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THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Wednesday, 18th June 2025

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, ring the Quorum Bell.

(The Quorum Bell was rung)

Hon. Members, we now have quorum to transact business. Clerk-at-the-Table, proceed.

PAPERS

Hon. Speaker: Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. The Kenya Information and Communications Regulations (Registration of Telecommunications Service Subscribers) Regulations, 2025 from the Ministry of Information, Communications and the Digital Economy. (To be referred to the Committee on Delegated Legislation).
2. Reports of the Auditor-General and financial statements for the year ended 30th June 2023 and the certificates therein in respect of the following technical training institutes:
 - (a) Chepsirei.
 - (b) Machakos Technical for the Blind.
 - (c) Ekerubo Gietai.
 - (d) Gitwebe.
 - (e) Bureti.
3. Reports of the Auditor-General and financial statements for the year ended 30th June 2023 and the certificates therein in respect of the following technical and vocational colleges:
 - (a) Belgut.
 - (b) Lari.
 - (c) Kasarani.
 - (d) Bomet Central.
4. Reports of the Auditor-General and financial statements for the year ended 30th June 2024 and the certificates therein in respect of the following technical and vocational colleges:
 - (a) Lari.
 - (b) Kasarani.
 - (c) Limuru.
 - (d) Nachu.

- (e) Okame.
 - (f) Chepsirei.
 - (g) Moiben.
 - (h) Wanga.
5. Reports of the Auditor-General and financial statements for the year ended 30th June 2024 and the certificates therein in respect of the following schools:
- (a) St. Cecilia Aluor Girls- Siaya.
 - (b) Moi girls - Vokoli.
 - (c) Chavakali.
 - (d) Bunyore Girls.
 - (e) Chianda.
 - (f) Kisumu Girls.
 - (g) Bishop Okoth Girls' Mbagaa.
 - (h) St Mary's, Yala.
 - (i) Maseno.
6. Reports of the Auditor-General and financial statements for the year ended 30th June 2024 and the certificates therein in respect of the following technical training institutes:
- (a) Thika.
 - (b) Rift Valley.
 - (c) OL'Lessos.
 - (d) Bushiangala.
 - (e) Ngeria.
 - (f) Kisiwa.
 - (g) Pc Kinyanjui.
7. Reports of the Auditor-General and financial statements for the year ended 30th June 2024 on the National Government Constituencies Development Fund and the certificates therein in respect of the following constituencies:
- (a) Nyeri Town.
 - (b) Lagdera.
8. Reports of the Auditor-General and financial statements for the year ended 30th June 2024 and the certificates therein, in respect of:
- (a) Metkei Girls Secondary Schools.
 - (b) Moi Kapsowar Girls Schools.
 - (c) The Hill School Girls-Eldoret.
 - (d) St. Martin Kathonzweni School.
 - (e) Mwaani Boys' Secondary School.
 - (f) Kasikeu Boys' High School.
 - (g) Cardinal Otunga High School-Mosocho.
 - (h) Asumbi Girls High School.
 - (i) Moi Nyabohanse Girls' High School.
 - (j) Nyabururu Girls' National High School.
 - (k) Kisii High School.
 - (l) Kanga High School.
 - (m) St. Joseph's Nyabigena Boys High School.
 - (n) Voi Boys High School.
 - (o) Murray Girls High School.
 - (p) St. Mary's High School-Lushangonyi.
 - (q) Isiolo Boy's Secondary School.
 - (r) Njonjo Girls' High School.

- (s) St. Stephen's Lwanya Girls Secondary School.
 - (t) Moyale Boys Secondary School.
 - (u) Bishop Sulumeti Chelelemuk Girls High School.
9. Annual Report of the Auditor-General and financial statements of the Kenya Civil Aviation Authority for the year ended 30th June 2024 and the certificates therein.
10. Special Audit on Capitation and Infrastructure Grants in Schools across the country from the Office of the Auditor-General. (To be referred to the Public Accounts Committee).

Hon. Speaker, I beg to lay.

Hon. Speaker: Chairperson of the Budget and Appropriations Committee.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Budget and Appropriations Committee on its consideration of The Equalisation Fund Appropriation Bill (National Assembly Bill No.21 of 2025).

Hon. Speaker: Thank you. Co-Chairperson of the Mediation Committee on The Division of Revenue Bill.

(Hon. Speaker consulted with the Clerk-at-the-Table)

We will come back to that. The report is not ready. Next Order.

QUESTIONS AND STATEMENTS

Hon. Speaker: Hon. Members, we are expecting a Supplementary Order Paper. Clerk-at-the-Table, is it here yet?

(The Clerk-at-the-Table spoke off the record)

Okay. Let us go to Statements.

STATEMENT

Hon. Speaker: Hon. Eve Obara, are you taking the response on behalf of Hon. Jared Okello?

Hon. Eve Obara (Kabondo Kasipul, ODM): Yes, Hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Administration and Internal Security, Hon. Gabriel Tongoyo.

DEATH OF MR ALBERT OJWANG'

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker.

I am responding to a Statement sought by Hon. Jared Okello regarding the death of Ojwang'.

Hon. Speaker: Go ahead, but take into account that this matter is very active in court. If you say anything that is likely to prejudice the court process, I will stop you.

Hon. Gabriel Tongoyo (Narok West, UDA): Well guided, Hon. Speaker. I am aware of the issue of *sub judice*.

Hon. Speaker: Go ahead.

Hon. Gabriel Tongoyo (Narok West, UDA): I am well guided, Hon. Speaker. This is also a matter of great public interest.

Hon. Speaker, the Member for Nyando Constituency, Hon. Jared Okello, sought a Statement on the Floor of this House on the circumstances that led to the death of Mr Albert Ojwang’.

In particular, he wanted to be informed on the following:

1. The report on the circumstances that led to the death of Albert Ojwang’ while in police custody at the Central Police Station, including the legal basis for his arrest and reasons for his placement in solitary confinement.
2. The justification for the transfer of Mr Ojwang’ from Homa Bay County to Nairobi City.
3. The current status of investigations by the Independent Policing Oversight Authority (IPOA).
4. The immediate administrative and disciplinary actions that have been taken against the officers who apprehended and transferred the deceased to Nairobi.

Hon. Speaker, you will remember that besides this Statement, the Committee also conducted interrogations. We interrogated IPOA and the Inspector-General (IG) on the same matter. I will read the Cabinet Secretary’s response and highlight key points arising from the Members’ interrogation of the IG and IPOA, including the latest update from IPOA’s status report.

Hon. Speaker, this is the response from the Cabinet Secretary:

The Member of Parliament for Nyando Constituency, Hon. Jared Okello, had sought the said Statement, and I respond as follows:

We are deeply concerned by the circumstances surrounding the death of Mr Albert Ojwang’ while in police custody at the Central Police Station. Indeed, the loss of life in custody raises serious questions about procedural conduct, oversight, and the protection of constitutional rights by the National Police Service.

According to the information made public by the Inspector General of Police, Mr Douglas Kanja, the late Mr Ojwang’ was arrested following a complaint launched by Mr Eliud Lagat, the DIG of Kenya Police Service, in relation to remarks made by Ojwang’ on his social media account, X-account, that goes by the name Pixel, to be specific.

Despite the nature of the allegation, it is important to emphasise that all arrested persons are entitled to the right enshrined under Article 49 of our Constitution. These include the right to be informed promptly of the reason for arrest, access to legal counsel, and to be brought before the court of law within 24 days. In light of the above, the decision to place Mr Ojwang’ in solitary confinement and whether it was consistent with the legal and procedural provisions, remain a matter under active investigation.

A preliminary autopsy has provided initial insight into the cause of this tragic death. However, the Committee await the conclusion of IPOA to determine any lapses, misconduct, and violation of Mr Ojwang’s rights while in custody. I reiterate our commitment to punishing, push for transparency, accountability, and protection of all Kenyans from abuse while in the custody of the State.

With regard to the second question, and in regard to the transfer of Mr Ojwang’ from Homa Bay to Nairobi by the DCI, the DCI was informed that the transfer was necessitated by the nature of the alleged offence, which was cybercrime. We understand that such offences may have an element that transcends geographical boundaries, but it is imperative that such transfers must comply with the principle of lawful procedure.

Under the Criminal Conduct Code (Cap 75), matters relating to the jurisdiction are determined by the place where the offence is or was alleged to have occurred or where its consequences are felt.

Again, in our understanding, in cases where it is uncertain in which jurisdiction the offence occurred, the law permits proceedings to be instituted in any such jurisdiction. However, even in such cases, the rights of accused persons must be strictly upheld as they are entitled to humane and lawful conditions of detention. Therefore, the Committee underscores the importance of ensuring that operational decisions such as the transfer of accused do not override constitutional protection. The legality of Ojwang's transfer and whether it met both procedural and human rights standards remain a critical component of the ongoing investigation.

On the third question, the case is already under active investigation by IPOA and other relevant agencies. From public statements, we are also informed that the Authority has made notable progress, including the recording of statements from several police officers, among them the OCS, Central Police Station, and junior officers who were on duty at the time of the incident. Post-mortem examination has already been conducted and the preliminary finding revealed blunt force injuries to the head, bleeding in the brain, soft tissue injuries on various parts of the body, and sign of compression on the neck. The National Police Service, through the IG, has pledged full cooperation with IPOA.

Similarly, my Ministry is available to provide any necessary support to facilitate the speedy and conclusive determination of this matter. Being a matter of significant public interest and national concern, we are hopeful that the process will be expeditious, impartial and transparent and especially, in light of the commitment made by the relevant authorities.

The Inspector General of Police has interdicted six officers pending the outcome of the ongoing investigation, and these officers include Officer Commanding Central Police Station, Samson Talam, Duty Officer Samuel Ng'ang'a, Corporal Charles Muruki, Police Constables Debian Lusweti, Peter Kimani and Evaline Kanyiri. We are of the view that this step is necessary and an appropriate measure to ensure accountability and would preserve the integrity of the investigation process. It will also serve as an important reminder that misconduct and negligence within the National Police Service will not be tolerated. It is also worth adding that the DIG KPS has already stepped aside from the public domain.

Finally, I wish to give the highest assurance and commitment that we shall pursue this matter to its conclusive end and ensure justice for Mr Albert Ojwang' and for the respect of the rule of law in this country.

I submit, Hon. Speaker. Signed by Hon. Kipchumba Murkomen, the Cabinet Secretary for Interior and National Administration.

I will kindly provide a summary from IPOA, as this year has been quite eventful. I have the latest update, as of today. In fact, the letter was signed yesterday, just before I came into the House, and I now have the updated report.

(Hon. David Kiplagat consulted with Hon. Julius Rutto)

Hon. Speaker, there is some noise coming from the Member for Soy Constituency.

Hon. Speaker: Order, Hon. DK.

Hon. Gabriel Tongoyo (Narok West, UDA): I have a status update report from Ahmed Issack Hassan, the Chairperson of IPOA, outlining that so far, they have made eight arrests. They have arrested Corporal James Mukhwana, who is currently before the Milimani Law Court, and has been detained for 21 days at the Capitol Hill Police Station. The ruling is scheduled to be delivered on 20th June. The next hearing will be on the same date. It is good to take note of that. The second is Samson Talam, the OCS, Central Police Station, who is also

before the Milimani Law Court and has similarly been detained for 21 days pending investigations. The ruling on his matter is scheduled for 18th June.

Also arrested are the Deputy OCS, known as Ng'ang'a, and Kimani, who were the duty officers at the time. In addition, three civilians have been arrested. These individuals are alleged to have committed the heinous act, and are the convicts who were in the cells. They are Gin Ammitou Abwao, Collins Karani Ileri and Brian Mwaniki. They have all been detained for 21 days at Muthangari and Kileleshwa police stations. Among the eight is a technician who is alleged to have interfered with the CCTV system. He too, has been arrested.

The report is quite detailed. I will also mention the number of officers who have been interdicted, many of whom are among those already arrested. I will not delve into the chronology of events here, but it is worth noting that the report I will table in the House contains full details. It starts from when the Deputy Inspector General made a complaint to both the EACC and the DCI, following the alleged false accusation by the deceased on his X account.

The Committee has also interrogated the Inspector General and IPOA, and the report is before us. However, most of the content mirrors the brief already provided for by the Cabinet Secretary and the report from IPOA. Hon. Speaker, I beg to submit.

Hon. Speaker: Thank you. Hon. Eve Obara.

Hon. Eve Obara (Kabondo Kasipul, ODM): Thank you, Hon. Speaker.

Let me appreciate that some effort has been made, and there is progress on the case. However, regarding the specific questions that were asked, I am yet to be satisfied.

The first question was why Albert was transferred from Homa Bay to Nairobi. Was this legal? This has not been clearly answered. In line with Article 49 of our Constitution, it is required that the arrested person be held near the place of arrest unless there are exceptional circumstances, and none were disclosed.

The second issue which I am not satisfied was what specific online post led to his arrest. Up to this point, we do not know.

The other question was whether Albert's detention was documented at the Central Police Station. The response should have clearly stated that it was not. At the very least, there should be an acknowledgement that there were gaps in the manner in which his case was handled. They always say that the truth will set us free. I would, therefore, appreciate it if the Cabinet Secretary in charge acknowledged some of the shortfalls in the handling of the matter.

When one speaks the truth, even those affected, including the family who have lost a relative, may find some comfort in knowing that the investigation was transparent and that the truth has been revealed. Unfortunately, this is not the case.

Finally, on the question of injuries, the Ministry should explain the visible injuries, including bruises and swellings, as reported by the family and other observers. The Ministry or the Cabinet Secretary only referred to the existence of a post-mortem report, without addressing the injury findings. I would be happy if this matter was handled comprehensively. I am not fully satisfied. This issue has damaged Kenya's image. Yes, we may make mistakes, but acknowledgement is the first step to recovery. It is only then that we can move forward and begin to have a genuine conversation about reforms, and what should be done as a country. I am not targeting any individual. I am speaking about the image of our country.

What we saw yesterday, immediately after Mr Ojwang's case, was someone brazenly shooting at a human being in the streets. This shows that the message has not been received. Even with all the public outcry and discussions, the police force appears not to have internalised the seriousness of the matter. If they had, we would not have witnessed what we did, and the instructions given to police officers on how to handle demonstrators would have been different. That police officer has damaged our reputation, and I believe that action has been taken, and he has been arrested. But in Ojwang's case, let us go the full way.

Thank you very much.

Hon. Speaker: Thank you. Let us have Hon. Mukunji. Hon. Tongoyo, you can take notes.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Speaker.

I also wish to state that the Statement is quite insufficient. From a distant view, this case appears to involve a lot of conspiracy. I am appealing to the Committee to go beyond IPOA's statement. There is a need, Hon. Speaker, for the National Assembly to go beyond the issue of getting a report from IPOA and form a commission of enquiry to know exactly what transpired. The commission is supposed to be independent, which also involves everybody who is being mentioned.

Two young gentlemen, who are cousins and come from my constituency, have been mentioned. They had been arrested because of a traffic matter, but were released. When they went for their vehicle, they were re-arrested, taken into custody and forced to write a statement.

I beg the National Assembly to take the issue of police misuse and misconduct seriously. Let us try as much as possible to correct the image, so that, as my sister has said, we ensure that the credibility of our nation is beyond reproach.

Hon. Speaker: Thank you. Hon. Otiende Amollo.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker.

The response, as read, is grossly inadequate. It is because of our system that we cannot expect our colleague to give us sufficient answers. He can only rely on answers that have been given to him. The issue of Ojwang' demonstrates monumental impunity and disregard for the Constitution and the law. This is to an extent that, as seen together with what happened yesterday, it demonstrates total anarchy and a danger of sliding to a banana republic if we are not already there.

First of all, I would suggest that to ask our colleague to bring better answers, is to give him a task beyond him. He will not get better answers. He is relying on the same police who told us that this was an issue of suicide. There is no way they can give us better answers. I would suggest that if ever there was a case where we should consider constituting an ad hoc committee...

(Applause)

Ojwang's death demonstrates what happens every day, except that it does not come to the limelight. I would suggest that, Hon. Speaker, you consider constituting an ad hoc committee to look into what actually happened, and also, what happens to other persons in similar circumstances, so that the police can be brought to order within the Constitution and the law.

There are so many gaps in that response. For starters, we have been failed by IPOA. The IPOA cannot, as the person investigating police conduct, attend a press conference where the police are explaining their own conduct. You cannot do that.

(Applause)

The IPOA cannot tell us that they have arrested people and that they already prosecuting people for murder, when the central suspect has not written a statement to date. How then do you determine who should be taken to court if you have not interviewed DIG Eliud Lagat up to now? The IPOA has failed us, and we must call them to order.

The other failure is in response to what has now happened - the public outcry. I read the Statement of 16th June 2025 by the Deputy Inspector-General (DIG) Eliud Lagat, where he said he voluntarily stepped aside. There is nothing like stepping aside in law. I invite us to look at Sections 17 and 95A of the National Police Service Act. Under Section 17, the President

may remove, retire or redeploy a DIG. None of those can be done by the DIG themselves. Under Section 95A, the disciplinary process can only be done by a disciplinary committee of the National Police Service Commission. You cannot discipline yourself by saying you have stepped aside. What does that mean in law? This whole issue is a charade.

If you look back at the questions that were asked, before you are arrested, you are supposed to be told why you are being arrested under Article 49 of the Constitution. This was not an arrest. It was abduction. To use the word “arrest” as has been used by the Chairman, is wrong. If it is an arrest, you are supposed to be taken to the nearest police station. Why would you be taken 600 kilometres away? When you are taken to the station, and the OB is not recorded, at what point are you told of the reason for your arrest? You are then put in a situation where you have been set up to be killed.

We owe it to this country. Given what happened to Ojwang’ and those who are demonstrating at what happened to Ojwang’, to the extent that the same police are now escorting goons, we are in danger of sliding into a total banana republic. If the Executive cannot bring us back on course, it behoves this House to do so. I suggest we establish an ad hoc committee.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Hon. Members, from what I have heard and from what the Chair of the Committee read to us, Hon. Otiende Amollo, you can only set up a committee through a Motion. There is no Motion before me. More importantly, I direct that the Cabinet Secretary for Interior and National Administration appear before this House on Wednesday Afternoon Sitting.

(Applause)

Those with questions and the questions so far raised by Hon. Eve Obara, Hon. Otiende Amollo and Hon. Mukunji, should be availed to him via *The Hansard*, so that he can be interrogated by the House on matters touching on the death of Albert Ojwang’, taking into account the ongoing court case and the *sub judice* rule, so that we can have this House lend its strong voice on matters that we disapprove of, on the conduct of officers who are supposed to protect *wananchi*. So, Deputy Leader of the Majority Party, Hon. Owen Baya, on Thursday, at 3.30 p.m., the Cabinet for Interior and National Administration is to appear before this House. It is so directed.

(Hon. Gabriel Tongoyo spoke off the record)

Hon. Speaker: Yes, Hon. Tongoyo?

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, on that one, I do not want to... There is one question that has come out clearly. As much as we all regret it as a country, it was a very unfortunate event, including what happened yesterday. Of course, we saw in the videos going around, a police officer shooting an unarmed innocent Kenyan who was walking, doing his hustle. Fortunately, he is recuperating in hospital, although they said the police officer used a rubber bullet.

It is good to appreciate that IPOA has done a good job because in five days...

Hon. Members: No!

Hon. Gabriel Tongoyo (Narok West, UDA): Ok, it is me talking.

Hon. Speaker: Order!

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, as much as we invite the Cabinet Secretary, what we wanted from the Internal Affairs Unit was full cooperation. When

we interrogated them, IPOA confirmed to us that the Inspector-General and his team were in full cooperation.

Hon. Speaker: Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Yes.

Hon. Speaker: You can advise the Cabinet Secretary to come with IPOA alongside him, if he wishes to do so, because under our structure of Government, he gives policy direction to many of those institutions under him.

Hon. Gabriel Tongoyo (Narok West, UDA): Okay. It is better that way. I would suggest that you recommend that IPOA also joins the Cabinet Secretary.

Hon. Speaker: It is up to him to decide who to come with.

Hon. Gabriel Tongoyo (Narok West, UDA): I am well guided.

Hon. Speaker: I do not want to escalate this. I have already given directions.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): On a point of Order, Hon. Speaker.

Hon. Speaker: What is your point of order, Hon. Millie?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker.

I appreciate that you do not want to escalate this because you have requested the Cabinet Secretary to come.

Hon. Speaker: I have not requested, I have directed.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): You have directed, thank you. I am glad that you have corrected me, one of the few times I am happy when corrected. Let him be here, and the reason is that the issue of security resides in this House.

I commend the Committee because they have done a very good job. The entire House needs to be seized of this matter because it is our primary mandate to oversee the security sector. As the Cabinet Secretary comes, there are other issues we would want him to deal with. The first one, only two days ago, Mr Onditi died in a police post in my constituency, allegedly, by suicide. In Nyando, somebody died, also allegedly, by suicide, in a police cell.

Hon. Speaker: Hon. Millie and any other Member with similar concerns, file additional questions on the issues you are raising, so that we pass them on to the Cabinet Secretary as he prepares to appear here on Wednesday. Kindly, be at hand to interrogate him on all the issues, so that he will be in a position to satisfy, not only the House, but the country, on the situation surrounding the death of Mr Albert Ojwang', Mr Onditi you are talking about, the shooting in town yesterday and any other matter within your knowledge that requires to be brought to the attention of the Cabinet Secretary. He should answer the questions fully.

Hon. Millie.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker.

I stand guided and I will do that. Yesterday when I was speaking, I was informed that the person who was shot yesterday, who, unfortunately, I am told has died...

(A Member spoke off the record)

I am happy to hear he is not dead. I am still appalled by the way the police operated. It does not matter where he comes from. Of course, it would hit me more if he came from Suba.

Yesterday, I was told he was from Homa Bay and Suba, in particular. I wish to tell the Suba people that he is not from Suba. We are still not happy that he was shot.

Hon. Speaker: You are Members of the National Assembly of Kenya. It matters not where a Kenyan comes from. The pain of a Kenyan in Mandera, Busia, Homa Bay or Kwale is a pain to all of you. That is as it should be. Let us go to the next matter. Hold your horses on that matter up to Wednesday. Let us go back to Messages.

(Hon. Robert Mbui spoke off the record)

Hon. Robert Mbui, you will speak on Wednesday when the Cabinet Secretary would be here. We are not in competition. You are a House, discharge your duties. Hon. Mbui, I know you have said that to me elsewhere and I agree with you. You and I were shot at together. My car was smashed. Be here on Wednesday. I will give you ample time to reflect, even on your broken and healed leg.

MESSAGE

SENATE APPROVAL OF THE FOURTH BASIS FOR ALLOCATION OF NATIONAL REVENUE

Hon. Speaker: Hon. Members, pursuant to the provisions of Standing Order 41(4) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from the Senate regarding the approval of the 4th basis for revenue allocation among county governments, in accordance with Article 217(3) of the Constitution.

The Message conveys that on Thursday, 12th June 2025, the Senate considered and approved the 4th basis for allocation among counties the share of national revenue that is annually allocated to the county level of government. This consists of the baseline allocation ratio and the formula for distribution for Financial Years 2025/2026 to 2029/2030.

For clarity, the baseline allocation ratio refers to the shareable revenue allocated to the counties in the Financial Year 2024/2025. The formula contains parameters and various respective thresholds to be considered in determining the criteria for horizontal distribution of the shareable revenue among the 47 county governments. The parameters include the basic equal share, population, poverty and land area.

Hon. Members, as you are aware, there is no doubt that we should appreciate the basis for revenue sharing among county governments is a very critical element in facilitating the seamless execution of devolved functions by county governments. Notably, the formula has implications on the Division of Revenue Bill and the County Allocation of Revenue Bill for the 2025/2026 Financial Year. In this regard, the formula ought to be considered expeditiously, before the conclusion of the two Bills. As contemplated under Article 217 of the Constitution, the National Assembly may consider the Senate's resolution and vote to approve it with or without amendments or reject it in total. It is worth noting that the decision of the National Assembly to amend or reject the Senate's resolution on the formula requires the support of at least, two-thirds of the Members of the National Assembly, being not less than 233 Members. So, if anyone wants to amend the resolution, he or she must garner the support of 233 Members. Anyone who wants it rejected, must also do so.

In order for the House to commence consideration of the resolution of the Senate, I direct as follows:

1. THAT, the Message from the Senate, together with the accompanying 4th Basis of Revenue Allocation Formula, is hereby, committed to the Budget and Appropriations Committee for expedited consideration.
2. THAT, cognisant of the urgency of the matter, the Committee is expected to consider the formula and submit a report to the House on Tuesday, 24th June 2025.
3. THAT, the House Business Committee shall place the Senate resolution in the Order Paper on Tuesday, 24th June 2025 for consideration by the House.
4. THAT, the Clerk is hereby directed to circulate the Message containing the formula to all Members and publish it on the parliamentary website.

The House is accordingly guided.

Hon. Members, allow me to acknowledge, in the Speaker's Gallery, students from State House Girls High School from Dagoretti North Constituency, Nairobi City County. In the Public Gallery, we have students from Tassia Bright Star School from Embakasi East Constituency, Nairobi City County.

On my behalf and that of the House, I welcome the students, their teachers and those accompanying them to the House of Parliament.

Hon. Members, you must have now received the Supplementary Order Paper. If you check the system, you will find it. We have received one response to questions. I will stay the remaining four until we finish the business that I will re-arrange. For now, let us go back to Papers. I call upon the Chairman of the Budget and Appropriations Committee to lay his Paper.

PAPER

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Mediation Committee on the Division of Revenue Bill (National Assembly Bill No.10 of 2025).

Hon. Speaker: Call out Order 6

NOTICE OF MOTION

APPROVAL OF THE MEDIATED VERSION OF THE DIVISION OF REVENUE BILL

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150(3), this House adopts the Report of the Mediation Committee on the Division of Revenue Bill (National Assembly Bill No.10 of 2025), laid on the Table of the House on Wednesday, 18th June 2025, and approves the mediated version of the Division of Revenue Bill (National Assembly Bill No.10 of 2025).

Hon. Speaker: Hon. Otiende Amollo and Hon. Murugara had some points of order. You approached the Chair to allow you to prosecute them. I will give each of you a minute to do so.

POINTS OF ORDER

REQUEST FOR KAMUKUNJI ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker.

The Chairperson of the Departmental Committee on Justice and Legal Affairs presented a report on the public participation on the Constitution of Kenya (Amendment) Bill on the National Government Constituencies Development Fund (NG-CDF).

After the First Reading of the Bill, we had to wait for the mandatory period as prescribed to elapse. By my count, that period elapsed about three days ago. By law, we should be clear to move to the Second and Third Reading stages so that we can fully handle the amendment to the Constitution to entrench the NG-CDF in the Constitution.

I seek your direction on the next step so that it is clear to all Members. I am sure most Members want to participate in the Second Reading and to be present during voting. Given the Members' schedules, unless this is made clear, some Members might not participate.

Hon. Speaker, I seek your indulgence and direction on this, on whether we can have an informal discussion given that not all Members can contribute during the time allocated for consideration of the Bill. Could we have a *kamukunji* prior to the debate on the Bill?

I, hereby, seek your guidance on the issue.

Hon. Speaker: Hon. Murugara, you have a minute. Give him the microphone.

REQUEST FOR KAMUKUNJI ON THE ROAD MAINTENANCE
LEVY FUND DISBURSEMENTS

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Speaker.

Maybe, Senior Counsel Otiende Amollo has not yet seen the Supplementary Order Paper. The matter is listed for debate today, but his plea is valid. Members should be informed about the contents of the Bill and the report and internalise them, so that we can discuss and debate them honourably. However, that is not my point of order.

Members have accused me of being a trade unionist. It is not right, but I do not refuse that tag. I came to your office last week to inquire about a very important and sensitive matter to the Members on the Roads Maintenance Levy Fund (RMLF), which is the money for roads. You gave us a very good response and we expected it to go as you indicated. However, we only got Ksh6 million yesterday.

Hon. Speaker, I join Hon. Otiende Amollo in requesting for a *kamukunji* where you can speak to us about the RMLF because our constituents are agitated and the roads are not in good shape. Most importantly, most of us have committed this money to the construction of rural roads.

Thank you very much, Hon. Speaker.

Hon. Speaker: Order, Hon. Tongoyo, take the nearest seat. Order, Hon. Bensuda, take the nearest seat.

(Laughter)

Order, Hon. Members!

First, allow me to acknowledge the good work that is constantly done by a caucus of lawyers in the House, who from time to time, are called upon to offer *pro bono* services to the House in legal matters and court processes.

