

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Tuesday, 13<sup>th</sup> April, 2021**

*The House met at the Senate Chamber,  
Parliament Buildings, at 10.00 a.m.*

*[The Speaker (Hon. Lusaka) in the Chair]*

**PRAYER****ADMINISTRATION OF OATH**

*(The Senator-Elect for Garissa County entered the  
Chamber escorted by the Senate Minority Leader  
(Sen. Orengo) and Sen. Dullo)*

**The Senate Minority Leader** (Sen. Orengo): Hon. Speaker, it is my pleasure and privilege to introduce to you and the Senate, the Senator-Elect for Garissa County, Haji Abdulkadir Mohamed, of the Jubilee Party.

**The Speaker** (Hon. Lusaka): Welcome for the swearing-in.

The Oath of Allegiance was administered to the following Senator:  
Sen. Haji Abdulkadir Mohamed.

*(Applause)*

*(Sen. Haji Abdulkadir Mohamed approached  
the Bar, bowed to the Chair and took his seat)*

**The Speaker** (Hon. Lusaka): You may now take your seats, including the new Senator.

*(Hon. Senators took their seats)*

Next Order.

**POINT OF ORDER**CONGRATULATIONS TO THE NEW SENATOR  
FOR GARISSA COUNTY

**Sen. Khaniri:** On a point of order!

**The Speaker** (Hon. Lusaka): I see there is interest. As is our tradition, Senators would like to congratulate the new Senator in the Chamber.

Proceed, Sen. George Khaniri.

**Sen. Khaniri:** Mr. Speaker, Sir, are you giving me an opportunity to raise my point of order or to contribute?

**The Speaker** (Hon. Lusaka): I saw that you logged in.

**Sen. Khaniri:** Mr. Speaker, Sir, I want to bring to your attention that it has now become our tradition that when you swear-in a new Senator following a by-election, you allow Members to welcome the new Member.

Thank you, for giving me the first opportunity.

Allow me, on my own behalf, and that of the people of Vihiga County, who I represent, to congratulate and welcome the newly sworn-in Senator for Garissa County, Sen. Haji Abdulkadir Mohamed.

Mr. Speaker, Sir, the election of Sen. Haji which was unopposed is a clear demonstration that the people of Garissa have confidence in him. I would like to tell him that I came to Parliament many years ago under similar circumstances after losing my father.

When we were eulogizing his late father, the late Sen. Haji, I reminded the nation that my father, who was the Member of Parliament for Khamisi, died in Provincial Commissioner (PC) Haji's hands. They were in a function where my father collapsed and it is PC Haji who rushed him to Aga Khan University Hospital in Kisumu. He died in his hands in his Land Rover. That is the relationship that I had with his father. I called him dad and he called me son.

We cultivated a good relationship. This is because immediately after my father died in 1996, he led the campaign, as a PC, for my election in that by-election in 1996. I have been here ever since.

I know you are stepping in huge shoes. However, I have the confidence that you will fit in them. You will do as your father did. He was a respected man in this House and in the Republic. You must uphold those standards.

So, I wish you well and welcome you here. I would like to tell you that we are here to guide you. Always feel free to consult some of us who have been here long and have the experience. I am sure that you will succeed in your duties as the Senator for Garissa.

I wish you well, my brother. Welcome to the Senate.

**Sen. Wamatangi:** Thank you, Mr. Speaker, Sir. I take this opportunity, on my behalf, and on behalf of the people of Kiambu County and Members of the Jubilee Party, to congratulate and welcome the newly elected Senator for Garissa, Sen. Haji Abdulkadir.

He is a young energetic man who has won the confidence of the people of Garissa and the country. He has come into this Chamber with a track record. Although he was

newly elected, he is not a stranger to the minds and conscious of the people of this Republic for the heroic acts that he had earlier undertaken.

Without necessary greatly underscoring the size of the shoes of the man which he seeks to fit in, I trust and believe that he not only has the capacity but he also has the goodwill of the people of Garissa and that of the Members of this House. As Senators, we will encourage and support him to be as successful as his father was and more successful to the extent of his own ambitions.

Mr. Speaker, Sir, he did not take up a forced position; it was voluntary. He chose to follow the ambitions that his late father had followed. It must be a fire that burn in his belly. He has chosen to carry on that mantle.

I encourage and welcome him to this House. I welcome him to this House. This House will be better-of and will use the good mind and energy that he has to make debate better.

On the side of Jubilee Party, we are glad that the people of Garissa have shown that they have confidence in the Government of the day and the party that has nominated Sen. Haji to this House. We still have work to do for the people of Kenya. The people of this Republic also have confidence that the more better, newer and energetic minds that we get, we will deliver on the agenda of this country. That agenda remains unchanged. It is to transform the lives of our people and make them better.

So, as I welcome Sen. Haji Abdulkadir, I urge him to take it in his stride and hit the ground running. We are here with him and we will support him. We are happy that he is here. This House will be better with his involvement. I welcome and congratulate him.

**The Senate Minority Leader** (Sen. Orenge): Thank you, Mr. Speaker, Sir. I am extremely humbled by the fact that I was nominated by the Senator-Elect and his family to introduce him to you and the Senate.

Many Members here do not know but probably Sen. Fatuma Dullo knows that my relationship with the father of Sen. Haji Mohamed was deep and was for a long period of time.

