know the Vice-Chair, Sen. Mundigi, the Deputy Party Leader of the Democratic Party (DP). I have not seen their input in the Parliamentary Coffee Caucus. We need to caucus even in the tea sector, so that we can see value. There are better conversations we can do outside this room that will be beneficial.

Let me make a few very critical points and then I cede the Floor. On the issue of the buyer, I do not agree. There was no need to define these things. This one should be deleted. Another factor is the danger of coffee theft, especially in the Mount Kenya region. The unfortunate part is the incompetence in that Ministry, but let me propose.

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Mr. Speaker, Sir, the Ministry of Interior and National Administration should form what we call an anti-coffee theft unit to protect our farmers the way we have done for anti-stock theft unit.

You have seen deaths even in Nyamira, Murang'a and in Meru, where your Deputy Speaker comes from. Coffee is a matter of life and death. The Ministry of Interior and National Administration must form anti-coffee theft police unit at least, so that our farmers can feel safe.

I think also the Ministry of Interior and National Administration must give powers to the Inspector General of Police, which of course is independent, to have a sector where the armed police officers are providing 24-hour surveillance and security in our coffee factories across the country.

Mr. Speaker, Sir, this is because you remember the story of Chepkube during the era of President Kenyatta I. I know the "youth leader," Sen. (Dr.) Oburu Odinga, is a custodian of history of this country. Coffee was being treated like gold. People were dying because of it.

At some point during the last regime, some of us had our bodyguards withdrawn because we had different views with the regime. We had even thought that we needed to form a parliamentary police unit, so that they are not subject to few people within powers who can withdraw bodyguards that offer VIP protection. This is something we suggested; it is not something I am bringing up.

The Speaker (Hon. Kingi): What is your point of order, Senator for Meru?

Sen. Kathuri: Mr. Speaker, Sir, I want inform my good friend, Sen. Cherarkey, who is saying anti-coffee police unit. Is it anti-coffee or pro-coffee police unit because I am not getting it right and we might mislead the Kenyans who are watching us? The subject matter is very emotive. However, I am happy with what you and the other Members have canvassed.

I have been following up this matter throughout this afternoon. He should correct because it is not anti-coffee because he has said that police officers are against coffee.

Thank you, Mr. Speaker, Sir.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir, and the Deputy Speaker, Sen. Kathuri Murungi for that correction. I meant that there should be a specific unit to protect our coffee factories and where coffee is being stored in order to prevent theft. A police unit should be formed to prevent the theft of coffee in this country. The Ministry of Interior and National Administration can start with coffee factories for now and where coffee is being given. I agree that should be the least we can do.

The principle so that I qualify my argument; is that we are not talking about the issue of giving police to prevent theft of coffee. I am also talking about livestock or even diplomats. Therefore, when Kenyans will listen, we are not saying that the Ministry of Interior and National Administration should get extra budge, it should just be reallocating and creating a department or a police unit that will specifically deal with coffee theft in this and we have formed many units.

Mr. Speaker, Sir, the third one is on taxation. The reading of Article 210 on imposition of taxes and the reading of Article 209. We need to be very careful because

taxation is killing our people. Remember the dissent that we had last year from the young people over the finance Bill in this country because of taxation.

This issue of increasing levies, whenever you walk to a coffee or a hustler *kiosk* here in Ngara and you look at the walls, they have become mosaic because of the many taxations that Kenyans are paying. We need to stop this culture that we can grow the country through overtaxing Kenyans. We need to overgrow that.

You will see someone paying public health, they are paying the county government and the Music Copyright Society. When you look at the number of taxes that Kenyans pay, even at the smallest level, then we should do away with this taxation. This culture of double taxation is killing businesses in our counties. This is because if you are buying machine cut stones in Thika, before you enter Nakuru, they want you to pay cess. Before you enter Uasin Gishu, they want you to pay cess and before you enter Nandi, they still want you to pay more cess.

Mr. Speaker, Sir, we are killing the spirit of business by encouraging double taxation. This country will not grow because of double taxation. Therefore, I encourage that this issue of levies must stop.

The reading of Articles 209 and 210 in as much as we need to arrogate powers to Parliament, Parliament must be seen to be alive to economic realities. If farmers continue or people who deal with coffee, you know what happens? The people who do coffee business do not care. They will just arrogate those taxes to the farmer. The farmer would have paid Kshs250 per kilogramme, we will pay Kshs200 per kilogramme because taxation is high and because we have to pay that taxation. I would like to say that there was lack of wisdom in introduction of this taxation path because Kenyans are tired with taxes. We only grow this country by creating an enabling environment.

Mr. Speaker, Sir, point number four is on the issue of SRC. We are overstretching the mandate of the SRC. The business of SRC that was envisaged by the Constitution was very clear; to advise. Some of our co-operative societies in our villages run on losses. Some of them are being run by charity, where directors or people who run coffee societies are supporting as part of giving back to the community.

If the SRC today says people who run coffee societies should be paid Kshs25,000, some of the coffee societies I know in Nandi County do not have that capacity. Why are we overstretching the mandate of SRC? SRC has never accounted for anything that they do. Remember they frustrated Members of County Assemblies (MCAs). I have never seen it. When it started in 2013, the money that was being given was more than 150, but now they have cut it down to 80. We are giving the SRC powers they do not have. We should not allow them to do anything, because their work is to advise based on the economy performance.

So, when you introduce the SRC on the role that we are having, then that is unfair. On the issue of the SRC, let them allow the county coffees to be run by the board's management that we have. The other factor is that the board of directors shall be paid as the SRC shall determine. The coffee sector is on its knees, let us allow it to regulate itself and agree because I do not know why Members of National Assembly want to introduce this issue of SRC in this.

Mr. Speaker, Sir, we have had run-ins even here at the legislative, but they have overstretched their mandate. In fact, I will bring an amendment that we should make the SRC part-time because I believe they are idle in their offices. Nowadays, they have become bogeymen or bogeywomen and they just review salaries of politicians in this country.

They only meet four times a year. We can make them part-time because they are always changing vehicles and they have the salaries they give themselves. Who watches the watcher? No one watches. You know they say that when your goat gets lost, you become suspicious over the smell of the stew in your neighbour. The watcher must be watched going into the future.

Mr. Speaker, Sir, let us support these farmers. I would like to say I reject this Motion. Let us go for mediation for the benefit of a coffee farmer in Kabirer in Tinderet. Let us stand up for a coffee farmer in Kamungei in Mosop sub-county in Nandi County. Let us go for a farmer somewhere in Uasin Gishu, Kipkelion, Murang'a and Meru; for the benefit of this nation. We must reject this Motion until and unless, we agree on how we can.

It is good the Senate Majority Leader is here because I am offering myself and I hope to not miss in the mediation committee because I need to educate some Members of National Assembly on how coffee issues should be handled.

Mr. Speaker, Sir, with those remarks, I again totally reject this Motion with everything that I have.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, before I call the Mover to respond, I have the following communication to make.

(Interruption of debate on Motion)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM CHANIA PRIMARY SCHOOL AND
HUHO-INI COMPREHENSIVE SCHOOLS IN NYERI COUNTY

The Speaker (Hon. Kingi): Hon. Members, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting teachers and pupils from Chania Primary School in Nyeri County. The delegation comprises six teachers and 40 pupils who are in the Senate for a one-day academic exposition.

We also have visiting teachers and pupils from Huho-Ini Comprehensive School. The delegation comprises six teachers and 51 pupils. This school is also from Nyeri County and is on a one-day academic exposition at the Senate.

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

I will call upon the Senator for Nyeri County to extend a word of welcome to be done under one minute. Sen. Wamatangi, you may proceed.

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Sen. Wamatinga: Thank you, Mr. Speaker, Sir, for giving me this opportunity to welcome the pupils from Chania Primary School and Huho-ini Comprehensive School, both in Nyeri County.

When some of us sponsor such students to come and visit us in the Senate, it is because we want to give them the kind of exposure of what goes on around here. We also want to give them an opportunity to get inspired so that one day when they are sent to offices, such as ours, they can be good leaders.

Mr. Speaker, Sir, Nyeri County is known for having produced some of the best leaders, among them, Hon. Mwai Kibaki. When I look at the pupils up there, that is what I see. I see potential Mwai Kibakis. However, that will only happen if we, leaders, give them a good example and behave as good leaders. We should make pronouncements that will inspire them.

It is also important that we acknowledge the role that education plays in this country. Through parliamentary diplomacy, we have gone to several countries. We have met many Kenyan students who are renowned in those foreign countries because of the good education they received.

I wish to take this opportunity to welcome students and teachers from Chania School and Huho-ini Comprehensive School. I wish them a fruitful day and I hope that they will get to take something home.

Thank you, Mr. Speaker, Sir.

(Resumption of debate on Motion)

The Speaker (Hon. Kingi): Sen. Wafula, you may now respond, having moved this Motion?

Sen. Wafula: Mr. Speaker, Sir, I appreciate the contribution of Hon. Members on the Coffee Bill (Senate Bills No.10 of 2023). This Bill elicits a lot of emotions across the country.

[The Speaker (Hon. Kingi) left the Chair]

[The Deputy Speaker (Sen. Kathuri) in the Chair]

We were with the Cabinet Secretary, Ministry of Co-operatives and Micro, Small and Medium Enterprises Development, Hon. Oparanya, in Bungoma on Friday. He had a real test of the feeling and the suffering of the farmer in Bungoma. We visited Chesikaki Coffee Mills and Musese Coffee Mills. We had about 4,000 farmers in Chesikaki and 3,500 farmers in Musese. The Members are actually raising legitimate concerns.

On behalf of the Committee, I assure the Hon. Members that their input, advice, and contribution will be put into proper use to ensure that this Bill comes to pass.

I, therefore, reply. Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): The Chairperson of the Committee on Agriculture, Livestock and Fisheries get guidance from the Clerk.

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Sen. Wafula: Mr. Deputy Speaker, Sir, I request that we defer putting of the question to a later date.

(Loud consultations)

We can proceed, Mr. Deputy Speaker, Sir. We can ring the Bell and deal with it. Thank you.

The Deputy Speaker (Sen. Kathuri): Who is advising that the Bell be rung? You are done, Mr. Chairman, Sir.