(Applause)

I had a meeting this morning with the caucus Members. Some did not show up; perhaps, because of inadequate communication. They raised the issues that the two Members have raised. I will direct as follows:

That the matter appearing as Order 13 on the Supplementary Order Paper on the Constitution of Kenya (Amendment) Bill (National Assembly Bill No.4 of 2025) be stepped down to next week for the simple reason that constitutional amendment Bills are very delicate to the extent that once you move and debate it, you either approve or reject it as it is. You are not allowed to amend it on the Floor of the House. That is why we gave you adequate time to informally debate this matter in pre-publication form. *The Hansard* indicates that, at least, about 80 per cent of Members of this House spoke to it.

That notwithstanding, memories fail and people change their minds or forget things. I have acceded to the request for a special *kamukunji* on Tuesday at 9.00 a.m. to allow us to apprise ourselves on the contents of this important Bill that seeks to entrench the National Government Affirmative Action Fund (NGAAF), the NG-CDF and the Senate Oversight Fund into the Constitution. Once we start debate in the Second and subsequent Third Readings, we will have no opportunity or capacity to amend the Bill.

On the issue of the RMLF, I am sure that your offices must have advised you that some sums of money have been disbursed. A process of re-engineering the disbursement of additional funds is ongoing. I will apprise you once it is done.

I have instructed the Chairman of the Departmental Committee on Transport and Infrastructure, Hon. GK, Member for Ndia Constituency, to get in touch with the offices of the Clerk and the Leader of the Majority Party to apprise them on the developments on the RMLF.

More importantly, I again want to acknowledge the caucus because the court directed that Section 6 of the Roads Act is unconstitutional to the extent that counties are excluded. For us to correct the situation, the caucus is working overnight under my direction and guidance to come up with a draft Bill to cure the anomaly pointed out by the court, which will then be processed in the shortest time possible, including public participation, so that we have an amended Bill that meets the constitutional expectations that have been directed within a month or two.

So, once again, on behalf of the House, I salute the caucus for not only offering your time and brains, but for the sacrifice you are making to ensure that this House functions better. As you know, the caucus is co-chaired by Hon. Otiende Amollo and Hon. Chepkonga. Hon. Chepkonga is out of the country, but we salute them for their leadership.

(Order 13 stepped down)

We will re-organise the business of the day. The remainder of the Questions to be responded to will come after the Committee of the whole House. We will skip Orders 8, 9 and 10 and go to the Committee of the whole House.

While in the Committee of the whole House, the Leader of the Majority Party has requested that we step down business on the Value Added Tax (Amendment) Bill that will come next week, so that we deal with the Finance Bill and the Kenya National Council for Population and Development Bill.

Equally important, you know the requirement under the law and the Constitution. I have approved requests of amendments from the Chairman of the Committee, the Leader of the Majority Party, and the Member for Navakholo, Hon. Emmanuel Wangwe. They will be prosecuted in the Committee of the whole House.

I direct the Clerks-at-the-Table to call out the Orders.

(Clerks-at-the-Table consulted with the Speaker)

Leader of the Majority Party, there are some urgent documents for you to lay on the Table before we go to the next Order. Can you do so quickly? Call out Order 5.

PAPERS

Hon. Speaker: Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): I beg to lay the following Papers on the Table: Supplementary Estimates (No.3) for the 2024/2025 Financial Year and the following accompanying documents from the National Treasury:

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- (a) The 2024/2025 Financial Year Supplementary Estimates (No.3), programme-based budget.
- (b) The 2024/2025 Financial Year Supplementary Estimates (No. 3), recurrent estimates.
- (c) The 2024/2025 Financial Year Supplementary Estimates (No. 3), development estimates.
- (d) Memorandum on the 2024/2025 Financial Year Supplementary Estimates (No. 3).

Hon. Speaker, I lay.

Hon. Speaker: Thank you, Hon. Baya. Hon. Members, allow me to acknowledge students from Kambara Secondary School from Mathioya in Murang'a County. They are in the Public Gallery. On my behalf and that of the House, we welcome the students, their teachers, and those accompanying them to the House of Parliament.

(Applause)

Call out Order 11. Hon. Members, please be standing.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

IN THE COMMITTEE

[The Temporary Chairman (Hon. David Ochieng') in the Chair]

THE FINANCE BILL (National Assembly Bill No.19 of 2025)

(Several Members stood in their places and consulted loudly)

The Temporary Chairman (Hon. David Ochieng'): Order, Hon. Members. Let us take our seats. Order! Chair of the Departmental Committee on Finance and National Planning, are you ready? We are now in the Committee of the whole House for The Finance Bill (National Assembly Bill No.19 of 2025).

Hon. Osoro *et al*, could you take your seats? Hon. Osoro, allow the Chair of the Departmental Committee on Finance and National Planning to do his job. Hon. Osoro, take your seat.

(Hon. Silvanus Osoro walked out of the chamber)

Hon. Osoro, what have you just done?

Hon. Members, let us proceed. Chair of the Departmental Committee on Finance and National Planning, I hope you are ready.

Clause 2

The Temporary Chairman (Hon. David Ochieng'): Chair, you have amendments.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman I beg to move:

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- THAT, Clause 2 of the Bill be amended in paragraph (a)
- (a) by deleting sub-paragraph (iii);
 - (b) by inserting the following sub-paragraphs immediately after sub-paragraph (vii)—
 - (viii) by deleting the definition of “winnings”;
 - (ix) by inserting the following new definition in the proper alphabetical sequence—

“withdrawals” means the amount of money withdrawn by a customer from their betting or gaming wallet maintained by a person licensed under the Betting, Lotteries and Gaming Act”;

Yesterday we had a discussion on the definition of “royalty”. The amendment is to delete the definition of the term “royalty” as proposed in the Bill. Additionally, the amendment is to delete the definition of “winnings” and substituting that with “withdrawal”.

I beg to move.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 2 as amended agreed to)

The Temporary Chairman (Hon. David Ochieng’): The Leader of the Majority Party had an amendment almost on the terms we have just passed. I direct that his amendment fall because the Committee’s amendment has been carried.

(Hon. Kimani Ichung’wah’s proposed amendments dropped)

(Clauses 3 and 4 agreed to)

Clause 5

The Temporary Chairman (Hon. David Ochieng’): Chair of the Committee, you have amendments.

Hon. Kuria Kimani (Molo, UDA): I beg to move:

THAT, the Bill be amended in Clause 5 by deleting the words “by inserting the following new paragraphs immediately after paragraph (k)—

(l) supply of goods to a public entity;

(m) sale of scrap;”

and substituting therefor the following new paragraphs—

(a) “by inserting the following new paragraphs immediately after paragraph (k)-

(l) supply of goods to a public entity;

(m) making or facilitating payment over a digital market place; “

(b) by deleting the paragraph (g) and substituting therefor the following new paragraph -

(g) withdrawals;

The amendment seeks to remove sale of scrap as income subject to tax under Section 10 of the Income Tax Act. Additionally, this amendment seeks to include withdrawals made by punters as taxable income under Section 10 of the Income Tax Act.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 5 as amended agreed to)

Clause 6

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, you have an amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended by inserting the following new paragraph immediately after Paragraph (b)-

(c) in sub-section (6) by inserting the words “within six months from the commencement of this Act.

This amendment requires the Cabinet Secretary to make regulations on Significant Economic Presence Tax within six months. As you may recall, last December, we passed the amendment on Significant Economic Presence Tax. However, despite us passing this Bill in this House, almost six months later, there are no regulations that have been passed on the same. Therefore, this amendment requires the Commissioner, and by extension the Cabinet Secretary, to publish regulations to effect the Significant Economic Presence Tax as contained in the tax laws.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 6 as amended agreed to)

(Clause 7 agreed to)

Clause 8

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, you have an amendment in this clause.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended –

(a) in paragraph (a) (v) by deleting the words “public sports facility” and substituting therefor the words “sports facility on public grounds”;

(b) in paragraph (a) by deleting sub-paragraph (vi);

(c) in paragraph (b) by deleting the words “construction of” and substituting therefor the expression “construction of,”;

(d) by deleting paragraph (d) and substituting therefor the following new paragraph –

(d) in paragraph 5 by deleting the words “ten years” appearing immediately after the word “beyond” and substituting therefor the words “five years”.

This amendment seeks to clarify that both the investments in our stadia and sporting activities will be tax deductible for those in the private sector who invest in these two activities.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 8 as amended agreed to)

(Clauses 9 and 10 agreed to)

Clause 11

The Temporary Chairman (Hon. David Ochieng’): Mover, you have an amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 11 of the Bill be amended in paragraph (a) by deleting the words “by the last day of the reporting financial year of that group”.

The amendment requires the submission of country by country report that requires surrogate, subsidiary or parent companies. The same is provided in sub-section 2. Thus, it stays in the same section.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 11 as amended agreed to)

Clause 12

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, you have an amendment in this Clause.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 12 of the Bill be amended in the proposed Section 18G –

(a) in sub-section (4) by deleting the words “the Commissioner shall declare the agreement void and issue a notice of the declaration in writing to the person” and substituting therefor the words “the agreement shall be void and the Commissioner shall issue a written notice to the person.”;

(b) in subsection 5 by inserting the words “within six months from the commencement of this Act” immediately after the word “section”.

Clause 12 of the Bill states that the Commissioner may enter into an advance pricing agreement with a person who undertakes a transaction. When the taxpayer has provided false information in an advance pricing agreement, then it will be declared void.

Additionally, this particular amendment seeks to provide timelines in which the Commissioner General, and by extension, the Cabinet Secretary will provide regulations on the enactment of this particular Clause, giving them six months to gazette regulations on the enactment of these advance pricing agreements.

(Question of the amendment proposed)

(Hon. (Dr) Ojiambo Oundo raised his hand)

The Temporary Chairman (Hon. David Ochieng’): Hon. Oundo, take a minute.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, as much as the amendment to sub-clause 5 is timely and important, cabinet secretaries must also act in good faith, knowing the importance and urgency of the need to operationalise laws. We do not have to put for them specific timelines. It should flow naturally. For neatness, we should probably do this in the Statutory Instruments Act so that all the cabinet secretaries know that within a certain period of time, once a law is in place, we must do this. Otherwise, the phrase “within six months” will appear in all the laws in this country. They will be known as “within six months”.

Thank you, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Hon. (Dr) Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Temporary Chairman.

In an earlier clause, the Chairman reported that regulations were supposed to be done in six months, but they were not done. In terms of timeframe, is this realistic because we should not put a timeline that they cannot implement? We need an assurance that when we say we should get regulations in six months, then we should get them or whatever needs to be done.

Thank you.

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairperson.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, this particular amendment has been necessitated by the experience, for example, with the Significant Economic Presence Tax. The Ministry requires us to make particular amendments to the law, but then they take all their time to issue regulations. Therefore, we require them to have a timeline in which they must issue those particular regulations. Even if it might be monotonous to repeat them in all our respective laws, it is important for the Executive to play its part. We should give them timelines within which they are supposed to act.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 12 as amended agreed to)

(Clauses 13 and 14 agreed to)

Clause 15

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The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, you have an amendment in this clause.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 15 of the Bill be amended by-

- (a) deleting the words “by inserting the following new subsection immediately after subsection(1C)” and substituting therefor the following new paragraph-
 - (a) in subsection (1C) by deleting the words “six months” and substituting therefor the words “three months”;
- (b) inserting the following paragraph immediately before the proposed Section (1D)-
 - (b) by inserting the following new subsection immediately after subsection(1C)-

This amendment provides that the Commissioner should respond to an application for change of accounting year within three months, and not six months, in order to remove inefficiencies.

Again, as I explained in the two previous clauses, we are trying to make sure that the Commissioner is also responsible for timelines. For example, where a taxpayer has applied for changing their financial year, we are reducing the time in which they are supposed to respond from six months to three months.

There is something that we will consistently see in the entire amendments that we will move. Where the Commissioner does not respond, then that particular application by the taxpayer shall be deemed to have been accepted. This gives leeway to the taxpayer, and not just power to the Commissioner, to make sure our tax system is not only fair, but also transparent and equitable.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 15 as amended agreed to)

Clause 16

The Temporary Chairman (Hon. David Ochieng’): We have amendments by Hon. Chairman and Leader of the Majority Party. Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, clause 16 be amended by –

- (a) deleting paragraph (a) and substituting therefor the following paragraph–
 - “(a) in subsection (1), –
 - (i) in paragraph (a) by inserting the following new subparagraph immediately after subparagraph (ii) -
 - (iii) payments made by the national carrier to a non-resident for specialized technical, maintenance, compliance, training, or

digital systems support services, where such services are not available in Kenya or the service provider is certified or accredited by an international regulatory, standard-setting, or licensing body.”

- (ii) by deleting paragraph (i) and substituting therefor the following new paragraph –
 - (i) withdrawals;
- (iii) by deleting paragraph (t);
- (iv) by inserting the following new paragraph immediately after paragraph (t)—
 - (u) gains or profits which are chargeable to tax under section 9(1) derived from the business of a ship owner or charterer;”
- (b) inserting the following new paragraphs immediately after paragraph (a)-
 - (ab) in subsection (3) by –
 - (i) deleting paragraph (o);
 - (ii) deleting paragraph (h) and substituting therefor the following new paragraph-
 - (h) withdrawals;
 - (ac) in subsection (5A) by deleting the word “winnings” appearing immediately after the words “the tax deducted from” and substituting therefor the word “withdrawals”;

This amendment amends Section 35(1)(a) of the Income Tax which currently exempts only specific commissions paid by resident air operators to non-resident agents for ticket sales. This broad scope leads to taxation of essential foreign expertise even when such services are completely unavailable locally. Additionally, this particular amendment provides for the taxation of withdrawals rather than winnings in the case of betting.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 16 as amended agreed to)

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, you have an amendment to Clause 17. Before we go to it, the Leader of the Majority Party amendment to Clause 16 then falls because we will carry the Committee’s amendment.

(Proposed amendment by Hon. Kimani Ichung’wah dropped)

Clause 17

The Temporary Chairman (Hon. David Ochieng’): Clause 17, Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 17 of the Bill be amended in the proposed subsection (1A) by deleting the word “before computing the tax deductible” and substituting therefor the words “in computing the allowable deductions”.

Hon. Temporary Chairman, as you can remember, the amendments we did on the Tax Procedures and Tax Amendment Acts in December brought various taxable deductions for Pay-As-You-Earn (PAYE). We said that we deduct the taxable allowance before we calculate PAYE. However, tax payers have reported to us during public participation that we have quite a number of employers who are not allowing those expenses as tax allowable. Therefore, they are now leaving the employed Kenyans to claim this when filing their income tax at the end of the year.

Therefore, this amendment is seeking to compel the tax payer to allow for tax reduction on those tax allowable expenses for PAYE. I beg to move.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng’): Hon. Omboko.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Chairman. I want to support that amendment by the Chairman. That was a very vital law that we made as Parliament. So that when we are taxing employees on the payslip, we do not include those statutory elements in deductions. When you do so, it is double deduction. In fact, it was meant to leave some more money on the payslips of the workers. Hon. Chairman is that correct? Therefore, I support the amendment because it is progressive.

Remember, one of the biggest challenges that the workers of this country are facing now is the too many levies on their payslips. This was supposed to achieve a situation whereby they have some relief.

Thank you, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Hon. (Dr) Oundo, you have one minute.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Chairman. I support the amendment 100 per cent as it was done before and as is being carried here. However, probably the failure to allow all deductions and relief could be out of ignorance, not knowing what was provided for. Not everybody is informed about the changes in the law.

I want to ask the Chairman that once the President assents to this Bill and changes, just indicated all the allowed deductions, reliefs and everything and probably do a *mwananchi* version. Then post or circulate it, so that even an employer in the village who has employed a petrol station attendant who only sells 10 litres a day will be informed. Just do a *mwananchi* guide so that Kenyans can be informed. Even Hon. *Mwalimu* Omboko, does not know these things yet he is a teacher and renowned person.

The Temporary Chairman (Hon. David Ochieng’): Thank you.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): He does not know these small things. Thank you, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I would like to assure Hon. (Dr) Oundo, that *Mhe. Mwalimu* Omboko is very conversant with these matters. He sits in the Speaker’s Panel and is also keen in following the proceedings of this House.

The Temporary Chairman (Hon. David Ochieng’): However, the comment made by the Member for Funyula is fair. That if Hon. Omboko does not know, what do we expect from a person who is down there?

Hon. Kuria Kimani (Molo, UDA): I was coming to that, Hon. Temporary Chairman.

(Hon. (Dr) Ojiambo Oundo spoke off record)

The Temporary Chairman (Hon. David Ochieng’): Let him finish.

Hon. Kuria Kimani (Molo, UDA): On a very serious note, one of the consistent remarks we got when we moved across the 10 counties in this country was that our law-making process is too technical even for fairly educated Kenyans. They also said that we need to have simpler versions of the Bill and also be simple in our communication. Therefore, this is a call to us to communicate in a simpler language to the Executive that implements these proposals and KRA to simplify them in an easier way.

Hon. Temporary Chairman, sometimes I have watched adverts from our entities across all the arms of Government, especially the Executive, and most of these communications are in English. We need to have versions of our Bills and laws in vernacular, so that the Kikuyu speaker from Mukinya in my village or Dholuo speaking Kenyan from Ukwala can understand what we mean.

Therefore, I agree with Hon. (Dr) Oundo that we need to simplify the way we communicate our law-making process, because sometimes even for fairly educated and learned Kenyans, it is a bit too technical to understand. I always say that when we present these Bills to Kenyans, and the proposal is to delete, when we amend the Bills, we look at the parent Act to see what is being deleted. I think we have an obligation to make sure we simplify our communication.

The Temporary Chairman (Hon. David Ochieng’): Well said. Thank you.

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Hon. Omboko.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Chairman. This clause means that once you allow PAYE to be deducted on the gross salary including the deductions, you are taxing the workers on money that will not go to them. Basically, that is the basis of this. I just want to make a correction that I am the mastermind behind this. That is why I raised it because it is a very good amendment. The employers must be compelled to do exactly that.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 17 as amended agreed to)

(Clauses 18, 19, 20, 21, 22, 23, 24 and 25 agreed to)

Clause 26

The Temporary Chairman (Hon. David Ochieng’): This has an amendment by Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 26 (c) of the Bill be amended in subparagraph (ii) in the proposed subparagraph (aa) by deleting the word “public” appearing immediately before the words “pension scheme”.

This amendment is to allow for investment allowance for a spectrum license by a telecommunication operator. Additionally, this amendment is to retain 100 per cent investment allowance reduction for investment outside Nairobi and Mombasa.

As I said yesterday, this investment allowance for spectrum license is going to ensure that we have more coverage of network across the country. It is really unfortunate that in 2025, we still have some parts of this country that do not have telephone connectivity. Therefore, this particular amendment is seeking...

The Temporary Chairman (Hon. David Ochieng’): Order! Which amendment are you moving?

Hon. Kuria Kimani (Molo, UDA): Clause 27.

The Temporary Chairperson (Hon. David Ochieng’): Move Clause 26 first.

Hon. Kuria Kimani (Molo, UDA): Sorry. I want to sincerely thank Hon. (Dr) Oundo, because he is the one who noticed this yesterday during the Second Reading and he has noticed it again today.

(Laughter)

Noting that the amendment as proposed in the Bill would leave out payment of gratuity and pension outside public pension schemes.

Hon. Temporary Chairman, during a time when there is a lot of investments, there are a lot of savings by Kenyans in other non-public pension schemes, it is very important that we do not exclude this particular pension and medical schemes that Kenyans pay outside the public schemes.

Therefore, I beg to move that we delete the word “public” from the Bill so that the law will read, “other allowances paid under a pension scheme.” The import of this is payments made to both public and private pension schemes will be exempted from Income Tax.

I beg to move.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng’): I give this chance to Hon. Mayaka.

(Hon. (Dr) Ojiambo Oundo spoke off the record)

The Temporary Chairman (Hon. David Ochieng’): Hon. Oundo, Hon. Mayaka has the Floor now. Allow her to contribute.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Temporary Chairman. I rise to support this amendment and extend my salutations to Hon. Oundo. If we limit this provision to the public sector, it means a whole spectrum of people who have investments out of that space are affected.

For me, it is also important to speak to an issue that many Africans relate to, which is often referred to as the black tax. This amendment is encouraging for those who are investing for their retirement, and retirees. It will ensure that their investments will not be taxed.

The Temporary Chairman (Hon. David Ochieng’): Member for Kesses.

Hon. Julius Rutto (Kesses, UDA): Thank you so much, Hon. Temporary Chairman. I also support this amendment which seeks to ensure that all Kenyans are included. We are realising the constitutional principle of inclusivity. More so, we aim to encourage Kenyans to save for investment purposes. This requires alignment. Kenya, at the moment, is heavily leveraged. We are borrowing more from external sources than from within. We need to

encourage domestic savings by Kenyans, so that the Government can borrow locally, invest in development and citizens can earn returns and interest from their savings. This amendment is good. We want to promote participation from both the private and public sectors so that collectively, we can build this country.

The Temporary Chairman (Hon. David Ochieng’): Member for Kitui Central.

(Hon. (Dr) Ojiambo Oundo spoke off the record)

Hon. Oundo, this is your amendment.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you so much, Hon. Temporary Chairman. I also support this amendment. In this country, we recognise that there are many private pension schemes. Before this amendment, we risked discriminating against some Kenyans. This amendment as it stands, covers every Kenyan. I support it.

The Temporary Chairman (Hon. David Ochieng’): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I just want to sincerely thank the Chairman of the Committee. I raised this matter earlier in the House. He did not get the import of what I was saying. However, as we walked out of the chamber, I believe he reflected on it. You know, most men deal with much more important things outside the formal arrangements. There must be room for informal discussions and that is where we tied it up. I even have evidence in handwriting. Thank you, Hon. Chairman. You are now a listening Chairman.

The Temporary Chairman (Hon. David Ochieng’): Well done.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 26 as amended agreed to)

Clause 27

The Temporary Chairman (Hon. David Ochieng’): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 27 of the Bill be amended by -

- (a) inserting the following paragraph immediately before paragraph (a)-
 - (aa) in subparagraph (1) (c) by deleting the words “Purchase or an acquisition of an indefeasible right to use fibre optic cable by a telecommunication operator” and substituting therefor the word-

Purchase or acquisition of an indefeasible right to use fibre optic cable or spectrum license by a telecommunication operator:

Provided that, in the case of the spectrum license purchased or acquired before the 1st July 2025, the deduction shall be restricted to the unamortised portion over the remaining useful life of the spectrum license.
- (b) deleting paragraph (a);
- (c) deleting paragraph (b).

This has two imports. First, we are introducing an investment allowance for spectrum licences issued to telecommunication operators. Despite Kenya having one of the highest mobile penetration rates in Africa, some villages still lack basic telephone connectivity. We are hopeful that by providing this investment allowance, given that spectrum licences are very

costly, our telecommunications operators will be incentivised to apply for them and invest in expanding coverage across the country.

Secondly, this amendment seeks to retain the 100 per cent investment deduction allowance that we granted in December during the passage of the Tax Laws (Amendment) Bill. This applies specifically to investments made outside Nairobi and Mombasa. This will encourage companies to relocate or expand operations outside the two major cities. The benefits are twofold, namely, creating jobs in rural areas and reducing rural-urban migration, which in turn helps ease congestion in urban centres.

I beg to move.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng’): Member for Kibwezi East.

Hon. Jessica Mbalu (Kibwezi East, WDM): Thank you, Hon. Temporary Chairman. I rise to support the amendment particularly on the investment allowance for spectrum licences. This will facilitate greater connectivity in underserved areas especially rural regions. We know that most investments tend to be concentrated in urban centres, but the rural areas which many of us represent are left behind. I support this amendment.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

*(Question, that the words to be left
out be left out, put and agreed to)*

(Clause 27 as amended agreed to)

Clause 28

The Temporary Chairman (Hon. David Ochieng’): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 28 be amended –

- (a) in paragraph (b) by-
 - (i) deleting subparagraph (ii);
 - (ii) deleting subparagraph (iii);
- (b) by inserting the following paragraph immediately after paragraph (b)-
 - (ba) in paragraph 3–
 - (i) by deleting subparagraph (i) and substituting therefor the following new subparagraph—
 - (i) in respect of withdrawals made by punters, five per cent;
 - (ii) by deleting paragraph (w);
 - (c) in paragraph (c) by inserting the following new subparagraphs immediately after subparagraph (ii)-
 - (iii) by deleting paragraph (i) and substituting therefor the following new paragraph-
 - (i) in respect of withdrawals made by punters, five per cent;
 - (iv) by deleting paragraph (p);

(d) by deleting paragraph (d) and substituting therefor the following new paragraph-

(d) by deleting paragraph 13;

Hon. Temporary Chairman, the clause has three very consequential amendments. First, Clause 28 initially sought to delete tax incentives that granted a preferential tax rate to companies constructing 100 or more residential units.

We found this proposal to be inconsistent with the Government's Affordable Housing Agenda. While the Government is directly providing affordable housing, we must also incentivise the private sector to do the same. Therefore, we are proposing the deletion of that clause, so as to continue granting preferential tax treatment to institutions building at least 100 units of affordable housing.

Second, this clause proposes to reinstate tax incentives for the local assembly of motor vehicles. I look forward to a time when you and I, Hon. Temporary Chairman, can drive locally assembled cars. These incentives were previously withdrawn which disadvantaged the sector. Restoring them will help revitalise local vehicle assembly.

Third, the amendment seeks to reduce the tax to 5 per cent of withdrawals made by punters and more importantly, to adjust the digital asset tax framework. Under the current law, tax is imposed on the full transaction value of digital assets, such as when using bitcoin to pay for goods or services. This is equivalent to taxing someone for depositing money in a bank. We are amending this so that tax is charged on the fees charged by digital asset service providers, not the entire transaction value. This is a much fairer approach. This is timely, especially since next week we expect to table a report and move amendments to the Digital Assets Regulatory Bill.

I beg to move.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng'): Member for Kitui Central.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): I support these incentives, but wish to make a few observations. If you look at our motor assembly industry and the construction sector, you will find significant monopolistic tendencies. This means that while tax incentives may exist, they may end up benefiting a few companies, while the general public may not realise any meaningful benefit. As we move forward, we must open these sectors to more competition. The more firms that can benefit from these incentives, the more Kenyans will ultimately benefit.

I submit.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Proposed amendment by Hon. Kimani Ichung'wah dropped)

(Clause 28 as amended agreed to)

Clause 29

The Temporary Chairman (Hon. David Ochieng’): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 29 of the Bill be amended in paragraph (b) by inserting a comma immediately after the word “individual”.

This is just a clean-up. The impact is to have a comma immediately after the word individual.

The Temporary Chairman (Hon. David Ochieng’): Thank you.

(Question of the amendment proposed)

Member for Kibwezi East.

Hon. Jesicca Mbalu (Kibwezi East, WDM): Thank you, Hon. Temporary Chairman. I rise to support the clean-up. In law, the interpretation of comma means a lot.

The Temporary Chairman (Hon. David Ochieng’): Correct.

Hon. Jesicca Mbalu (Kibwezi East, WDM): It can change the whole meaning. I, therefore, support the clean-up.

The Temporary Chairman (Hon. David Ochieng’): Thank you.

*(Question, that the word to be inserted
be inserted, put and agreed to)*

(Clause 29 as amended agreed to)

New Clause 5A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 5-

Repeal of Section 12D of
Cap.470.

5A. Section 12D of the Income Tax Act is
repealed.

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, we have two new clauses. You are moving new clause 5A for Second Reading.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that New Clause 5A be now read a Second Time.

This amendment proposes to repeal Section 12(d) of the Income Tax Act. As you may recall, in the Finance Act of 2023, we passed a law providing for minimum tax. However, the courts have since declared minimum tax unconstitutional. Therefore, this amendment seeks to delete that particular provision.

The Temporary Chairman (Hon. David Ochieng’): Thank you.

*(Question, that the new clause be
read a Second Time, proposed)*

Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Hon. Temporary Chairman, I wish the Chairperson would provide more details regarding his comment that the courts have declared it unconstitutional. Is it leading to discrimination? What is the issue?

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The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Chairman. Section 12(d)(1) and (1a) of the Income Tax Act of 2023 provided for minimum tax. However, that particular proposal was challenged in our courts. It was said that you cannot tax a loss and for you to pay tax in Kenya, you must have derived an income from a particular activity. Therefore, requiring businesses to pay minimum tax would mean they are required to pay tax whether or not they derived income in Kenya. It is because of that merit that the courts declared it unconstitutional.

Hon. Temporary Chairman, it is also important to note that the ruling was not challenged. Therefore, continuing to have Section 12(d) in our books is senseless, necessitating the move to repeal that section of the Income Tax Act.

The Temporary Chairman (Hon. David Ochieng’): That makes a lot of sense.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

*(Question, that the new clause be
added to the Bill, put and agreed to)*

Hon. Members, before we proceed to the next Order, I wish to recognise, in the Speaker's Gallery, the presence of students from St. Joseph Girls Kipsaina from Keiyo South Constituency, Elgeyo Marakwet County. They are welcome to Parliament to follow our proceedings this afternoon. Thank you.