There were many times I was in a difficult position and I would run to him for consultations and advice. That went on for many years even before he came to Parliament when he was still in the provincial administration. Therefore, I want to use the platform of this Chamber to again express my condolences to the family for the loss of Sen. Haji senior whom we condoled in a historic manner by having a special Motion moved and passed by the Senate.

I hope I will continue to have those relationships with the family, particularly with the new Senator.

Mr. Speaker, Sir, in many countries, heroes get elected in recognition of what they have done for their nation and country. This is one occasion when we can say this election was not a Garissa County affair, but one that was appreciated by the entire country. No political party in this Republic offered a candidate against Sen. Abdulkadir Haji.

This is a recognition that when we follow our better instincts, we can do great things in recognition of a young man who is now one of us. At a very critical time when this nation was the victim of a terrorist attack, he went beyond the call of duty to save the lives of Kenyans on that tragic day. This is not something that happens only in this country. In the United States of America (USA), war heroes like Eisenhower rose to very

high ranking and the most senior position in Government. There are astronauts who have been elected to the Senate of the USA.

I must also say here that there have been Senators and Members of the National Assembly who have been elected because of their good deeds. I hope it is of significance that both the Minority and Majority participated in introducing Sen. Abdulkadir Haji to you, and the Senate.

Mr. Speaker, Sir, I hope as we go through this difficult time in our nation, that it is at moments like this when we have amongst us, a leader who has been elected unanimously. I repeat; “unanimously”. He is not just a Senator for Garissa County. Sen. Abdulkadir Haji, I encourage you that you represent the whole of Kenya in this august House just like that day at Westgate Shopping Mall, when you went there to protect every life irrespective of tribe, race or status.

*(Applause)*

All the lives of the people you were defending mattered to you. You did not choose whom to defend or protect. The image of you ushering that little child will be in our memories for a long time.

As we look ahead, I hope you will be part of the solution in bringing this country to order so that the best things that should come out of this great nation should come from, us, as legislators and more particularly from you as a young man who now has this distinguished position of a Senator, and filling the very big shoes of your late father. I know you will be up to the task. Congratulations!

**The Speaker** (Hon. Lusaka): Sen. Halake, proceed.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. Allow me to join you and the rest of my colleagues in welcoming my brother, Sen. Abdulkadir Haji to the Senate. I also congratulate him on his unopposed election to the Senate of the Republic of Kenya.

As I stand here, I am proud, but also a bit emotional from the fact that our father sat exactly where Sen. Abdulkadir Haji is sitting. Today, you sit on his seat unopposed. As Sen. Orengo has said, your election is not just for Garissa County, but for the entire country.

As we know our father Sen. Yussuf Haji, gave you great values. The leadership of the Republic of Kenya is challenging, but with your solid values, conviction and commitment to service as we saw at the Westgate Shopping Mall during the attack, I am sure you will fly and take the people of Garissa County and this country to the next level.

I am proud to be serving with you. As I came to this Senate, I asked God for a good challenge, but also good people to work with. I have no doubt in mind that you are one of the best and finest people to work with. I look forward to working with you and I am proud of the person you are.

When the Westgate Shopping Mall attack happened, I was working for the Kenya Red Cross Society (KRCS). I was not inside, but I was outside in the medical tent. I did not watch you on television; I watched you live as you rescued a young girl and walked out with her. You went back in and I kept holding my breath wondering whether you would come back out.

They say a great person and the best value to have is courage and you have it. Please be courageous even in this House. There are many times that your courage will be

called to bear. There are many times that despite many challenges, your convictions will have to bear. I know you have what it takes. I know this Senate is a better place for your being here, and I know this country will be well-served by you.

Public service is an honour and a privilege that you are familiar with because you watched your father serve this Republic and you did it too. I know for a fact that this country is better off that we are making laws that will outlive many of us.

If there is a place to make consequential change, it is a House of Parliament. I did not know this, but I know it now. I know it is a promotion by many folds from where you were. It is something that will give you a chance to give this country the change it requires. I wish you all the best and look forward to working with you. You can count on me and everybody here because I am sure the goodwill is here. Welcome to the Senate and thank you for the service you have offered this country.

**The Speaker** (Hon. Lusaka): I can see a lot of interest.

*(The Speaker (Hon. Lusaka) looked at  
Sen. Mutula Kilonzo Jnr.)*

Since we have a huge agenda before us, I will allow only two minutes for those who will speak from now.

Sen. Mutula Kilonzo Jnr., proceed.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I do not know why you issued that directive while looking at me, but it is okay.

*(Laughter)*

Welcome to the Senate, Sen. Abdulkadir Haji! You join the list of Senators or Members of Parliament (MPs), including myself, who have come here by fate. This also includes Sen. Khaniri and the Senator for Homa Bay County, Sen. M. Kajwang', who is not here.

You are a hero. You are a Senator now. You are not a young man any more. You have to fit in the shoes of your father. Those are the statements they told me when my father passed on. The Right Hon. Raila Amollo said the king is dead, long live the king. I will repeat the same statement to you. I did not understand them then but now, I do.

Welcome to the Senate. You have come on the right day. I was just inquiring from the Clerk whether you will vote today. I am glad that you will vote today on a matter in which your own father defied every odd during the debate on the revenue sharing formula.