(The Clerk-at-the-Table consulted the Speaker)

This House has rules and regulations. Sen. Cherarkey and the Senate Majority Leader, you have no authority to call for the Bell to be rung. You cannot ask the Serjeant-at-Arms to ring the Bell for quorum.

Senate Majority Leader, you have no authority to do so.

(Sen. Cheruiyot consulted the Deputy Speaker)

QUORUM

The Deputy Speaker (Sen. Kathuri): I have been advised that we have no quorum. I request the Serjeant-at-Arms to ring the quorum Bell for five minutes.

(The Quorum Bell was rung)

(Several Senators stood in their places)

Hon. Senators, can we now resume our seats? The lobbying is over. I want to put the question. Sen. Munyi Mundigi and Sen. Cherarkey together with the Senate Majority Whip.

Hon. Senators, now that we have quorum, I will put the question.

(Question put and negatived)

(Loud consultations)

Hon. Senators, last week we had a very comprehensive *kamukunji* and we sorted all the issues that were raised by the Members. So, let us make progress on today's business.

Hon. Senators, we are deferring Order Nos. 11, 12, 13 and 14. We will then move to Order No.15.

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BILL*Second Reading*

THE PROVISION OF SANITARY TOWELS BILL
(SENATE BILLS NO.7 OF 2024)

(Bill deferred)

BILL*Second Reading*

THE SPORTS (AMENDMENT) BILL
(SENATE BILLS NO.33 OF 2024)

(Bill deferred)

BILL*Second Reading*

THE SPORTS (AMENDMENT) (NO.2) BILL
(SENATE BILLS NO.45 OF 2024)

(Bill deferred)

BILL*Second Reading*

THE CREATIVE ECONOMY SUPPORT BILL
(SENATE BILLS NO.30 OF 2024)

(Bill deferred)

BILL

THE DIVISION OF REVENUE BILL (NATIONAL
ASSEMBLY BILLS NO.10 OF 2025)

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. I beg to move that the Division of Revenue Bill (National Assembly Bills No.10 of 2025) be now read a Second Time.

For all intents and purposes, and with full realization of my duties as the Leader of the Majority in the House, this is the proudest moment for every Senator. It is at this point that we fulfill our constitutional mandate in its prime. This is ensuring that sufficient resources are devolved to county governments.

The Division of Revenue Bill is a constitutional function granted to the Senate, requiring careful reflection and deeper consideration whenever such a Bill arises. In the constitutional architecture, the understanding has been that this Bill originates in the National Assembly. However, if it were up to me, I would prefer that we, as the Senate, provide our considered view before it is incorporated into the budget.

This process has become lost and convoluted in numerous opinions and counter-opinions, not only within this House, but from all corners of the country. This includes the Apex Court of the Land, which in 2013 offered one interpretation that we accepted and operated under for the past 11 years. However, last month, the same court issued a ruling that we are still struggling to understand.

While this is not the primary context of my remarks today, I felt it would be impossible to proceed without first reflecting on and considering the views of fellow senators regarding the annual Division of Revenue Bill. This is perhaps the most significant legislative duty that any Senator undertakes once elected to serve in this House.

The Division of Revenue Bill (National Assembly Bills No.10 of 2025) is prepared in accordance with Article 202(1) of our Constitution. It provides the allocation of nationally raised revenue between the two levels of government, the national Government and county governments, for the financial year 2025/2026.

This Bill provides that the revenue is appropriately divided between the national and county governments, ensuring that each level has the necessary resources for the effective implementation of county functions. If there is a fight the Senate must always undertake, and a process we must consistently defend, is the exercise of dividing revenue between the two levels of government. In fact, I have observed speculation in the media regarding the Senate's position on the Constitutional Amendment Bill currently before the National Assembly as well as our stance on the Senate Oversight Fund.

To clarify, we hold no strong attachment to the Senate Oversight Fund. If there is one issue that we must ensure is firmly entrenched in our Constitution, is clarity on the division of revenue. This is essential in affirming the Senate's position on the allocation of funds to our county governments.

The challenges faced by county governments notwithstanding, if there has been any significant constitutional innovation that has contributed to a more stable country compared to previous election cycles, is the assurance that, while resources at the national level remain a matter of contention, at least 15 per cent of that revenue is allocated to county governments. That is something the Senate takes great pride in.

I have seen that our colleagues in the National Assembly have provided clarity. They have stated their intention to set the National Government Constituency

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Development Fund (NG-CDF) at 2.5 per cent. If this House is to concur, then it must also affirm the exact percentage that should go to the counties for each financial year.

The reliance on the last audited financial accounts has left counties struggling under deep debt and operating with insufficient resources. If our colleagues believe that 2.5 per cent of the national budget is sufficient for NG-CDF, let us ensure that 15 or even 20 per cent is set as the minimum allocation for county governments. That way, when the budget is laid in the National Assembly, there is certainty that a dedicated portion of revenue will reach our counties. That would be a fair trade-off; 2.5 per cent for NG-CDF, 20 per cent for devolution.

That is an important conversation to have. I know there are arguments about revenue performance and its impact on budget allocations. What about NG-CDF? Why is there an effort to entrench it at a fixed percentage while county allocations remain uncertain?

Let us reflect on the budgets passed over the last few years. We have Kshs3.4 trillion and Kshs3.6 trillion, yet only about Kshs300 to 400 billion has gone to county governments in recent years. That is approximately 13 to 14 per cent or barely 15 per cent of the national budget is allocated to counties.

It is imperative that we set a clear threshold and reach an agreement, keeping in mind the challenges within our county governments. However, the first and foremost conversation must be about devolving resources. We will address the issues of mismanagement and corruption among governors later. We must first ensure that counties receive the necessary funds. After all, the retention of resources at the national level is not due to the absence of corruption. Corruption exists everywhere. The Ethics and Anti-Corruption Commission (EACC) must fulfill its mandate.

On that note, as we deliberate on this matter, I noticed headlines in *The Daily Nation* and *The Standard* newspapers suggesting that there is a political 'fight back' from the President against his critics. Perhaps, the editors of *Daily Nation* and *The Standard* newspapers should provide a list of the citizens who, in their view, are above the law. That if you become the President critic, you can do anything with no recourse in laws.

The reality is that a criminal is a criminal. If anyone is found to have violated the law, it should not matter which side of the political divide they support. I had assumed that this principle was fundamental, a basic tenet of democracy. However, the trivialization of our politics, perpetuated by some of our newspapers, particularly *The Standard* newspaper and, more recently, *Daily Nation*, continues to hold this country back.

We must rise above petty politics. If a governor has been found to have misappropriated county resources and the oversight institutions, the EACC and the Director of Public Prosecution (DPP), are satisfied with the evidence, then constitutional processes must commence.

This should be done without political interference, whether in support or opposition. This is not the first time that a governor is under trial. How many governors have been arrested since 2013? There should be no special exemptions for governors simply because they are critics of the Government. What kind of reasoning is this that is being promoted by our leading newspapers?

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Anyway, returning to the discussion on Division of Revenue Bill (National Assembly Bills No.10 of 2025), Clause 4 stipulates that revenue raised nationally for the financial year 2025/2026 shall be shared equitably between the national and county governments, in accordance with the Schedule of the Bill.

Clause 5(1) provides that if the actual revenue raised nationally falls short of the expected revenue set out in Schedule, the shortfall shall be borne by the national Government.

If you listened to me earlier, I had proposed only 15 or 20 per cent. Subsequently, if you have a significant shortfall because in the first instant you had taken 80 per cent of the national budget and left it at the national Government, then they shall bear the responsibility.

I must appreciate that that has always been the case, save for unique moments when we have had challenges, like last year when we had the failure to assent the Finance Bill, there was a significant drop in nationally expected revenue by close to Kshs400 billion. Therefore, we had to review downwards what we had actually proposed in DORA.

If you recall, late last year towards November, we had to do a new set of Division of Revenue Bill. I cannot get the exact figures. I think the Members of the Budget and Finance Committee will recall that we had to do that.

Clause 5(2) of the Bill provides that, “if the actual revenue raised nationally exceeds the projected revenue set out in the Schedule, the excess revenue shall accrue to the national government and may be used to reduce borrowing or pay debts.”

This has never happened and it will be Christmas or Ramadan, whichever way you may, want to put it, if it happens. What would happen if this were to ever happen, that we raise more than the projected revenue? The excess revenue shall accrue to the national Government and may be used to reduce borrowing or pay debts.

It is just a balance, that if there was to be a shortfall, you bear the burden. However, if we were to happen that you get a windfall and raise excess revenue beyond what we had projected, then that becomes something for the National Treasury to manage our budget books better. This has never happened in all those years and I do not see it happening.

I will be looking with more detail to see what the fiscal deficit will be. Since that is the indicator of what will be the eventual budget that will be projected before we eventually agree on this issue of division of revenue. I want our colleagues in the National Assembly to hear me loud and clear. If the fiscal deficit is above 4.5 per cent, then we have no reason not to send upwards of Kshs420 billion to Kshs430 billion to the counties.

I will be speaking to that later, when eventually they lay their report on the Floor of the House next week. I cannot speak for now because I do not know eventually what they will agree on. Accordingly, we will be waiting for the report of the Committee on Finance and Budget of the National Assembly.

My point and my argument, which I shall be pushing on the Floor of this House as somebody who follows, understands and knows our budget-making process keenly, knows what ought to be the balance between what is shared nationally and at the county

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government. My argument is that at a 4.5 per cent fiscal deficit, then Kshs430billion is possible.

Mr. Deputy Speaker, Sir, should it be reduced downwards, then we can have a conversation about the figures that I hear being mentioned by our colleagues in the National Assembly because it means there is limited fiscal space. We cannot have a situation where we are allowing the National Treasury to borrow colossal amounts of money while sending to counties very few resources.

Mr. Deputy Speaker, Sir, you will recall and I wish Sen. M. Kajwang, the Chair of the County Public Accounts Committee (CPAC) was here with us. That due to the court's ruling, we met here towards the end of the session. We received the audit reports of many of our counties and passed them in one afternoon. We raised comments and said, we shall find mechanisms through ways and means of addressing that particular challenge.

You will recall that we, as a Senate, raised a concern that if all the 47 county governments were business entities, we would be concerned that most or all of them are not growing. The rule of life is that if you are not growing, then you are actually dying. It only depends on the speed at which you are dying. It could be a quick one or a slow one.