Next clause.

New Clause 6A

THAT, the Bill be amended by inserting the following new clauses immediately after clause 6-

Repeal of section 12f of
Cap.470.

6A. Section 12F of the Income Tax Act is repealed.

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): I call upon the mover to move the new clause 6A for Second Reading.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that new clause 6A be now read a Second Time.

As you may recall, we had moved an amendment on tax paid on digital assets from the transaction amount to fees. Therefore, this is a sub-sectional amendment that is seeking to introduce a new clause, so that the digital asset tax is now based on the fees charged on virtual asset providers and not on the transaction amount.

*(Question, that the new clause be
read a Second Time, proposed)*

The Temporary Chairman (Hon. David Ochieng’): I think that is self-explanatory.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(Question, that the new clause be added to the Bill, put and agreed to)

(Clauses 30 and 31 agreed to)

Clause 32

The Temporary Chairman (Hon. David Ochieng’): Chairperson.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 32 of the Bill be amended by-

(a) deleting paragraph (a);

(b) inserting the following new paragraph immediately after paragraph (c)-

(d) by deleting paragraph (ea) and substituting therefor the following new paragraph-

(ea) such excess credit in respect of a taxable supply that became zero-rated on 1st July, 2023:

Provided that a registered person who incurred excess credit shall apply to the Commissioner for a refund within six months from the date of commencement of this provision.

I will just give a brief of where we. The Finance Bill of 2025 was seeking to amend five different laws, namely, the Income Tax Act, the Value Added Tax Act, the Excise Duty Act, the Tax Procedures Act, and the Miscellaneous Fees and Levies Act. So far, we have dealt with all the proposed amendments in the Income Tax Act. So, we are now in the next statute, the Value Added Tax Act, which this Finance Bill seeks to amend.

This amendment seeks to retain the provision allowing the option to offset excess tax under any written law. Paragraph (ea) was introduced to allow for instances where permanent credits arose due to changes in tax rates. While the intention was to resolve an issue caused by legislation, the provision has failed to take effect due to technical drafting flaw.

This will help us avoid all the tax refund requests that KRA seems to get every time. I alluded that we only have a budget of about Ksh5 billion despite tax refunds being in excess of Ksh50 billion. This is a clean-up to ensure taxpayers are allowed to offset their current tax liabilities from excess tax they might have paid, even if that was under a different tax bracket. For instance, if you overpaid your input tax, you are allowed to offset it, whether from your corporation tax, Pay-As-You Earn (PAYE) or any other tax head in your tax obligation.

I beg to move, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Thank you.

(Question of the amendment proposed)

Member for Funyula.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I sincerely thank and strongly support this amendment as moved by the Chairman of the Committee. All taxes are paid to KRA, despite the different accounts. It should therefore be a simple matter of entry, exit, and then the bottom line. We should not have this issue of compartmentalisation of VAT, PAYE or Excise duty. The proposed amendment is a very progressive way of getting things done.

I support and wish you a good and long life.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 32 as amended agreed to)

(Clauses 33, 34 and 35 agreed to)

Clause 36

The Temporary Chairman (Hon. David Ochieng’): Hon. Members, Clause 36 has three proposed amendments, namely, the first by the Departmental Committee on Finance and National Planning, the second by the Leader of the Majority Party, and the third by Hon. Wangwe. Therefore, if we carry the Chairperson's amendments, the other two will fall accordingly. Chairperson, you have to move the amendment before you speak to it.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move: THAT, Clause 36 of the Bill be amended –

- (a) by inserting the following paragraph immediately before paragraph (a)-
 - (aa) in the table by inserting the following new tariff number and tariff description immediately after tariff number “3006.92.00”–
3006.93.00 -- Placebos and blinded (or double-blinded) clinical trial kits for a recognised clinical trial, put up in measured doses
- (b) by deleting paragraph (a);
- (c) by deleting paragraph (c);
- (d) by deleting paragraph (d);
- (e) by deleting paragraph (e);
- (f) by deleting paragraph (f);
- (g) by deleting paragraph (g);
- (h) by inserting the following new paragraph immediately after paragraph (g)-
 - (ga) by deleting paragraph 101 and substituting therefor the following new paragraph-
101. All goods imported or purchased locally by the Defence Forces Welfare Services.
- (i) by deleting paragraph (h);
- (j) by deleting paragraph (j)
- (k) by deleting paragraph (l);
- (l) by deleting paragraph (m);
- (m) by deleting paragraph (n);
- (n) by inserting the following new paragraph immediately after paragraph (n)–
 - (na) in the proviso to paragraph 146 by deleting the words “and the exemption was granted before 1st January 2024 and shall continue to apply for twelve months after this date” and substituting therefor the words “the exemption was granted before 27th December 2024 and the exemption shall only continue to apply until 27th December, 2025.”
 - (nb) by deleting paragraph 154;
- (o) in paragraph (o) by-
 - (i) deleting item 155;
 - (ii) deleting item 156;
 - (iii) deleting item 157;
 - (iv) deleting item 158;
 - (v) deleting item 159;

- (vi) deleting item 160;
- (vii) deleting item 161;
- (viii) deleting item 162;
- (ix) deleting item 163;
- (x) deleting item 164;
- (x) inserting the following new items immediately after item 164-

165. Mosquito repellent.

166. Inputs, machinery and raw materials used in the manufacture of mosquito repellent on recommendation by the Cabinet Secretary responsible for matters relating to health.

167. The supply of locally consumed teas.

In as much as we want to clean the First and Second Schedules of the VAT Act, we need to be sensitive to matters that are of great concern to Kenyans. Although, the zero-rated and exempt status has been largely abused by some enterprises, there are some commodities that are so essential that we should not move them from zero-rated to exempt or standard rate as proposed in this particular Bill. We singled out a few of them, one of them being transportation of sugarcane. Why sugarcane stands out is because it is such a bulk and heavy item. One of the largest costs in value addition of sugarcane is actually the transportation costs.

Secondly, is zero rating status of electric motorcycles and electric bicycles. Nowadays, as you have noticed, if you move around Nairobi, most of the boda bodas that offer taxi hailing services like deliveries are electric motorcycles and bicycles. We have noticed something very unique that the inclusion of electric bicycles in our country has made even ladies to engage in taxi hailing services more.

As you move around Nairobi, you will see motorcycles that have their lights on and have something round near the steering wheel. That is one of the ways you know an electric motorcycle. This has been made possible because this House made a decision in the Finance Act of 2023 to provide zero rating status for local assembly of electric motorcycles, electric bicycles, and electric buses. We must, therefore, be consistent in our tax regime. We cannot grant this exemption in December so that investors can come to our country to build electric motorcycles, bicycles and buses, only for us to take away that particular incentive six months later. We must be consistent so that we allow investment in our country.

Third, this particular amendment is also seeking to clarify the following items as exempt: Mosquito repellent inputs and machinery. In 2025, we still have a big challenge with mosquito menace in our country. I know from the region you come from, the issue of malaria infections and mosquitoes is great. We are hoping that by granting this exemption to manufacturing of equipment that will be used to fight mosquitoes, we will go a long way not just by creating employment in Kenya, but by bringing investors in our country.

I beg to move, Hon. Temporary Chairman.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng'): The first bite on this will be by Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Temporary Chairman. Allow me thank the Chairman for considering the issue of sugarcane transportation. By the time you get the costing of fuel into the commodity at the manufacturing stage, you have already taxed the fuel. So, taxing again at the consumption level would amount to double taxation. Therefore, I am happy that the Chairman has listened to us.

So, I support.

The Temporary Chairman (Hon. David Ochieng'): Hon. Maungu.

Hon. Dick Oyugi (Luanda, DAP-K): Thank you, Temporary Chairman. I support the amendment. I listened to the Chairman express himself regarding the sugar industry. I come from a sugarcane-growing region. However, the Member in front of me, Hon. Kaluma is interfering with my contribution.

The Temporary Chairman (Hon. David Ochieng'): Hon. Omboko, you will get a chance. Just relax.

Hon. Dick Oyugi (Luanda, DAP-K): No, Hon. Temporary Chairman, I am not talking about Hon. Omboko. I am talking about Hon. Kaluma who is interfering with my contribution.

The Temporary Chairman (Hon. David Ochieng'): Hon. Kaluma, this is not your chance. Please, allow Hon. Maungu to proceed uninterrupted.

(Hon. Peter Kaluma spoke off the record)

Hon. Dick Oyugi (Luanda, DAP-K): Hon. Temporary Chairman, I cannot get points when Hon. Kaluma is interfering with the flow of my thoughts.

The Temporary Chairman (Hon. David Ochieng'): Go ahead, Hon. Maungu.

Hon. Dick Oyugi (Luanda, DAP-K): Thank you, Hon. Temporary Chairman, I support the proposal as presented.

The Temporary Chairman (Hon. David Ochieng'): Member of Parliament for Seme.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Chairman. I also support. Honestly, it is ridiculous that we ever thought to tax transportation since the fuel used is already taxed. Maybe I was asleep when that was passed. On mosquitoes, anything that helps reduce the cost of healthcare should be exempt.

I support the amendment.

The Temporary Chairman (Hon. David Ochieng'): Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): I have the microphone. Did you give me a chance?

The Temporary Chairman (Hon. David Ochieng'): Yes, Hon. Omboko

Hon. Omboko Milemba (Emuhaya, ANC): Thank you. You know I am easily identified as *Mwalimu* Omboko Milemba. I want to support that amendment. One, it is dealing with malaria and it makes it very easy for investment.

Two, is sugarcane transporting cost which is higher than any other cost. More fundamentally is the issue of electric motorcycles and bicycles which is the way we want to go. It will reduce usage of our foreign exchange on importation of oil.

The Temporary Chairman (Hon. David Ochieng'): Member for Homa Bay Town.

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Chairman. We maybe postponing this idea of zero rating, but we need to think about it deeply. We are zero rating very many products but there is no evidence that by zero rating, the benefit goes to the local person or consumer. For instance, the transportation cost for sugarcane.

One, how do you prove that these products are being used by tractors? Two, how does that benefit the local person? We have had cases where something like bread is being zero-rated. I know we fear touching these things, So, it is only for that reason that I will support this. Instead of bakeries employing more bakers, the factories are employing more people to claim tax refunds.

We are in a situation where tax expenditure, as we were told by the Committee Chairman, is standing at Ksh550 billion in a year. So, we collect Ksh2.4 trillion, but Ksh550 billion is going into expenditure. Partly towards refunds not because people are paid excess, but they have a leeway in law to claim even if they are not giving any benefit. So, we may allow this for now. However, we will need to review it once we explain to the public the nonsense we are engaging the country in. We do not have money to give KRA to pay.

The Temporary Chairman (Hon. David Ochieng’): Member for Kitui Rural.

Hon. David Mwalika (Kitui Rural, WDM): Hon. Temporary Chairman, I support the amendment. On the Ksh550 billion in tax expenditure, 60 per cent is on VAT alone. Manufacturers often pass the VAT cost to consumers while still claiming input VAT refunds. The KRA is already struggling to pay the refunds.

The Temporary Chairman (Hon. David Ochieng’): Chairman of the Budget and Appropriations Committee.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Temporary Chairman, I agree. Until Parliament becomes bold enough to intervene on some of these zero-rated products, we are not going to make good progress.

As a Budget and Appropriations Committee, one of our recommendations that are geared towards realising our revenue targets is to scrap most of these zero-rated items from the books. As Hon. Kaluma has pointed out, we cannot even know how the public is benefitting from some of the zero-rated products. We fear because of the perception of the public, but in the end, it is the Kenyan taxpayer who suffer. If we cancel even half of these zero-rated items, we are going to save about Ksh400 billion. We are paying Ksh1.1 trillion interest on debt. Look at how much money we will have for development.

Going forward, I request the Chairman of the Departmental Committee on Finance and National Planning to tabulate all these zero-rated items and cancel them. We will make good progress.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

*(Question, that the words to be left
out be left out, put and agreed to)*

*(Proposed amendments by Hon. Kimani Ichung’wah
and Hon. Emmanuel Wangwe dropped)*

(Clause 36 as amended agreed to)

Clause 37

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 37 of the Bill is amended by-

- (a) deleting paragraph (a);
- (b) deleting paragraph(b);
- (c) deleting paragraph (c);
- (d) deleting paragraph (d);
- (e) deleting paragraph (e);
- (f) deleting paragraph (f);
- (g) deleting paragraph (g);
- (h) deleting paragraph (h);
- (i) deleting paragraph (i);
- (j) inserting the following paragraph immediately after paragraph (i)–
 - (j) inserting the following new paragraph immediately after paragraph 35–

36. Packaging materials for tea and coffee, upon recommendation by the Cabinet Secretary for matters relating to agriculture.

As you may notice, in the Bill having decided in Clause 36 to delete the products from the Second Schedule that are zero-rated, Clause 37 is making them to be tax exempt. Therefore, the proposal is to delete some of the products we have zero-rated. Therefore, the consequential amendment on Clause 37 falls.

I want to agree with the statements made by my colleagues. The zero-rate and exempt tax status has been largely abused. However, one temptation we should avoid is throwing the baby out with the bathwater. However, we have tried to cure this by introducing New Clause 35.

The Temporary Chairman (Hon. David Ochieng’): You mean New Clause 36A?

Hon. Kuria Kimani (Molo, UDA): Yes. New Clause 36A which seeks to amend the Value Added Tax Act by inserting the following paragraph:

Where a person imports or purchases goods or services which are exempt or zero-rated and that person subsequently disposes of, uses the goods or services supplied in a manner inconsistent with the purpose for which the goods or services were exempted or zero-rated, the person shall be liable to pay tax on the goods or services at the applicable rate at the time of disposal or inconsistent use.

We are trying to tighten, even as we wait to clean up the First and Second Schedules of the Value Added Tax Act. As Hon. Kaluma explained, on the transmission of sugarcane, if someone uses the goods in a way that is inconsistent with the reason why that particular good was exempt or zero-rated. Then, they will be required to pay the equivalent of that tax. I hope KRA will use this administrative and legislative framework to cure the mischief around this zero-rated and exempt status.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng’): Hon. Oundo

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, let me also join my colleagues in this debate of zero-rating and tax exempting. As for now, the purported proposal by the National Treasury to move from zero-rating to tax exempt would have automatically resulted in some minimal price increases. At this point in time, this would have been a very bad decision in view of the prevailing economic circumstances.

Again, when you meet many traders and business people, they want some element of consistency and predictability. I totally agree that these tax expenditures might not necessarily benefit the end consumer. Eventually, we must find a way of putting a timeline on when this transition from zero-rating to exempt will happen. That way, everybody will know that after two to three years, this will happen. These sudden changes are very disruptive.

As my colleagues have said, and let me throw this to the Committee, we need to start a process that can be predictable over time, outlining how the changes are going to be effected in different years so that everybody prepares adequately.

Thank you, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Temporary Chairman. Once more, I want to thank the Chairman of the Departmental Committee on Finance and National Planning for correcting the issue after voting in Clause 36. It puts to rest any avenue for corruption. The tax agents would have taken advantage that this is not aligned with the initial provision in Clause 36. They would have pushed traders to give them more money for nothing. Therefore, the clean-up is important and timely.

Thank you. I support this amendment.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Proposed amendment by Hon. Emmanuel Wangwe dropped)

(Clause 37 as amended agreed to)

New Clause 30A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 30—

Amendment of
section 5 of
Cap. 476

30A. Section 5 of the Value Added Tax Act is amended by deleting subsection 3 and substituting therefor the following new subsection—

Tax on a taxable supply shall be a liability of the registered person making the supply and, subject to the provisions of this Act relating to accounting and payment, shall become due at the time of the supply: Provided that where the taxable supply involves a sale or auction of goods to recover unpaid debt, to enforce or give effect to a security, charge or encumbrance, tax on the taxable supply shall subject to the provisions of this Act be the liability of the debtor.

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, move New Clause 30A for Second Reading.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that Clause 38 be now read...

The Temporary Chairman (Hon. David Ochieng’): No, it is 30A.

Hon. Kuria Kimani (Molo, UDA): Okay. New Clause 30A.

The Temporary Chairman (Hon. David Ochieng’): Clauses 38 and 30A? It is Clause 30A.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the new clause 30A be now read a Second Time. This amendment seeks to provide that the Value Added Tax (VAT) payable on disposable or residual security for a debt should be paid by the debtor.

For example, if a credit lending entity recovers a security item from you, let us say a motor vehicle, then the sale of that item will be subject to VAT. In this case, the creditor wants to recover the debt they advanced to you. So, we are proposing that the debtor be the one who is eligible to pay for the tax payable for that particular good when it is auctioned or repossessed from the debtor. We are taking the obligation from the creditor to the debtor.

Hon. Temporary Chairman, I beg to move.

(Question, that the new clause be read a Second Time, proposed)

The Temporary Chairman (Hon. David Ochieng’): Yes, Hon. Omboko.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Chairman, it is important that you go back and clarify the real importance of those changes. You are now transferring the tax to be paid by the debtor. We want to understand how beneficial this will be.

Thank you, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Member for Nandi.

Hon. Cynthia Muge (Nandi County, UDA): Hon. Temporary Chairman, *Mwalimu* Omboko Milemba has been able to address my concern as well. It is proposing that the person who was unable to settle their debts is again added a further liability of paying the taxes owed by the taxing institution. The Chairman should do justice and explain further, so that we can get another perspective. We have heard that they are giving an additional burden to the person who was unable to pay their debts.

The Temporary Chairman (Hon. David Ochieng’): Member for Samburu West.

Hon. Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Chairman. I do not understand the import of this amendment at all. The creditor will probably sell whatever needs to be sold and probably get more than what is owed. Maybe what was used as security for the loan will be sold at a higher price. Hence they will receive more money.

The debtor is being asked to pay tax on the transaction. I do not understand how KRA intends to raise money from this. The creditors should continue to pay the tax so that when they dispose of the assets, they factor it in the process. The Chairman should provide an explanation for this. Otherwise, I will definitely oppose.

The Temporary Chairman (Hon. David Ochieng’): I do not want a debate on this matter. The Chairman should clarify. Next is the Member for Dagoretti North.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Chairman. I need to understand this proposal. We must ask ourselves who the debtors and creditors are. This proposal can be misused in the disposal of various assets, such as mortgages. This is not solely about small assets. A bank could go rogue under the guise of this clause.

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, you mentioned that the debtor pays for the auctioneer's fee and subsequently, when consolidated, pays KRA the tax. Is that the position? Why must this happen?

Hon. Kuria Kimani (Molo, UDA): We should begin with the moment a credit entity issues a loan to a debtor. The issuance of that loan is an exempt transaction. If the loanee defaults for any reason, but there exists collateral which was advanced whose transaction was tax exempt. When the creditor disposes of this asset to recover the obligation, that is a taxable transaction. This implies that when creditors initially advanced the payment to the debtor, it was “at a cheaper rate” because it was exempt. When the time comes to recover costs, they are required to pay VAT on that transaction. This complicates their ability to recover the costs of the loan. The obligation to pay for the transaction should rest with the defaulter, not on the financing transaction.

Can this be abused? There are very good safeguards of repayment principles, which dictate that the interest should not exceed the principal amount. Even though there is merit in what the Members are raising, this can be addressed administratively by ensuring that the cost does not surpass the value of the particular item to the loanee.

The Temporary Chairman (Hon. David Ochieng’): Order. The point raised is that the money initially provided is exempt, but now it is being taxed because it has accrued interest. The interest is what is being recovered. Let us have Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I see a practical challenge in implementing this clause. The Chairman and his technical team should take note of this. Assuming that an individual has taken a mortgage on a property, and in the event that one defaults, the Land Act is clear that the property should not be sold for less than

75 per cent of the market value. If a person has been servicing the loan and then defaults, this has already been capped at 75 per cent. This presupposes that the bank should absorb all the attendant costs in respect of the same transaction, to the extent that they do not expect the debtor to service the outstanding debt. This is the implication. We should avoid a situation where the auctioneers and banks collude and fleece debtors.

The Temporary Chairman (Hon. David Ochieng’): Member for Samburu West.

Hon. Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Chairman. Having listened to the Chairman of the Departmental Committee on Finance and National Planning, it would be more prudent to position the tax beforehand. He has mentioned that it was exempt initially. The debtor should be informed of the obligations they are entering into before they find themselves unable to pay the debt. It does not make sense. Is it the creditor who will provide the debtor with the funds to pay the tax? One cannot overburden someone who is already struggling. I oppose.

The Temporary Chairman (Hon. David Ochieng’): The Member for Kitui Central.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Hon. Temporary Chairman, this is a very serious, but simple matter. By the time one is being auctioned, they have serious financial challenges. Imagine a situation where I am being auctioned, my car has been taken away and I am asked to pay tax. This complicates everything. The implementation of this clause is challenging. The Chairman of the Departmental Committee on Finance and National Planning needs to withdraw it. We should reconsider and it can reintroduce it later.

The Temporary Chairman (Hon. David Ochieng’): Thank you. What is the problem, Hon. Chairman?

Hon. Kuria Kimani (Molo, UDA): Having listened to the concerns of Members regarding this particular clause, it is evident that this proposal requires further consideration. Therefore, I beg to withdraw this amendment to allow for further consultations, so that we do not disadvantage an already disadvantaged defaulter.

The Temporary Chairman (Hon. David Ochieng’): That is in order. Hon. Chairman, that is how someone earns the title “honourable.” Well done.

(Proposed amendment by Hon. Kuria Kimani withdrawn)

Next clause.

New Clause 36A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 36-

Amendment of
the First
Schedule to
Cap. 476.

36A. The First Schedule to the Value Added Tax Act is amended in Part II by inserting the following new item immediately after item 35-

36. Taxable services supplied to manufacturers of mosquito repellents upon recommendation by the Cabinet Secretary responsible for matters relating to health.

37. Accommodation, restaurant, beauty salon and laundry services provided by the Defence Forces Welfare Services.

38. Taxable services for direct and exclusive use of the Defence Forces Welfare Services.

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Hon. Kuria Kimani, move Second Reading.

Hon. Kuria Kimani (Molo, UDA): Thank you. I beg to move that the New Clause 36A be now read a Second Time.

As you may recall, we previously had the Armed Forces Canteen Organisation (AFCO). This was an entity responsible for supplying goods and services to our esteemed men and women in uniform. However, this has since changed to the Defence Forces Welfare Services. This is in line with the amendments we made to the Tax (Amendment) Laws in December. They now stipulate that goods and services provided to our defence forces are exempt from taxes. This exemption includes accommodation, dining, beauty salons and laundry services offered by the Defence Forces Welfare Services. By doing this, we aim to continue incentivising these dedicated individuals who devote their lives to serving our nation.

Furthermore, Clause 36 also provides for the manufacture of mosquito repellents.

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

Clause 38

The Temporary Chairman (Hon. David Ochieng’): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 38 of the Bill be amended-

(a) in paragraph (a) (ii) by deleting the proposed definition of “digital marketplace” and substituting therefore the following definition-

“digital marketplace” means an online or electronic platform which enables users to sell or provide services, goods or other property to other users;

(b) by inserting the following new definition immediately after the definition of “digital market place”-

“micro distiller” means a manufacturer of a spirituous beverage through 2 fundamental processes of fermentation and distillation using a still (boiler) not exceeding 1,800 litres and whose annual production volume does not exceed 100,000 Litres per Year.

Hon. Temporary Chairman, this is providing clarity to the definition of digital marketplace.

The Temporary Chairman (Hon. David Ochieng’): Thank you.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 38 as amended agreed to)

(Clauses 39, 40 and 41 agreed to)

Clause 42

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 42 of the Bill be amended—

(a) in paragraph (a) by inserting the following subparagraph immediately before subparagraph (i)–

(ia) by deleting the following tariff descriptions and their corresponding rates of excise duty appearing immediately after the tariff description “Articles of plastic of tariff heading 3923.30.00 and 3923.90.90”—

A. Imported eggs of tariff heading 04.07;

B. Imported onions of tariff heading 07.03;

C. Imported potatoes, potato crisps and potato chips of tariff heading 07.01;

(b) by deleting paragraph (a) (i) and substituting therefor the following new subparagraph (i) -

(i) by deleting the description “coal” and the corresponding rate of excise duty;

(c) by deleting paragraph (a) (iii) and substituting therefor the following new subparagraph (iii) -

(iii) by deleting the item of description “Imported Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked of tariff 7005 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin” and the corresponding rate of excise duty and substituting therefor the following new item—

Imported Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked of tariff 7005 but excluding those imported by a registered processor upon the recommendation by the Cabinet Secretary responsible for matter relating to industry and those originating from East African Community Partner States that meet the East African Community Rules of Origin	35% of excisable value or ksh 500 per square meter whichever is higher.
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(b) in paragraph (a) by inserting the following subparagraphs immediately after subparagraph (v)–

(va) in the description “Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4821.10.00 and 4821.90.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin”, by deleting the corresponding rate of Excise Duty and substituting therefor the new rate of Excise Duty “25% or Ksh 200 per kilogramme, whichever is higher”

(vb) in the description “Imported cartons, boxes and cases of corrugated paper or paper board and imported folding cartons, boxes and case of non-corrugated paper or paper

board and imported skillets, free-hinge lid packets of tariff heading 4819.10.00, 4819.20.10 and 4819.20.90”, by deleting the rate of excise and substituting therefore the following new rate of excise “25% or ksh 200 per killogramme whichever is higher”;

- (vc) by deleting the description “Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin” and substituting therefor the following new description “Imported Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin”;
- (vd) in the description “Imported Glass bottles (excluding imported glass bottles for packaging of pharmaceutical products) Provided that it shall not apply to glass bottles imported from any of the countries within the East African Community” by deleting the corresponding rate of excise duty and substituting therefor the following rate “35% or Ksh.400 per kg whichever is higher”
- (ve) in the description “Articles of plastic of tariff heading 3923.30.00” by inserting the word “Imported”;
- (vf) in the description “Imported ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics of tariff 6907” by deleting the corresponding rate of Excise Duty and substituting therefor the new rate of Excise Duty “5% or Ksh300 per kilogramme, whichever is higher”
- (vg) by deleting the description “Cosmetics and Beauty products of tariff heading No.3303, 3304, 3305 and 3307” and the corresponding rate of excise duty;
- (vh) by deleting the description “Imported printing ink of tariff 3215.11.00 and 3215.19.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin” and the corresponding rate of excise duty;
- (c) in sub-paragraph (vi) by inserting the following items immediately after the item of tariff description “Gummed paper and paperboard of tariff number 4811.49.00 but excluding those originating from East African Community partner states that meet the East African Rules of Origin”-

Tariff Description

Rate of Excise Duty

Imported tea whether or not flavored

25% of excisable value

Imported Uncoated kraft paper and paperboard, in rolls or sheets; kraftliner; unbleached of tariff number 4804.11.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin

25% of excisable value or kshs.50 per kilogramme, whichever is higher.

Imported other kraft paper or paperboard weighing 150g/m² or less, in rolls or sheets; unbleached of tariff number 4804.31.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin

25% of excisable value or kshs.50 per Kilogram, whichever is higher.

Imported other kraft paper or paperboard weighing more than 150g/m² but less than 225 g/m², in rolls or sheets; unbleached of tariff number 4804.41.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin

25% of excisable value or kshs.50 per Kilogram, whichever is higher.

Imported other kraft paper or paperboard weighing 225 g/m ² or more others in rolls or sheets; unbleached of tariff number 4804.51.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% of excisable value or kshs.50 per Kilogram, whichever is higher.
Imported Glass of heading 70.03, 70.04 or 70.05, bent, edge-worked, engraved, drilled, enamelled or otherwise worked, but not framed or fitted with other materials, of Tariff Heading 70.06, but excluding those from East Africa Community Partner States that meet the East Africa Community Rules of Origin	35% of excisable value or Kshs.500 per square metre, whichever is higher
Imported safety glass of tariff numbers 7007.19.00 and 7007.29.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	35% of excisable value or Kshs.500 per square metre, whichever is higher
Imported Multiple-walled insulating units of glass of Tariff Heading 70.08, but excluding those from East Africa Community Partner States that meet the East Africa Community Rules of Origin	35% of excisable value or Kshs.500 per square metre, whichever is higher
Imported fully built and semi-built direct air capture machines	25% of excisable value
Imported aluminium profiles, fabricated doors and fabricated windows of tariff numbers 7604.10, 7604.21, 7604.29, 7608.20 and 7610.10	25% of excisable value or Ksh400 per kilogramme, whichever is higher.
Non-refillable lighters of tariff number 9613.10.00	25% of excisable value or Ksh500 per kilogramme

Hon. Temporary Chairman, this is to provide clarity on particular clauses. One provision differentiates between imported table eggs and imported eggs that are used for hatching chicken. The amendment also provides different rates for imported cartons, boxes, paper, imported glass bottles and float glass. This is one of the steps where we are saying we must be selfish as a country. We cannot continue to grow our economy if we become a supermarket. We must make consistent steps in growing and incentivising our manufacturing sector. One of these proposals seeks to introduce incentives for local manufacture of cartons used for packaging tea and coffee. One of the greatest challenges with the prices of our tea and coffee is because we have not built capacity or incentivised our sectors enough to manufacture packaging materials. We, therefore, end up exporting our tea and coffee at a cheap rate in *gunias*, only for the tea and coffee to end up in neighbouring countries like Sri Lanka and Dubai, repackaged and imported at a thousand times more price. We end up giving a low yield to farmers while allowing few people to make profit.