*(Applause)*

During that time at the heat of the pandemic and despite every request for your father not to come to this Chamber, he was here. He sat here waiting patiently for that debate so that Garissa County does not lose a shilling. Today, it is historic because you will vote for what your father did. I am so glad you are here.

Part of us who were defending and opposed a formula that would have taken the revenue of so many counties are glad that it has come to pass, that the division of revenue is coming today.

It is also not a coincidence that sometime next week, we will discuss something that your father was doing until his last breath – the Building Bridges Initiative (BBI). You will also be here to vote about an issue that your father did so passionately.

Welcome to the Senate. There are so many people here who will guide you. Legislators loved your father and will guide you on how to be a good Senator and how to debate. Do not feel sorry for yourself, it is fate and, therefore, we welcome you to the Senate. We hope we can be of assistance to you and the people of Garissa County.

I want to see you at the forefront with Sen. Dullo in creating peace in the dispute between Garissa and Isiolo counties because your father loved peace. In the middle of every crisis, your father said: “Let us have peace first.” Therefore, we want to see you towering like your father did.

To the people of Garissa County, as we pass our greetings of Ramadhan Kareem, you have saved this country resources by not having a contentious election. I must say so. Whatever form of democracy Garissa County has adopted, may this country have a peaceful election in 2022, where we do not quarrel about leadership. Your father stood for a peaceful country.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Ali, proceed.

**Sen. (Dr.) Ali:** Thank you, Mr. Speaker, Sir. Sen. Abdulkadir Haji, welcome to the Senate. As your elder and one of the elders from North Eastern, I welcome you with open arms, as a person who knows how things happen.

As Sen. Mutula Kilonzo Jnr. said, sometimes people disagree with our way of doing things. However, our way of doing things has resulted in this beautiful, election less, flightless process and we brought our Senator for Garissa County here without any problems.

Mr. Speaker, Sir, may I tell Sen. Abdulkadir Haji that people know many things here. Everybody has their way of doing things. Your way of doing things as a nationalist and Kenyan is okay and it is allowed. However, they say East or West, home is best. The people of Garissa County brought you here without any argument or anybody disagreeing with anything. Those of us who had ambitions were told it is not the right time because of what had happened.

With that, I advise you to hold the people of Garissa County with both arms. Hug and hold them the way they have brought you here. That is the way you will proceed and succeed. That is also what will help you in your political life.

That said, I thank all Kenyans and all parties for making sure there was no contestation and all parties supported you unopposed. The Jubilee Party and its *Kieleweke* or *Tangatanga* all supported him. The National Super Alliance (NASA) and others also supported him. Now, as Sen. Orenge said, you are a Senator for Kenya, Garissa County and all of us here. Welcome as the newest Senator.

Just recently, we had a by-election. I hope and pray that our old man is in *jinnatul firdaus*. We welcome you to the Senate. *Karibu sana*.

**The Speaker** (Hon. Lusaka): Sen. Were, proceed.

**Sen. Were:** Thank you, Mr. Speaker, Sir. I also join my colleagues in passing my message of congratulations to Sen. Abdulkadir Haji for being elected unopposed to represent Garissa County in this Senate.

I would also like to emphasize that you are not just a Senator for Garissa County. Your demeanor alone, just like that of your father, puts you into the leadership for all Kenyans. I look forward to working with you.

As you have been told, we will support you in every way. We were also new in this Senate. We have learnt the ropes and made mistakes along the way. I do not think we are where we were when we came in. Do not be afraid to make mistakes. This microphone can be intimidating knowing that the world is watching you. However, with practice you will make it. I am sure the speakers on the Chair will continue to give you chances so that you practice and become the leader we expect you to be.

You are already a fighter for social justice like many of us are. We know that you will step into those shoes and fight for justice in this country. Where you see something is wrong, correct it. Remember that you represent the people especially the downtrodden. That is why we are here. We are not Members of the Executive, but the Legislature elected by the people.

Mr. Speaker, Sir, I also thank the people of Garissa County for helping us avoid a by-election that would have put us in another bad mood in this country. They went for what I call “guided democracy”.

I not only thank Garissa, but the whole of North Eastern that takes this method of putting leaders into place.

Welcome, Sen. Haji Abdulkadir Mohamed.

Thank you, Mr. Speaker, Sir.

**Sen. Murkomen:** Thank you, Mr. Speaker, Sir. I want to congratulate Sen. Haji Abdulkadir Mohamed. I have always assumed he is a very young man. Therefore, when I came in, I was joking with him. I realized he was a little bit older than me even though he looks 25 years old.

*(Laughter)*

Mr. Speaker, Sir, we, as a Senate, are privileged to have him here with us. He is a man who has already established his legacy in the Republic. He is a person of integrity, great knowledge and was well mentored by the late Sen. Yusuf Haji. Like many of us have said, we really admired your father. He was a great friend of mine and to almost everybody in this House. I do not know any one person who had an issue with your father. He was a father figure to all of us. He did a fantastic job as the Chair of the Committee on National Security, Defence and Foreign Relations. He was a Senator who was willing to go out of his way to advise us.

One of the memorable moments for me with him was shortly before he fell sick. We were together in ‘Team Kenya’. We used to meet at Sen. Mutula Kilonzo Jnr.’s Office. This was because when he got tired, he would go and rest in Sen. Mutula Kilonzo Jnr.’s office. I had a profound conversation with your father, particularly I asked him what he was going to do in this division of revenue debate, where the request of the President was against his values and principles.