What are the indicators of growth? We said that many of our counties are not raising significant amounts of funds in own source revenue. I think it was about 34 out of 47 counties that are doing more than 50 per cent of their shareable revenue to pay recurrent expenditure. Actually less than 10 out of 47 counties, spend more than 25 per cent of their shareable revenue on actual development, which is the statutory edict as per the Fourth Schedule of the PFM Act and Regulation, 25.

Besides, that is a conversation which I have kept on challenging my colleagues who serve in the Committee on Budget and Finance. I know the Vice-Chair is in the House, though she is not listening to what I am saying. I hope that one day they will lead this House into a proper conversation about what needs to happen.

This is something that should be of concern to any Senator. It makes no sense, colleagues, to fight for Kshs400 or Kshs450 billion while 90 per cent of that fund ends up being misappropriated. Why should we fight to send Kshs450 billion, for example, to the counties, if more than 50 per cent goes to pay 300,000 or 400,000 citizens, to the exclusion of the millions of others?

If you go to Meru County although I do not know what the population of Meru is, for example. However, simple mathematics, I want to believe maybe upwards of one and a half or nearly two million, because Meru is a fairly large county, let us give it 1.6 million. If out of your shareable revenue of upwards of Kshs10 billion, your governor ends up spending more than 50 per cent of it to pay employees who are barely 4,000 or 5,000 in that particular county, what are you telling the rest of the 1.55 million citizens that do not work in the counties?

I have been pushing that as a House, we must have this conversation. You know, it is simple and populist to say I have employed so-and-so. Nowadays, governors have found a new way of explaining. They hide behind very popular employment initiatives. I have picked young people and I have to employ them as revenue officers so that we get more revenue or I have picked nurses or this or the other. While it may sound logical,

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commerce has no feeling. It has sense only. You either do the right thing or you fail. It does not matter the intention or how emotional you are about it. If at the end of the day you are not managing your resources prudently as a county government, the results will show very quickly.

I want to request our colleagues to reflect deeply on this particular matter as we think about division of revenue and the things that we need to do. The final part of this is that, the Sixth Schedule allocates a total of Kshs2.835 trillion as follows – national Government remains with Kshs2.4 trillion, Equalisation fund gets Kshs10 billion and Kshs405 billion to county governments.

I know the Committee on Finance and Budget has thought through this process. They have proposed an even higher figure. As the Vice-Chair comes to second, I am sure she will speak to the House and tell us what is her proposal before we eventually agree with them or see what to do.

Mr. Deputy Speaker, Sir, knowing that this is something that many colleagues want to comment on and share their thoughts, particularly on all these issues that continue to face our county governments, it would be unfair for me not to yield the floor so that colleagues can speak to this particular Bill. I am guided by the report that was tabled by the Committee on Finance and Budget, which I want to believe by now, has been shared with us in the official channels of the House.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to move and request Sen. Tabitha Mutinda, who is the Vice-Chairperson of the Committee on Finance and Budget of the Senate, to second and take us home with regards to the 2025 Division of Revenue Bill.

I thank you.

The Deputy Speaker (Sen. Kathuri): The Vice-Chair of Budget and Finance, Sen. Tabitha Mutinda.

Sen. Tabitha Mutinda: Mr. Deputy Speaker, Sir, I rise to second the Division of Revenue Bill, 2025.

I would like to start by appreciating the Senate Majority Leader because I have been keen on the submissions that he highlighted. I would also like to appreciate all the stakeholders that walked with us on this annual discussion on division of revenue, led by the Council of Governors (CoG) Chairperson, that is Governor Ahmed of Wajir County; the National Treasury, led by the Cabinet Secretary himself, Hon. Mbadi; and the Commission on Revenue Allocation (CRA) who we have worked closely. Apart from the issue of division of revenue, we have also worked with them on the upcoming formula that we look forward to discuss on Thursday.

Others included the Institute of Certified Public Accountants of Kenya (ICPAK), Bajeti Hub, the County Assemblies Forum (CAF), Kenya Devolution Civil Society Working Group (KDCWG) and the Coast Civil Society Networks for Human Rights (CCSNHR). It is important to state all these stakeholders because it is based on their views that we make recommendations to this House. It is a process to engage these key stakeholders on the different areas that we focus on.

The Bill indicates the projected revenue for the financial year 2025/2026 as Kshs2.8 trillion. However, when the Cabinet Secretary for the National Treasury and

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Economic Planning appeared before the committee, he indicated a revised downward projection from Kshs2.8 to Kshs2.756 trillion. That is the downward projected revenue that the Cabinet Secretary indicated to the committee when he appeared.

From Kshs2.8 to Kshs2.756 trillion, of course other figures will change. The National Treasury and the National Assembly's Budget and Appropriations Committee proposed Kshs405 billion as counties equitable share. That is different from what we proposed which I will indicate shortly.

The Bill also indicates that the proposed counties equitable share is 25.79 per cent of the most recent audited financial reports. I want to emphasise on this because as a committee, we have been pushing the National Assembly Committee on Finance and National Planning to approve because the Constitution is clear in terms of using the last audited reports. If audited reports are not approved, then it becomes difficult, but that was done. That amount is Kshs1.5 trillion.

Based on Kshs1.5 trillion, then the percentage of the equitable share increases to 21 per cent. The required is 15 per cent. With the last audited reports of the financial year 2020/2021 having been approved, the amount is Kshs1.5 trillion, which is about 21 per cent. Therefore, it meets the required threshold of 15 per cent.

Mr. Deputy Speaker, Sir, having said that, Article 204 of the Constitution is quite clear on establishing what we call the Equalisation Fund. It states that one half per cent of all the revenue collected by the national Government each year shall be paid into that.

We have raised issues of the Equalisation Fund on the Floor of this House. That is a matter that is important for all the counties. There have been arrears to the Equalisation Fund. I have tabled before this House what has been remitted by the National Treasury and where we are as far as deficits are concerned. They should not confuse that the Equalisation Fund is also part of the equitable share.

In considering the proposals, the committee was cognizant of the Budget Policy Statement (BPS) for financial year 2025/2026 that we passed a few months ago. Our recommendation of Kshs465 was based on factors that we considered. For us to settle on Kshs465, there are factors that led to that.

The CoG proposed Kshs536 billion, but we proposed Kshs465 billion. This is where I would like you to listen keenly. One of the key issues are the Housing Levy deductions. These are additional recurrent costs that affect all the 47 counties. With those additional costs, counties need to do their statutory remittances.

Yesterday we were in Kitui County doing oversight and we looked at the issue of pending bills. What we discovered is that non-remittances of statutory deductions have led to increase in pending bills. If counties do not get enough funding, what happens to the Housing Levy deductions?

Today we were with the President, His Excellency Dr. William Ruto, at Mukuru kwa Njenga and he handed keys to people to occupy new homes. When the issue of Housing Levy deductions came up last year, there were a lot of politics around it. Today, we witnessed Kenyans receiving keys to get into their new homes.

Coming from the slums, they did not also believe that it was happening. If we do not consider the budgets for the counties as far as the issue of the Housing Levy

deductions is concerned, what will we be doing to our people in this country who are still living in the slums?

Article 43 of the Constitution is very clear. It is the responsibility of the Government to provide affordable housing and ensure good environment for its citizens. Today, Dr. William Ruto made history when he went to Mukuru kwa Njenga and handed over keys to people from places where even toilets are a problem. You could see leaders politicking because when you go to their houses, they have even five toilets, but how many toilets can you use at once?

When we settled on Kshs465 billion, these are some of the issues that we considered. As I have stated, they include Housing Levy deductions. We also have enhanced contributions for National Social Security Fund (NSSF). This is a subject matter that we have always talked about.

The President has been on the forefront talking about situations where people retire, go back home and still live on the little that they have saved in form of pension. With enhanced contributions, one will live a bit comfortable life even after retirement.

Parents should not continue thinking that they will depend on their children because the kind of children we have nowadays are focused on their lives totally. They are not like us who still take care of our parents. When these contributions are enhanced, it will give retirees an opportunity to continue living comfortable lives. It is sad when people retire and embrace living standards that they were not prepared for.

Another one was the issue of the County Aggregation and Industrial Parks (CAIPs). A total number of 18 counties have already received funding. Funding has already been given, projects have been awarded, contractors have started these projects and are at a certain level. That is where we will see bloggers going out there and say, "Amount X of this money, in billions or millions, was put in this particular project. However, this project has stalled." So, did someone misappropriate the money or what really happened? The narrative that goes out there is someone misappropriated the money.

Mr. Deputy Speaker, Sir, at times, it is because we are not giving enough funding for these projects so that they are completed. When I go back to the issue of the housing project today at Mukuru, it was so emotional for the families. We were happy as leaders because we saw where the money that we are being deducted as housing levy is going to. I am sure by the time this project is getting finished in the next two years, over 60,000 Nairobi City County residents will be occupying their own homes.

There is another issue of the Community Health Promoters (CHPs). This is a key programme that is shared in terms of the remuneration between the county government and national Government. We have met the CHPs for Nairobi City County. They say the national Government has given them their share, but the county government has not. This budget is about Kshs4 billion. I am happy because when the Cabinet Secretary (CS) was giving us his schedules on health matters, he indicated that there is a budget for the CHP. So, this is important because already these people are already on the ground, doing a great job, yet their remuneration is small. It is Kshs2,500 from the county government and Kshs2,500 from the national Government.

In reference to procurement of new medical equipment, how do we continue running hospitals without the right and modern equipment that are needed?

Mr. Deputy Speaker, Sir, I would like to proceed to meeting the outstanding obligation under the doctors Collective Bargaining Agreement (CBA). The issue of the doctors is a pertinent issue that needs to be addressed, once and for all. Health is devolved. Therefore, the county governments need to get funding to be able to sort the issue of the doctors' CBA. This explains the decision for Kshs465 billion.

I say so because this is a lot of money. It is not pocket change and it has to make sense for our brothers at the National Assembly to understand why we are asking that we approve the Kshs465 billion to the County Government? These are some of the many recurrent expenses. Of course, there is the annual wage rift. Every year, as you know, there is annual wage and salary increment for the staff. So, where do they get the money if we do not consider this?