I beg to move, Hon. Temporary Chairman.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng'): Member for Samburu West.

Hon. Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Chairman. I support. Value addition is important to us as a country as it will increase yields as has been said.

(Question, that the words to be inserted be inserted, put and agreed to)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 42 as amended agreed to)

New Clause 40A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 40:

Amendment of Section 15 of Cap.472.	40A. Section 15 of the Excise Duty Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (d)– (da) the importation, distribution, or handling of methanol in Kenya; (db) the importation, distribution, or handling of ethanol in Kenya.
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(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): May the Mover move the new clause for Second Reading.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 40A be now read a Second Time.

During public participation on the Bill, one entity that came to our Committee is called Koru Rum. This is a manufacturer based in Koru in Muhoroni, who converts sugarcane into methanol and prepares a fantastic rum. However, for the last four years, despite setting up a plant, it has never been operational because a fluorometer, a requirement of KRA, costs in excess of Ksh25 million. A microbrewer using our raw materials and creating employment is denied a licence because they are required to have a fluorometer. When we tasked KRA, they said that it is a fault in the law. Therefore, we seek to provide for this particular exemption for such micro distillers so that alternative micro and cottage industries can use local materials to make alternative brews to the killer brews in this country.

I beg to move.

(Question, that the new clause be read a Second Time, proposed)

Hon. Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Temporary Chairman. If there is any amendment that is powerful in this Bill, it is this particular amendment.

The Temporary Chairman (Hon. David Ochieng’): Because of rum?

Hon. Irene Mayaka (Nominated, ODM): Yes, because of rum, Hon. Temporary Chairman. I am speaking as someone who has witnessed distillers in Nyamira County making wine out of bananas and sugarcane. They put a lot of creativity in the process. I support this particular amendment with every fibre of my bones.

(Laughter)

Hon. Millie Odhiambo-Mabona (Suba North, ODM): On a point of order.

The Temporary Chairman (Hon. David Ochieng'): What is out of order? It is just rum. Member for Suba North. Are you the Whip of the Majority Party or the Whip of the Minority Party?

*(Hon. Millie Odhiambo-Mabona
spoke off the record)*

The Temporary Chairman (Hon. David Ochieng'): Okay, the Whip of the Broad-Based Government (BBG), go ahead.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you. Hon. Temporary Chairman, it is a rule in this House that Members declare interest. Can Hon. Mayaka declare personal interest on this amendment, which she says is the most important in the Finance Bill?

The Temporary Chairman (Hon. David Ochieng'): She did already. She said she is Kisii. Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Chairman, thank you for the opportunity. The reasons given by the Committee Chairman are very good. But so that we do not appear to be favouring some sectors, have we done an overview of all sectors which are similarly affected? If so, what are those sectors?

*(Hon. Kuria Kimani consulted
with Hon. Kimani Ichung'wah)*

The Temporary Chairman (Hon. David Ochieng'): Order, Leader of the Majority Party. Allow us to proceed before you go back to consulting. Respond to the question and then you can go back to consult. The question is whether there are other sectors that have been identified the way you have identified the rum sector.

Hon. Kuria Kimani (Molo, UDA): I gave that one example. I need to make a clarification. That amendment is similar to the next one I am going to speak to. This New Clause 40A speaks to restricted items that include ethanol. Those who make illicit liquor have become smart. They do not just use ethanol, but also methanol. We are designating methanol as a restricted product so that its production and sale are monitored. However, the issue we are speaking to is in the next amendment, which is also crucial. I only picked Koru Rum as one of the examples.

One of the issues we must agree to in order to end the menace of illicit brews is to allow the use of locally manufactured products in making liquor.

Hon. Temporary Chairman, you are a *teetotaller*, which is fine. However, Hon. Kimani Ichung'wah likes to enjoy his drink after having *nyama choma* and we must provide him with other alternatives.

The Temporary Chairman (Hon. David Ochieng'): Hon. Chairman, we make the best *chang'aa* where I come from. So, it does not matter whether I am a *teetotaller* or not. To be clear...

(Hon. Kuria Kimani spoke off the record)

Order! Just a minute, Hon. Chairman. To be clear, Clause 40A is about restricting the importation of methanol so that we can make alcohol in *healthier* ways. Is that okay?

(Question, that the new clause be read)

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a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 41A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 41—

Amendment
of section
25 of
Cap.472

41A. Section 25 of the Excise Duty Act is amended by inserting the following new subsections immediately after subsection (2) —

(2A) Notwithstanding subsection (1)(a), a licensed micro-distiller shall be exempt from the requirement for automation, continuous piping, and the use of mass flow meters.

(2B) The production volume of such a licensed micro-distiller shall be ascertained and monitored through the use of excise stamps or such other mechanism as the Commissioner may prescribe by notice in the Gazette.

(The new clause was read a First Time)

Proceed, Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that New Clause 41A be now read a Second Time.

This is the matter we were debating earlier.

The Temporary Chairman (Hon. David Ochieng'): You explained it very well.

Hon. Kuria Kimani (Molo, UDA): Micro-distillers are not required to have a flow metre that costs in excess of Ksh25 million, so that we can have an alternative and end the menace of illicit brews in our country.

(Question, that the new clause be read a Second Time, proposed)

The Temporary Chairman (Hon. David Ochieng'): Leader of the Majority Party, proceed.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, I cautiously support that amendment. The amount of Ksh25 million for a distillery is not too much to ask for any distiller, whether a micro, small or big distiller. Therefore, I wish we had restricted that provision probably to a period of maybe three to five years, so that after that period, you must install a flow metre.

I know Hon. Kuria Kimani mixed up his earlier statement when he called you a *teetotaller*. I am the *teetotaller*. He knows that I am an elder in my church.

The Temporary Chairman (Hon. David Ochieng'): You are also mixing issues. I do not take alcohol.

Hon. Kimani Ichung'wah (Kikuyu, UDA): We are both *teetotallers*. He mixed up his statement. He wanted to say that the Temporary Chairman and Hon. Kimani Ichung'wah are *teetotallers* while the Chairman of the Departmental Committee on Finance and National Planning enjoys his drink. If my church found out I went anywhere near those things, I would be excommunicated.

The danger is with the Excise Duty stamps. Fixing stamps on bottles of drinking water or alcohol, or on cigarette packets has led to the prevalence of fake stamps. Many stamps are manufactured in China and sold in the backstreets of downtown Nairobi. Therefore, I request

the Chairman to restrict the flow metre exemption to a maximum of three years in subsequent legislation. After three years, anyone in the distillery business should have made enough money to install a flow metre. You cannot cheat with a flow metre, but with stamps, cheating will become the order of the day.

I will support the clause for now, but I ask the Chairman of the Committee to restrict that provision and make it time-bound for a period of three to five years in subsequent legislation. Any distillery that has been in operation for three to five years should be making money.

Lastly, although the matter has already been canvassed, I support the regulation of the production of methanol. The consumption of illicit alcohol has killed many young people in this country. The illicit alcohol that is sold to many people in our villages is not ethanol. Most of it is methanol, which is an industrial alcohol that should never be consumed. Therefore, controlling its production is very commendable. I thank the Committee for that amendment.

The Temporary Chairman (Hon. David Ochieng'): Member for Githunguri.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Thank you very much, Hon. Temporary Chairman. I rise to state my reservations on the proposal by the Chairman regarding flow metres. In as much as I support any effort to regulate illicit alcohol manufacturing in this country, including recommendations to introduce flow metres, we need to be careful. Some of us do not know and would want to understand more about these flow metres. How much do they cost? Are they a heavy investment that will be unaffordable to small businesses?

The Temporary Chairman (Hon. David Ochieng'): He said they cost Ksh25 million.

Hon. Gathoni Wamuchomba (Githunguri, UDA): They cost Ksh25 million. In as much as we want to discourage illicit alcohol manufacturing in the country, introducing flow metres might force some people out of their legal businesses, which have been making the right quantity and quality of alcohol. The Ksh25 million is a big investment. How will we ensure that we do not force people out of business?

Secondly, I am worried that we are giving the Commissioner of Income Tax a lot of powers. If those powers are not checked, they will be misused.

The Temporary Chairman (Hon. David Ochieng'): Member for Seme. This is the last comment on this, so that we can move.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, as I support these amendments, the issue of regulation has come up. Why is a flow metre necessary? Why would you use methanol if you can use ethanol? Is there a regulatory function that has been neglected forcing us to solve it through taxation? We might only just need a regulator to effect the regulations. We should look into how the alcohol industry is regulated. What are we missing?

I support the amendment.

The Temporary Chairman (Hon. David Ochieng'): Hon. Naisula, you have one minute.

Hon. Naisula Lesuuda (Samburu West, KANU): Hon. Temporary Chairman, I have a question for the Chairman of the Departmental Committee on Finance and National Planning.

(Hon. Kuria Kimani consulted loudly)

The Temporary Chairman (Hon. David Ochieng'): There is a question for the Chairman.

Hon. Naisula Lesuuda (Samburu West, KANU): The Chairman needs to follow along as I ask my question. What happens to those who already have a flow metre? We are introducing stamps. Will they use stamps or also incorporate the flow metre? It is important to know.

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, before you answer, Hon. Ichung’wah has asked if there is a way to get cheaper flow metres. Kenyans are innovative. Can that be innovated? Answer that so that we make progress.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Chairman. I share all the sentiments that have been raised on the Floor of the House, including those raised by my senior, the Leader of the Majority Party.

New Clause 41A(2B) provides that the production volume of such a licensed micro-distiller shall be ascertained and monitored through the use of excise stamps. The use of excisable stamps is not optional. The micro-distillers must use them. We are only exempting the new micro-distillers who are not ready. The micro-distillers already in the market must continue with the flow metres. We do not require them to have that particular flow metre because, as we had explained, the cost of building a micro-distillery is around Ksh10 million to Ksh15 million. That is the entire capital investment to create a micro-distillery. You are telling a cottage industry that has already invested Ksh15 million to set up an entire plant that they need to get another Ksh25 million just to have a flow metre.

However, we must also be alive to the issue of abuse with regard to the flow metre. Therefore, one of the recommendations we will be making in our report to the Kenya Revenue Authority (KRA) is that where micro-distillers are not required to have a flow metre, the use of ethanol needs to be verified by the use of technology such as closed-circuit television (CCTV) cameras.

The essence of a flowmeters, with passing this law with addition of methanol and ethanol, it means the two products are now controlled. These will show that company X received 1,000 litres of ethanol. What amount of liquor did the company make from the 1,000 litres of ethanol? This will verify that the ethanol was actually used for the supposed purpose and was not leaked into the market as illicit liquor.

We will find a way of communicating with the Kenyan Revenue Authority (KRA) and requiring these entities to provide evidence in a way that KRA and other security agencies can verify that ethanol is used for the purposes it is acquired. That is the essence of flowmeters.

Lastly, on innovation, this is a business opportunity to any Kenyan who is listening to this conversation. A flowmeter cannot be costing Ksh25 million. It means there could be some monopolies in that sector. They exaggerate prices to maximise returns. It would be best for the country if we have cheaper alternatives.

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Order, Hon. Members. We will have to make progress. There is a chance for you to contribute in the next phase of this.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

The Temporary Chairman (Hon. David Ochieng’): Hon. Thuku, quickly.

Hon. Kwenya Thuku (Kinangop, JP): Thank you. A pertinent question that has been asked on the same issue. Who is the merchant of these flow metres? Are there no cheaper flow metres for the same? Again, we have been using stamp duties. Why are we moving? Is it that we cannot enhance that technology as opposed to this kind of investment that is being proposed? Honestly.

The Temporary Chairman (Hon. David Ochieng’): What is proposed?

Hon. Kwenya Thuku (Kinangop, JP): The flow metres.

The Temporary Chairman (Hon. David Ochieng’): They are removing them, not introducing.

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Hon. Kwenya Thuku (Kinangop, JP): Exactly. I am saying that we would wish to know something. The KRA has installed this Excisable Goods Management System (EGMS). Why can we not enhance that system instead of bringing in a new amendment into the same?

We need to relook into this issue deeper. We may not get a full proof system to account for all the methanol or ethanol going into some industrial factory. Therefore, to some extent, I have reservations on this.

The Temporary Chairman (Hon. David Ochieng’): Hon. Kaluma, quickly.

Hon. Peter Kaluma (Homa Bay Town, ODM): I am seeking a clarification. I understand a flow metre. I request the Leader of the Majority Party to listen to me.

The Temporary Chairman (Hon. David Ochieng’): He is not the Mover.

Hon. Peter Kaluma (Homa Bay Town, ODM): Flow metres should be a requirement to regulate the amount of the alcoholic products we unleash to the market. It will enable distillers account for whatever they produce and unleash. It is playing a social good. I understand the Chairman to be saying that we want to create a pathway around which even distillers who have not installed the so-called flow metre can operate. That is what I understand him to be saying.

First, I will oppose this provision if that is the direction. Secondly, we impose Excise Tax for the societal good that we need to regulate what is going and account for them around alcohol. The other reason is that we will be creating disparities. Some people have incurred costs in installing these flow metres yet you are allowing others to enter the market without installing them.

Ultimately, if you permit, my last point is that you target to raise an amount of money with a Finance Bill. We should not accept amendments unless we explain the amount of money we are costing the Government in terms of revenue loss.

(Question, that the new clause be added to the Bill, put and agreed to)

New Clauses 42A, 42B and 42C

THAT, the Bill be amended by inserting the following new clause immediately after Clause 42 —

Amendment of First
Schedule to Cap.472

42A. Part II of the First Schedule to the Excise Duty Act is amended—

(a) by deleting paragraph 4A and substituting therefor the following new paragraph—

4A. Excise duty on betting shall be five per cent on the amount deposited into a customer’s betting wallet:

Provided that this paragraph shall not apply to horse racing. by deleting paragraph 4B and substituting therefor the following new paragraph —

4B. Excise duty on gaming shall be five per cent on the amount deposited into a customer’s gaming wallet.

(b) in paragraph 4C by deleting the words “fifteen per cent” and substituting therefor the word “five per cent”;

(c) in paragraph 4D by deleting the words “fifteen per cent” and substituting therefor the word “five per cent”;

(d) by inserting the following new paragraph immediately after paragraph 8—

9. Excise duty on fees charged on virtual assets transactions by virtual asset providers shall be ten percent of the excisable value.

Amendment of First
Schedule to Cap.472

42B. Part III of the First Schedule to the Excise Duty Act is amended—

- (a) by deleting the definition of “amount wagered or staked”;
- (b) by inserting the following new definition in proper alphabetical sequence—

“amount deposited into a customer’s betting wallet” means the amount of money transferred by a customer into the customer wallet maintained by a licensed betting and gaming operator for betting and gaming purposes.

Amendment of the
Second Schedule to
Cap.472.

42C. The Second Schedule to the Excise Duty Act is amended—

- (a) in Part A by—
 - (i) inserting the words “the Defence Forces Welfare Services” immediately after the words “Kenya Defence Forces” appearing in paragraph 11;
 - (ii) deleting paragraph 12 and substituting therefor the following new paragraph—

12. All goods imported or purchased locally by the Defence Forces Welfare Services.
- (b) in item 1 of Part B by inserting the following new paragraphs immediately after paragraph (b)–
- (c) Excisable services supplied to or by the Kenya Defence Forces Welfare Services;

(The new clauses were read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, move the three clauses for Second Reading.

Hon. Kuria Kimani (Molo, UDA): I beg to move that New Clauses 42A, 42B and 42C be now read a Second Time.

New Clause 42A seeks to impose a 5 per cent Excise Duty on amounts deposited in a customer's wallet. It seeks to impose excise on fees charged on transactions by a Virtual Asset Service Provider (VASP). There are two things. Say you have money on your mobile wallet, whether M-Pesa or Airtel Money, then you transfer that money to the wallet of a betting company. The current taxation regime is such that charging of Excise Duty happens when you place a bet from the money already placed in the wallet of the betting institution. We are now changing that to make Excise Duty payable when you transfer money from your mobile wallet to the wallet of a betting company. This has this impact.

So many institutions operate virtually. For example, outside the country. Therefore, we are not able to get this Excise Duty from them. Now it means that Excise Duty is paid every time a Kenyan transfers money from their mobile wallet to a betting company’s wallet. Secondly, it is a consequential amendment to what we provided earlier on Excise Duty now being paid for virtual assets on transaction fee and not the transaction amount.

New Clause 42B defines the time an amount is deposited in a customer's wallet. As I have explained. The New Clause 42C is also a consequential amendment as I had spoken earlier. It is about excisable services offered by the Defence Forces Welfare Services (DEFWES). I beg to move.

*(Question, that the new clauses be
read a Second Time, proposed)*

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The Temporary Chairman (Hon. David Ochieng’): Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you. New Clause 42C talks about the Defence Forces Welfare Services. There is an issue even though we supported the earlier amendment. There are things we used to call the Kenya Armed Forces Old Comrades Association (KAFOCA) out there. They are not exclusive. You have to go through some vetting for you to access them when they are in the barracks. Anybody can access them when they are out there. I am wondering whether we will not be causing market imbalances.

Imagine you own a restaurant in a town and you have one in your town. Then, the military persons enjoy these tax benefits. It means their prices are going to be cheaper and all that. Even though we are supporting, we need to be a bit cautious to ensure that we do not cause market imperfections and end up killing some business in the locality.

The Temporary Chairman (Hon. David Ochieng’): Thank you.

*(Question, that the new clauses be read
a Second Time, put and agreed to)*

*(Question, that the new clauses be
added to the Bill, put and agreed to)*

Provisions relating to the Tax Procedures Act, CAP 469B

(Clauses 43, 44, 45 and 46 agreed to)

Clause 47

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 47 of the Bill be amended in paragraph (m) by deleting subparagraph (v).

This amendment is seeking to remove the restriction from appealing. This clause is one of the clauses that were highly contested during public participation. When you are given a tax assessment and then you appeal it, this provision currently disallows KRA from issuing an agency notice where you have appealed the decision for your assessment by the KRA. The National Treasury was seeking to delete that clause. This means that once you have been issued with an assessment, even before you appeal, they could issue an agency notice to you. We agreed on that with the members of the public, and that is why we are proposing to delete this particular clause.

(Question of the amendment proposed)

*(Question, that the words to be left
out be left out, put and agreed to)*

(Clause 47 as amended agreed to)

(Clauses 48 and 49 agreed to)

Clause 50

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, you have an amendment to this clause.

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Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 50 of the Bill be amended –

(a) by deleting paragraph (a) and substituting therefor the following new paragraph –

(a) in subsection (1) (a) by deleting the words “and input Value Added Tax” and substituting therefor the words “and Value Added Tax payable on imports”

(b) by inserting the following paragraph immediately after paragraph (b)-

(ba) in subsection (3) by deleting the words “ninety days” and substituting therefor the words “one hundred and twenty days”.

This amendment is seeking to allow for offset of Value-Added Tax payable on imports. This also came from public participation especially from our manufacturers. They said that when they import raw materials for value addition that are subject to VAT, they were not being allowed to claim that input VAT on the imports when computing their output tax. We, therefore, agreed with the manufacturers that we try to grow our manufacturing sector. That is the import of this amendment.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng’): Chairman of the Budget and Appropriations Committee, what is itching you?

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Temporary Chairman, I oppose that amendment.

The Temporary Chairman (Hon. David Ochieng’): Which one?

Hon. Samuel Atandi (Alego Usonga, ODM): The amendment where we are zero-rating the raw materials.

The Temporary Chairman (Hon. David Ochieng’): Go ahead.

Hon. Samuel Atandi (Alego Usonga, ODM): Before we go on, I want to make an observation. That point which was raised by Kaluma, where we are questioning zero-rating of most of these items...

The Temporary Chairman (Hon. David Ochieng’): There is no Kaluma in this House, Member.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Kaluma.

The Temporary Chairman (Hon. David Ochieng’): Yes, Hon. Kaluma.

Hon. Samuel Atandi (Alego Usonga, ODM): I ask my counterpart, the Chairman of the Departmental Committee on Finance and National Planning, that, at least, we quantify some of these things. I want to know the implication of the amendments in terms of revenue losses. I would like that we go that direction so that we know whether any amendment that is brought before us has an impact on raising revenue or cutting revenue. We need to know. Otherwise, shortly I will move the Appropriations Bill here, and one of the struggles we shall face will be on revenue raising measures. I would like you, through your Chairman, to help us account for the amendments and what impact they have in terms of revenue raising.

The Temporary Chairman (Hon. David Ochieng’): I will allow the Chairman of the Departmental Committee on Finance and National Planning to respond to that, but only on this clause. On any other clauses, I will request the Chairman of the Departmental Committee on Finance and National Planning and the Chairman of the Budget and Appropriations Committee to sit together and speak. We cannot have this on the Floor of the House. It never happens. It has never happened. I will not allow it to happen. The Chairman of the Departmental Committee on Finance and National Planning and the Chairman of the Budget and Appropriations Committee must consult before any of this.

Hon. Julius Rutto (Kesses, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng'): Hon. Member for Kesses, what is out of order? Wait before you respond, Chairman.

Hon. Julius Rutto (Kesses, UDA): Being a Member of the Committee, I support my Chairman by informing you that we have taken care of that, as you have advised accordingly.

The Temporary Chairman (Hon. David Ochieng'): Okay. Chairman of the Departmental Committee on Finance and National Planning.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I totally understand where the Chairman of the Budget and Appropriations Committee is speaking from. But we must desist from using the Finance Bill as just a tool for raising revenue. The Finance Bill should inform policy for our country. For this, our Committee has stood aground on several matters. We have a National Tax Policy that informs that we must have consistent laws and consistent legislation. We granted some of these exemptions in December. Four-five months later, we are taking back what we said. 'Welcome to our country. Go invest in a company in Siaya or Homa Bay. You will get investment deduction if you invest outside Nairobi and Mombasa.' Someone took a loan of Ksh10 billion and is setting up a factory in Homa Bay, Siaya or Nakuru. Six months later, you are telling them "No, because we shall lose revenue here, you cannot continue to invest there.' We must be consistent.

There are two ways of collecting revenue. You can extrapolate and say if you delete this, this is how much you lose. It is true. For example, the reintroduction of investment deduction for investment outside Nairobi and Mombasa will desperately lead to consequential foregone taxes that we might have collected. But what is the far-reaching effect? If that company sets up in Nakuru, Siaya, Kisumu, Homa Bay or Samburu, it will employ people who will pay PAYE. We will make a profit. They will also pay corporation tax. We must not be short-sighted in views of looking for numbers at the expense of making our country competitive globally.

The Temporary Chairman (Hon. David Ochieng'): Okay. But I order that Chairman of the Departmental Committee on Finance and National Planning, and the Chairman of the Budget and Appropriations Committee must consult. This will ensure that we do not have this kind of a situation again. I want to put the Question.

(Loud consultations)

But we are not doing policy. Go ahead.

(Hon. Members spoke off the record)

No, I do not want debate on these matters. Hon. Member for Seme.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, what we are listening to is a very major policy issue. When the Finance Bill comes to us, it follows the budget. After the budget has been read and we know we are going to raise this much revenue, the Finance Bill is the mechanism for raising that revenue. One would expect that there was an earlier consideration and that is how we reached this Finance Bill, so that we raise that revenue. If it now comes out that there was no consultation earlier, so that the Chairman of the Departmental Committee on Finance and National Planning, and the Chairman of the Budget and Appropriations Committee do not agree, then we are not sure of what we are saying. In the future, we shall have a problem with our revenue.

The Temporary Chairman (Hon. David Ochieng'): Thank you. Member for Othaya.

Hon. Michael Wainaina (Othaya, UDA): Thank you, Hon. Temporary Chairman. The same way the Chairman is saying that there are people who have already started investing

because of the tax relief, can he in the same way protect the people who have invested here? You are adding levies yet people have borrowed money, invested, and planned to do business. The plan which was there was based on the policy of the country. Then when already someone has started doing business, invested, planned, consulted and bought machines, you add levies without consulting the country. You are killing these people. At the same time, you are protecting the people who are investing today. Protect the same people...

(Hon. Kuria Kimani consulted with Hon. Samuel Atandi)

The Chairman of the Departmental Committee on Finance and National Planning, protect the people who have already invested before you add the policy. Check those people first.

The Temporary Chairman (Hon. David Ochieng'): Thank you. The Leader of the Majority Party. This is the last word on this.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, I think that matter is more or less settled between the two chairpersons. We should not be worried. This is the beauty of democracy. The Chairman of the Departmental Committee on Finance and National Planning is protecting his tuff, and the Chairman of the Budget and Appropriations Committee is protecting the expenditure side. The revenue mobiliser is protecting revenue mobilisation. I know the Chairman of the Budget and Appropriations Committee also has a stake in the revenue that is raised, because he will not expend anything without the revenue being raised by Hon. Kimani. However, the two chairmen have one common institution between them, which is the National Treasury, that will balance the expenditure side and revenue side. So, we should not be worried.

The Temporary Chairman (Hon. David Ochieng'): They also serve one country.

(Loud consultations)

*(Hon. Millie Odhiambo-Mabona and
Hon. Peter Kaluma spoke off the record)*

There is no issue about this. Order. Let us listen to Hon. Peter Kaluma. Can you raise your point?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng'): This is not your chance to contribute, Hon. Millie Odhiambo-Mabona.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Chairman, I am standing under the provisions of Article 114(2) of the Constitution.

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng'): Order, Hon. Members. Hon. Peter Kaluma, you have one minute to prosecute your point.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Chairman, there are consultations going on in front of me.

The Temporary Chairman (Hon. David Ochieng'): You were part of those consultations.

Hon. Peter Kaluma (Homa Bay Town, ODM): I was not.

The Temporary Chairman (Hon. David Ochieng'): Order, Hon. Members. Go ahead.

Hon. Peter Kaluma (Homa Bay Town, ODM): I thank you, Hon. Temporary Chairman. My position is that the Finance Bill is a money Bill under Article 114 of the Constitution. The requirement of Article 114(2) of the Constitution is that if any amendments are to be proposed, the concurrence or consultation of the Cabinet Secretary for the National Treasury must be sought. Can we have confirmation that that happened, now that the Chairman of Budget and Appropriations Committee and the Chairman of the Departmental Committee on Finance and National Planning appear not to agree?

The Temporary Chairman (Hon. David Ochieng'): This is a very simple matter, Hon. Peter Kaluma. That is not for this House to decide. These amendments we are prosecuting were approved by the Speaker of this House. This is the only confirmation you need and you have it.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 50 as amended agreed to)

Clause 51

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 51 of the Bill be amended in the proposed subsection (7B) by deleting the words “computed on” and substituting therefor the words “computed from”.

This amendment is just a clean-up.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 51 as amended agreed to)

Clause 52

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 52 of the Bill be deleted.

Clause 52 of the Bill states that Section 59A of the Tax Procedures Act is amended by deleting subsection 1B. This is a discussion that came from members of the public and intense public participation. I want to bring to the comfort of this House and members of the public that this is one of the areas that we, as a Committee, debated a lot and agreed that we should not have this clause. Therefore, we propose its deletion.

This is a proposal that removes the restriction. Allow me to take three minutes to take you through this proposal.

The Temporary Chairman (Hon. David Ochieng'): You have one minute.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, Section 59A of the Tax Procedures Act is on data management and reporting system. The Commissioner may establish a data management and reporting system for the submission of electronic documents, including detailed transactional data relating to those documents.

Section 59A(1A) of the Tax Procedures Act states that the Commissioner may, by notice in writing, require a person to integrate the electronic tax system authorised under Section 75 to the system referred to in subsection 1 for the purposes of submission of electronic documents, including detailed transactional data in the prescribed form. This means that the Commissioner has powers to require you to integrate your system with that of KRA. However, in the wisdom of this House, it provided for another Section 59A(1B) of the Tax Procedures Act which states:

The Commissioner shall not require a person to integrate or share data relating to—

(a) Trade secrets;

(b) Private or personal data held on behalf of the customers or collected in the course of business.

Clause 52 of the Bill proposes to delete Section 59A(1B) of the Tax Procedures Act which states that when a person integrates the electronic tax system, the Commissioner will not require you to integrate data relating to trade secrets, and private or personal data. All the members of the public who appeared before us said that provision needs to be deleted. We agree with them. It goes against our constitutional right to privacy and our other laws on data and privacy.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 52 deleted)

(Clause 53 agreed to)

Clause 54

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 54 of the Bill be deleted.