He had no doubt in his mind. He stood firm and told me that, “I am loyal to the people of Garissa County.” I want to tell you this, it is possible for you to become, to think and represent the people of Garissa and still be national. It was possible for us, who were supposedly gaining at that moment in the formula that was presented, who thought that it was possible to defend Kenya and still benefit Elgeyo-Marakwet County.

Although many people are saying you need to fit into father’s shoes, it is also possible for you to establish your own shoes. Establish your own legacy, learn from the mistakes of your father, but also emulate the many positive attributes that he had, so that you can establish yourself as a leader at your own right. You only have 16 months before you face another election.

You came here, not because people sat down and agreed that you will be the Senator of Garissa County. It is because you could not find a challenger. Otherwise, if you had a challenger, I still believe you would win. It is good to have a competition. I doubt if you will come here unopposed next year. You have an opportunity now to establish yourself for the shortest period of time. Leave a lasting legacy.

Thankful, you will not be the only one. Sen. Cheruiyot came around the same time last term and a few more Senators who have served here less than 15 months and were re-elected. I believe that in these 15 months, you will leave a lasting legacy that will ensure that me and you will come back in the next term. Perhaps, you will play even a bigger role in the next Senate.

Lastly, on matters BBI, there were things your father was concerned about inside the BBI Report. I want you to have a conversation with a few of us, including Sen. (Dr.) Ali from Wajir, Sen. Mutula Kilonzo Jnr., and participate in shaping the BBI Report that is coming before we can be told to pass it in a manner that is going to benefit all Kenyans and protect all Kenyans, primarily the people of Garissa and the marginalized counties.

I thank you, Mr. Speaker, Sir. I would like to congratulate Sen. Haji Abdulkadir Mohamed and welcome him to this House. We will work together on behalf of all hustlers and the hustler nation. You are welcome to the Senate.

*(Laughter)*

## COMMUNICATIONS FROM THE CHAIR

### VISITING DELEGATION FROM GARISSA COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Speaker’s Gallery this morning of a visiting delegation from Garissa County.

I request each Member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition. They are-

1. H.E. Abdi Dakane Muhamud - Deputy Governor
2. H.E. Nathif Jama - Former Governor
3. Hon. Sophia Abdi Noor - MP, Ijara
4. Hon. Aden Bare Duale - MP, Garissa Township
5. Hon. Abdikarim Osman- MP, Fafi
6. Major General (Rtd.) Bashir Yusuf



7. Anas Ibrahim
8. Mohamed Osman
9. Fahmy Ismail Shaiye
10. Harun Mohamed Yussuf
11. Bashir Ismail Buro
12. Amina Mohamed Haji
13. Zahra Mohamed Haji
14. Issa Ibrahim Mahat
15. Abdinasir Ali Bare
16. Abdullahi Mohamud Haji
17. Abdulkhalif Haji
18. Mohamed Hassan Ahmed
19. Mohamed Rashid Ahmed
20. Ahmet Aydin
21. Mohamed Barkadle
22. Mohamed Nurdin
23. Abdulhaq Nurdin
24. Gumato Ukur Yattani

Hon. Senators, on behalf of the Senate and on my own behalf, I welcome the delegation to the Senate and wish them well for the remainder of the visit.

I thank you

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity to join you and my colleagues in congratulating the Senator for Garissa County, Sen. Sen. Haji Abdulkadir Mohamed.

Mr. Speaker, Sir, Sen. Haji Abdulkadir Mohamed is probably my age-mate. My first encounter with him was in 2013 at the Westgate Mall Saga. That week, I had just left the *Nation Media Group* and joined the *Standard Media Group* where I was appointed the Managing Editor for *the Sunday Standard*. That weekend, my first story was the story of the Westgate Mall. That is when I encountered his heroic actions. I want to take this opportunity to tell him to feel most welcome in the Senate of the Republic of Kenya.

Many people have made reference to what your father did. I will give you a completely different piece of advice. My brother and neighbour, just be Sen. Haji Abdulkadir Mohamed. Do not try to be Sen. Yusuf Haji. This is because when you try to do so, I can tell you for sure that it may be very difficult for you to fit in those shoes that we are making reference to. It may not be very easy for you to deliver services to the people of Garissa County within the remaining time of 16 months.

Secondly, if he chooses to travel to Garissa by road, he would pass by Kitui County and cover a distance of not less than 130 kilometres. Garissa and Kitui are good neighbours. I want to urge my colleague that we continue to cultivate the good relationship that the people from my community and the original residence of Garissa have to make sure that they co-exist peacefully and harmoniously and continue to do business together.

Lastly, Mr. Speaker, Sir, he will be called upon to vote on the Division of Revenue Bill. You have an opportunity to actualize a very firm decision that your father took alongside those of us who belonged to 'Team Kenya'; a group of Senators who

believe that this country is bigger than any individual county. Therefore, you will have that opportunity. Lastly, he will have the opportunity to vote on the BBI Report.

I want to tell you without blinking an eye that, that is a very controversial report. When we get there, the people of Garissa will be looking up to you to see the decision you will make because this is about them before it is about this country. It is about my people in Kitui, the people of Isiolo and the people in each county before it is about the people of this country.

Mr. Speaker, Sir, I congratulate and welcome him to the Senate. I also thank the delegation from Garissa County for accompanying their son and leader to the swearing in.