Mr. Deputy Speaker, Sir, as I keep on supporting Kshs465 billion to the county governors, I would like to remind them to sort the stinking animal, called the pending bills. We cannot be on the floor all the time understanding the situations at the county and pushing for more funding if the governors are also not doing what they are supposed to do. They need to ensure that their pending bills are at zero levels.

I was so impressed yesterday in Kitui County. We met the County Assembly and they reported to us that their pending bill is at zero. They have no pending bill. These are the same institutions working in the same counties. Which formula is this one using versus the other one? I know there are challenges in terms of timely disbursement of funds from the National Treasury, but there should be schedules that should be adhered to clear that.

Mr. Deputy Speaker, Sir, in our many observations, we note that there has been marginal growth in the county equitable share from the previous financial years, despite the substantive growth in the shareable revenue. In financial year 2025/2026, which is this year, while shareable revenue is estimated to grow by 10 per cent, which is Kshs259 billion. Counties are projected to increase by Kshs17.7 trillion from this revenue growth.

That, over the years, the county equitable share has an average of 2.23 of the Gross domestic product (GDP) and in the financial year 2025/2026, nominal GDP is projected to be Kshs19.5 trillion.

Mr. Deputy Speaker, Sir, the Committee made the following recommendations- That, Clause 3 be amended to make a reference to Article 202(i) of the Constitution, which requires revenue raised nationally be equitably shared between the national and the county levels. The Committee emphasized on this because it is in the Constitution. It is not our words. We are not making this.

The schedule to the Bill be amended such that the total shareable revenue is Kshs2.7 trillion. Remember I said earlier, the Cabinet Secretary tabled and communicated that the projected revenue collection is not Kshs2.8 trillion, but Kshs2.7 trillion. We adopted that, so, the total shareable revenue to be at Kshs2.756 trillion. The most recent accounts of the revenue as approved by the National Assembly, as I earlier communicated, is at Kshs1.9 trillion for Financial Year 2021/2022.

I would like to also urge the National Assembly Committee of Finance and Budget to speed up on ensuring that the last audited and approved financial reports are as recent as the financial year 2023/2024. We are already in 2025. The issue of lagging behind and not approving the audited reports is not good.

The national Government share is at Kshs2.2 trillion. This is where we say the county government share should be at Kshs465 billion. Equalization fund is something that the Office of the National Treasury is aware of these figures. They are not disputing these figures amounting to Kshs9.6 billion and the equalization areas at Kshs2.7 billion. Every time they have appeared, they have confirmed that these monies will be put in the budget. It is a high time we also close on this issue of the equalization fund because time is not on our side. The duration was to be 20 years and it is almost lapsing.

Mr. Deputy Speaker, Sir, it was clear that the projects that had started need to be completed. However, how are they going to be completed without funding? The issue of equalization funds is an issue that the National Treasury needs to sort out completely.

I urge colleagues to support understanding where we are coming from as a Committee. The stakeholders that I mentioned earlier, are very experienced and we have walked journey with. They understand where we are coming from.

I also want to challenge the governors. Can we see your own source revenue? Can we see what you are collecting? Is it upwards or downwards? Is it standard? We need to see the projection of the own source revenue. With the proposal of the Kshs465 billion, I know we shall go for mediation. I do not dispute. However, as much as that discussion would be in place, can we see improvement on your own source revenue? You should be more independent by now.

I would like to remind our colleagues that we shall have our breakfast meeting on Thursday. The issue of the formula is a critical issue. I request that we all attend so that we can have this conversation. With anything above Kshs400 billion on executable share, we have ensured as a committee that no county will lose or get less.

With those remarks, I would like to appreciate my colleagues from the Senate Standing Committee on Finance and Budget and the Secretariat that we work closely with.

I second and thank you.

(Question proposed)

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Munyi Mundigi.

Sen. Munyi Mundigi: Asante, Bw, Naibu Spika. Mimi ninaunga mkono Mswada wa ugavi wa pesa katika kaunti na pia kwa national Government.

Katika hiki kipindi ambacho tumekuwa hapa tangu mwaka 2022 counties zimekuwa na shida nyingi sana. Maseneta wamekuwa wakijaribu kuangalia vile pesa zinaweza kuenda katika kaunti zetu ili kusaidia. Lakini kumekuwa na shida kutoka kwa MPs, National Treasury na pia Serikali Kuu. Na hata magavana wamekuwa wakilia hata wakipatiwa pesa kiasi gani.

Watu wamesahau ya kwamba sisi Maseneta tuko hapa kutetea devolution. Serikali za kaunti zilipatiwa department kumi. Mara nyingi kumekuwa na shida kwa sababu pesa ambazo tumepewa ni kidogo sana na hata department zingine hazipati pesa.

Pesa nyingi zimekuwa zikienda upande wa hospitali, kilimo na barabara. Hata hivyo, unapata kwamba hizo pesa hazitoshi kushughulikia mambo mengine kama mifugo.

Tumeshuhudia magavana wengi wakipata shida kwa sababu wakati walipoingia ofisi walipata kuna pending bills na wage bills kubwa. Mfano ni Kaunti ya Embu.

Hapo awali hapakuwa na usawa katika ugavi wa pesa kwenye makaunti. Tuliona kwamba kaunti zile ambazo zilikuwa hazijiwezi zilikuwa zinapatiwa pesa nyingi na zile kaunti ambazo zilikuwa na uwezo mkubwa zilikuwa zinapatiwa pesa kidogo. Ikafika wakati wakufanya audit ili kuona kama hizo pesa zimesaidia hizo kaunti kujimudu na zilitumika kwa njia inayofaa.

Mimi ninaunga mkono counties ziweze kupewa Ksh465 bilioni ili ziweze kufanya kazi vile inatajikana. Kila wakati sisi tumeona CHPs wakija hapa kwa gate ya Bunge, wakiandamana. Hii ni aibu sana.

Tungependa MPs wa Bunge la Taifa, Serikali Kuu na Treasury wajuwe kwamba Seneti inataka CHPs, madaktari na watu wengine wapatiwe pesa.

Tumeona wafanyi kazi wa county government wakichelewa kupata mishahara yao na pia tunaona vile hali ya uchumi inaendelea kuwa. Pay slips nyingi zimekuwa na shida kwa sababu mambo ya ushuru wa nyumba na hata SHA zimeenda juu. Kama county governments watapata pesa, wataweza kuongezea wale wafanyikazi ili wawache kulia.

Magavana wengi wako na shida kwa sababu tunaona wakati mvua inanyesha hawapati pesa za kutengeneza barabara. Kwa sasa, SHA inafanya kazi lakini magavana wanalia kwamba hakuna pesa za kununua dawa katika mahospitali. Kwa hivyo, mambo mengi yanafaa kuangaliwa.

Pia mambo ya kilimo inafaa kuangaliwa. Wakati tulikuja hapa Seneti, tulipitisha tuwe CHPs na pia kuwe na agricultural extension officers. Lakini kutoka wakati huo, wengine wajawahi kupata pesa. Kama counties zitaweza kupata pesa kwa njia ambayo inafaa, hawa watu wote wataweza kulipwa mishahara yao.

Mimi nikiwa Seneta wa Kaunti ya Embu, ninasema counties ziweze kupatiwa pesa. Tumesikia MPs wakisema ya kwamba counties hazitumii pesa vile inavyotajikana. Mimi ninakataa kwa sababu, kazi yao ni kupitisha pesa ikuje Seneti, ili Seneti iweze kufanya ugavi kulingana vile inafaa kuwa ndio kaunti zote ziweze kupata pesa sawa. Kazi ya Seneti ni oversight na kuangalia vile pesa inafanya kazi; hiyo sio kazi ya MPs.

Tutapitisha budget ili counties zipate pesa. Pia mambo ya the National Treasury, ninakumbuka wiki jana, Waziri wa Fedha alitajikana kuja Seneti ili kujibu maswali lakini hakuja. Kwa hivyo, mambo ya Treasury inafaa kuangaliwa ili tuone kama kuna shida ndio Waziri aweze kupatia counties zetu pesa na wananchi waweze kufaidika.

Wakati huu tumeona counties nyingi zimeweza kufanya kazi na pia magavana wanafanya kazi. Kusema ukweli magavana katika kaunti nyingi wanateseka sana. Wafanyikazi wanachelewa kupata mishahara na watu wengi hawapati pesa vile inafaa.

Ninakumbuka katika Kaunti ya Embu kulikuwa na shida wakati pesa iliyotolewa kwa ajili ya kununua chakula ilichelewa. Na wakati pesa ilikuja, gavana aliweza kununua mahindi akiwa amechelewa na utapata mpaka sasa huenda pesa za fertilizer hazijapeanwa ili gavana apelekee wakulima.

Wakati mwingine magavana wako na ujuzi wa kufanyia wananchi kazi lakini unapata pesa zinachelewa kutoka. Kwa hivyo, wakati mwingine sio magavana ndio wako na shida; shida inatokana na Bunge ama National Treasury ambapo pesa zinatoka.

Mwaka jana pesa hazikutosha. Tungependa wale Maseneta professionals ambao watachaguliwa kuenda kufanya mediation na Bunge la Kitaifa, waweze kuangalia kwamba ile pesa isipunguzwe na hata kama itapunguzwa, iende chini kidogo ndio tuweze kusaidia ugutuzi na economy za kaunti zetu ziweze kuendelea vizuri.

Tumeona kwamba walipopata pesa kidogo, wameweza kuendeleza mambo ya kilimo. Wameendeleza ukulima wa majani chai, kahawa macadamia, maembe na mimea mingine. Magavana wanataka kuwe na value addition na Serikali ya Kenya Kwanza inaunga mkono.

Tunataka miraa na muguka ifanyiwe value addition ndio watu waweze kuisimamisha ili katika miaka ijayo serikali kuu na serikali za ugutuzi ziweze kuendelea vizuri na economy ya kaunti zote iweze kuendelea.

The Deputy Speaker (Sen. Kathuri): Sen. Mundigi---

Sen. Munyi Mundigi: Bw. Naibu Spika, mimi ninaunga mkono.

The Deputy Speaker (Sen. Kathuri): Sen. Mundigi, kwa sababu nilianza kuongea kabla umalize mchango wako, nitampatia Sen. Omogeni nafasi aulize swali lake. Kwa vile nilianza kuongea kabla umalize, ungesimamisha hotuba yako, ili uniskize mimi ni Spika.