The Tax Procedures Act that we passed in December sought to exclude weekends and public holidays when calculating time. The National Treasury wanted to bring back the issue of not excluding weekends and public holidays in calculation of time. We disagree with them and agree with the members of the public that we need to exclude weekends and public holidays in calculation of the time when you are supposed to either reply to the Commissioner or submit particular data to KRA.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 54 deleted)

(Clauses 55 and 56 agreed to)

New Clause 42D

THAT, the Bill be amended by inserting the following New Clause immediately before Clause 43—

Amendment of section
2 of Cap. 469B

42D. Section 2 of the Tax Procedures Act is amended by inserting the following new definition in the proper alphabetical sequence—

“certificate of origin” means an official document issued by a competent authority of the government of the source country which certifies that the goods being imported into Kenya were manufactured in that particular source country.

(The New Clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Hon. Chairman, move Second Reading.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 42D be now read a Second Time.

This clause seeks to define certificate of origin. This is meant to cure a mischief that happens. When some goods are being imported into the country, they are declared as raw materials. Then you realise that they are finished products. A good example is edible oils. Some unscrupulous business people have been importing edible oils as a finished product, but declaring it as semi-processed or raw material. This leads to a lot of leakage in terms of our revenue.

(Hon. Kimani Ichung’wah spoke off the record)

Leader of the Majority Party is naming some names. I request him to adhere to our Standing Orders when he wants to name names in this House.

This amendment requires business people to present a certificate of origin, certified by credible institutions, to show which cargo is coming to this country. This will cure the issue of misdeclaration at our points of entry.

*(Question, that the new clause be read
a Second Time, proposed)*

The Temporary Chairman (Hon. David Ochieng’): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I strongly support this amendment. This is trying to enhance the amendments we did in December, in the Business Laws (Amendment) Bill, particularly to the Standards Act on the issuance of the certificate of origin. It also cures a very interesting mischief. I say so having interacted with the caper between Kenya and the United Arab Emirates. The fear is that we are going to have countries that do not manufacture anything being used as conduits to bring goods manufactured elsewhere into our market. Insisting on the certificate of origin means that we must confirm that if you are importing a product, it must have been manufactured in that country, not goods that are on transit.

The Temporary Chairman (Hon. David Ochieng’): Hon. Member, I cannot see your card. Go ahead.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Temporary Chairman. For us to support our local manufacturers, I support this amendment by the Chairman.

The Temporary Chairman (Hon. David Ochieng’): Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Chairman, I support this amendment. These are the kinds of amendments we need in the Finance Bill. We are losing a lot. One of the reasons we have this Finance Bill this year is to entrench tax efficiency and accountability. This is one such provision. Let me thank you, Hon. Temporary Chairman, because since you allowed us to intervene, the Chairman is explaining the amendments in detail for us to understand.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

*(Question, that the new clause be added to
the Bill, put and agreed to)*

New Clause 49A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 49-

Insertion of new section 44A in Cap. 469B.	49A. The Tax Procedures Act is amended by inserting the following new section immediately after Section 44— Certificate of Origin. 44A. (1) This section applies to all goods imported into Kenya.
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(1) No person shall import any goods into Kenya without presenting a valid Certificate of Origin to the Commissioner or an authorised officer.

(2) The Commissioner or an authorised officer shall not process any import entry documentation without a valid Certificate of Origin being presented.

(3) The Commissioner or an authorised officer shall require production of a Certificate of Origin and other supporting documents as proof of origin on goods imported into Kenya prior to their clearance for entry into Kenya.

(4) A Certificate of Origin shall be valid if it discloses the following information –

- (a) name and address of the exporter;
- (b) name and address of the importer;
- (c) port of origin;
- (d) accurate description of the goods;
- (e) quantity of the goods;
- (f) country of origin; and,
- (g) country of destination.

(5) Any person who contravenes the provisions of this section commits an offence and shall have their goods seized or forfeited to the Commissioner or an authorised officer in accordance with Section 44 of this Act.

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng'): Hon. Chairman, move the New Clause 49A for Second Reading.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 49A be now read a Second Time.

This clause brings even more clarity to the issue I spoke about earlier. It provides for the specific details that must be included in the certificate of origin. These include the name and address of the exporter, the name and address of the importer, the port of origin, an accurate description of the goods, the quantity of the goods, the country of origin and the country of destination.

We are saying that any person who contravenes this provision commits an offence and shall have their goods seized or forfeited to the Commissioner or any other officer in accordance with this Act. This amendment seeks to provide details of items being imported. We should avoid the issue of some manufacturers importing finished products and declaring them as raw materials, obtaining exemptions, and then repackaging them for sale as if they are manufactured locally.

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Order!

*(Question, that the new clause be read
a Second Time, proposed)*

The Temporary Chairman (Hon. David Ochieng’): Yes, Hon. Thuku.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Chairman. This is a very important amendment. It not only ensures that manufacturers declare what they are importing, but also helps in making sure that substandard goods are not imported into this country. I support this amendment, and I believe it has been in force, only that these details had not been well captured. Now that the details are captured, we are going to rid ourselves of any kind of substandard importation.

The Temporary Chairman (Hon. David Ochieng’): Thank you. This will require very keen eyes for proper implementation.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

*(Question, that the new clause be
added to the Bill, put and agreed to)*

(Clause 57 agreed to)

Clause 58

The Temporary Chairman (Hon. David Ochieng’): Chairman, do you have an amendment to this.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I bet to move:
THAT, the Bill be amended in Clause 58-

- (a) in paragraph (a) by deleting subparagraph (i);
- (b) in paragraph (a) by deleting subparagraph (ii);
- (c) in paragraph (a) by inserting the following new
subparagraph
- (i) by deleting paragraph (xxxi);

(d) in paragraph (a) by inserting the following new subparagraph

(ii) by inserting the following paragraph immediately after paragraph (xxxi)-

(xxxii) Inputs, raw materials and machinery used in the manufacture of mosquito repellents upon recommendation by the Cabinet Secretary responsible for matters relating to health;

(d) in paragraph (b) by deleting sub-paragraph (i);

(e) in paragraph (b) by deleting sub-paragraph (ii);

(f) in paragraph (b) by inserting the following new subparagraph

(i) by deleting paragraph (xvii);

(g) in paragraph (b) by inserting the following new subparagraph

(ii) by inserting the following paragraph immediately after paragraph (xxxi)-

(xviii) Inputs, raw materials and machinery used in the manufacture of mosquito repellents upon recommendation by the Cabinet Secretary on matters relating to health.

This speaks to the earlier discussion that we had about mosquito repellants, exempting from IDF and RDL. These are raw materials that will be used for manufacture of mosquito repellants in our country.

The Temporary Chairman (Hon. David Ochieng'): Order.

(Question of the amendment proposed)

*(Question, that the words be left
Out be left out, put and agreed to)*

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 58 as amended agreed to)

Clause 59

The Temporary Chairman (Hon. David Ochieng'): Chairman, Clause 59.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 59 and substituting therefor the following new clause—

Amendment
of the Third
Schedule of
cap.469C.

59. The Third Schedule to the Miscellaneous Fees and Levies Act is amended by inserting the following new items in the table immediately after the last row –

Tariff No	Tariff Description	Export and Promotion Levy Rate
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69.07	Ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics	3%
69.10	Ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures.	3%
72.06	Iron and non-alloy steel in ingots or other primary forms (excluding iron of heading 72.03).	17.5%
72.07	Semi-finished products of iron or non-alloy steel	17.5%
72.24	Other alloy steel in ingots or other primary forms; semi-finished products of other alloy steel.	17.5%
72.13.	Bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel;	17.5%
72.14	Other bars and rods of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot-extruded, but including those twisted after rolling.	17.5%

This is providing for the different rates for export and promotion levy, matters that are meant to promote our local manufacturing.

(Question of the amendment proposed)

(Question, that the words be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof, be inserted, put and agreed to)

(Clause 59 as amended agreed to)

New Clause 56A

The Temporary Chairman (Hon. David Ochieng'): Hon. Members, I now call upon the Chairman to move the New Clause 56A for Second Reading. It is on Page 55.

THAT, the Bill be amended by inserting the following new clause immediately before Clause 57—

Amendment of section 7 of Cap.469C

56A. Section 7 of the Miscellaneous Fees and Levies Act is amended by—

(a) deleting subsection (6) and substituting therefor the following new subsection—

(6) Out of the fee collected under subsection (2), twenty per cent shall be paid into a Fund established and managed in accordance with the Public Finance Management Act (Cap. 412A).

(b) deleting subsection (7) and substituting therefor the following new subsection—

(7) Ten percent of monies in the Fund under subsection (6) shall be used for the payment of Kenya's contributions to the African Union and any other international organisation to which Kenya has a financial obligation, while ten percent shall be used for revenue enforcement initiatives.

(The new clause was read a First Time)

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 56A be read a Second Time.

This is a provision that again we had in the Finance Bill of 2024 that was seeking to ringfence 20 per cent of money collected through Miscellaneous and Levy's Act to be used for digitalisation of services at the Kenya Revenue Authority. One of the things that you may realise even to the issue that we spoke to earlier, that we are amending the Tax Procedures Act to require some particular details on the certificate of origin, is when goods arrive in our points of entry, there is that form that we fill. The CIF that we fill showing that I have imported goods of this particular description.

It takes a manual inspection, comparing what the importer has filled in their documentation and looking at the physical good, to verify if the two details match. At the time, and I am happy this House was having a discussion in the morning about artificial intelligence, at a time when we have such technologies including AI, it is important that some of these particular services be digitalised, so that it is not a manual confirmation of what someone has declared. These are some of the things and revenue linkages that you have seen that are leading to a lot of revenue loss.

(Question, that the new clause be read a Second Time, proposed)

(Hon. (Dr) Makali Mulu raised his hand)

The Temporary Chairman (Hon. David Ochieng'): Yes, Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Temporary Chairman. Even as I support this, I am a bit concerned that we are creating an additional fund. These funds have become so many in this country and some have outlived their usefulness. How I wish we could reduce the creation of more funds because the issue of accountability when it comes to these funds becomes very tricky.

The Temporary Chairman (Hon. David Ochieng'): Chairperson.

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Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I would like to give comfort to my Senior, Hon. (Dr) Makali Mulu, that this particular provision is not creating additional funds. He has been one of the Members in this House who has been very vocal on the need to rethink the many funds we have in this country. As we speak, KRA collects taxes on behalf of the Government. This money is banked at the Central Bank of Kenya, but for KRA to expense on the approved expenditures, they have to rely on the Exchequer, just like all the other entities. We have seen situations where even the medical insurance for the staff of the Authority have been cancelled because they have not been able to pay on time. Therefore, we are creating a ring-fence that will enhance their Appropriations-in-Aid (A-in-A), so that they can have some leeway even when there are delays from the Exchequer and they are able to move forward.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Wamuchomba, proceed.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Hon. Temporary Chairman, in as much as I support the ring-fencing of some money so that we can be a little more efficient, I am just concerned that this is a creation of a new expenditure. Every fund that we create requires a secretariat or a board to manage the fund. Are we not worried that we are raising revenue, but creating an expenditure?

So, I have my reservations, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Hon. Makali Mulu, you wish to respond?

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Hon. Temporary Chairman, what the Chairperson is explaining makes a lot of sense, but the Bill says that:

“Out of the fee collected under subsection (2), 20 per cent shall be paid into a Fund established and managed in accordance with the Public Finance Management Act (Cap. 412A)”.

Not unless what he is saying is not what is in the Bill. That is why I was raising this matter. If he was talking about ring-fencing the resources, I have no problem, but we are establishing a fund as per this amendment.

The Temporary Chairman (Hon. David Ochieng’): Hon. Mayaka, proceed.

Hon. Irene Mayaka (Nominated, ODM): Hon. Temporary Chairman, I hope the Chairperson of the Departmental Committee on Finance and National Planning is listening. What he should do for us is to give us a cost-benefit analysis that explains the creation of this fund versus what is being lost without it and ring-fencing this amount, so that we can understand where this is coming from. This could be one of those costs that are incurred for a specific benefit or the other way round. So, we need to understand the cost-benefit analysis.

The Temporary Chairman (Hon. David Ochieng’): Hon. Omboko.

Hon. Omboko Milemba (Emuhaya, ANC): The Chairperson has to explain because he is creating a fund and he is not saying who is going to manage that fund. Therefore, that will become another loophole for the same money that we want to protect for Government use. Just like we dealt with the other clause which he withdrew, it is very important that he clarifies the creation of this fund. Remember, we had gone slow on the creation of funds and such like organisations on the ground of who manages them. It is dangerous for us and the operations of the Government.

The Temporary Chairman (Hon. David Ochieng’): Member for Homa Bay Town.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Chairman, we have a budget of over Ksh4 trillion and that revenue for that budget is mainly collected by the Kenya Revenue Authority. By international practice, the revenue authorities are usually budgeted between 1.5 per cent and 2 per cent of the revenue. Because of our fiscal space, we are giving them far less. The request KRA made to enable them collect revenue more efficiently to fund

the budget is that we ring-fence a portion of the money. It is just an Appropriations-in-Aid (A-in-A) going into a fund to be managed by them for purposes of their work. If that happens, we will get more revenue in the process. If we just left it as A-in-A, accountability issues arise and it becomes very difficult. I urge that we support this provision.

The Temporary Chairman (Hon. David Ochieng'): Chairperson, go ahead.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Members, for raising your concerns. I want to give clarity to what this is. Section 7 of the Miscellaneous Fees and Levies Act says:

“There shall be paid a fee to be known as the import declaration fee on all goods imported into the country for home use”.

Section 6 says:

“Out of the fee collected under subsection (2), 10 per cent shall be paid into a Fund established and managed in accordance with the Public Finance Management Act (Cap. 412(a)). The money in the Fund under subsection (6) shall be used for the payment of Kenya's contributions to the African Union and any other international organisation to which Kenya has a financial obligation”.

So, there already exists a Fund from where 10 per cent of money collected as import declaration fee pays for our foreign obligations, including to the African Union (AU). What we are saying is that from this Fund, 10 per cent will go into reinforcing digitisation of operations within KRA. There is no creation of an additional fund. We are just saying that as the money is used to pay for international obligations, a part of it can be used for digitising KRA services. Remember, we are coming from a point where we have no fiscal space for KRA to fund some of these expenditures.

The Temporary Chairman (Hon. David Ochieng'): Thank you. For clarity, KRA currently receives 10 per cent of the Fund. Chairman of the Budget and Appropriations Committee.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Chairman, the amendment is good, but we may be giving KRA resources they do not need. When we were considering the budget, KRA appeared before us, through the Departmental Committee on Finance and National Planning, but they never told us that they needed this excessive amount of money. What the Chairman needs to tell us is the amount of money. Under my leadership, KRA is well funded to collect taxes. We should know how much the 10 per cent is.

(Laughter)

The Temporary Chairman (Hon. David Ochieng'): I already said it and this should be the last time. Chairman of the Budget and Appropriations Committee and Chairman of the Departmental Committee on Finance and National Planning, this is a spectacle that has never been seen in Parliament at this stage. You should avoid it in future. Member for Kesses.

Hon. Julius Rutto (Kesses, UDA): Thank you, Hon. Temporary Chairman. I want to liken this particular discussion with a traditional farmer who uses oxen to plough. Most of the time, when a farmer uses oxen to plough, he uses the produce to feed the oxen to give back energy. What we are saying is that KRA is an entity tasked to mobilise and collect resources to finance our budget. Because of the dynamic nature of systems and technology in the world, they are always found on without the ability to adjust and ensure that they on-board technology to enhance their collection and effectiveness. What is the loss in allocating 2 per cent of the money to KRA?

The Temporary Chairperson (Hon. David Ochieng'): Thank you. Hon. Lesuuda.

Hon. Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Chairman. Having listened to the Chairman of the Departmental Committee on Finance and

National Planning, I am convinced it is not a fund. It is for a specific use. My question is: Will you digitise indefinitely? Does this thing have a time frame? Given the amount involved, we need to know the exact figure. Hon. Kaluma should declare his interest here as he walks around. We need to know how much that 10 per cent constitutes, because when you appear before the Budget and Appropriation Committee, you should explain what the funds are required for and how they will be utilised. Will this Fund operate into eternity? It must have a clear timeline. After digitisation is complete, the collection of funds must cease.

The Temporary Chairman (Hon. David Ochieng'): As the Chairman gets his answer, Hon. Thuku.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Chairman. This is a very pertinent issue raised by Members. When dealing with ring-fenced expenditure for clearly defined items such as digitisation or our international obligations, these are costs that can be quantified. As such, there should be no need for ring-fencing. The KRA should simply appear before the Budget and Appropriation Committee, state the amount they require, and have it appropriated by this House in the normal manner.

The Temporary Chairman (Hon. David Ochieng'): Thank you. Member for Dagoretti North.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Chairman. It is not that we are being hard on the Chairman. However, when you have funds being ring-fenced for the African Union, when this House could instead create a single vote item for all international organisations, it becomes questionable. We have institutions such as the East African Legislative Assembly (EALA). Why prioritise AU and leave out EALA? These are all multilateral organisations. This implies that EALA has a vote, yet the African Union, by extension, should not even fall under this portfolio. It should be under the Ministry of Foreign and Diaspora Affairs. Honestly, this is how we budget ourselves into crisis.

The Temporary Chairman (Hon. David Ochieng'): Chairman of the Departmental Committee on Finance and National Planning.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, this is the beauty of our democracy; engaging in such robust and constructive debate. I understand where the Chairman of the Budget and Appropriation Committee is coming from.

(Hon. Samuel Atandi and Hon. Peter Kaluma consulted loudly)

The Temporary Chairman (Hon. David Ochieng'): Order! Hon. Kaluma and Hon. Atandi, you must listen to the Chairman.

Hon. Kuria Kimani (Molo, UDA): Unfortunately, he just became the Chairman of the Budget and Appropriation Committee the other day. He aggregates the whole budget. The State departments under the National Treasury, including KRA, fall under the oversight of the Departmental Committee on Finance and National Planning.

(Hon. Samuel Atandi spoke off the record)

Hold your horses, Hon. Atandi. I will explain it to you. The resource requirement presented to our Committee by KRA stands at Ksh56 billion. The KRA does not report to the Budget and Appropriation Committee. It reports to the Departmental Committee on Finance and National Planning, which is the relevant sectoral committee. Out of the Ksh56 billion requested, we were only able to accommodate Ksh32 billion. The KRA has made it clear that while we expect them to play a major role in revenue collection, they are operating without essential provisions, such as medical insurance. Following discussions with the Budget and Appropriation

Committee Chairman, we explored whether it would be possible to raise an additional Ksh20 billion, but there was no fiscal space available.

The KRA Act provides that the agency shall be funded up to 2 per cent of its collections. In the current budget estimates, set to be discussed tomorrow during the Appropriations debate, KRA has only been allocated 1.02 per cent, which falls short of the legal recommendation. One of the proposals emerging from public participation is that the law should be amended to state that KRA shall be allocated at least 2 per cent, as opposed to up to 2 per cent.

We are dealing with a revenue-collecting entity that this country relies on. In the last ten years, there has been no salary adjustment for KRA staff. These are the same staff who are sent to assess taxpayers with obligations as high as Ksh100 million. What are we telling them? They have not had a salary increase in a decade. They lack basic medical cover. If they fall ill, they cannot even go to the hospital. We, however, expect them to carry out crucial, high-stakes financial assessments on behalf of this country. That is why we say the fiscal space is constrained. That is why we seek creative ways to fund these key institutions without increasing taxes. This is one of the solutions that this proposal is trying to achieve.

The Temporary Chairman (Hon. David Ochieng’): This is done. Hon. Atandi, the last word on this.

Hon. Samuel Atandi (Alego Usonga, ODM): The Chairman is my friend. When we first joined Parliament, we sat together on the Finance Committee. I fully understand the explanation he is offering to justify this specific fund for KRA. Hon. Temporary Chairman, you are also a Member of the Budget and Appropriation Committee. When the Chairman appeared before us to defend departmental budgets, he did not inform us that KRA required this amount of funding. That issue did not come up. I can even produce the *Hansard*. If it is a matter of the Kenya Revenue Authority sorting out issues to do with salary increments, we can deal with that. If we give blanket allocations to the KRA, other Government agencies will also want the same. We do not want to go down that road.

Let us collect taxes and put them in one basket. Those who want money can come to the Budget and Appropriations Committee, defend themselves and then we will give them money. Otherwise, this is a very bad precedent. I would like Members to reject this amendment.

The Temporary Chairman (Hon. David Ochieng’): This will then go either way.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(Loud consultations)

Order, Members!

*(Question, that the new clause be
added to the Bill, put and agreed to)*

(Loud consultations)

(Hon. Naisula Lesuuda stood up in her place)

Are you rising for a Division, Hon. Lesuuda? Do you have the numbers?

(Clause 60 agreed to)

(Title agreed to)

(Clause 1 agreed to)

Chairperson of the Departmental Committee on Finance and National Planning to move for reporting.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the Committee do report to the House its consideration of the Finance Bill (National Assembly Bill No.19 of 2025) and its approval thereof with amendments.

The Temporary Chairman (Hon. David Ochieng’): Order, Hon. Members!

(Question proposed)

(Question put and agreed to)

[The Temporary Chairman (Hon. David Ochieng’) left the Chair]

[The Temporary Chairman (Hon. Omboko Milemba) took the Chair]

THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL
(National Assembly Bill No.72 of 2023)

The Temporary Chairman (Hon. Omboko Milemba): Order, Members. We proceed to the Kenya National Council for Population and Development Bill (National Assembly Bill No.72 of 2023), and we are in the Committee of the whole House.

Where is the Chairman? It is the same Chairman. So, you still have to proceed.

(Clause 3 agreed to)

Clause 4

The Temporary Chairman (Hon. Omboko Milemba): Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chair, I beg to move:

THAT, Clause 4 of the Bill be amended—

(a) In subclause (3), by deleting the words “established under the National Council for Population and Development Order, 2004, which shall cease to have effect immediately upon commencement of this Act.”

(b) by deleting subclause (4).

This proposal seeks to delete redundant words and provisions contained in the Kenya National Council for Population and Development Bill (National Assembly Bill No.72 of 2023)

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 4 as amended agreed to)

Clause 5

The Temporary Chairman (Hon. Omboko Milemba): Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chair, I beg to move:

THAT, Clause 5 of the Bill be amended—

- (a) by deleting paragraph (b) and substituting therefor the following new paragraph—
“(b) develop, review, and coordinate the implementation of national population policy at regular intervals; and”
- (b) by inserting the following new paragraph immediately after paragraph (c)—
“(d) co-ordinate the development and submission of population reports by various stakeholders in Kenya.”

The proposed amendment seeks to provide clarity on the objectives of the population council and provide for an additional objective of the council. The existing National Council for Population and Development (NCPD) plays a key role in reporting Kenya’s progress on development during processes such as the international constraints on population and development, both at the regional level and at the United Nations (UN). Therefore, the proposed amendment seeks to provide for an additional objective of the Council to coordinate the development and submission of population reports by the various stakeholders in Kenya.

The Temporary Chairman (Hon. Omboko Milemba): Very well, Chairman.

(Question of the amendment proposed)

Hon. Members: Put the Question.

The Temporary Chairman (Hon. Omboko Milemba): Thank you.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 5 as amended agreed to)

Clause 6

The Temporary Chairman (Hon. Omboko Milemba): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended—

- (a) in paragraph (b) by inserting the words “, publish and disseminate” immediately after the word “develop”;
- (b) in paragraph (f)—
 - (i) by deleting the word “assess” appearing immediately after the words “monitor and” and substituting therefor the word “evaluate”;
 - (ii) by deleting the word “assessments” appearing at the end of the paragraph and substituting therefor the word “evaluations”;
- (c) by inserting the following new paragraphs immediately after paragraph (h)—
 - “(ha) advise the relevant Cabinet Secretary on global commitments, agreements and declarations adopted by the state relevant to population and development;

(hb) collaborate with other state agencies and bodies for the effective discharge of its functions;”

This amendment seeks to provide clear duties or the function of the Council and to provide for two additional functions of the council, which are: to advise the relevant Ministry on global commitments, agreements and relations adopted by the state, relevant to population development, and to collaborate with other state agencies and bodies for the effective discharge of its functions.

These additional functions arise since the Council plays a critical role in global commitments within its purview, and there is a need for the Council to collaborate with other institutions to bolster its productivity.

The Temporary Chairman (Hon. Omboko Milemba): Very well.

(Question of the amendment proposed)

Hon. Kuria Kimani (Molo, UDA): Put the Question.

(Question, that the words to be inserted be inserted, put and agreed to)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 6 as amended agreed to)

Clause 7

The Temporary Chairman (Hon. Omboko Milemba): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 7 of the Bill be amended—

(a) in paragraph (h)—

- (i) by inserting the words “Hindu Council of Kenya” immediately after the words “Catholic Bishops,”;
- (ii) by inserting the words “by the Cabinet Secretary” immediately after the words “shall be appointed”;
- (iii) by inserting the words “of Kenya” immediately after the words “Evangelical Alliance”;

(b) by inserting the following new sub clauses immediately after subclause (3)—

“(4) In appointing a person as chairperson of the Council under subsection 1(a), the President shall take into account gender, the ethnic and regional diversity of the people of Kenya, persons with disabilities and youth.”

(5) In appointing members of the Council under subsection 1(b) and (h), the Cabinet Secretary shall take into account gender, the ethnic and regional diversity of the people of Kenya, persons with disabilities and youth.

(6) In nominating members of the Council under subsection 1(h), the joint forum of religious organizations shall take into

account gender, the ethnic and regional diversity of the people of Kenya, persons with disabilities and youth.”

For starters, this proposed amendment is seeking to provide for the representation of the Hindu Council of Kenya (HCK) since it falls within the ambit of the Joint Forum of Religious Organisations.

Secondly, the proposed amendment seeks to provide safeguards for the causation of gender, ethnic and regional diversity of the people of Kenya, Persons with Disabilities (PWDs) and the youth in the nomination and appointment of persons to the Council. This is in line with the constitutional representation of these groups.

Lastly, the proposed amendment seeks to correct some clerical errors and provide clarity on the appointment of persons to the Council. This is in line with our Constitution that provides for the inclusion of youth, women, PWDs and marginalised communities into the Board of the NCP.

(Question of the amendment proposed)

The Temporary Speaker (Hon. Omboko Milemba): Yes.

Hon. Kwenya Thuku (Kinangop, JP): I wish to support this amendment, especially because of the recognition of religious organisations contribution to the governance of this country. I support.

The Temporary Chairman (Hon. Omboko Milemba): Very well.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 7 as amended agreed to)

(Clauses 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 agreed to)

Clause 19

The Temporary Chairman (Hon. Omboko Milemba): Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 19 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclause—

“(3) The Corporation Secretary shall—

- (a) in consultation with the Chairperson of the Board, issue notices for meetings of the Board;
- (b) keep in custody, the records of the deliberations, decisions, and resolutions of the Board;
- (c) transmit decisions and resolutions of the Board to the chief executive officer for execution, implementation and other relevant action;
- (d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and
- (e) perform such other duties as the Board may direct.”

This proposed amendment seeks to provide for the functions of the Corporation Secretary. This is in line with the Mwangozo Code of Governance for state corporations.

(Question of the amendment proposed)

(Question, that the words to be left

out be left out, put and agreed to)

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 19 as amended agreed to)

(Hon. Kuria Kimani consulted loudly)

(Loud consultations)

The Temporary Chairman (Hon. Omboko Milemba): Order, Members! We are losing focus.

(Clauses 20, 21, 22, 23, 24, 25, 26, 27 and 28 agreed to)

Clause 29

The Temporary Chairman (Hon. Omboko Milemba): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 29 of the Bill be deleted.

This proposal seeks to delete Clause 29 which was provided for consultant services offered to or by the Council because it has the potential to be abused. Clause 29 provided for the Council to engage in consultancy services to other institutions. As a Committee we saw this as unnecessary. We propose that this clause be deleted so that it is not subject to abuse.

(Question of the amendment proposed)

*(Question, that the words to be left
out be left out, put and agreed to)*

(Clause 29 deleted)

Clause 30

The Temporary Chairman (Hon. Omboko Milemba): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 30 of the Bill be deleted.

Hon. Temporary Chairman, we also found this clause interesting. It reads: "A notice or document shall be served in the council by delivering them at the office of the Director General. The office of the Director General shall serve the documents or notice to other institutions as need arises."

We were at pains to understand why such a small administrative matter like submission of documents needed to be in an Act of Parliament. We, therefore, propose its deletion because this can be addressed administratively rather than being part of a legal framework.

*(Question, that the words to be left
out be left out, put and agreed to)*

(Clause 30 deleted)

Clause 31

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The Temporary Chairman (Hon. Omboko Milemba): Hon. Kuria Kimani.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 31 and substituting therefor the following new Clause—

PART IVA- PROVISIONS ON DELEGATED POWERS

Regulations.