**The Speaker** (Hon. Lusaka): We shall have Sen. K. Muthama virtually.

**Sen. Kavindu Muthama:** Thank you, Mr. Speaker, Sir, for this opportunity you have given me and the people of Machakos who elected me to represent them in the Senate to congratulate and welcome Sen. Abdulkadir Mohamed Haji.

I was really looking forward to meeting and also working with him because I worked with his father in the BBI Task Force. He was our Chairman of the Steering Committee. He was such a jovial man and a man of the people. Even when moods were not good, he made a joke that everybody laughed and continued working.

I am looking forward to working with you. You are not the only new one here because I also joined the Senate the other day. So, we are going to learn together and deliver to our people.

Congratulations and welcome to the Senate, Sen. Abdulkadir Haji.

**Sen. Dullo:** Mr. Speaker, Sir, let me take this opportunity to join you in congratulating and welcoming Sen. Abdulkadir Haji to the Senate. I am really delighted and grateful for this final conclusion which is swearing in of Sen. Abdulkadir Haji. I am saying so because I served with the late Sen. Haji in the previous Senate as his Vice-Chairperson of the Committee on National Security, Defence and Foreign Relations. He used to sit where the Senate Majority Leader is currently sitting.

Before Sen. Haji passed on, he introduced me to his family as one of his family members and I am really grateful for that. When we were deciding on who was to escort Sen. Abdulkadir Haji to the Chamber, the mother said it must be me and Sen. Orenge. I am really grateful for that and also blessed as a result of that.

We started the journey of Sen. Abdulkadir taking over the seat of the father when we had a family sitting. I must appreciate the family led by General Bashir who is brother to the late Yusuf Haji. When we had the meeting, the brother to the late said we were ready and all family members must support Abdul for the seat. Congratulation to the family and be blessed.

Secondly, I congratulate the people of Garissa County, especially the political and religious leaders, including the current and former governors who actually mobilised all their clan members to support the plan of ensuring that Abdulkadir takes over the seat of the father. The late Sen. Haji was not only the Senator for Garissa County; but he was a Senator for this country simply because of what he did.

The late Sen. Haji brought up his family the same way he steered this House as a leader and a man of wisdom. If you go to the grassroots, you will find that his grandchildren and great grandchildren are people who were brought up in a good environment. If you interact with them, you will see the late Sen. Haji in them. You will

see the humility and the respect they have. Today he is not with us, but his spirit is with us. May the Almighty Allah give him *Jannah Firdaus*.

Sen. Abdul, you have been a leader before coming to the Senate. Let me confirm to this House that Sen. Abdul used to campaign for the father. This is not the first time to campaign because he used to do it for the father. You are not new to politics and campaigns. You have been a public servant and, therefore, you are up to the task. You must steer the people of Garissa to the next level and ensure that whatever *Mzee* left behind is implemented. We will assist you in achieving that.

Sen. Abdul, I think you have done a lot. In fact, last week on Friday, they were in Ijara trying to implement one of the activities the father started. I was really impressed with the kind of speech you gave to the people of Ijara. I know there are very close family members who supported you to make sure you come to this level and I know you are capable of doing your job. Do not let down the people of Garissa County because they have bestowed that confidence in you.

I must thank individually the politicians from Garissa who are here, especially *Mheshimiwa* Sofia and the entire family. They went footing throughout the process to ensure that things were successful. Welcome to the Senate and make sure you understand all the procedures. We will assist you.

Let me confirm to you, Sen. Abdulkadir. *Mzee* never failed to come when there was a very important agenda in the House even when he was sick. He would call and ask me whether to come. When there was no important agenda, I would tell him not to come. You must follow his footsteps. Ensure that you establish your footsteps as a leader in this country.

I know Senators will assist you to achieve all your objectives. The Secretariat is also hardworking and active. They always ensure that Members of Parliament (MPs) who are sworn in settle. Therefore, you are in good hands. What remains is for you to deliver to the people of Garissa County and what your father and the family stands for.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Let us stick to two minutes. Proceed, Sen. Iman.

**Sen. Iman:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to congratulate and welcome my brother Sen. Abdulkadir Haji. First of all, I thank God for every process we went through. I also wish all Muslims across the globe *Ramadhan Mubarak*.

Today reminds me when we were sworn in in August 2017. The late Sen. Haji walked me to this Chamber. I wish I did that, but because there were some other arrangements, I could not. I wish him all the best.

Mr. Speaker, Sir, I want to thank all the communities in Garissa that unanimously accepted my brother Abdulkadir to be the Senator for Garissa County. I also thank all the leaderships of Garissa, the Muslim community and Islamic leaders for unanimously accepting him to be the Senator. Welcome to the Senate. I wish you all the best and we will work together *inshallah*.

I thank you.

**The Speaker** (Hon. Lusaka): Sen. Moi, proceed through virtual.

(*Technical hitch*)

Okay, seemingly we cannot get him. Sen. Faki, proceed.

**Sen. Faki:** Asante, Bw. Spika, kwa kunipa fursa hii nijiunge na Maseneta wezangu kumpa kongole Sen. Haji Abdulkadir Mohamed ambaye alichaguliwa bila kupingwa kama Seneta wa Kaunti ya Garissa. Viatu anavyovaa ni vikubwa sana. Sisi Maseneta wenzake tuna jukumu la kumsaidia ili kuona kwamba anatekeleza jukumu lake kama Seneta wa Kaunti ya Garissa na pia kama mtumishi katika nchi yetu.