Sen. Omogeni: Asante, Bw. Naibu Spika. Hii Seneti ni Bunge la rekodi na Wakenya wanashuhudia Mswada huu na jinsi tunavyozungumza hapa kwenye runinga zao. Tunapaswa yale mambo ambayo tunazungumza hapa, yawe ni ya ukweli na tukiulizwa swali tunaweza kutetea.

Ninataka kuuliza hoja ya nidhamu kwa rafiki yangu Seneta wa Embu. Amesema kwamba yeye anangoja siku ambayo Serikali itafanya *Muguka kuwa na value addition*.

Ningependa Sen. Mundigi atueleze, kutokana na sayansi yetu, kuna utafiti ambao umefanywa ambapo anaweza kusema kwamba kweli *Muguka* inaweza kufanyiwa value addition? Ningependa kuelewa kutoka kwa Seneta wa Embu.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Mundigi.

Sen. Munyi Mundigi: Bw. Naibu Spika, nilisema pesa iweze kupatikana ili mkulima aweze kufaidika. Sen. Omogeni alipokuwa anazungumza hapa alisema kwamba Mount Kenya wamekuwa favoured katika mambo ya kilimo. Lakini mambo mengi yanafaa kuangaliwa ndio wakulima wote Kenya wafaidike. Ukulima wa mimea kama muguka na miraa, majani chai na hata sukari inafaa iangaliwe ndio mkulima apate value addition na awache kutaabika. Hata kama haijakubaliwa, kuna mambo inafaa kufanywa ndio wakulima wote katika Kenya waweze kufaidika.

The Deputy Speaker (Sen. Kathuri): Sen. Omogeni, aliuliza kama muguka unaweza kufanyiwa *value addition*?

Sen. Mundigi: Bw. Naibu Spika, muguka unaweza kutengeneza juice, wine hata dawa ya kufufua mwili iwapo mtu amedungwa sindano akawa hali mahututi.

Kinachofaa ni pesa za kufanya utafiti zitolewe. Ninaunga mkono pesa nyingi zitolewe na Serikali iangalie utafiti wa mimea mingi sio muguka pekee.

The Deputy Speaker (Sen. Kathuri): Asante, Sen. Mundigi. Umejibu vizuri kabisa vile ambavyo miraa na muguka zinaweza kuongezewa thamani yake.

Who do you want to inform, Sen. Nyamu? He is done. What other information do you have? Maybe you have some experience of what we can do better about miraa and muguka.

Sen. Nyamu: Thank you, Mr. Deputy Speaker, Sir. I want to inform Sen. Mundigi that as we speak today, there is a booming business of Jaba/miraa juice that is being sold in Nairobi and we have several brands.

It is a drink. I do not want to say if I have consumed it or not, but I have seen people consuming it. The juice is named Jaba with different brands depending on the company that produces it.

That has expanded the base of the people who consume Jaba. Ordinarily, there are people who would not chew muguka or miraa, but they are comfortable sipping the Jaba juice and feeling the *handas* effect of the miraa.

The Deputy Speaker (Sen. Kathuri): Maybe I advise that you should also taste the Jaba juice and also enjoy the experience. There are other very good benefits which come with the Jaba juice and any juice associated with miraa.

Sen. (Dr.) Khalwale, our good doctor, you should also try that juice. It can really be of good benefit to you. I have that experience and I know it works so well

Sen. (Dr.) Khalwale, you are the next contributor to this Motion.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. Before I support this Motion, allow me to acknowledge the advice you have given me, that I partake of this. While you are saying it, a youth has sent me a message, quickly, real time, we are being followed, that I ask you, if that juice have any aphrodisiac capabilities.

Mr. Speaker, just for the sake of the youth who has asked.

The Deputy Speaker (Sen. Kathuri): What does aphrodisiac mean? Do you want me to tell you what it can do to you, if you partake it? That is why I want you to experience it. Just do in the company of Sen. Karen. She will show you where you can get it and then you just try. Both of you can try because she has not experienced it.

Sen. (Dr.) Khalwale: If next time I am found with Sen. Karen in Nairobi, please make sure that you explain to the husband, Mr. Samido, that it was with your permission. Otherwise, I will not go out with her.

I rise to support this Bill. It is a Bill that one cannot oppose because we want to share revenue between the two levels of Government. In supporting it, you spot the things that are not relevant or necessary so that we make it better.

For this reason, I support and propose that this House does so, but with the amendments. The key amendment that we shall have to do is to ensure that the money reflects the functions that the county governments are supposed to do and the functions that the national Government is supposed to do.

Reading through the Bill, Mr. Deputy Speaker, Sir, the National Assembly tends to overemphasize what the Government has called national interest. On another day, I will challenge either the Deputy President, because he was the first to speak to it, and these MPs, to tell Kenyans what exactly they mean by national interest.

Are you saying that some of the functions done in county governments do not carry national interest with them? Really? Agriculture that feeds the Republic is a function of grave national interest. Therefore, counties should not be denied money on the assumption that there is a greater interest that is only discharged by the national Government.

Similarly, Mr. Deputy Speaker, Sir, the question of treating Kenyans and early childhood development education are matters of grave national interest done by counties and so on and so forth.

We urge Members of the National Assembly to try and understand devolution better and appreciate that all of them come from one county or the other. That being the case, they should not, while making a decision on the actual quantum of what goes where, be tempted to think that they owe it to the national Government.

When we are dividing revenue, all MPs; Members of the National Assembly and Senators, must ensure the proper principles of division of revenue between the two levels of Government.

Mr. Deputy Speaker, Sir, I propose that this House rises and stands behind the proposed figures of division, where we propose that the county governments get Kshs465 billion and the national Government gets Kshs2.231 trillion. If we do so, we believe, as the Committee of Finance and Budget that we shall have hit the balance and both levels of Government will be able to meet their development and recurrent mandate.

As we divide this money, the national Government must know that the Kshs2.231 trillion that they are remaining with, when it comes to development, all the eight regions of Kenya must see equity. We are sick and tired when we go around the country where one region of Kenya is 100 years ahead of another region in this country.

The only crime that the region which is 100 years behind is because a son from that region or from a community of that region has never risen to the presidency or the office of the Prime Minister. This bad behaviour of development following the region and community from which the top leadership of the country comes from must come to an end in the new Kenya. In the new Kenya, we want all our eight regions to enjoy development equitably.

All sub-counties, 290 of them, 47 counties must, together with the eight regions of the Republic of Kenya, be seen to move at the same pace. We would like His Excellency President William Samuel Ruto and his Cabinet to hear us the people of Western Kenya clearly.

We campaigned for him; we support him and we want to succeed, so that our country can succeed. The people of the western region, expect in this budget that for the first time since the creation of the country called Kenya to enjoy development equitably. Kenyans will enjoy the dual carriage when going home and coming to the capital city of Kenya.

Mr. Deputy Speaker, Sir, we expect a dual courage from Nairobi to Nakuru and to the Mau Summit. At that point, we expect that dual carriage to go into two branches. One branch to go to Kericho, then to Kisumu and from Kisumu to Kakamega. From Kakamega, it should join the other branch at Kaburengu in Webuye.

For this other one and because they might not know where we want the road to go through, I will define to them this other dual carriage. Upon diversion at Mau Summit, it should go to Eldoret, Kabarengu, Bungoma and then to Malaba border. This will be massive because it will be a game changer in the economy of the Republic of Kenya.

It should not be lost to Kenyans that when I say this, I am not only saying as a patriotic son of this country who was born in the western region of Kenya. However, I am saying it, as a man who is alive to the fact that if we do not grow our economy, we will burst because the population has been growing much faster.

Mr. Deputy Speaker, Sir, we will be responding to the fact that Kenya's biggest single trading partner is Uganda. Coupled with the contribution of the trade that we do with Bujumbura, Kigali and Goma; this dualing of the road will be a game changer. It should be followed by a standard gauge rail line. We insist that this is the future of Kenya.

So that it does not look like I only look at the Republic of Kenya through the precincts of where my community comes from; it is important that as we dual the western part, we also dual the highway from Nairobi to Mtito Andei, Voi and Mombasa. This is because Mombasa is the gateway into this country. Also, because Mombasa is the one through which all the huge volume of trade that we do with Uganda, Bujumbura, Kigali and Juba comes through it.

We would expect the national Government, through the Kshs2.231 billion to ensure that the projects of Vision 2030 that were identified by President Mwai Kibaki are actualized. There is a critical project of Lamu Port South-Sudan Ethiopia Transport (LAPSSET). Creating the Lamu port is being done half-heartedly as if we do not want to create jobs and as if we do not want to open the economy through the Northern Corridor.

We need to do the LAPSSET project. We need to fix a dual carriage from Lamu to Malindi and to Mombasa; and from Lamu all the way to Garissa, into Ethiopia and into South Sudan. It is only when we do this, that we shall create jobs. I am one of the firm believers that affording our children opportunities to get jobs abroad is a good idea, but I also know that creating jobs at home is a better idea.

Mr. Deputy Speaker, Sir, when our educated youth leave this country to go work abroad because we are chasing after diaspora remittances to the country, that is a good thing. However, having them work at home so that all their income is earned and left here is a better thing. Therefore, as the Government pushes our children to go for jobs abroad, they have a greater responsibility of creating jobs at home.

We would also like Elections 2027 to turn on to what it is that we are doing for our youth. As a father of youth, I believe that we owe it to them to give them jobs locally. I have some of top young professionals in my family. I would not want such brilliant children not to work for the Republic of Kenya. I would like them to work here so that they emulate me; how I worked for this Republic before I came to this Parliament.

Mr. Deputy Speaker, Sir, it is not a joke. It is not by accident that the United States of America (USA) is ahead; that China and India are chasing them. It is because these three countries make sure that the best of their best work at home. In the case of China and India, they send the best of their students to the top universities in the USA. Once they qualify, they go back home to develop their own countries.

Further to the road infrastructure that I have spoken to, the people of the western region of this country which has been discriminated against for over 60 years, expect that because of the presence of the School of Medicine at the Masinde Muliro University of Science and Technology (MMUST), the former Provincial General Hospital of Kakamega will be elevated to Level Six in order for the University to use that institution to train our medical staff.