31. (1) The Cabinet Secretary may, in consultation with the Board, make regulations generally for better carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations to provide for—

- (a) the procedure for submission of population reports by stakeholders within Kenya;
- (b) implementation of national population policy; and
- (c) anything required to be prescribed under this Act;

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act;
- (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.

(4) The principles and standards applicable to the delegated power referred to under this Act are those found in—

- Cap. 2A. (a) the Statutory Instruments Act;
- Cap. 2. (b) the Interpretation and General Provisions Act;
- (c) the general rules of international law as specified under Article 2(5) of the Constitution; and
- (d) any treaty and convention ratified by Kenya under Article 2(6) of the Constitution.

This proposal seeks an amendment to specify matters to be provided for in regulations and to align Clause 31 of the Bill with Standing Order 118. It provides that:

“Every Bill that confers on any State organ, State officer or person, the authority to make provision having the force of law in Kenya in terms of Article 94(6) of the Constitution shall contain a separate and distinct part of the Bill under the title “Provisions on Delegated Powers” in which shall be expressly specified—

- (a) the purpose and objectives for which that authority is conferred;
- (b) the limits of the authority;
- (c) the nature and scope of the law which may be made; and,
- (d) the principles and standards applicable to the law made under the authority.

(Question of the amendment proposed)

(Question, that the words to be left

out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 31 as amended agreed to)

Clause 32

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 32 and substituting therefor the following new clause—

Interpretation.

32. In this Part—

“appointed day” means the day this Act comes into effect;

“former Council” means the National Council for Population and Development established under Order 3 of the State Corporations (National Council for Population and Development) Order, 2004; and

L.N. 120/2004.

“successor Council” means the Kenya National Council for Population and Development established under section 4 of this Act.

This proposal seeks to provide for the definition of terms used in the proposed amendment in Part V of the Bill.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 32 as amended agreed to)

Clause 33

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 33 and substituting therefor the following new clause—

Revocation of
L.N. 120/2004.

33. The State Corporations (National Council for Population and Development) Order, 2004, is revoked.

The amendment seeks to provide for a successor of the Council and a new legal framework. The current Council exists under the State Corporations (National Council for Population and Development) Order, 2004. We are creating the Council under an Act of Parliament which revokes the Order that had established the institution.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Omboko Milemba): Hon. Thuku Kwenya, proceed. Use the microphone that is next to you on your left.

Hon. Kwenya Thuku (Kinangop, JP): Hon. Temporary Chairman, I support this amendment because failure to revoke the State Corporations (National Council for Population

and Development) Order will definitely give life to two State corporations; one by a Gazette Notice and the other one by an Act of Parliament. Therefore, I support the amendment.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 33 as amended agreed to)

New Clause 4A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 4—

Headquarters of the Council.

4A. (1) The headquarters of the Council shall be in Nairobi.

(2) The Council may establish such other offices in Kenya as it may consider necessary for the discharge of its functions.

(The New Clause was read a First Time)

The Temporary Chairman (Hon. Omboko Milemba): Mover.

Hon. Kuria Kimani (Molo, UDA): I beg to move that New Clause 4A be read a Second Time.

This proposed amendment seeks to provide that the headquarters of the Council to be in Nairobi to ensure accessibility of its services. It also gives them the leeway to establish other branches across the country.

(Question, that the New Clause be read a Second Time, proposed)

(Question, that the New Clause be read a Second Time, put and agreed to)

(Question, that the New Clause be added to the Bill, put and agreed to)

New Clause 9A

THAT, the Bill be amended by inserting the following New Clause 9A immediately after Clause 9—

Qualification for appointment.

9A. A person shall be qualified for appointment as the chairperson of the Board under section 7(a) if that person holds a degree from a university recognised in Kenya.

(The New Clause was read a First Time)

The Temporary Chairman (Hon. Omboko Milemba): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that New Clause 9A be read a Second Time.

This New Clause 9A provides for the minimum requirements to be a member of the National Council for Population and Development. For one to be appointed to the Board, one must possess at least a degree from a recognised university in Kenya.

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

The Temporary Chairman (Hon. Omboko Milemba): Mover.

New Clause 17A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 17—

Tenure of office of Director-General.

17A. The Director-General shall be appointed for a term of four years and shall be eligible for reappointment for one further term.

Hon. Kuria Kimani (Molo, UDA): Hon. Chairlady, I beg to move that the New Clause 7A be now read a Second Time.

The New Clause 17A provides for the duration of tenure for the position of the Director-General for the National Council for Population and Development requiring them as per the Mwongozo Code of Governance for State Corporations, to be eligible for only one further term. They will be appointed for a period of four years, but only eligible for only one further term.

This is to avoid an issue where some officers stay as heads of institutions almost in perpetuity. I beg to move.

(Question, that the new clause be read a Second Time, proposed)

The Temporary Chairman (Hon. Omboko Milemba): I see interest, we begin with the Hon. Deputy Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Just a concern. The Mwongozo Code says three years. I do not know why we are doing something very different. We are amending a lot of laws to align them to the three years Mwongozo Code, with one renewable term. However, I hear four years which is not what the Mwongozo says.

The Temporary Chairman (Hon. Omboko Milemba): Hon. Chairman, you have some cake to bite. Hon. Nyakundi.

Hon. Japheth Nyakundi (Kitutu Chache North, UDA): It is also a concern to me that the term limit in most institutions is always three-year renewable once. How comes the Mwongozo Code is a four-year term?

Hon. Members: Mwongozo is three years.

Hon. Japheth Nyakundi (Kitutu Chache North, UDA): Sorry, Mwongozo is three years? Then I support it. Thank you.

The Temporary Chairman (Hon. Omboko Milemba): Very well. Hon. Thuku Kwenya. Are you a Member of that Committee?

Hon. Thuku Kwenya (Kinangop, JP): No, I am not a Member of that Committee, but I have interest in this matter.

The Temporary Chairman (Hon. Omboko Milemba): Proceed.

Hon. Thuku Kwenya (Kinangop, JP): Hon. Temporary Chairman, the thing that perturbs me is that we keep on referring to Mwongozo guidelines. Mwongozo guidelines is not an Act of Parliament, it is a creation and policy document by the ministries or State corporations. There is a lot of contradiction and inconsistencies in as far as State corporations are concerned. It worries me that every time we legislate, we either quote Mwongozo guidelines, while in other areas we are not quoting the same.

The reason as to why we are not quoting Mwongozo in some areas is because it has no basis in law. Therefore, it always beats us off balance, because we quote a document or policy that is not anchored anywhere in the statutes.

The Temporary Chairman (Hon. Omboko Milemba): Let us first hear from Certified Public Accountant (CPA)...

(Hon. Members spoke off the record)

Both of them are CPAs?

Hon. Julius Rutto (Kesses, UDA): Thank you, Hon. Temporary Chairman. I bring to the attention of my good friend that under the principles of good governance, the aspect of limiting time is what guided Mwongozo.

It pegs on the good best practises that support all the other laws, especially on issues of management. It is something that we need to adopt, maybe on areas that you would want to propose.

The Temporary Chairman (Hon. Omboko Milemba): Order! Hon. Rutto. The main matter in the House is what...

Hon. Julius Rutto (Kesses, UDA): I was trying to bring out the issue raised on Mwongozo. because this is what we are discussing to align with Mwongozo. That is why this particular proposal is coming in.

The Temporary Chairman (Hon. Omboko Milemba): Why would you quote aligning with Mwongozo and do something different?

Hon. Julius Rutto (Kesses, UDA): Thank you.

The Temporary Chairman (Hon. Omboko Milemba): Let us hear Hon. Thuku for just one second, then come to the Chairman.

Hon. Thuku Kwenya (Kinangop, JP): Hon. Temporary Chairman, if we allow ourselves to continue quoting these Mwongozo guidelines while legislating, we are relegating ourselves to the point of following a document that has no legal basis whatsoever, save for what CPA Rutto is trying to imply that these are best practises that are not anchored in law.

The best thing that would happen is that we statulise the Mwongozo guidelines to a statute so that any State cooperation...

The Temporary Chairman (Hon. Omboko Milemba): You have given the answer. I was going to tell you to bring this business as a substantive matter to the House. Proceed, Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I have consulted widely, including with the Leader of the Majority Party. He is going to move the next Bill, the amendment to the Kenya Roads Bill, that will limit the term of the board members to three years. As a House, it is important that we become consistent, not just in the way we legislate, but also in how we treat our different entities.

Therefore, I beg to move that I further amend the New Clause 17A to read the following,

THAT, the Director-General shall be appointed for a term of three years and shall be eligible for reappointment for a further one term.

I beg to move.

The Temporary Chairman (Hon. Omboko Milemba): Hon. Thuku.

Hon. Kwenya Thuku (Kinangop, JP): As a matter of procedure, I would like you to give direction as to whether the Chairman is in order to attempt to propose that amendment. We do not have the amendment with us on the Floor and, therefore, have not had time to internalise it and understand what he is trying to move. I request you to rule him out of order and follow the laid down procedures of this House.

The Temporary Chairman (Hon. Omboko Milemba): Let me hear from the Deputy Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Chairman, if I suggest an amendment to a Bill that is not mine, then I am required to circulate all that.

(Hon. Kwenya Thuku spoke off the record)

The Temporary Chairman (Hon. Omboko Milemba): Order, Hon. Thuku. This is a House of procedures.

Hon. Owen Baya (Kilifi North, UDA): However, this Bill belongs to the Chairperson. It is his Bill, and he can move an amendment within an amendment. You already have the amendment; you do not need another one. We are trying to be consistent with policy. So, let us make progress.

Hon. Kwenya Thuku, we respect your sentiments on this and hold you in high esteem for refusing this amendment, but let us make progress.

The Temporary Chairman (Hon. Omboko Milemba): Hon. Thuku, the procedure has been followed. Standing Order 133 clearly explains what the Chairman has done, and it is in order. You may refer to it.

Hon. Kwenya Thuku (Kinangop, JP): I am guided, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Omboko Milemba): Can we hear one more Member who wants to speak to this? Hon. *Col (Rtd)* Raso.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Temporary Chairman. We are a House of traditions and customs, and it is in order for the Chairperson to move an amendment that does not substantively affect the body of the law being debated. This is not the first time we are doing it.

The Temporary Chairman (Hon. Omboko Milemba): Do we still have more contributions on this?

Hon. Rahab Mukami (Nyeri County, UDA): Thank you, Hon. Temporary Chairman. I rise to support the Chairman's amendment.

The Temporary Chairman (Hon. Omboko Milemba): Members, I will now proceed to put the Question.

(Question of the further amendment proposed)

*(Question, that the new clause be read
a Second Time, put and agreed to)*

*(Question, that the new clause be
added to the Bill, put and agreed to)*

New Clause 33A

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THAT, the Bill be amended by inserting the following new clause immediately after Clause 17—

Tenure of office of Director-General.

17A. The Director-General shall be appointed for a term of four years and shall be eligible for reappointment for one further term.

(The new clause was read a First Time)

The Temporary Chairman (Hon. Omboko Milemba): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 33A be now read a Second Time.

The proposed amendment seeks to retain the substance of Clause 32 of the Bill on the transfer of assets and liabilities, but places it logically within the context of other amendments. It has been redrafted in line with other amendments. This is just a clean-up.

(Question, that the new clause be read a Second Time, proposed)

The Temporary Chairman (Hon. Omboko Milemba): Yes, Hon. Thuku Kwenya. Use the microphone on your left.

Hon. Kwenya Thuku (Kinangop, JP): Hon. Temporary Chairman, this is a very useful amendment because of perpetuity. It proposes that all the assets, liabilities and obligations of the defunct National Council for Population and Development (NCPD) be transferred to the newly established NCPD.

I support.

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 33B

THAT, the Bill be amended by inserting the following new clause immediately after the proposed New Clause 33A—

Employees of the Council.

33B. (1) All persons who were employed by the former Council before the appointed day shall continue in the employment of the successor Council.

(2) The terms and conditions, including the salary, on which a person referred to in subsection (1) was employed immediately before the appointed day, shall be no less favorable than those that applied to that person's office immediately before the appointed day.

(3) There shall be no break in the employment of an employee of the former Council immediately before the appointed day as a result of commencement of this Act.

(4) Nothing in this Act affects the pension rights of a person who was employed by the former Council before the appointed day.

(The new clause was read a First Time)

The Temporary Chairman (Hon. Omboko Milemba): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the new Clause 33B be now read a Second Time.

This proposed amendment is seeking to retain what we amended in clause 33, so that we make it on transitional basis for the employees of the Council. This will help us arrange it in a logical flow and provide clarity in this new drafting.

(Question, that the new clause be read a Second Time, proposed)

The Temporary Chairman (Hon. Omboko Milemba): Let us hear Hon. Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Temporary Chairman. I support this amendment by the Committee. It seeks to protect those who are already in office, ensure that there is continuity, and make sure that this is engraved in law. This will ensure that nobody ever comes to them and tries to interfere with what is going on. I support this amendment.

The Temporary Chairman (Hon. Omboko Milemba): Hon. Thuku.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Chairman. As my colleague has just stated, for purposes of continuity and security of tenure of workers who are working in the defunct National Council for Population and Development (NCPD), this amendment assures them that there will be no disruptions in services to the new-found Kenya National Population Council.

I support.

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 33C

THAT, the Bill be amended by inserting the following new clause immediately after the proposed new clause 33B—

Legal proceedings. 33C. On or after the appointed day, all actions, suits or legal proceedings pending by or against the former Council shall be carried on or prosecuted by or against the successor Council, and no action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

(The new clause was read a First Time)

The Temporary Chairman (Hon. Omboko Milemba): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 33C be now read a Second Time.

This proposed amendment is seeking to provide for transition mechanisms for legal proceedings by or against the NCPD, established under the State Corporation Order of 2004. Once we move them into an Act of Parliament, if there may exist some legal proceedings on or against the council currently registered under that Order, there will be a transitional process. I think one of the issues has been the contestation on some of the population data for some of

the populations in the country. Where those contestations exist, they will proceed with them even when they are registered under an Act of Parliament.

(Question, that the new clause be read a Second Time, proposed)

The Temporary Chairman (Hon. Omboko Milemba): Yes, Hon. Dido Raso.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Temporary Chairman. This amendment is to ensure that the rights of Kenyans are safeguarded. Although it just talks about something to do with legal proceedings, imagine you have a pending bill before that institution, and by dint of this law, somebody says you cannot claim it. For that reason, this is a very important amendment.

I support.

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 33D

THAT, the Bill be amended by inserting the following new clause immediately after the proposed new clause 33C—

Reference to
written laws.

33D. Any reference to the former Council in any written law or in any contract, document or instrument of whatever nature shall, on the appointed day, be read and construed as a reference to the successor Council.

(The new clause was read a First Time)

The Temporary Chairman (Hon. Omboko Milemba): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the new Clause 33C be now read a Second Time.

I thank Hon. Raso for that contribution. To speak to the matter that he raised, this New Clause 33D speaks more to the rights of those that may have had contractual engagements with the council before the enactment of this law. It reads that: “The Bill is amended by inserting the following new subsection 33D. Any reference to the former council in any written law or in any contract, document or instrument of whatever nature shall, on the appointed day, be read and construed as a reference to the successor council”.

This takes care of all the contracts including contractual obligations or pending bills, that have existed with the council registered under the current Order when they transition into being registered under an Act of Parliament, when this House approves this Bill.

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be

added to the Bill, put and agreed to)

New Clause 33E

THAT, the Bill be amended by inserting the following new clause immediately after the proposed new clause 33D—

Directions, orders,
etc. of former
Council.

33E. All directions, orders and authorizations given by the former Council and subsisting or valid immediately before the appointed day, shall be deemed to have been given, issued or made by the successor Council.

(The new clause was read a First Time)

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 33E be now read a Second Time.

Again, this is a transitional clause that is providing that any directions, order or authorisations that may have been given by the council will be deemed to have been given by the successive council that we are creating through this Act of Parliament.

*(Question, that the new clause be read a
Second Time, proposed)*

Hon. Wanjiku Muhia (Kipipiri, JP): Thank you, Hon. Chairman. It is a good amendment in terms of continuity, but with a rider. In the event the council is ending its term, people appoint their own people who are deemed to be successful or who move to the new council.

The Temporary Chairman (Hon. Omboko Milemba): Hon. Thuku. He seems to have been more interested in this particular one.

Hon. Kwenya Thuku (Kinangop, JP): Hon. Temporary Chairman, thank you for that observation. This is one of those very good amendments. We need to make sure there are no grey areas. There are situations where an organisation is succeeded, maybe by the passage of a statute, and whoever had an interest in the defunct institution is left vulnerable. But this amendment has made sure that it is watertight. All the authorisations and permits that may have been done by the previous body, which is the NCPD, are carried over without a sunset clause, so that we do not end up saying that after 10 years, something cannot be effected. Anything that was effected by the former council will be taken over by the successor council.

The Temporary Chairman (Hon. Omboko Milemba): You have made your point. Hon. Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Chairman. I just want to make a general comment, not only on this clause, but on all the other transitional clauses. They are not only giving room for continuity, but they are also very protective, so that we are not leaving room for any ambiguity should there be any complaints or issues that involve the law. I commend the Committee for coming up with these transitional amendments.

*(Question, that the new clause be read a
Second Time, put and agreed to)*

*(Question, that the new clause be added
to the Bill, put and agreed to)*

(Schedule agreed to)

Clause 2

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by deleting the definition “population” and substituting therefor the following new definition—

“population” means the total number of persons inhabiting within the border of a country, region, or in a defined geographic area;

Clause 2 defines population to mean the total number of persons inhabiting in a defined geographical area. We are changing that to bring more clarity to the meaning of population to mean the total number of persons inhabiting within the border of a country, region, or in a defined geographical area.

I beg to move, Hon. Temporary Chairman.

(Question of the amendment proposed)

(Question, that the words be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Chairman (Hon. Omboko Milemba): Proceed, Hon. Millie Odhiambo, on your point of order.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Chairman. Sometimes we must multitask and we might be lost on certain things. But we also have the power of re-committal. I just wanted to find out whether the Evangelical Alliance is actually a legal entity. Is it a legal entity?

(Consultations)

The Temporary Chairman (Hon. Omboko Milemba): Chairperson of the Committee, can you clarify? Deputy Leader of the Minority Party, you can also be on the call of the Chairperson.

Hon. Owen Baya (Kilifi, UDA): It is a registered society under the law.

The Temporary Chairman (Hon. Omboko Milemba): Hon. Rutto, what did you want to say?

Hon. Julius Rutto, (Kesses, UDA): Hon. Temporary Chairman, I was just jogging my mind. Most of these active societies are registered under the Societies Act, which is the law that gives them power to operate. Maybe there is a different advisory from our legal team.

The Temporary Chairman (Hon. Omboko Milemba): Chairperson of the Committee, are you ready?

Hon. Kuria Kimani (Molo, UDA): I thank you, our senior, Hon. Millie Odhiambo, for raising that particular point. This is one of the matters that were raised during public

participation. Clause 8 of the Bill recognises the following institutions to nominate people to the board:

1. Three persons nominated by the Joint Forum of Religious Organisations.
2. The Supreme Council of Kenyan Muslims.
3. Kenya Conference of Catholic Bishops.
4. National Christian Churches of Kenya.
5. Evangelical Alliance.

However, during public participation, we noticed that Evangelical Alliance is registered as Kenya Evangelical Alliance. That is why I moved an amendment to Clause 6 to add ‘Kenya’ before the words ‘Evangelical Alliance’, so that it reads “Kenya Evangelical Alliance”. To answer your question, the Kenya Evangelical Alliance is one of the institutions that will nominate people to the board. The Bill, as previously drafted, provided for Evangelical Alliance, which name does not exist under the Societies Act.

The Temporary Chairman (Hon. Omboko Milemba): Hon. Millie, you seem to have a rebuttal. Just take one minute.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Chairman, I will just contribute for one minute. It is my mistake because I should have raised the issue earlier. I would like to request for the addition of the Seventh-Day Adventist Church of Kenya for purposes of inclusivity because they do not fit in any of those categories. You have immediately precluded my husband and I, Hon. John Mbadi and several others.

(Laughter)

(Hon. Japheth Nyakundi raised his hand)

Yes, plus the Treasurer, Hon. Japheth.

The Temporary Chairman (Hon. Omboko Milemba): The Chairperson has heard you. We have completed that business. Therefore, I call upon the Mover.

Hon. Jematiah Sergon (Baringo County, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Omboko Milemba): What is out of order? Please, give Hon. Jematiah the microphone. Let us hear what she has to say.

Hon. Jematiah Sergon (Baringo County, UDA): Considering what Hon. Millie has put across, I request the Chairperson of the Committee to amend the Bill to include more churches such as the Legio Maria, Roho Israel and the *Akorino* to represent Hon. Kwanjiku.

(Hon. Millie Odhiambo-Mabona spoke off the record)

(Loud consultations)

This will make the Bill more inclusive so that we do not exclude anyone on the basis of religion. Even the *Jeshi la Wokovu* should be included.

(Laughter)

The Temporary Chairman (Hon. Omboko Milemba): We have heard you. Unfortunately, we had already concluded this business.

(Hon. Owen Baya stood up in his place)

Hon. Owen Baya, do you want to speak to this?

(Hon. Owen Baya spoke off the record)

Are you the Mover? Proceed.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Chairman, before I move, all those institutions that have been mentioned, including the Legio Maria, belong to the Evangelical Alliance of Kenya, which has over 300 churches under its umbrella. I have just checked. All those churches subscribe to the same organisation except the Seventh-Day Adventist Church, which has very good teachings, which explain why Hon. Millie is very well-brought-up.

Hon. Temporary Chairman, I beg to move that the Committee do report to the House its consideration of the Kenya National Council for Population and Development Bill (National Assembly Bill No.72 of 2023) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

IN THE HOUSE

[The Temporary Speaker (Hon. Peter Kaluma) in the Chair]

MOTION

CONSIDERATION OF REPORT ON THE FINANCE BILL

The Temporary Speaker (Hon. Peter Kaluma): The Chairperson on the Finance Bill to report to the House.

(Loud consultations)

The Chairperson who presided over the Finance Bill to report to the House.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Speaker, on behalf of the Chairperson, Hon. David Ochieng', I beg to report that the Committee of the whole House has considered the Finance Bill (National Assembly Bill No.19 of 2025) and approved the same with amendments.

The Temporary Speaker (Hon. Peter Kaluma): Mover of the Bill to move for agreement with the report.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, before I move, I wish to thank the Members of this House for the robust debate we have had. I strongly believe it has enriched our Bill and informed how we will carry out this exercise in future.

Hon. Temporary Speaker, I beg to move that this House do agree with the report of the Committee of the whole House on its consideration of the Finance Bill (National Assembly Bill No.19 of 2025). I request Hon. Chiforomodo, Member of Parliament for the great people of Lungalunga, to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Chiforomodo

Hon. Chiforomodo Mangale (Lungalunga, UDM): I second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Who wants to speak to this?
Yes, Hon. Omboko Milemba.

(A Member spoke off record)

Hon. Omboko Milemba (Emuhaya, ANC): *Bwana*, I am a Member of Parliament for Emuhaya Constituency.

Hon. Temporary Speaker, I thank Hon. Members who sat through the sittings since yesterday. They participated well and the debate was good. Some clauses, for instance, the clause on limiting of the Private Members space did not require a lengthy debate this afternoon. Its debate had been exhausted yesterday. Again, today many Members, including the Chairman of the Budget and Appropriations Committees sat through out to follow the proceedings. The contributions made were from across the aisle, which was very good. That means that the Finance Bill is acceptable to the entire House. There was a lot of consultation and public participation, and the people's views were put into consideration.

Therefore, I want to thank the Members for a job well done. Indeed, like the Chairman of the Departmental Committee on Finance and National Planning indicated, the Finance Bill should not only be a tax raising measure, but should also direct policy. Our economy needs to be resilient so that we can go for the vertical expansion of the tax space. However, for now, we will deal with the horizontal bit so that we can build resilience for our economy.

I support.

The Temporary Speaker (Hon. Peter Kaluma): Any more contributions? Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Temporary Speaker. I want to join Hon. Colleagues in appreciating the good work that was done by the Departmental Committee on Finance and National Planning and the contributions of the Members in today's Committee of the whole House stage. It has been very enlightening. I appreciate that the Chairman of the Departmental Committee on Finance and National Planning dropped some amendments for the sake of the country. There are things that were mentioned yesterday during debate that are not in the Bill that can improve our financial management and revenue raising measures.

In a more summarised way, I just want to mention three items. The first one is on the revenue leakages. As we appreciate the fact that KRA needs to collect more taxes, it is also important to ensure that whatever is collected from Kenyans is managed prudently for the sake of the country because it is a result of hard work.

The second item is that there are many Kenyans who are not paying taxes because our economy is more informal. We must ensure that we bring as many Kenyans as possible to the tax bracket so that we have more people paying taxes. We should also reduce the tax rates so that people have more money in their pockets. That can trigger economic activities in the country that can lead to economic growth that will be good for the country.

The third item is that there was a proposal to review our PAYE packs from a certain organisation. I still insist that the Chairman and the Committee take that matter seriously. It is a progressive proposal and if we implement it, it will be good for the country.

Thank you, Hon. Members for all the contributions you have made to this Bill.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, we still have the Equalisation Fund Appropriation Bill to deal with. I am going to give all of you a chance to contribute, but please make it brief.

Hon. Samuel Atandi, Chairman of the Budget and Appropriations Committee.

Hon. Samuel Atandi (Alego Usonga, ODM): Thank you very much, Hon. Temporary Speaker. Let me also join my colleagues in appreciating the competence and the leadership of the Chairman of the Departmental Committee on Finance and National Planning, my brother, CPAK Kimani Kuria, who has ably led it since we joined this Parliament.

For the first time, we have a Finance Bill that is not controversial. This is largely due to how the Committee executed its responsibilities in listening to the public. I must also extend appreciation to the Cabinet Secretary for the National Treasury and Economic Planning, who went out of his way to educate Kenyans on the contents of the Finance Bill during this cycle. You will recall that during the public participation forums organised by the National Treasury, there were instances where the Cabinet Secretary had to explain to Kenyans who had been misinformed by opponents of the broad-based Government. The narrative being spread was that the Bill would result in massive taxation, including taxes that do not even exist. Kenyans were being led to believe otherwise. I thank both the National Treasury and the Chairman and Members of the Committee for their coordinated efforts. Even when it appeared that we disagreed on the Floor of the House, we were simply testing our levels of understanding of the Bill's contents.

Going forward, we have resolved that both the Departmental Committee on Finance and National Planning and the Budget and Appropriation Committee will work collaboratively to interpret the proposals in the Finance Bill and the Estimates. This cooperation will ensure harmony in the two critical pieces of legislation, all for the benefit of the Kenyan people. We all want Kenya to prosper, and we all desire to see our country grow. Therefore, I laud the Committee and thank the Members of this House who are still present and who have actively participated. As we move into the next session, where we shall begin deliberations on the final two Bills, the Appropriation Bill and the Equalisation Fund Appropriation Bill, I also urge Members to remain seated, so that we may collectively complete debate on these two very important components of our budget process.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Atandi. Indeed, those two Bills shall be debated to conclusion today. Therefore, all those interested in participating in those matters should begin walking back into the chamber. Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Temporary Speaker. I wish to thank the Committee and all those who have participated in the debate on the Finance Bill 2025. I look forward to a time when this country shall handle one Finance Bill every two or three years, so that we are not compelled to continuously amend laws annually. At times, the numerous changes introduced through frequent amendments become lost in the process, and the law loses clarity. I look forward to a scenario where Hon. Kimani Kuria would sponsor a Finance Bill every three years, so that there is consistency in the application of tax laws and regulatory regimes. This would replace the current cycle, where each financial year brings a new taxation framework.

Secondly, and I wish this could be heard even by those leaving the chamber, when I was a first-time Member in this House, some Members mentored and helped me understand the legislative process, particularly during the Third Reading of Bills. Hon. Millie-Mabona would always appear specifically for the Third Reading. I used to wonder why, since most of the sweetness in debate is experienced during the Second Reading. But she would arrive only for the Third Reading, and I came to understand that she had a tremendous influence on the laws that were passed in this House.

Hon. Makali Mulu would also always be present. Hon. Pukose, and of course, the Temporary Speaker, Hon. TJ, and others, were among those who helped shape who we are today. However, when I look around now, I hardly see new faces showing interest in legislative

work, especially during the Third Reading. That should concern us as a House. Apart from Hon. Mayaka and perhaps now, Hon. Nyakundi, I do not see many new Members participating actively in the law-making process.

Hon. Millie Odhiambo, I believe you have a responsibility to train other female Members to follow your example in legislative engagement, as Hon. Mayaka has done by consistently staying here. Even my friend from Mbooni, he too is always here during the Third Reading. That is where the actual law is made. That is where one makes a real difference for this country. It is not merely in the Second Reading where we engage in general talk.