Bw. Spika, tajiriba yake inajulikana na hakuna haja ya kuikariri hapa. Mtume wetu Suleiman anasema kwamba mtu anapoondoka duniani huwa amali yake imekwisha isipokuwa mambo matatu. Kwanza, ni *Sadaqah Jariyah* yaani sadaka ambazo ametoa mbeleni ambazo zitamsaidia. Pili ni mtoto mwema ambaye atafanya mambo mazuri na tatu ni kama aliweza kujenga shule ama kuwasomesha watoto ambao wataweza kumuombea dua.

Bw. Spika, marehemu Sen. Haji aliweza kutekeleza mambo hayo yote matatu. Mtoto wake Sen. Haji Abdulkadir Mohamed wakati kulipokuwa na shambulizi la kigaidi aliweza kuwatetea watu ambao hawajua kabisa. Na hiyo ni ishara kwamba ni mtoto mwema. Kwa hiyo, ninamtakia kila la kheri katika jukumu lake jipya kama Seneta wa Kaunti ya Garissa.

Jambo la mwisho ni kumshauri kuwa marehemu Sen. Haji alikuwa na jukumu la kitaifa. Aliweza kuhudumu Serikalini katika nyanja mbalimbali na alitegemewa na wengi kusimamia maswala mazito ya usalama katika Seneti. Hata alipochaguliwa kuwa Mwenyekiti wa Pili katika Kamati ya BBI ilikuwa ni jukumu lake kubwa sana. Hii iliiona kama nafasi ya kuwaunganisha Wakenya.

Unapochukua majukumu yako ndugu Sen. Haji Abdulkadir Mohamed ni lazima ufuatilie kwa makini na ufuate nyayo za mzee kuhakikisha malengo aliyoyasimamia hayawezi kutofautiana na malengo yako binafsi.

Mwisho, kuna baadhi wameanza Ramadan leo na wengine wataanza kesho. Nachukua fursa hii kuwatakia *Ramadan Mubarak*. Ndugu yangu ameapishwa wakati tunaanza mwezi mtukufu wa Ramadan leo, hii ni heshima kwetu sote.

**The Speaker** (Hon. Lusaka): Sen. Moi, proceed.

**Sen. Moi:** Thank you, Mr. Speaker, Sir for giving me this opportunity to congratulate our brother, Sen. Haji Abdulkadir Mohamed. I would like to wish him Godspeed in his new career and tell him that we truly respected his late father. Mine is just to wish him well and Godspeed.

*Karibu* to the Senate.

*(Sounds of bleating of goats heard)*

**The Speaker** (Hon. Lusaka): Sen. Moi, Order! We cannot allow strangers in the name of 'goats' in the House.

*(Laughter)*

**Sen. Moi:** Mr. Speaker, Sir, I am in my county. *Niko na wananchi*.

**The Speaker** (Hon. Lusaka): Sen. Farhiya, proceed.

**Sen. Farhiya:** Thank you Mr. Speaker, Sir, for giving me this opportunity to congratulate our brother Sen. Haji Abdulkadir Mohamed for being elected as the Senator

for Garissa County unanimously by all the residents. Like Sen. Orengo said, he is a Kenyan Senator, not a Garissa Senator alone because all the parties decided to support him.

He is a household name. He made his own name during the Westgate attack. Up today, he is our hero and many Kenyans knew him through that attack.

Mr. Speaker, Sir, I also watched his interview on *Citizen Television* and I realized he will hit the ground running. He was so eloquent, good, precise and to the point. He is an admirable young man.

We used to call his father “*baba*” in this House. That is the people who just joined politics from our region recently. He gave us advice that was life-changing in terms of our political careers when we first came to this Chamber.

Mr. Speaker, Sir, the late Sen. Haji was not only a peacemaker in the whole country, but even in terms of northern Kenya region where there is a lot of conflicts. Every time there was a conflict in northern Kenya, he was always there. I am sure Sen. Haji Abdulkadir Mohamed will step on those shoes because he is a hero by his own standards in the first place as was seen in the Westgate Attack. I have no doubt that he will achieve a lot.

Mr. Speaker, Sir, I want to advise him that our primary role in this House is to defend counties and their governments in terms of resource sharing and good governance. We normally even have conflict with our sister House in terms of resource allocation to the counties, but Senators always stand with the counties. I hope that county governments will use those resources we fight so hard to get for them. Let me give you the example of the current formula that is giving a lot of resources to the counties. I hope that money will be utilized well.

Mr. Speaker, Sir, allow me also to wish all the Muslims *Ramadan Mubarak* and may it be a blessed month. As Muslims, let us pray very hard so that this pandemic in our county and everywhere else in the world that Allah brings his mercy so that it leaves this country and everybody else get the blessing of this month.

I thank you.

**The Speaker** (Hon. Lusaka): Sen. (Prof.) Kamar, proceed.

**Sen. (Prof.) Kamar:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to welcome Sen. Haji Abdulkadir Mohamed to the House. May I take the first opportunity to congratulate him and I was very surprised that he chose the seat of the father because the father always sat there. Maybe somebody chose it for him.