Mr. Deputy Speaker, Sir, the people of western are tired of waking up at 3 a.m. so as to catch a plane in Kisumu or Eldoret for them to be in Nairobi in 29 minutes; when all we have to do to cure this, is develop the airport in Kakamega.

Yes, you can help me if you like.

(Sen. Oketch Gicheru spoke off record)

The Deputy Speaker (Sen. Kathuri): Sen. Boni, avoid exchanging with hon. Members.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am begging him. Do not heckle me, my son. Sen. Eddy, if God blesses you, you might enjoy a long life like I and Omogeni. At that time, you will have appreciated what Kenya is.

The Deputy Speaker (Sen. Kathuri): Just a minute, Sen. (Dr.) Khalwale. What is your point of order, Sen. Eddy Oketch?

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, on Standing Order No.105, Sen. Boni has thrown a spanner at me.

The Deputy Speaker (Sen. Kathuri): What does Standing Order No.105 refer to as far as Sen. (Dr.) Khalwale's conversation is concerned?

Sen. Oketch Gicheru: It is on statement of fact and then Standing Order No.101 on mischaracterizing a Member like him.

Mr. Deputy Speaker, Sir, Sen. Boni has said that all the people from western, particularly Kakamega and Malinya, where he comes from, must catch their flights in Kisumu or Eldoret. As far as I am concerned, there is an airstrip in Kakamega. I have seen the Senator catch a flight to Kakamega.

I would have wished him to ask how to improve that airstrip in Kakamega so that it has a longer runway---

The Deputy Speaker (Sen. Kathuri): What is out of order?

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, what is out of order is, first of all, claiming that there is no airstrip or airport in Kakamega. Secondly, throwing aspersions on me that I was heckling him when I was quietly listening to him. He has kept me in this House listening to him because I like listening to the wisdom from the bullfighter from Malinya.

Mr. Deputy Speaker, Sir, he should not mischaracterize me. I am not a heckler and I am not heckling him. I am just listening keenly and I wish he would say that we improve the airstrip in Kakamega.

The Deputy Speaker (Sen. Kathuri): Senator Boni.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I hope my time was held for me and Kenyans have heard him. Kenyans had heard me and they will make their own judgement.

The only thing I will say on the point that you have raised is that you should remember the parable of the old man who taught his son to fly using wings fixed on his shoulders. The wings were fixed using wax and the boy was told not to fly too high. He did not listen to the advice. Instead, he flew too high, the wax melted and he came tangling down. You sit with us in this august House, but please know that you are flying on wings fixed with wax. You should know how high to fly. When you see us fly, you might come tangling down. I tell you.

[The Deputy Speaker (Sen. Kathuri left the Chair)]

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

Mr. Deputy Speaker, Sir, the last point I want to make is on the issue---

Sorry, Madam Temporary Speaker. I note the change in speakership.

The last point I want to make is on the issue of housing. The housing project that is ongoing looks feasible. However, I want to remind the Government what I said many months ago. Housing was one of the Vision 2030 projects. Kenyans continue fighting this project because of the implementation model of it.

President Mwai Kibaki put the housing project in Vision 2030 and President Uhuru also adopted it. The funding model of this project was not to raid the paycheck of people with payslips to build houses for people who are desirous of owning houses. The Government had to have a budget which Vision 2030 aligned with the vision of development. Most of you who live in this city saw the slum upgrading project and there was no outcry.

Today, the houses are better, but there is an outcry. This is because the guy whose payslip is raided is asking himself if he was born to go to school, get a job and start doing affirmative action for Kenyans in need of housing on behalf of the Government. President William Ruto has allowed the former Prime Minister, Raila Odinga, to give him an expert in the name of Hon. Mbadi, a man I respect.

Hon. Mbadi is truly brilliant just like his Suba people of Nyanza. He is brilliant just like Tom Mboya. Hon. Mbadi should ensure that we continue with the housing project using a friendlier funding model other than raiding the payslips of the people.

We do not say these things because we are against the Government. We say them because we are for the success of the Government and we want a Government that affords all Kenyans comfort. A woman, who I know very well from Kakamega, got a house in Mukuru and I was excited because she got a better house.

My time is gone. With those many remarks, I support with amendments.

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Sen. Oketch Gicheru: Thank you, Madam Temporary Speaker, for giving me the opportunity to share some thoughts on the Division of Revenue Bill (National Assembly Bills No.10 of 2025).

This Bill essentially presents a vertical share of our national resources. What has come from the National Assembly is that in the next budget year, we aim to have a budget of Kshs2.7 trillion. Out of that budget, the National Assembly is proposing that the national Government gets Kshs2.4 trillion which is 85.33 per cent. It then proposes that we give the counties Kshs405.069 billion, which is 14.28 per cent of the total budget.

I am alive to the fact that ordinary revenue is at times not connected to what we hope to get. I, therefore, empathize with that fact. However, the requirement of Article 203 of our Constitution is about equitable share of national resources. I have said a number of times in this House of how I wish the National Treasury was independent. If it was independent, then it would be in a position to view the national Government and county governments as different which would then be a fair avenue for sharing resources.

It behooves the National Treasury to ask itself if the sharing formula proposed here, the vertical share, is equitable. One would ask: how will we know that it is equitable? The element of equity will come when one revisits the Fourth Schedule of the Constitution. The Fourth Schedule of the Constitution aligns resources to functions and those functions are clearly stipulated. We do have national functions of Government and county functions of governance.

The idea of equitable share has been elusive to the country because we do not cost those functions. I am a Member of the Committee on Finance and Budget together with the Senator who spoke before me, the Senator for Kakamega County, though he likes to look at me as his son and not a legislator in his House. Sen. (Dr.) Khalwale will remember that when the Cabinet Secretary, Ministry of National Treasury and Economic Planning appeared before our Committee, I told him that if he does some things, he will be on the borderline of underfunding counties.

I also told him that there are things that he will do which will lead to defunding counties. Those two distinctions are still elusive to the National Treasury.

This House recognizes the immense challenges counties face in fulfilling their mandated functions. They are not merely underfunded, but outright non-funded. They are fundable, but remain unfunded by the national Government.

The proposal allocates Kshs405 billion to counties. However, if you do the calculus, as I will outline briefly, you are in effect defunding counties. This is not a matter to be taken lightly. You may recall, on a lighter yet serious note, I was recently thrown out of this House for insisting that the Cabinet Secretary for Health should not transfer the payroll of Universal Health Care (UHC) workers to counties without ensuring it is accompanied by the necessary funds. This should not even be considered, let alone attempted. He should not dream of it.

(Applause)

For the last two years, as we have debated Finance Bills in this House, the funds allocated to counties have primarily covered non-discretionary expenses. These are costs

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arising from national Government policies that impose financial burdens on counties without the necessary financial backing. For instance, when a policy such as housing levy deductions is implemented at the national level, county employees are also subjected to the same deductions yet, counties had not accounted for this in their budgets, as devolution was still taking root. This places an additional financial burden of approximately Kshs4 billion on counties.

Similarly, when contributions to the National Social Security Fund (NSSF) increase, county staff are affected. The resulting impact of Kshs3.7 billion was never factored into the financial calculus leading up to where we are today.

Moreover, the national Government through the Presidency, made a statement and reached an agreement with county governments regarding the establishment of County Aggregated Industrial Parks (CAIPs). This initiative imposes a staggering Kshs11 billion responsibility on counties, which they must now shoulder yet it was not catered for in the calculus that then constituted money that goes to counties.

Worse still, it was not funded. Responsibility was split between the national and county governments without clear provisions on how counties would secure their share. However, given the ongoing commitments and projects, it goes without saying that this initiative must be funded.

Madam Temporary Speaker, we recall the discussions in Turkana during the Senate Mashinani visit, particularly the issue of the CHPs programme. This House firmly held the view that primary healthcare is a devolved function. Therefore, it ought to have been properly costed, funded, and financed by the national Government. If it is intended to be a hallmark project, counties should then take the lead in its implementation.

The national Government decided to provide a stipend covering half the cost while leaving counties to shoulder the remaining half. However, since these individuals are already on county payrolls, the counties must ensure they are financed adequately.

We are well aware of the outstanding issues surrounding the Doctors' Collective Bargaining Agreement (CBA). Counties must bear this burden if our healthcare system is to function effectively.

Furthermore, we have yet to address the issue of wage drift, which occurs automatically within our system and necessitates an annual adjustment of approximately 5 per cent, a cost that counties must cover.

Looking at the entirety of this financial burden, we see that these are non-discretionary expenses. These are funds that must be paid, leaving no alternative. What does this figure amount to? Simply covering non-discretionary expenses in counties would require a budget of up to Kshs420 billion. This aligns with the necessity of funding such mandatory costs.

Madam Temporary Speaker, for a Bill to originate from the National Assembly and propose that counties receive only Kshs405 billion is an abuse of the devolution system that has brought hope to this country. It undermines the principle of equity outlined in Article 203 of the Constitution, as counties will be left with barely any funds for discretionary expenses. Among these, the most important is development in our counties.

This is an issue where the Senate must stamp its feet and insist on the calculus we developed. We had proposed that counties receive Kshs465 billion in this financial year, regardless of the fiscal stress faced by the national Government.

(Applause)

This is because anything less would reduce counties to mere cash-flow operations, covering salaries, but failing to fund any meaningful development. Without development projects, it goes without saying that money will not circulate in our counties.

The second calculus I wish to emphasize is the matter of courage. I do not understand where the National Assembly derives its confidence. When elected by the people of Kenya to represent their respective constituencies, one of their role in Parliament is simply to approve audited reports submitted by the Auditor-General. That is a simple job; review, scrutinize, read, understand the findings in the Auditor-General's reports on the previous year's financial statements of the country, and either approve or disapprove them. Yet the National Assembly of Kenya has only managed to approve the last audited report for the financial year 2020/2021.

This issue is of importance because, under Article 203 of the Constitution, equitable revenue sharing between the national Government and county governments is determined based on the last audited reports considered and approved by the National Assembly.

Where is the justice for devolution, county governments and the people of Kenya, if the last audited report used as the basis for revenue sharing between the county and national governments is from the financial year 2020/2021? This is simply absurd. In fact, one must question where the Majority Leader of the National Assembly finds the courage to lead a House that submits such a Division of Revenue Bill to the Senate of Kenya.