Hon. Temporary Speaker, we need to find a way to bring new entrants. Otherwise, I can assure you that if we have new Members in the 14th Parliament, we will have a problem during Third Reading and Committee of the whole House. I do not know what you will do, but the numbers in Third Reading are thinning which is not good for this country.

I thank you.

The Temporary Speaker (Hon. Peter Kaluma): A chick that will grow into a cock is seen when it is hatched. From the time Hon. Irene Mayaka came to this House, we knew she would be a great legislator. Hon. Mayaka, make your contribution.

Hon. Irene Mayaka (Nominated, ODM): I thank you, Hon. Temporary Speaker. You know very well that I learn from the best. I also give my accolades to the Committee, that is led by fellow CPA Hon. Kimani Kuria, for this particular Finance Bill, especially the theme around encouraging policy rather than just looking at the common mwananchi to increase taxes. This is something I wish more legislators were here to listen to because we are the first people who should prosecute this matter in the courts of public opinion. The members of the public need to hear from us. We have experienced situations where people treat the Finance Bill as their enemy, without seeing the nitty-gritty of it. This particular one has shown us that we can draft and prosecute a Finance Bill that is beneficial to mwananchi.

Even as I make my remarks and thank the Committee, I urge our parliamentary communication staff that when they post on our social media platforms, they need to show Kenyans their key and big wins so that they can learn that this is a very good Bill. My greatest benefit out of this Finance Bill, which I have spoken to twice, is no taxation on pension funds and retirement benefits.

With those very few remarks, I urge Kenyans to familiarise themselves with this particular Finance Bill. It is a fantastic document. We need to encourage each other that the country is going in the right direction.

The Temporary Speaker (Hon. Peter Kaluma): The Question relevant to where we are, and all preceding matters, will be put when this business will come to the House in future.

(Putting of the Question deferred)

I want the Chairperson to report to the House on the Kenya National Council for Population and Development Bill (National Assembly Bill No.72 of 2023). Give him the microphone.

MOTION

CONSIDERATION OF REPORT ON THE KENYA NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT BILL

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Speaker, I beg to report that the Committee of the whole house has considered the Kenya National Council for

Population and Development Bill (National Assembly Bill No.72 of 2023) and approved the same with amendments.

The Temporary Speaker (Hon. Peter Kaluma): Can the Mover move agreement with the Report?

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, I beg to move that this House do agree with the report of the Committee of the whole House on its consideration of the Kenya National Council for Population and Development (National Assembly Bill No. 72 of 2023).

This is a very important piece of legislation to set up the Kenya National Council for Population and Development. We have heard about it for many years, but it had been anchored on a legal notice. We are legislating so that we can set up the institution. This is a positive move. I thank the Committee, chaired by Hon. Kimani Kuria, for a good job. We now have a law that establishes this organisation. I love the transitional clauses. We pass some laws here which are eventually controversial in the sense that we do not know where the staff will go. This law is very solid. It will establish an organisation that will take the population matters in this country forward.

On that note, Hon. Temporary Speaker, I would like to request the Whip of the Minority Party to second.

The Temporary Chairman (Hon. Peter Kaluma): Whip of the Minority Party, Hon. Millie Grace Akoth Odhiambo-Mabona.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Chairman. I rise to second and thank the Chairperson, Departmental Committee on Finance and National Planning for a very good job for this and the previous Bill on finance that has taken into account the issues and concerns of Kenyans. I know for this segment it is not a debate, but really to congratulate and raise one or two issues.

But I just want to say that contrary to the concerns of the Deputy Leader of the Majority Party, from my experience, we are doing much better as a House. The Committee of the whole House and the Third Reading usually attract very little interest because it is a real place where the rubber meets the road. But increasingly, as the Parliament is growing younger and more intellectual with greater capabilities, I see Members doing a lot more. And so, I just want to thank the Members.

One of the things I would want to encourage, because this will affect not just the Bill on the population, but other Bills that will be coming up, we need to look at the diversity, the religious diversity of the country and configure a way of being inclusive. For instance, I know when you are talking from a national level, the (Seventh Day Adventists (SDAs) may be a minority if you think about it at a national level. But in my constituency, SDAs are more than 80 per cent of the constituency. So, for you, it might look like a minority, but for me, it is a majority. We must appreciate everybody in their manifestations and forms. So, I would want us to consider a manner in which the Christian faith is inclusive and the way in which the Muslim, Hindu and other faiths are also inclusive. Otherwise, I do second.

(Question proposed)

The Temporary Chairman (Hon. Peter Kaluma): Hon. Kuria Kimani, do you want to speak to this?

Hon. Kuria Kimani (Molo, UDA): Yes, Hon. Temporary Chairman. Sorry to take you back. But one of the conversations that this Parliament and this discussion has done, and also came out prominently during public participation, and if you read our reports, you will see that is one of our recommendations, we need to revisit our PAYE bands.

If you check, the first Ksh288,000 per annum is taxed at an Income Tax rate of 10 per cent. The next Ksh100,000 is taxed at 25 per cent, and then there is a skip all the way to between an annual salary of up to now Ksh380,000 to Ksh5.612 million at 30 per cent. Therefore, that huge jump is something that needs to be reconsidered.

But most importantly, the next Ksh3.6 million is taxed at 32.5 per cent and then income above Ksh9.6 million is charged at 35 per cent. At a time when we are considering reducing the Corporation Tax rate, and at a time when we have preferential Corporate Tax rates for particular institutions, it is important that we think in future to revisit these PAYE bands.

We asked the National Treasury in our report to do an analysis of what this impact will be in terms of numbers, so that we try to reduce, to have more disposable income available to Kenyans on their PAYE as well. A company, for them to calculate their Corporation Tax, they are allowed to deduct their tax-allowable expenses, their rent or power bills, but not for employed people. They are not allowed to deduct the expenses that they incur in the duration of their income. So, your transport to work is not considered when they are calculating your PAYE. But the transportation that a company does in their course of business is considered as a taxable expense. So, we have asked the National Treasury to do an analysis of this and hopefully in the subsequent legislation, then we will be looking forward to reviewing this so that, at least, we try to have a higher disposable income available to Kenyans.

Thank you, Hon. Temporary Chairman, for magnanimity and agreeing that I contribute to this, even when this matter had already passed.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Kimani Kuria, I allowed you to speak to it because it is so important. We are already on a different subject, but it is very important. I know the contribution you have made, though belated, it pleases Hon. Makali Mulu.

Let me remind all of us that we are on the Kenyan National Council for Population and Development Bill. Yes, Hon. Millie Odhiambo.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Hon. Speaker, sometimes it is good to help us as a legal mind. Since he was also saying very nice things, I decided to be quiet. In future, for instance, now you are talking about the population, you could have said, “The population of Kenya has grown immensely, but because of these issues...”, and now you go ahead and raise the issues. That should have been the entry point.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, the Question for the adoption of the Report of the Committee and other matters remaining under this particular Bill will be transacted in the future when the House Business Committee will next schedule it to be transacted.

(Putting of the Question deferred)

Hon. Ali Raso (Saku, UDA): On a point of order.

The Temporary Speaker (Hon. Peter Kaluma): Next Order. Hon. Dido Raso never raises a point of order. What is out of order today? The directions I have given are all for the convenience of the House.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Temporary Speaker. As you are giving chances to those who are speaking, I notice you are biased to your left. I cannot really prove that your peripheral vision on the right limits you. Please, in future, those of us in the House also wish to contribute.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Dido Raso, never attribute any form of bias to the Speaker. The Speaker observes the entire House and recognises each and every Member according to when they are recognised. Thank you.

Next Order. I am informed that the Speaker had ordered that the matter appearing as Order No.10 comes first. Was that so?

(Hon. (Dr) Robert Pukose spoke off the record)

No.9? Which one was to come before going by the directions of the substantive Speaker? No.10? Clerks-at-the-Table, call Order No.10.

BILL

Second Reading

THE APPROPRIATIONS BILL (National Assembly Bill No.23 of 2025)

The Temporary Speaker (Hon. Peter Kaluma): Mover.

Hon. Samuel Atandi (Alego Usonga, ODM): Thank you, Hon. Temporary Speaker. I beg to move that the Appropriation Bill (National Assembly Bill No.23 of 2025) be now read a Second Time.

This Bill authorises the issuance of funds from the Consolidated Fund to finance the national Government expenditure for the 2025/ 2026 Financial Year. It was introduced here in the National Assembly and read a First Time yesterday, 17th June 2025. It is a cornerstone of Kenya's annual budget process, enabling the Government to implement its spending priorities for the fiscal year.

This Bill follows the approval of the Budget Estimates by this House. If you remember, we approved a total budget of approximately Ksh4.23 trillion, which is equivalent to 22.3 per cent of our national Gross Domestic Product (GDP). The Budget Estimates include Ksh1.8 trillion for ministerial current expenditure, Ksh1.3 trillion for interest payments on debt and pensions, and Ksh472.5 billion for ministerial development expenditure. Additionally, Ksh2 billion has been set aside for a contingency fund, and Ksh405.1 billion has been allocated as an equitable share to county governments.

Just to comment on the county allocations, it is to report that following the conclusion of the mediation process this afternoon, in which the report has already been tabled in the House, the county share allocations is no longer Ksh405 billion. I need to clarify that we have allocated Ksh415 billion as shareable revenue to counties.

Hon. Temporary Speaker, I also need to make brief comments on the revenue projections. We are projecting to collect Ksh3.3 trillion as total revenue projections. This is inclusive of ordinary revenue, which is Ksh2.7 trillion and Ksh46.6 billion as grants from donors. To address the fiscal deficit, we are going to borrow Ksh923 billion. The fiscal deficit is 4.8 per cent of the GDP. We are going to borrow Ksh635 billion locally, while we are going to borrow another Ksh287 billion from external sources.

These allocations will fund multiple development projects across the country. For instance, in the area of agriculture, we have allocated Ksh47.6 billion. Agriculture is a cornerstone of this economy. Over the last two years, inflation has decreased, courtesy to the food production realised in this country and the allocations towards the agricultural sector. We have allocated Ksh8 billion for fertiliser subsidies. This is one of the significant gains that has helped us to support the agricultural sector and increase production.

We are allocating Ksh133.4 billion to our health sector. This allocation will assist us in managing primary health care and all other matters affecting our health systems. We have also

allocated Ksh62.8 billion to the energy sector, which will help us with all electricity concerns, including rural electrification.

The biggest chunk of this budget is going to fund the education sector, where we have allocated Ksh658 billion. The Teachers Service Commission (TSC) will take the largest share. I wanted to provide you with a brief overview of some of the critical allocations that we have managed to fund, which this Appropriation Bill, once enacted into law, will allow us to process.

The Appropriation Bill is a product of the total estimates that you have already approved here during the processing of the Committee of Supply. I know that Members had the opportunity to discuss the Bill in the Committee of Supply, and there is nothing new that we are introducing. We simply want to pass the Appropriation Bill so that once the Bill is signed into law, the Government can begin spending. This is not a challenging Bill, as most Members have already reviewed it in the Second Reading. Therefore, I will not belabour this point, as the Cabinet Secretary for the National Treasury was here and provided us with highlights of the critical expenditures. Nothing is new, and so Members should not prolong the discussion on this Bill.

Hon. Temporary Speaker, I beg to move, and as ask my able Vice-Chairman, Dr Pukose, to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr) Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker. I stand to second the Appropriation Bill, National Assembly Bill No.23 of 2025. As ably moved by my Chair, we prosecuted most of it during the Budget Estimates and the Committee of Supply. This is the last stage of this Bill, and it will enable the Executive, the Legislature, the Judiciary, and other agencies to access these funds. Just as the Chairman said, we have concluded negotiations with the Senate. Now, through the Division of Revenue Bill, allocations to the Senate have increased. With the new formula read by the Speaker today and forwarded to the Committee, all the counties in the country will be able to access development money following our agreement on the Ksh415 billion allocation. So, counties that previously felt marginalised, like Elgeyo Marakwet, Taita Taveta and others that were not accessing something, will see a substantial increase under the new formula. This is the fourth formula by the Commission on Revenue Allocation (CRA), which was submitted to the Senate and committed to this House.

Hon. Temporary Speaker, we just hope that this money will be used diligently. We request the Ethics and Anti-Corruption Commission (EACC) and other agencies to do their work and make sure that there are no leakages. When there are leakages and money end up in other people's pockets, then it means that services cannot be delivered.

In the Budget Estimates, we provided Ksh13 billion to Primary Healthcare Fund. This means that health facilities in this country, including Level 2, Level 3, and outpatient Level 4, should be accessible to everyone when they are sick. We hope that with the Information Communication Technology (ICT) system in place, counties will ensure that our people access health care services. One should walk into a hospital, get treated and go home with medication.

We are also aware that the Kenya Medical Supplies Authority (KEMSA) has also been capitalised to the tune of Ksh1.5 billion. The recapitalisation of KEMSA should ensure that we have supplies of medicines without any challenge.

With those few remarks, I second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): I will give the first chance to Hon. (Dr) Makali Mulu because of his rank in these matters.

Hon. (Dr) Makali Mulu (Kitui Central WDM): Thank you so much, Hon. Temporary Speaker. You know we joined this House on the same day, and it is good to appreciate that

being here three times is not easy. So, Hon. Nyakundi must appreciate that fact. Thank you so much.

I will not take more than four minutes because, as my Chairman said, this matter was discussed during the budget debate, the Committee of Supply, when the Cabinet Secretary presented the budget to us, and we are now here for the fourth time.

Without much repetition, let me just raise two issues. Our Chairman has said that, through mediation, they have decided to increase the allocation to Ksh415 billion. The allocation approved by this House was Ksh405 billion. At that time, when we approved the allocation of Ksh405 billion, we had already pegged our borrowing at 4.5 per cent of the GDP, which in figures translated to Ksh896 billion. So, I think it will be important for the Chairman to tell Kenyans whether this additional Ksh10 billion going to the counties is part of the borrowing or a reorganisation. That must come out clearly because it will have an impact on the budget deficit.

The other issue, which is closely tied to that, is that when we approved the budget as a House, we were at Ksh896 billion in terms of borrowing. I do not know whether that is still additional borrowing, which means our budget deficit as approved by this House through the medium-term debt strategy will also be changing without going through our Committee process. The Public Debt and Privatisation Committee of this House approved 4.5 per cent of our GDP as the deficit for this year. On the figures of Ksh47 billion and Ksh10 billion, my Chairman should tell Kenyans whether we are borrowing more or we are cutting on expenditure on some items so that we fit within our suit.

With those many remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Dido Raso is recognised.

Hon. Ali Raso (Saku, UDA): Finally. Thank you very much, Hon. Temporary Speaker. Indeed, this is the culmination of the budgetary process for the year 2025. We must thank both the Budget and Appropriations Committee and Departmental Committee on Finance and National Planning, for they have done a good job. For the first time, there is not much acrimony or contestation about the budget or the Finance Bill.

I want to make a few points. First, this is a budget that fits on one piece of paper. It is like a shopping list. It has aggregated what is at the Executive at the national level, the Judiciary, the Legislature, and also at the county level. The first thing we must ask of each other as Kenyans is serious fiscal management of the economy. Hon. Makali Mulu said that if we must manage our economy well, the budget deficit should not grow more than 4 per cent or it should even be less so that we borrow less from outside or internally.

Second is the issue of corruption and misuse of public resources. The budget for this year is Ksh4.3 trillion. Indeed, that is the highest budget ever, and we must look after these resources. Let no one take advantage and think that there is a lot of resources out there that they can misuse and abuse.

Third is the issue of monitoring, evaluation and oversight by this House. If we give any institution resources, both at the national and at the county level, those resources must be monitored, checked and certified because ultimately, as a budget-making House, we are the final authority on the use of those resources. In that case, it is our signature that counts at the end of it all and that is why we must make sure that there is value for money for Kenyans.

With those remarks, thank you for giving me the opportunity. I also thank my colleagues from those two committees who have done a great job that we can see the finality of the budget.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Nyakundi.

Hon. Japheth Nyakundi (Kitutu Chache North, UDA): Thank you, Hon. Temporary Speaker, for also giving me this opportunity.

The Temporary Speaker (Hon. Peter Kaluma): Could we try to speak less this being the Appropriation Bill, so that we transact the three Bills which are pending to be concluded by the hour?

Hon. Japheth Nyakundi (Kitutu Chache North, UDA): Thank you for giving me this opportunity to also put in a word on this Bill. As the rest have said, we discussed this Bill initially in the Committee of Supply. This is the Bill that gives the Executive, the Judiciary and the Legislature powers to use the money that has been appropriated. We have passed a budget of about Ksh2.3 trillion. This money assist Kenyans. The Ksh415 billion of the money is allocated to county governments while Ksh700 billion will go towards development in various sectors.

I thank the Budget and Appropriations Committee, led by my able Chairman, Hon. Samuel Atandi. He has made sure that this time round, we will recruit about 10,000 police officers and 20,000 intern teachers. The Universal Health Coverage (UHC) staff on contract will be employed on permanent and pensionable basis. We will also ensure that the money allocated to county governments is used appropriately. We have allocated a lot of money to counties, but most of them do not use the money appropriately. County governments should use the money they get appropriately so that there is value for money for the wananchi.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): The last person will be Hon. Millie Odhiambo-Mabona.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker, for this opportunity. I thank the Chairman of the Budget and Appropriations Committee for this noble task he is doing. I also thank the Committee for the good work that they have done.

When you listen to Hon. Makali and the others, they cite a lot of figures. I recently joined a PhD programme and we are statistics. I was put in a group where we are supposed to do a task on probability and I volunteered to do the typing. So, even here I will use prose. I will leave figures to the Makali Mulus of this House.

I am glad that we have embarked on zero budgeting and I hope that we make it a reality. I notice that we have been realistic in revenue estimates, but our budgeting is not as responsive. So, we need to be a bit bolder. I hope our expert John Mbadi will be bolder in the next budget so that we have a balanced budget.

The 15 per cent allocated to county governments is courtesy of me. Anybody can challenge me on this. They would receive zero. I am, therefore, speaking here confidently, as a person who moved for the 15 per cent when we were in the Select Committee of the Constitution. It had been proposed that we put no percentage, but I fought very viciously. First it was at 40 per cent, which our party was pushing, but this was also disappearing. My amendment at 15 per cent is what has ensured that the counties have no less than 15 per cent.

I was, however, reluctant that we would be giving the counties Ksh415 billion. The reason is that the counties are not being very kind to the National Assembly. They are getting substantial amounts of money, but they are still looking at our pot as a National Assembly. Not as Members of Parliament, but as the National Assembly. I request and urge the counties that those of us who are very strong supporters and have adherents to devolution are getting very disillusioned. I do not believe that more than 40 chief executives of the counties can be thieves. I do not believe so. There must be something wrong; either in structure or in the manner of operation of the counties. We cannot just take a quick decision about governors stealing. They are not necessarily stealing; maybe there are some that are stealing, but there is a problem. We must find out what the problem is.

We should look from county to county, without being specific which counties, and compare what the National Government-Constituencies Development Fund (NG-CDF) does

and what the county resources do. Out of this Ksh415 billion, on average, many counties will be getting Ksh8 billion, Ksh6 billion or Ksh7 billion. What do constituencies get? If you combine the entire money of constituencies, it hardly reaches Ksh1 billion per county. When I was getting re-elected, the Suba North people would tell me, “*Waneno giri ma koth goyo oko*”. This means that “we can see the things that are being rained on courtesy of NG-CDF, but for most counties, we cannot see what is being rained on”. If you translate that in the layman's term, they are telling you that either we are putting too much money to recurrent expenditure in the counties, or there is a leakage in terms of expenditure. We must actually do a proper audit of the counties for purposes of discovering where the problem lies. We need to help our counties. It speaks to the issue of prudent management of resources.

I am happy that we have considered areas that are very dear to my heart; education that touches on children and young people, the health sector that touches on women, water transport, especially Lake Victoria Ferry, and the blue economy that touches on fishermen. I am very happy on that. I can see the Chairman of the Budget and Appropriations Committee is managing time. But even as he manages time, I said this when we were ordinary Members with him in the Budget and Appropriations Committee, please consider child welfare in future, with the rampant cases of abuse against children. Consider also gender with the rampant cases of sexual and gender-based violence and femicide.

Otherwise, I support. I know we are managing time, but we are sitting until 9.00 p.m. I also yet again, thank Members. The public do not know how dedicated Members are. We sit here until 9.00 p.m. The media will never report. They will only look at the negatives. So, I congratulate the Members. Thank you for sitting this long.

The Temporary Speaker (Hon. Peter Kaluma): There is no more interest in this except by Hon. (Dr) John Mutunga. Could you make your contributions in three minutes. All else could speak to the same matters when we transact the Equalisation Fund Bill.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Thank you very much, Hon. Temporary Speaker, for the opportunity to close this debate. The question is, why do we appropriate? Of course, we realise that if we do not, then we will be outside the law. Besides that, we need to appropriate so that there is continuity of states and so that we do the right thing.

I thank the Committee for doing a good job. It has tried to stick within the limits this year. It has cautioned the different sectors and departmental committees to remain within the limits so that we do not overstretch the budget deficit. As we appropriate this money, we need to ask ourselves to what extent the money given out is used for the purpose it is given. A clear case study should be conducted to analyse the extent to which the money released has actually achieved the intended results, met the set targets, and reached the desired milestones.

We need to prudently use resources and obtain value for money. We need to check on the wastage in this country. Besides sustaining the existing systems, we need to rationalise these budgets. We need to identify how we can create jobs, and which sectors we need to give prominence to so as to industrialise this country and create more jobs for our young people. We can then increase our exports.

With those few remarks, I support the Bill.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Moroto will contribute when we deal with the Equalisation Fund Appropriation Bill. The Mover may reply.

Hon. Samuel Atandi (Alego Usonga, ODM): Thank you, Hon. Temporary Speaker. I thank Members for their participation and contributions to the Bill. I want to react to a few issues that they raised. Dr Makali Mulu questioned how we will raise the Ksh10 billion that we have added to the county shareable allocations. For the first time this year, the revenue projection by the Parliamentary Budget Office is higher than the revenue projection by the National Treasury. Our figure is higher by about Ksh40 billion. The National Treasury has projected ordinary revenue at Ksh2.76 trillion, while the fiscal and economic think tank of

Parliament has projected Ksh2.79 trillion. This is a difference of Ksh40 billion. As we consider allocating more revenue to the counties, we determined that raising just Ksh10 billion out of this revenue was practical.

It is noteworthy that for the first time, our projected revenue agrees with what is finally collected. We are confident that the Ksh2.79 trillion, which Parliament has projected, will be realised by the Kenya Revenue Authority. Therefore, allocating Ksh10 billion out of that to the counties will not affect our fiscal space. The fiscal deficit, which we project to be 4.8 per cent of the GDP, is stagnant. This projection has not affected it. I confirm to my colleague that we will not be forced to increase borrowing because of that addition.

I thank everybody who contributed to the Bill. I agree with Hon. Millie who challenged us to allocate more resources to children's welfare. We will ensure that allocations to children are enhanced going forward. I thank Members for staying with us.

I beg to reply.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Chairperson of the Budget and Appropriations Committee. For the convenience of the House, the Question on the Second Reading of the Bill will be put when the House next considers the matter.

(Putting of the Question deferred)

Next Order.

THE EQUALISATION FUND APPROPRIATION BILL
(National Assembly Bill No.21 of 2025)

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Temporary Speaker, I beg to move that the Equalisation Fund Appropriation Bill (National Assembly Bill No.21 of 2025) be now read a Second Time.

This Bill was published on 12th June 2025 and introduced in the National Assembly on 17th June 2025. It was referred to the Budget and Appropriations Committee for consideration and reporting to the House. The Bill seeks to provide legal authority for appropriating money from the Equalisation Fund for use in the beneficiary regions during the Financial Year 2025/2026. The Equalisation Fund established pursuant to Article 204(1) of the Constitution requires that 0.5 per cent of all revenue collected by the national Government nationally go to it. The National Assembly computes the amount distributable, based on the most recently audited national revenue accounts.

In considering this Bill, it is important to note that we are using audited and approved revenues of the 2021/2022 Financial Year. The audited revenue for this financial year is approximated at Ksh1.92 trillion, upon which we are considering the Equalisation Fund. The Equalisation Fund is exclusively for essential services like water, road infrastructure, health facilities, and electricity. The Equalisation Fund only funds those projects. Historically, the projects must be in marginalised regions. The objective of the Fund is to elevate standards of living in such areas to be at levels comparable to the rest of the nation.

Allocation to the Equalisation Fund must adhere to a structured framework formulated by the Commission on Revenue Allocation (CRA) in accordance with Article 216(4). The current operational policy is on its second consideration. It identifies 1,424 marginalised areas as beneficiaries across 34 counties. Each designated county receives a proportion share of the Fund determined by allocation criteria of the Common Reporting Standards (CRS).

In this Bill, we are appropriating Ksh16.8 billion to develop these identified areas. I will just highlight how we are arriving at the Ksh16.8 billion that we are allocating. First, Ksh6.2 billion has been carried forward from the 2024/2025 Financial Year. The Ksh10.6

billion is earmarked for this 2025/2026 Financial Year. The Ksh9.78 billion represents 0.5 per cent of the latest audited and approved national revenue and Ksh2.7 billion constitutes arrears authorised under the Division of Revenue Bill of 2025.

The Fund allocated Ksh12.4 billion in 2018. That was arrears for the 2014/2016 Financial Year. The Ksh10.7 billion was earmarked for the 2021/2022 Financial Year, which was the second marginalisation policy. As we talk, I wanted to say that we have arrears of about Ksh45 billion. It has not been remitted to the Equalisation Fund. This is a very big challenge to the Fund because there is a financial year when there was zero allocation to the Fund. This has really affected the performance of this Fund.

The Budget and Appropriations Committee has raised the concern with the Ministry of the National Treasury and Economic Planning. We need to enforce it going forward. We need to fund all those arrears.

There is persistent regional disparity in the way this Fund allocates resources. For example, eight counties account for over 60 per cent of the Fund in this budget. Turkana County will receive Ksh1.86 billion, West Pokot will receive Ksh1.7 billion, and Narok County will receive the highest share at Ksh1.3 billion. Mandera, Wajir, Samburu, Garissa, and Baringo will receive Ksh5.5 billion collectively. This really underscores the marginalisation I was talking about in sharing the Fund.

To safeguard accountability, we recommend that the funds bypass county revenue funds accounts. Instead, they should flow directly to the dedicated Central Bank of Kenya accounts for each county. We recommend that because we want to ensure the funds are not used for other purposes when they go to counties. We know governors lack discipline.

Hon. Temporary Speaker, we are making this recommendation because we want to ensure that when these funds go to the counties, they are not used for other purposes. We know the governors lack discipline. Sometimes they receive the money and do something else with it, as opposed to earmarking it for the reasons they have been appropriated. We would also like the Controller of Budget to authorise the withdrawals, so that we eliminate the bureaucracy that exists. There is a lot of bureaucracy in the way these funds are administered. Therefore, we want to give the powers to the Controller of Budget to administer them. This will allow funds to flow directly and bypass the county revenue accounts.

On the issue of arrears and shortfalls, we tried to meet the shortfalls by allocating about Ksh2.7 billion in this financial year. However, we realised it is negligible, especially for the case where we have a shortfall of about Ksh45 billion. We need a really drastic decision where we will allocate at least half of that shortfall, which translates to Ksh20 billion, in every financial year going forward. By doing this, we will have allocated full shortfalls in the next two financial years. Therefore, I recommend that this House approves the Equalisation Fund Appropriation Bill as it is to allow us to move and allow the counties and resources to flow to the projects.

Hon. Temporary Speaker, I beg to move and call upon my able deputy, Hon. Pukose, to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Robert Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Temporary Speaker, I stand to second the Equalisation Fund Appropriation Bill (National Assembly Bill No.21 of 2025).

This Equalisation Fund is a creation of the Constitution 2010 under Article 204, as put by my Chairman. It came into being when the drafters of the Constitution realised that not all parts of Kenya had developed equally. We had about 14 counties that were lagging behind in terms of water, electricity, roads and health facilities. This necessitated the creation of the Equalisation Fund to help them catch up with the rest of the country. The Equalisation Fund had the initial policy which focused on 14 counties. Then, we had the second policy which looked at other parameters concerning the Fund which created 1,424 regions. Despite that, you

find that the county allocations reveal that eight counties account for 60 per cent of the Ksh16.8 billion as per the Financial Years 2024/2025 and 2025/2026 allocations.

There are many challenges. The Equalisation Fund was initially implemented through various ministries such as the Ministry of Health, Rural Electrification and Renewable Energy Corporation (REREC) and other agencies to ensure these areas got services. This met challenges necessitating change of regulations.