Secondly, I want to thank the people of Garissa County for making it very easy for us to remember the late Sen. Haji. They did not want any competition. They just decided chose one person and that is son. I thank the family. We are told that the family sat and made a clear decision. That means you have a lot to do to maintain the position you have been given. When something is given very easily, maintaining it becomes a challenge. However, we have no doubt because, as we said, we have known you from before because of your other activities. Fitting into the shoes of your father is something that we want to encourage you to do.

Mr. Speaker, Sir, we are very grateful, some of us, to your father. We were not able to say it to the family at that time, but we also said in this House. We hope you will get the copy of the HANSARD to the family because we said a lot of good things about your father when we were eulogizing him.

Personally, I come from the North Rift. We knew Sen. Haji as the Provincial Commissioner (PC). Sometimes we joked when he was here and I could refer to him as my boss the PC because that is who he was. He was a man of peace and integrity.

Mr. Speaker, Sir, I first met him when he was the District Commissioner (D.C) in Trans Nzoia. I believe that Sen. Abdulkadir Haji was already born. In fact, sometimes I looked at him and asked him how many schools his children went to. This is because they were as mobile as his good heart was. Anywhere that needed healing or reconciliation, Sen. Haji was the person.

When he came to Trans Nzoia, he came there to lift us back because of an election that had a lot of conflict. I want to say congratulations on behalf of the people of Rift Valley. When he was in Rift Valley, he made a mark by being a very neutral and very just administrator.

We believe that that blood is running in Sen. Abdulkadir Haji. Kalenjins believe that a lion cannot give birth to a wolf. We, therefore, believe that he is the lion that was left by Sen. Haji. We believe that his children are lions, they are not wolves.

I encourage Sen. Abdulkadir Haji to follow the footsteps of his father from what he did when we had a calamity in this nation. He volunteered the same way his father had a very strong voluntary attitude.

I say this out of experience because he changed a lot of things for those of us who worked with him very closely. He himself actually mentored me a lot into leadership. Therefore, he should be the mentor that the people of Garissa want. He should be the leader that the people of Garissa need. He should stay in the shoes of his father and be the national leader that all of us are expecting.

Thank you family and the leadership from Garissa, because this is a very big statement that he has made to the nation of Kenya. In future, I think we should be seeing other parts of the country talking in a cohesive manner. This is because conflicts that come in within a county do not help anybody. I congratulate Garissa for a show of unity and love for their late leader.

With those remarks, congratulations, Sen. Abdulkadir Haji, and welcome to the House.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. I join you and fellow Senators in congratulating Sen. Abdulkadir Haji and welcoming him to this House. Kenyans and the people of Garissa must know that Sen. Abdulkadir Haji is a very courageous young person.

This was demonstrated in the act that he did during the Westgate terror attack. That was already indicative of the fact that he has the courage to represent Kenyans and make laws that can be enforced to ensure that Kenyans live well. He also has the courage to oversight. In this young man, I see a legislator who is able to represent his people and make laws that represent the people effectively. He is also able to oversight.

However, I say to the Senator that he has the goodwill of the people of Garissa, not the goodwill of all the parties. No party floated a candidate to challenge you. That, therefore, tells him that he is the face of Kenya and he needs to maintain that face of Kenya that was reflected in his father. His father had the face of Kenya. He was impartial and was warm to everyone despite the political divide.

Sen. Abdulkadir can fit into his father's footsteps. When I look at him, I see a legislator who will stay in this House for many years, because the people of Garissa have spoken in one voice. He has their goodwill and, therefore, he has to nurture it so that he comes back next time, so that the people can benefit from him being in the House.

Mr. Speaker, Sir, thank you for giving me this opportunity to welcome a young man who did a heroic act. To be honest, these are some of the people who should be given national recognition. For many people, when they see gunmen coming, even the courageous people run away. However, Sen. Abdulkadir Haji was courageous enough to ensure that he saved a life. This act must be recognized nationally.

Welcome to the House.

**The Speaker** (Hon. Lusaka): Sen. Madzayo.

**Sen. Madzayo:** Shukran, Bw. Spika. Kwanza ningependa kutoa kongole kwa niaba yangu na ya watu wa kaunti ya Kilifi kwa ndugu yangu, Sen. Abdulkadir Haji, hususan watu wa Garissa kwa kumchagua Sen. Abdulkadir Haji kama Seneta wa Garissa bila upinzani wa aina yoyote.

Sen. Abdulkadir Haji ni kitinda mimba wa Seneti. Kawaida ya sisi watu wa Pwani na Wakenya kwa jumla, huwa tunasema kwamba kitinda mimba ni mtoto wa mwisho anayependwa na kila mtu. Ninahakika kwamba tumeshaona vile watu wamekupokea katika Seneti na wamekua na imani na upendo kwako. Usibwage *morale* ya watu wa Garisaa kama Seneta wao. Wapee heshima vile Sen. Haji aliwapea heshima.

Pili, Abdulkadir Haji si jina geni katika Kenya; alionyesha umaarufu wakati Kenya ilipigwa na magaidi kwa kitendo cha kumtetea na kumbeba mtoto mchanga ambaye aliahidiwa kuwa ana miaka mingi ya kuishi. Ni kitendo ambacho kilivunja roho za Wakenya wote. Wakenya wote walimpenda kwa ukakamavu wake na ujasiri alio nao.