I say this without mincing my words. We must fight to ensure that the Senate of Kenya functions as a true 'upper' House in Parliament. If necessary, we must be prepared to sponsor our own Bill to solidify this role. The National Assembly must recognize the importance of legislation that emerges from a constitutional democracy. Adherence to the Constitution is paramount and proper legislative processes must be followed.

The Division of Revenue Bill continues to be sent to the Senate without due regard for constitutional requirements. Even after the High Court ruled that Parliament must consider audited reports within three months, we still have two years' worth of reports pending approval.

The impact is that this becomes a con game from counties. I am using that word very strongly, because if you are projecting that you will raise Kshs2.7 trillion this year and allocate money for counties based on the financial year 2020/2021 and financial year 2022/2023. The other financial years are not considered. If you do the calculus, our revenue is growing.

Additionally, the county revenue will never grow commensurate to what the National Assembly is giving to the national Government. This must be corrected. If it is

not corrected, then it means the counties are not getting equity as required by the Constitution.

Equity is the word. There is no way you can raise Kshs2.7 billion, adjusted to inflation and then you give the national Government 85 per cent of that money because there is augmented reasoning around finance. This House must insist on this.

I want to wish the Majority Leader and the Majority whip the courage. If they cannot confront their counterparts in the National Assembly by day, they must confront them by night and have this conversation around audited reports. If we use the latest audited report, counties should be able to get Kshs 470 billion. From this, if they were approved as they were from last year. This is a very pertinent issue that I wanted to stress on.

As I finish, I think it is very important that I mention that we cannot miss an amendment on money that goes to the Equalisation Fund. The Equalisation Fund established under Article 204 is facing a serious sunset.

The monies that are owed for the Equalisation Fund, apart from the fact that it will be 20 years gone without being able to make remedy of Sessional Paper No.10 of 1965, where counties did not get proper adjustments in terms of roads, water and electricity that was envisioned by that particular Article, there is an urgency in terms of making sure that money works.

If you allocated money for these counties to do roads, electricity, give water in 2013 and it was not given and the national Government owes that money to counties up to date, what is the value of that money now compared to if it had been released in 2013? Will these northern frontier counties that were affected by this Sessional Paper ever get their fair share and the equitable development that they need to get? I doubt because the value of money keeps on changing.

Consequently, because the CRA under Articles 116 and 117 has been given the mandate to help restructure cooperation around the Equalisation Fund, there are some pockets of communities that equally face some form of marginalisation. For instance, where I come from, if you go to a place like Komosoko Nyamosense, the people of Kuria have faced serious marginalisation.

If you come to Nyatike Sub-county, the people of Muhuru Bay have faced some form of marginalisation. The people of Sori have faced some form of marginalisation. If you go to Kuria East in Migori County, a place called Masangora has faced some form of marginalisation.

Accordingly, in its wisdom, the CRA saw that they should be included in this Equalisation Fund. I know that up to over 34 counties, including where my good Senator from Kakamega comes from, there are some places that people still live in pathetic areas and lifestyles, without basic human needs. These are water, roads and electricity. This is becoming a strategic debt. I am saying strategic because the national Government has constantly secured this Fund and never given money to the counties. Therefore, the Equalisation Fund must go back to the counties.

Madam Temporary Speaker, I know that my time is much spent, but I want to state this. We should support this report the way it is, but look at the amendments---

The Temporary Speaker (Sen. Mumma): Sen. Karen Nyamu, you have the Floor.

Sen. Nyamu: Madam Temporary Speaker, the Division of Revenue Bill is a requirement of Article 218 of the Constitution. The main operative word for this Bill is equity. Its purpose is to allocate funds for continuity of services and programmes at both levels of Government.

Allocation of revenue to the counties will dip from 10.4 per cent in the financial year 2024/2025 to 9.3 per cent in the financial year 2025/2026, while the allocation to the national Government will increase. We, as a House, through our Committee, proposed that counties be allocated Kshs465 billion in view of the various functions that have been devolved.

We have devolved medical services in a big way. We also devolved pre-primary education. There are also many other functions and services that county governments are expected to provide to the citizens that need financial support.

Madam Temporary Speaker, in this Bill, they have factored Kshs10.5 billion as Equalisation Fund arrears that has been allocated to county governments. They are giving that as a reason for suppressing allocations to county governments, while we know that the Equalisation Fund is a Special Fund aside from the money that should go to the county governments.

This Bill also refers to the national interest as if it is an exclusive function of the national Government. It is as if what county governments are doing is not of any value. A function of national interest can be undertaken by both levels of Government. However, that is not a reason to reduce the amounts to the counties instead of being increased as years go by. Instead of increasing the amounts to the counties, we are actually decreasing.

We are charged with the mandate of protecting devolution. This trend, where a Bill like this passes through this House and we note decreased allocations to the counties, is a dangerous one that we should not adjudicate.

Madam Temporary Speaker, this being a requirement of the Constitution, I propose that we support it. However, the crucial amendments that we are talking about, particularly on the amounts that will go to the counties, must be looked into.

I thank you.

The Temporary Speaker (Sen. Mumma): Next is Sen. Omogeni.

Sen. Omogeni: Thank you, Madam Temporary Speaker, for the opportunity to also make my contribution on the Division of Revenue Bill (National Assembly Bills No. of 2025).

Madam Temporary Speaker, this is one of our most important undertakings as Senators to ensure that we truly protect devolution. Our Constitution is clear that we devolve power and resources.

Madam Temporary Speaker, I know that you are a champion of devolution having served in the Committee that was implementing the Constitution and that you were good defenders of this Constitution. In fact, I wish that Committee transited to be permanent, so that we truly protect devolution.

From the onset, this figure of Kshs405.1 billion may look attractive. However, when you look at the percentage of our audited revenue that is being given to our

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counties, it translates to approximately 21 per cent, although we are being told that it is 25.5 per cent. When I did my calculation, it looks like 21 per cent.

We will never see the fruits of devolution if we do not give adequate resources to our counties. Instead, we will be making our counties employment bureaus, where the resources that we send to our counties will be used purely for payment of salaries and overhead expenses. The little balance that remains is used to put murram on our roads.

In my opinion, true devolution should mean that the people of Nyamira County should not think of coming to Nairobi City County to seek treatment. They should have hospitals all the way from Level 2 to a Level 5 hospital, where they can be attended to and get the best medical care possible. I heard a Senator here saying that Social Health Authority (SHA) is working. However, I would like to tell you, as somebody who spends time with my people on the ground, SHA is very problematic.

In fact, many Kenyans are crying and asking questions why we shifted them from National Health Insurance Fund (NHIF) to SHA that is not being accepted in many hospitals and has issues of technology. Those who want to benefit from SHA, log in and wait, even a whole day. Some go back to their homes while others try to go to private hospitals where they are told that SHA only works in public hospitals. They go to public hospitals only to find that there are no drugs. We are being unsympathetic to our people, especially those who are down at our villages.

We are lucky. We have our medical insurance. Our staff have medical insurance and they can get treatment in all our private hospitals. What about the person in the village? My aunt or cousin, and the person who voted for me in Nyamira County? SHA is not working.

So, I plead with our governors to make our hospitals functional so that anybody seeking medical help from a public hospital can go to a public hospital, be attended to as a one stopover so that you get consultation, prescription for your drugs. If there is an X-ray, you do it and go home with medicine. However, this idea of you going to Keroka Health Centre or Nyamira Referral Hospital, you are attended and, finally, told to go and buy your medicine from a private chemist is not fair at all.

Madam Temporary Speaker, I hope as we, year in, year out, pass the Division of Revenue Bill and send money to our counties, it can transform the lives of our people down at the county level. We want to see our counties becoming attractive so that investors can pitch camp in Nyamira County and do business there. I want to see value addition.

When I was growing up, my grandmother was selling bananas. Twelve years into devolution, I have not seen value addition.

Madam Temporary Speaker, there was a time I was being told Nyamira will produce some wine made from bananas. I have not seen it in any supermarket as we speak today. I was told Nyamira will produce banana crisps. I have not seen them in any of our supermarkets. That was the dream of devolution that we can make our counties to become economic giants so that those who want to do farming or trade can do so in their counties and then we stop this issue of rural-urban migration.

Also, we need fairness. I am being taxed for affordable housing. I pay tax. The people of Nyamira County are paying tax. Today, they watched a project being launched

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in Mukuru kwa Njenga, but we do not have an affordable housing project in the County of Nyamira. So, if you are launching projects in Nairobi, how are the people in Nyamira County feeling? We should be innovative. If we are not able to do flats, go down to the villages, to those people who do not have houses and build for them houses. We do not all have to live in flats.

If the people in Nairobi are happy to live in flats, go to Nyamira and look at the houses of the poorest homes, build for them homes. Build 100 houses and then go and launch them. That would be my wish for my people. We may not all want to live in skyscrapers. The skyscrapers belong to our New York which is Nairobi City. However, back at counties, that is what we should do.

When we went to Uasin Gichu County, I had an engagement with youths in Ziwa Hospital. One of the participants was called Joel. He told me that, you, people, at the Senate, when you talk in the Senate, you should also talk about our needs. He told me they have problems with the SHA. SHA is not being accepted in their private hospitals in Eldoret. When they go there, they are told that SHA can only be used in public hospitals.

I think we have had this thing for one year. We have known the problems. Let us now respond to the challenges that SHA is facing. I can tell all of us, Senators, if we were to be honest, public hospitals have no capacity to treat all Kenyans. That is a fact. They do not have capacity to treat all Kenyans.

Two, they are not well-equipped with medicine. You will go to a public hospital, you will be attended to, there will be consultation, but you will not get medicine. I can tell you - and God is my witness - and Sen. Cherarkey knows the people that I am talking about.

The people at home in Nyamira who work for me used to go to a hospital with NHIF to Ichuni Private Hospital. They would get treated, consultation included, get prescription and drugs were dispensed.

Nowadays they go to Keroka Public Hospital because SHA is not being accepted in a private hospital. Consultation takes place, they get a prescription, then they are told to go to a private chemist to buy medicine.

Really, we must be sympathetic to these people down there because it had gone into their mind that once you get a SHA card, the equivalent of NHIF, you will have solved your medical problems.