The Committee proposed amendments in this Bill. The allocated funds will not be deposited into the county revenue fund accounts. Instead, they will be transferred directly to a special purpose account, opened by each beneficiary county, at the Central Bank of Kenya. This arrangement enhances financial control and ensures that the funds are used exclusively for their intended purposes. We have seen diversion of money meant for the health function. That is how we came up with the Facilities Improvement Financing (FIF) to make sure that money that is allocated for health is used for health. Therefore, the enactment of this Bill constitutes sufficient legal authority for the Controller of Budget to approve and authorise withdrawals from the Fund, streamlining the disbursement process.

In addition, the Bill also provides that once the Controller of Budget authorises a withdrawal from the Equalisation Fund and the secretary of the board submits written instructions through the National Treasury requesting the release of the funds, these documentations constitute sufficient authority for the CBK to effect payment from the Fund account. This ensures that there is some accountability and the money is going directly to those projects. When you look at the allocations in terms of the schedule which is there, First Schedule, allocation per county and per constituency, they have projects which have been approved by the board. Therefore, if the money is diverted into other issues, then you have pending bills.

Hon. Temporary Speaker, as we speak, we have pending bills from the first disbursement and money that is lying about within the ministries not having been utilised because there were hitches in as far as legal challenges that came in during that time where we had governors going to court and we even had amendments to the regulations.

Therefore, the Committee having scrutinised this, feels that outstanding arrears to the Equalisation Fund stood at Ksh46.5 billion as of June 2024 against accumulative entitlement of Ksh59.96 billion since the Fund's conception. This means that only Ksh13.3 billion, equivalent to 22.4 per cent of the total entitlement amount has been disbursed to the Fund. This shortfall in funding not only undermines the Fund's credibility, but also poses a serious threat to the achievement of its core mandates considering that the Fund had a lifetime of 20 years. Therefore, it might be coming to an end, but I think in the wisdom of this House, we can still do an amendment to extend that period for the Fund.

Hon. Temporary Speaker, with those few remarks, I second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Samwel Moroto, is recognised.

Hon. Samwel Chumel (Kapenguria, UDA): Thank you, Hon. Temporary Speaker. I want to thank the Members of the Budget and Appropriations Committee led by the Hon. Chairman and the Hon. Vice-Chairman.

Let me share my personal history. When we got Independent in 1963, I was two years old. I used to sing in the choir for Mzee Kenyatta and then I served Presidents Moi, Kibaki, Uhuru and the current President. Hon. Chairman knows that what happens here, is our normal game and I like it. This is a legislation team. We are among the three Arms of Government. Therefore, let us be serious. We are talking about the Equalisation Fund. The ASAL areas were barred by the Sessional Paper No.10 of 1965, from accessing anything from the Kenyan

Government. It affected some of us from West Pokot. West Pokot became a closed district and that is why Kenyatta and the five others; the Kapenguria Six, were jailed.

I want to sincerely thank all the legislators. I was here during President Moi's time when Hon. Raila became our Secretary-General for KANU and Minister for Energy. He is the champion of what we are celebrating as devolved governance in the Constitution of Kenya 2010. There is nothing I regret about that. There were 14 counties originally listed, and others were later added, because all are Kenyan citizens and must benefit from what is being implemented. But let us be serious. This is our National Assembly, and we are discussing matters under the national Government. The Equalisation Fund was placed under the national Government, not under the county governments.

Now, if we decide today and say, let us transfer this to the counties, then we are shifting the goalposts. Most of these governors were in this House. Due to greed, they want to divert everything to their side. But I appreciate the way we are currently discussing this matter. Although we are few in this chamber, we shall do something substantive. Let us remain firm. The National Government Constituencies Development Fund (NG-CDF), the Kenya Rural Roads Authority (KERRA), and the Kenya Urban Roads Authority (KURA) should remain under the national Government.

I am a teacher by profession. At one time, I served as the Chairman of the Kenya National Union of Teachers during the leadership of Adeya Adongo and John Katumanga. I later became the Executive Secretary. When my Member of Parliament, the late Lotodo Francis, who served as a Minister, died, that is how I came to be in this House. I shall not say much more. But I wish to stress this: Let us stand by what is written in our Constitution. I contributed to it. I was in the secretariat at the Kenyatta International Conference Centre (KICC). Who is now attempting to water it down?

The Temporary Speaker (Hon. Peter Kaluma): Hon. Naisula Lesuuda.

Hon. Naisula Lesuuda (Samburu West, KANU): Thank you very much, Hon. Temporary Speaker. I also thank Hon. Moroto for the very insightful history lesson that he has just taken us through.

I would like to congratulate the Members of the Budget and Appropriation Committee, where I also serve, under the able leadership of Hon. Atandi, and our Vice-Chairman, Hon. Pukose, for the excellent work done to ensure that we have a budget that is based on consensus, with no acrimony. This includes the Equalisation Fund Appropriation Bill.

Allow me to speak to three points. First, on the issue of the Exchequer. There is a distinction between appropriation and actual disbursement of funds. I raise this point in regard to the Equalisation Fund and to county allocations in general. When we pass supplementary budgets in this House, the national Government is typically subjected to budget cuts. However, county governments still receive their full allocation for the financial year. Therefore, the Ksh415 billion that county governments will receive from the next financial year, which this House shall soon pass, is fully guaranteed. Even though we have pending arrears in relation to the Equalisation Fund, counties must acknowledge that they do receive the money appropriated by this House. This shows that Parliament is performing its duties, and the National Treasury is playing its part by ensuring that the funds reach the counties. Thus, even as county leaders agitate for increased allocations, they must acknowledge that the funds already allocated are being disbursed.

Second, as I mentioned earlier, there is the issue of the Exchequer. Most Members will now return to their constituencies, quoting the Appropriation Bill, saying a given project will be implemented in their area. However, by the end of the financial year, and after several supplementary budgets, many of these projects end up not being funded. Therefore, Hon. Temporary Speaker, we must prioritise funding for what has been passed by this House, especially issues to do with capitation of schools and other basics like the Universal Health

Care (UHC). We should ensure and confirm that money for things that really touch on Kenyans is available

On the issue of equalisation, as Hon. Moroto said, we will not get tired of repeating that we should follow the Constitution. There was a reason why people sat, debated, analysed and agreed on the 14 counties. We are now at 1,424 sub-locations. This money has become so little. A sub-location is given Ksh2 million, Ksh3 million or Ksh7 million. The Commission on Revenue Allocation will be working on the third policy that as soon as they receive their funds, it is only fair that this House does service to the 14 counties that were to benefit from the Equalisation Fund. This will ensure that the issue of marginalisation is forgotten and that money can uplift those counties accordingly. I will now conclude to allow my colleagues to also contribute.

I support.

The Temporary Speaker (Hon. Peter Kaluma): Next is Hon. Omboko Milemba followed by Hon. John Kiragu. Thereafter, if there is no more interest, the Mover will reply.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Speaker. I support the amendments and proposals by the Committee.

(Loud consultations)

(Hon. Jematiah Sergon spoke off the record)

The Temporary Speaker (Hon. Peter Kaluma): Order, Hon. Milemba.

Hon. Jematiah, we are also amending the Kenya Roads Act, which we must transact before the hour. For clarity, the House will adjourn at 9.00 p.m., and not 9.30 p.m.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Speaker, the amendments by the Committee are great. First, the fact that only eight counties are taking 60 per cent of the entire amount should be dealt with. We also have to address the thin spreading across many areas because this Fund was supposed to reverse the gains made by the Session Paper No.10 of 1965 by Tom Mboya, the great son of this country.

Second, the proposal to ring-fence the money so that it only goes to essential services, is great and we need to support it. As we spread out this money, these are the counties with the biggest challenges in the education sector. When you go to Samburu and Turkana, you will not find proper education. We thank the Budget and Appropriations Committee for working on this area and for appropriating funds to the education sector, especially towards employment. The Government has done well in the employment of the 87,000 teachers, and in this budget, there is about Ksh7.1 billion for JSS and capitation of schools.

Hon. Temporary Speaker, I would like the Chairperson of the Budget and Appropriations Committee, Hon. Atandi, to take note of an omission in this budget. There is always a Collective Bargaining Agreement (CBA) signed between employees and the employer. For teachers and all the other employees, the CBA lasts for four years. This year, the CBA for teachers has ended, and in law, another one has to be signed. It was expected that this budget would deal with this, but I know your good office will look into it in the coming supplementary budgets. The CBAs are already exhausted. We realised that CBAs are the reason why teachers no longer go on strike every December like they did in the past. Previously, there would be a strike every December before examinations. It is very important for the Budget and Appropriations Committee to look at how we will get a new CBA for the teachers. They should look at how we shall get a new CBA appropriated for the teachers so that we have a safe haven of learning throughout the exam time in December and even beyond that particular time. That will be very important for that particular sector.

Because I know many people want to speak on this, I would want to stop there and thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Eng. John Kiragu. Or you want to speak to the Kenya Roads Bill, and we call the mover to reply?

Hon. (Eng) John Kiragu (Limuru, UDA): No, Hon. Temporary Speaker. I will be very brief. I rise to support this Bill, and particularly just to acknowledge that in fact there are certain areas in this country that are marginalised. It is important that even as we do our budget, we make sure that every corner of this nation gets its basic infrastructure, whether it is water, electricity, roads, or any other important infrastructure so as to enable every part of this country to develop. Recently, I went to Marsabit and I realised that there is so much potential that we can exploit in this country. But some of these areas that are marginalised do not have what it takes for anybody to invest there. So, I support the Equalisation Fund. But the people who receive this money and turn it into their personal use by bringing it to Nairobi to build flats and other things actually do a disservice to this nation. What is important for us is to make sure that the money that is going for the specific projects achieve the purpose and that we give every corner of this nation an opportunity to compete with the rest of the nation.

Thank you.

[The Temporary Speaker (Hon. Peter Kaluma) left the Chair]

[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]

The Temporary Speaker (Hon. Omboko Milemba): Thank you. Let us get Hon. Dido Raso to speak on this before the Mover replies.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Temporary Speaker. I wish to add my voice to this. I oppose this Bill. It is in my interest and in the interest of my people that equalisation is about equalisation. I think we are not going to just be pen pushers.

Looking at the allocation that is here, I notice that this allocation has been made in such a way that even areas that are relatively developed have been given money, but not enough money. You are given Ksh10 million, Ksh5 million, Ksh12 million, to do what? I am looking at Marsabit, there is an allocation of Ksh302 million to Laisamis, Ksh175 million to Moyale, Ksh239 million to North Horr and Ksh45 million to Saku. Do I build roads? Do I put it in electricity, or in medical, or in what? For that reason, I think marginalisation continues. The way these resources are being allocated to the counties means that equalisation is not likely to meet the objective that the Constitution intended from the beginning.

So, for that reason, I oppose the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Mwashako.

Hon. Danson Mwashako (Wundanyi, WDM): Thank you, Hon. Temporary Speaker. I will be very brief. I stand to support this Bill. As I support this Bill, I need to bring out a few issues that concern this Bill.

One, the first marginalisation policy identified 14 counties to be the beneficiaries of Article 204, where Equalisation Fund is based. Counties like Taita-Taveta used to get in excess of Ksh700 million annually. In the Bill that we are passing today, Taita Taveta has only Ksh21 million. This is extremely sad, taking into account the fact that Taita Taveta was identified as the first 14 counties that lagged behind because previous governments before devolution did not identify themselves with other counties that were far from Nairobi.

As I support, I know the CRA will be sitting to do a new marginalisation policy in the next few months and I want to request this House that we revert to the 14 counties, so that the real marginalisation that has happened since Independence can be cured by these funds that are there to achieve equity and equalisation in the country. I support this Bill.

I am happy that the Leader of the Majority Party is here. I urge that we ensure the next policy reverts to the 14 counties, so that we can bring meaning to this.

As I conclude, if we are not careful, in another 20-30 years to come, we will still do another Equalisation Fund if we do not achieve equity in our resource distribution as a country. When budgeting in this House, we must consider equity as we distribute resources.

The Temporary Speaker (Hon. Omboko Milemba): Mover.

Hon. Samuel Atandi (Alego Usonga, ODM): Thank you, Hon. Temporary Speaker. With your kind permission, I would like to donate one minute to Dr Makali Mulu to make one point. One minute, please.

Hon. (Dr) Makali Muluu (Kitui Central, WDM): Thank you so much, Hon. Temporary Speaker and my Chairman. One point which has not clearly come out is the issue that, as a result of the second marginalisation policy, we moved from 14 counties to 34 counties, and we moved to 107 constituencies and 1,024 sub-locations. This has pushed the projects to be so small in terms of size, hence, minimal impact. If we want to help these areas, the next marginalisation policy should factor in the issue of projects with a higher impact. Unless we do that, this will remain a problem.

This House must focus on two issues. Firstly, it should ensure that the third marginalisation policy captures the interest of all the Members who have spoken here, so that we have a clear way forward.

Secondly, the Equilisation Fund was to last 20 years, and we have already done 15 years with minimal impact. We only have five years to go. I do not know whether, as a House, we would want to extend that time to 40 years. This is something we have to think through.

I submit, Hon. Temporary Speaker.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Temporary Speaker, once again, let me donate another one minute to Hon. Jematiah.

Hon. Jematiah Sergon (Baringo County, UDA): Thank you so much, Hon. Temporary Speaker. Thank you, Chairman, for donating your time. The framers of the Constitution took their time and understood the importance of equalisation. We should continue using the same frame of the Constitution that earmarked the 14 counties from the beginning to enable them to fully develop, when allocating.

As much as we also agree that there are parts of the country that are continuously marginalised, using their perimeters, if the initial policy is followed well when allocating resources, we will be able to uplift this country to almost the same levels.

Thank you, Hon. Temporary Speaker and Hon. Chairman.

The Temporary Speaker (Hon. Omboko Milemba): Mover, if you proceed like that, I will open debate.

Hon. Samuel Atandi (Alego Usonga, ODM): Thank you, Hon. Temporary Speaker. I would like to thank all the Members who have contributed to this Bill and expressed support for the Bill. Hon. Members, I have listened to the issues that have been raised by some Members, including the kind of priority projects that are being implemented by this Fund in the counties. Some Members are suggesting that they should be given an opportunity to propose what kind of projects need to be implemented. For example, in a county where there is a shortage of water, electricity, and even health facilities, some Members are proposing that they be allowed to just say they need water or electricity. We have learned that governors are implementing projects of their own choice. We have taken note of these observations, and as a Committee, we are going to engage the relevant departments to ensure that this Fund serves the purpose for which it was created.

Hon. Temporary Speaker, I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Members. We shall defer putting of the overall Question to the next Sitting.

Next order.

(Putting of the Question deferred)

BILLS

Second Readings

THE KENYA ROADS (AMENDMENT) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO.16 OF 2025)

The Temporary Speaker (Hon. Omboko Milemba): Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I beg to move that the Kenya Roads (Amendment) Bill No.2 Bill of 2025 be now read a Second Time.

This is a short Bill consisting of two clauses, which aims to undo what was enacted in the 12th Parliament regarding the terms of service for the directors-general in the road sector. As you may recall, towards the end of the last Parliament, an amendment was made that extended their terms of service from three years to five years. This alteration was not consistent with the terms for all other chief executive officers (CEOs) in Government parastatals, who have maintained a three-year term.

Therefore, the sole intent of this Bill is to first revert to the three-year terms, in accordance with the Code of Governance for State corporations, commonly known as the *Mwongozo* Principle. This principle limits the terms of service for all chief executive officers to three years and is designed to promote good governance in the management of State corporations and their boards. As I said, this practice is standard across all State corporations, with the sole exception of the road sector boards, which were extended to five years.

The third clause in this Bill ensures that those individuals who have served a period exceeding three years and are currently in their first term of five years will not be eligible for renewal of either five or three years, which would exceed the total service limit of six years comprised of two three-year terms. Thus, any extension granted to them will be limited to an additional period of one year, ensuring that their total service does not exceed six years, aligning with the practices of other State corporations and adhering to the Code of Governance for State corporations. Therefore, given that this is a very concise Bill, I kindly request your support.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Put the Question!

(Laughter)

Hon. Kimani Ichung'wah (Kikuyu, UDA): As I stated, this amendment also aims to enhance efficiency in the delivery of services within our State corporations, particularly in the road sector. Members of Parliament, being some of the principal clients of this road sector, may hear from directors general who believe they serve a five-year term. Some have referred to Members of Parliament as individuals who are soon to depart from office. I have heard remarks such as, "Leave this one. This is their third year in office, yet I am here for five years; you will depart and leave us in these offices."

Hon. Temporary Speaker, you know how sensitive roads are to our constituents. Therefore, it is imperative that we have directors-general or chief executive officers in these State corporations who are responsive to the needs of the people. There is no more significant way to demonstrate responsiveness to the citizens' needs than by listening to their

representatives regarding issues related to roads, as roads are essential for connecting and interconnecting regions of our country and for fostering economic growth.

I urge that we all support this amendment, so that we align with the *Mwongozo* Principle and the Code of Governance for State corporations, while also enhancing efficiency in service delivery to Kenyans and promoting good corporate governance within our State corporations, akin to the practices within the private sector. The CEO will serve for three years, renewable based on performance.

With those many remarks, Hon. Temporary Speaker, I beg to move and request Hon. Irene Mayaka to second.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Irene Mayaka, proceed.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Temporary Speaker. I stand to second this Bill and to thank the Leader of the Majority Party for bringing it to the House. As he has put it so well, this Bill, as brief as it is, is very significant. It seeks to amend Section 13 of the Roads Act (Cap. 408) to be in line the Mwongozo Code of Governance for State Corporations. It is important for us as legislators to ensure that we are dynamic so that legislation addresses present circumstances. We are proposing a three-year term for the CEO, renewable only once. There is a key line that says renewal will be subject to satisfactory performance of the person holding the office. It will not be automatic that whoever holds the position will have their term renewed. You have to demonstrate that you have performed your duties satisfactorily. It is important to mention the transitional provisions in the Bill. They will ensure that those in office are protected. We should not leave any ambiguity in law.

Hon. Temporary Speaker, with those few remarks, I beg to second.

(Question proposed)

The Temporary Speaker (Hon. Omboko Milemba): The first bite goes to Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Speaker, this is a very quick one. We should easily support this Bill by the Leader of the Majority Party. In fact, we discussed it in the legislative caucus in the morning. I signify my support to it.

As I support it, allow me to say that this is the kind of thinking that needs to guide the Equalisation Fund. Unlike what we have in this Bill, Equalisation Fund money is just sent in bulk to counties. If I have been given Ksh10 million, why can we not be allowed to match it with my Ksh10 million from REREC, so that I provide electrification in my constituency instead of this money being sent to counties to determine how to use it? I support this Bill and I urge fellow Members also to support it.

I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Kiborek, you are one of the young Members who is still in the House and strong. Please make your contribution.

Hon. Kiborek Reuben (Mogotio, UDA): Thank you, Hon. Temporary Speaker. I stand to support. The longer someone stays in office, especially in a sensitive docket like this one, the more it entrenches corruption and cartelism. If you sit in office for 10 years, you will have been in contact with so many contractors and suppliers. I support that we reduce the number of years to six years so that there will be efficiency, energy and zeal to serve. Once someone overstays, the energy and zeal to serve goes because of fatigue and many other things.

As I finish, roads are related to marginalisation. Some of us come from areas which have been marginalised. On the Equalisation Fund, allow me to digress a bit, we need to revisit the formula by the CRA.

The Temporary Speaker (Hon. Omboko Milemba): That is out of order. We have already dealt with that matter.

Hon. Kiborek Reuben (Mogotio, UDA): I stand guided, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Temporary Speaker, for giving me the opportunity to support the Kenya Roads (Amendment) (No.2) Bill (National Assembly Bill No.16 of 2025). The amendments by the Leader of the Majority Party are good because they align with the Mwongozo Code of Governance to ensure that the terms of service for CEOs are equal. It was discriminatory to other corporations for the Directors-General of the Kenya Rural Roads Authority (KeRRA) to serve for five years while other CEOs serve for only three years

I remember that this law was passed mischievously during the last Session of the 12th Parliament when most of us had gone for campaigns. It was not done in good faith, but to protect certain individuals and keep them in office.

With those few remarks, I support the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Chairperson of the Budget and Appropriations Committee followed by the Chairperson of the Departmental Committee on Finance and National Planning.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Temporary Speaker, I support the Kenya Roads (Amendment) Bill, which is before us. Like most Members have already pointed out, the law went against the Mwongozo Code of Governance, also tied to that amendment was the fact that the Act was changed to allow for non-engineers to be the Director-General of the Kenya Roads Board. That also needs to be looked at. I urge the Leader of the Majority Party to listen because we cannot have a Director-General of the KRB who is not an engineer, yet the people he is working with are engineers. That was also one of the mischievous amendments which were passed through this House. The Leader of the Majority Party should consider ensuring that the Director-General of the KRB is an engineer.

The Temporary Speaker (Hon. Omboko Milemba): Chairperson of the Departmental Committee on Finance and National Planning.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Speaker. First, I support the amendments proposed by the Leader of the Majority Party. This is a call to action for Members of Parliament because we are considering amendments that were sneaked in at the tail-end of the term of the 12th Parliament.

This is a call for all of us to be awake, especially towards the tail-end of a term, so that we do not pass amendments that we again have to cure in the subsequent Parliament.

Roads remains a very critical docket. The success of all the four factors of production, namely, land, entrepreneurship, capital and labour depends on their mobility, which is enhanced through our roads. If you want people to move from one place to another for work, or businesses to move their raw materials or finished goods to the market, or our children to go to school, roads are a critical docket. Therefore, we should take a keen interest in the people in those positions because roads are a backbone of the economy.

Roads are one of the aspects that marginalise parts of this country. Many areas are completely inaccessible. Some constituencies and counties do not even have an inch of tarmac. With regard to marginalisation and the Equalisation Fund, we must finally, faithfully, and fully deliver on roads to ensure that everyone in the Republic of Kenya has equal and transparent access to basic services.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Japheth Nyakundi. Please, be brief.

Hon. Japheth Nyakundi (Kitutu Chache North, UDA): Thank you, Hon. Temporary Speaker. I also want to support the Kenya Roads (Amendment) (No.2) Bill that has been tabled by the Leader of the Majority Party. The roads sector is very critical because it helps in the movement of goods and services from one area to another. As the Leader of the Majority Party

has said, the term of most CEOs is three years according to the Mwongozo Code of Governance. Therefore, it is also right if we reduce the term of the director-general of State corporations in the roads sector to three years. It will create equity among the ministry departments and agencies (MDAs) and parastatals. I support the Bill because it is critical for the roads sector. Recently, I overheard someone criticising the 7 per cent securitisation not knowing that it has helped us in unlocking the roads that were not funded.

I support the Bill. *Asante sana*.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Jematiah.

Hon. Jematiah Sergon (Baringo County, UDA): Thank you so much, Hon. Temporary Speaker. I also want to add my views on this matter. I thank the Leader of the Majority Party for considering this amendment in the Bill.

I once served as a director of the Rural Electrification and Renewable Energy Corporation (RREC) for three years and I was touted to serve for another three years if I were to be given the opportunity. The reason why I support this amendment is because today's attitudes in the work place are derived from peoples' personalities. The longer people stay in the same space, specifically in offices where they perform routine duties, the more they tend to lack efficiency. According to the Mwongozo Code of Governance for State Corporations, the three years was reviewed and it was considered for all the State corporations, Semi-Autonomous Government Agencies (SAGAs) as a reasonable time.

This amendment will give opportunity to other Kenyans to serve. I also support what the Chairman of the Budget and Appropriations Committee, Hon. Atandi expressed. In the future, we will consider professionalism. These are people who will run the day-to-day activities of the authority.

Lastly, this amendment will enable us to fight serious entrenchment of corruption. There is a survey that was done that showed the most corrupt people are those who have worked in a small area for too long because of complacency. This will help us fix most of the gaps that we have in the country and save resources, specifically on roads. We all need roads in this country. Through this legislation, we will save the country.

The Temporary Speaker (Hon. Omboko Milemba): Hon. John Mutunga.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Thank you for the opportunity to also contribute to the Bill.

The Bill harmonises the period that one is supposed to stay in office as a CEO with the provisions of the Mwongozo Code of Governance for State Corporations. That will create equity in service and give those who will be given the opportunity time limits to do their work and produce results. It will also regularise the time given. If someone has served for four years and was given a contract of five years, then they will also be given a contract to serve for five or six years. This creates equity.

When the Mwongozo Code of Governance for State Corporations was being done, it was realised that when people stay in an office for too long, they tend to be redundant. Therefore, that introduces the fact that we need to reduce redundancy in these offices. That will give other people an opportunity to serve in the same offices. Therefore, I support the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Hon. John Kiragu.

Hon. (Eng) John Kiragu (Limuru, UDA): Thank you, Hon. Temporary Speaker. I stand to support this amendment. This matter came to our Departmental Committee on Transport and Infrastructure and we discovered that it is outside the recommendation of the Mwongozo Code of Governance for State Corporations. This amendment will streamline this area and align it to the rest of the parastatals. It also provides an opportunity for somebody to prove themselves in three years. If they are found worth, there is the chance for a renewal. The amendment provides a transition clause for those who are about to get a renewal. This will bring order.

I support this amendment. This has been an issue that has been embarrassing to the sector, because it is an area that serves a lot of people. When these heads overstay, some of them stop being director-generals and start becoming contractors. I, therefore, support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Dido Raso.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Temporary Speaker. I rise to support this amendment. Roads are such an important asset and also the most expensive asset. Imagine in constructing a road you spend Ksh40 million per kilometre of tarmac road. It is such a precious commodity that we must safeguard in the first place.

The amendment seeks to limit how long a director-general stays in an office. Because we live in Kenya, we have learned that if a director-general stays longer, he becomes part of the institution and also part of the furniture of an office. Once they know that their terms are subject to renewal, it means they must work really very hard to win that trust and get additional time.

Currently, at KeRRA, KURA and KeNHA, the director-generals who have been sought through very competitive processes, tend to work very hard. More so when they are told that, ‘my friend, you have a term limit and you must competitively apply for that renewal’, they are likely to put in energy, motivation, and make those who are working under them to be efficient.

With those remarks, I beg to support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Yegon, are you in the House?

Hon. Richard Yegon (Bomet East, UDA): Thank you very much, Hon. Temporary Speaker. I also support this amendment which has been brought in by the Leader of the Majority Party.

The roads sector is a very sensitive sector in this economy. We need people who are very serious in their work there. Bringing these amendments of changing the term limit from five years to three years, that is renewable for another three years, means that somebody must work hard so that he can be given another term to serve in that position. This is, therefore, a very good amendment. I believe we will adhere to what the Chairman of the Budget and Appropriations Committee said, that we should also look into making sure that we get engineers to occupy those positions.

I beg to support.

The Temporary Speaker (Hon. Omboko Milemba): There being no further interest to contribute to the Bill, I call upon the Mover to reply.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. As I reply, allow me to thank the Members who have contributed in support of this Bill. Hon. Atandi has alluded to the fact that the Director General of the Kenya Roads Board is in office only because he is an engineer. I assure him that we will look at qualifications issue. I do not know whether the Kenya Roads Board deals with engineering work. Therefore, one may be the chief executive officer without being an engineer at the board level. However, the road agencies are in charge of implementing actual construction of roads. I agree that their CEOs must be engineers and ought to be professionally qualified.

The Kenya Roads Board is in the same sector with the road agencies. The only difference is that the road agencies are under the Kenya Roads Act, while the Kenya Roads Board is under the Kenya Roads Board Act. The fact that they are in the same sector, and in line with the principles set out in the Mwongozo Code of Governance, it is important to have consistency.

Section 12(3) and (4) of the Kenya Roads Board Act states that the director-general shall hold office for a period of five years and shall be eligible for re-appointment for one further term of five years. We will move a consequential amendment to this Bill, so that we bring the Director-General of the Kenya Roads Board under its ambit. This will ensure that the Director

General of Kenya Roads Board also serves a term of three years like the director-generals in the roads sector and everybody else in State corporations.

With those many remarks, I thank you, Hon. Temporary Speaker, and all the Members who support this Bill. The support is overwhelming, especially with the proposed inclusion of the Kenya Roads Board as suggested by Hon. Atandi.

I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Members, we shall defer putting the Question in this particular Bill to the next sitting.

Next Order.

(Putting of the Question deferred)

THE COUNTY PUBLIC FINANCE LAWS (AMENDMENT) BILL
(Senate Bill No.39 of 2023)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, considering the materiality of this Bill and that we have two minutes to the end of business today, I request that we defer this business to tomorrow in the afternoon.

The Temporary Speaker (Hon. Omboko Milemba): I rule that we follow what the Chairman has said. Let us be up standing. I thank the Members for staying very strongly up to this hour, at 9.00 p.m., to deal with all the businesses that require the timelines that we have set out. Some of the Bills that we have dealt with have timelines.

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, the time now being 8.59 p.m., this House stands adjourned until Thursday, 19th June 2025, at 2.30 p.m.

The House rose at 8.59 p.m.

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