Let us revisit it, Senate Majority Leader. Let us revisit. As you informed me, these people are watching you; you greeted them, you even took a photo with them.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I do not know whether it is for lack of adequate information that Sen. Omogeni is pursuing a certain point, stating that SHA does not pay for citizens when they go to private hospitals. That is not accurate, Sen. Omogeni. Private hospitals, just like public hospitals as well need to enlist.

If you check on the website of SHA, there is a list of public institutions and private institutions that have so far enlisted. When you go there and present your card, it will certainly be accepted, subject to all these other conditions that you know of an insurance card.

Just like you, you have an insurance card, this one of Parliament, you cannot go to any facility. We normally pre-authorize with certain institutions, especially for specialists.

I thought maybe, Sen. Omogeni, to help your county residents have an engagement as their representative with them to know the private institutions in Nyamira County that have already enlisted where citizens can go and get these services.

If you struggle with that, I am willing to assist you so that you get that list. I think that information that is publicly available. I thought probably if for one reason or the other Sen. Omogeni did not have that information, it would be important to know because it is not true that SHA is not accepted in private institutions.

Sen Omogeni, I am sure you have seen something called Rural Private Hospitals Association (RUPA) which used to have a tiff with SHA towards the end of last year. They were saying they needed to have their bills owed previously cleared. That noise has since gone down.

Sen. Omogeni: Thank you, Madam Temporary Speaker. It is good to be informed by my neighbour in Kericho, but is also good to put the facts on record that issue of registration is itself a problem. Most of these private hospitals down at the villages have not been enlisted.

Madam Temporary Speaker, you have seen press releases by private hospitals giving ultimatum to SHA to pay their pending bills and all these. At the end of the day, the pain is borne by the consumers of the service.

I am raising this on behalf of the residents of Nyamira, including that friend I found in Ziwa called Joel Yego, who sent me to come and speak on his behalf. I want to be a good citizen of this country. He sent me. If he gets a chance to watch this debate, he will see that Sen. Omogeni is an honest man who went to Nairobi and raised the matter.

My proposal is that perhaps the Senate may consider at some stage to set up an *ad hoc* Committee to evaluate the challenges that Kenyans are facing on accessing services using the SHA card. The intention is good, Sen. Cheruiyot, but unless the people are getting that service to satisfaction they will always tell us the thing is not working.

Part of the blame is on the counties because there are many challenges in ensuring that our hospitals are well stocked with drugs. In most county hospitals, especially Nyamira – where I come from – you will be attended to, but will not get drugs. I do not know whether the problem will end if we increase revenue allocation to counties to 45 per cent.

To be honest, governors have very few ambassadors out here because of the way they utilize the resources that are sent to our counties. There is always a tendency of trying to channel resources to employment. Looking at the audited accounts, most counties have overshot the ceiling in the PFM Act. We were looking at a county the other day that is doing 62 per cent of channeling more resources to development.

On the other hand, let us also speak about the national Government because there is a lot of money that remains there. I hope when this administration does a construction of the railway line to Kisumu, it will pass through Nyamira to serve the people of Kisii region.

The plan has always been that the train will have a stopover at Ikonge in North Mugirango. However, of late, we are hearing rumours that there is a plan to divert it to our neighbouring county and leave the people of Nyamira out.

Madam Temporary Speaker, that region has coffee, tea and farmers that supply this city with traditional vegetables. I do not know how to call the vegetables in English, but it is *sageti* and *managu*.

The bulk of the *sageti* and *managu* you consume in Nairobi comes from Nyamira and Kisii. Therefore, if you put that stopover in Ikonge, you will make life easier for farmers and traders in order to be fair for the people in the Gusii region as well as the people of Nyanza region.

I am also sure that there might be a stopover either in Kericho or Bomet as well as Narok. You will then have served all those counties. Anything other than that, will be a big injustice to the people of Nyamira. I also hope that as we share this revenue, we would like to enjoy our lives as we travel to our counties.

Madam Temporary Speaker, I do not know whether you have had the opportunity of passing the road on the interchange to Maai Mahiu. Under that bridge, we have gullies and lorries coming from Maai Mahiu, the queue starts from the junction that goes to Limuru, although I do not know its name, simply because we are unable to repair the potholes on that underpass. Yet every time I fuel a car, there is tax for road maintenance. Every time a Kenyan fuels, especially the ones going to Narok, Bomet and Kisii, they pay taxes, but that road has remained unrepaired for the last two years. We go through that pain every weekend. Any time some of us who are not endowed to be sky team leave Nyamira, we always wonder whether we will make it to Nairobi, Sen. (Dr.) Khalwale.

Madam Temporary Speaker, can this money not be used to do some of these simple things? Even for the tourists going to Narok, what image of our country do they form when they pass through a national road that has those kinds of potholes? It is a collective shame to all of us, as leaders in this country. Something needs to be done.

I had hoped to put a question today, but I got late by the hearings affecting my Governor in the Committee on Education. However, I do hope to get time to raise that question. Let the Government make life easier for us. We may not be using the dual carriageway to Nakuru and the Mau Summit, but the ones using the Maai Mahiu, Narok and to Bomet, including our tourists, should be taken care of.

Madam Temporary Speaker, as I conclude, I also hope that our governors will make use of these funds to improve our Early Childhood Education (ECD) facilities. There was a picture I presented before our Committee on Education, the kind of desks at Nyameko ECD in North Mugirango, Nyamira. How will those children grow to love school and education if we put them through such an environment? Look at how dilapidated the desks are. Why can the governors not have their priorities right?

There was another one I shared on Ekerubo Gietai ECD Centre. I am pleading with my friend, Governor Nyaribo, to use the resources we send to our counties to make ECD classes attractive to our children, so that they grow up, loving and enjoying school from their early stage. However, if you send them to a school where they fall down and their knees get hurt, they will not love school.

Madam Temporary Speaker, this idea of having the young children to share toilets with their seniors in junior secondary schools is not right. I am pleading with our governors to make life bearable for the people in our counties and our children going to school. For the school feeding programme, let them get nutritious food so that we raise a healthy generation.

I support this Bill reluctantly. My wish was that the counties get something more than Kshs405 billion, but for now, reluctantly, we can do with Kshs405 billion.

I support and hope that our brothers in the National Assembly who have their aunties, uncles and cousins back in the counties who will be served when we improve services at the counties, will support this Bill. I hope they will do that, to ensure that devolution succeeds and works.

I support, Madam Temporary Speaker.

Sen. Osotsi: Thank you, Madam Temporary Speaker, for giving me the opportunity to make my comments on the Division of Revenue Bill (National Assembly Bills No. 10 of 2025).

This Bill basically implements Article 218(2)(b) of the Constitution on sharing of revenues between the national and the county governments based on the criteria outlined in Article 203(1) of the same Constitution.

I have read the Report by the Committee on Finance and Budget keenly. One thing that is coming out clearly is that this Bill is unconstitutional.

I say that because this Senate sat and passed a Budget Policy Statement (BPS). We said that the county share of revenue should be Kshs465 billion. That has not to be reflected in this Bill. Therefore, it leaves us wondering why we spent our time discussing the BPS when our recommendations are ignored by the national Government when it is proposing a division of revenue between the national Government and the county government.

We were clear on Kshs465 billion because of increase in non-discretionary expenditure to the counties. The counties have to bear the burden of housing levy and enhanced NSSF contribution. They also have to bear counterpart funding of 50 per cent for CHPs. We also have the doctors' CBA, procurement of medical equipment and the annual wage drift.

All these issues informed the decision by the Senate to recommend in the BPS, an allocation of Kshs465 billion to counties. The recommendation in this Bill is talking of a mere Kshs405.1 billion. That is short of a whopping Kshs60 billion that is supposed to go to the counties based on the BPS. On that basis, this Bill is unconstitutional.

The second aspect why I think this Bill is unconstitutional is the projected revenues for the financial year 2025/2026. In that financial year, we are talking of Kshs2.84 trillion. Out of that, national Government is going to take Kshs2.42 trillion, which is about 85.53 per cent. Counties are set to receive Kshs405.1 billion, translating to 14.28 per cent, which is below the 15 per cent threshold provided by the Constitution. On this basis alone, the Bill is unconstitutional. Therefore, I urge that we thoroughly examine all aspects contributing to its unconstitutionality and take the necessary steps to rectify them.

Having said that, I also wish to agree with the position taken by the CoG. While there has been a marginal increase in shareable revenue to counties over the last five years, a closer analysis reveals a disparity. Counties have seen an aggregated increase of Kshs70.9 billion, whereas the national Government has Kshs702.6 billion. Again, this falls far below the 15 per cent constitutional threshold. There are clear disparities in this Bill.

Madam Temporary Speaker, I recommend that as we proceed, we propose an increase in this allocation. The figure should either match our original proposal in the BPS of Kshs465 billion or be raised further to account for the rise in non-discretionary expenditures. These include levies, the enhanced NSSF contributions, County Aggregation and Industrial Parks (CAIPs) investments of Kshs250 million per county, funding for CHPs, the Doctors' CBA and medical equipment.

Moreover, Article 229 of the Constitution, which governs audited reports, is clear. The court ruled that the Houses of Parliament, which is the National Assembly and the Senate, and county assemblies, must process the audited reports within three months of their submission by the Auditor-General.

This means that the most current audited reports applicable in this case should be for the financial year 2024/2025. However, the financial year being used here is 2020/2021. This again is unconstitutional, given the court's ruling. If the correct audited reports were applied, counties would receive a higher share of allocations. This denies counties substantial funding, as we are relying on reports that are three years behind schedule. Ideally, we should be discussing the audit report for the financial year 2023/2024.

Furthermore, the proposal in this Bill on the distribution of the Equalisation Fund falls short of the provision of the Constitution. The figure proposed in this Bill on how the Fund will be shared falls far below the constitutional recommendation.

While discussing the Equalisation Fund, we must address the persistent delays in transferring the funds to county governments. As we speak, a staggering Kshs2.7 billion remains in arrears. What is happening? It is unacceptable to have such a significant amount in arrears while discussions continue about further allocations to the Equalisation Fund.

Madam Temporary Speaker, we must look at this Bill very critically. If we want to protect devolution in this country---

ADJOURNMENT

The Temporary Speaker (Sen. Mumma): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. Sen. Osotsi will have a balance of 10 minutes when we resume. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 21st May, 2025 at 9.30 a.m.

The Senate rose at 6.30 p.m.