Mimi binafsi ninasema kwamba yeye ni shujaa na Seneta wetu. Karibu sana katika Jumba la Seneti. Hili ni jumba ambalo atajifundisha mengi. Ataketi na waheshimiwa ambao wamekua na *experience* kubwa sana kama Sen. Haji. Sen. Abdulkadir Haji ataweza kujifundisha na nina hakika kuwa atafaulu katika njia zake zote za kutekeleza kazi yake kama Seneta.

Isitoshe, watu wa Garisaa hawakukosea hata kidogo. Walionyesha msimamo na matumaini. Wazee wa kule Garisaa wakiketi na kumwomba Mungu ampe ndugu yetu maisha marefu, ushujaa utaendelea kuonekana, na watu wa Garisaa watapata usaidizi. Vile Sen. Haji alikua anawapatia matumaini, ndivyo yeye pia atawapea.

Bw. Spika, ukiniruhusu kumaliza, kwa Waislamu wote, kama vile ndugu yetu aliyekuja katika Seneti, huu ni mwezi mtukufu. Mwezi utanza kesho na Waislamu wote katika Kenya watakua wakifunga katika huu mwezi mtukufu. Mimi nawataki kila la heri Waislamu wote walio Kenya. Wawe na mwezi mtukufu wa Ramadhan na Mwenyezi Mungu awe pamoja nao.

Shukran, Bw. Spika.

**The Speaker** (Hon. Lusaka): Sen. (Eng.) Hargura.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. I join my colleagues in congratulating and welcoming Sen. Abdulkadir Haji, the new Senator of Garissa, on my own behalf and that of the people of Marsabit County.

The people of Marsabit are very grateful to his late father, Sen. Yusuf Haji. This is because when we went through what we did in 2013, after the first elections under the Kenya Constitution, 2010, it took his intervention and that of the former Speaker, Hon.

Francis ole Kaparo, to bring order to the people of Marsabit County, especially Moyale area, where people had gone to the extreme of burning their houses. Some of them even became refugees in the neighbouring country.

The election of Sen. Abdulkadir Haji is something unique, especially to the pastoralists of this country. Recently, I was talking to a public servant concerning some Government issues in my county. That public servant coming from a non-pastoralist part of this country was very bitter with how pastoralists conduct their issues on tribal and clan lines. We fight and do all our things in that direction. Surprisingly, in the same breath, he mentioned the name of the late Sen. Yusuf Haji as one of the leaders he had seen from northern Kenya who were not involved in tribal or clan differences in their dealings.

Now, again, the people of Garissa in his honour, have done something that the pastoralists of this country, especially from northern Kenya need to emulate. We need to use this opportunity to make sure we practice this kind of negotiated democracy, where we use it to unite our people instead of dividing ourselves along clan and tribal lines, which I am sure the people of Garissa have now shown that we can overcome.

Let us implement it even in our own way of life. We can also overcome clashes over pasture in honour of this kind of a great leader, as the people of Garissa have shown.

Lastly, I welcome you to this House. We normally say that the first time you are given; the second time it is you to work for it. Now, you have the opportunity to work for this and prove to the people of Garissa that you are up to the task and can represent them, so that they can give you another chance.

Welcome.

**Sen. Seneta:** Thank you, Mr. Speaker, Sir, for giving me a chance to welcome Sen. Abdulkadir Haji. On my behalf and that of the people of Kajiado, I also congratulate and welcome him to the Senate.

His late father, Sen. Yusuf Haji, was a well-known Senator by the people of Kajiado when he worked as a Provincial Commissioner (PC) for many years in the Rift Valley. He was valued because of his vast knowledge on issues to do with pastoralists.

We are happy that the people of Garissa have extended that value to his son by giving him a chance to serve in this House. I wish him well and pray for him as he serves the people of Garissa. I urge him to look at policies and legislations that will help the people of Garissa and pastoralist communities as a whole.

His father whom I used to sit right behind, where you are seated now, used to interact well with all Kenyans. He used to interact well with women and the pastoralist communities, especially when there were issues dealing with marginalized communities.

He was rich in knowledge and could read quite a lot. I remember the last time we spoke with him before he became sick, we were looking at the boundaries of Makueni and Kajiado, where there is some dispute. He had a lot of knowledge such that even without looking at the books, he could tell a long history concerning our counties.

We wish you well and thank the people of Garissa, especially the leadership of Garissa County and the family, for entrusting you with this responsibility. We also urge you to oversight those resources that your late dad used to fight hard for. He would always stand for allocation to counties.

Whichever side of the debate, he would make sure that benefits went to our counties. I urge you that as you serve the nation as a whole, make sure you also be very



specific and alert on issues that affect the people of Garissa, especially the resources that go there. Make sure they are used in a transparent manner.

Thank you.

**The Speaker** (Hon. Lusaka): Proceed, Majority Leader. The rest, I will give you an opportunity in our second Order.

**The Senate Majority Leader** (Sen. Poghisio): Thank you very much, Mr. Speaker, Sir. I take the earliest opportunity to join you and the Senate in welcoming the latest and newest Member, Sen. Abdulkadir Haji, the Senator of Garissa.

I congratulate the young Senator whom I had the privilege of working with and knowing, on top of working with his father, the late Sen. Yusuf Haji. I wish him and his family the happiest moment they now have. I thank the people of Garissa, who have shown wisdom in making sure that they do not disrupt progress.

They have not known any disruption since they lost their Senator. As soon as he passed on, the young son, who is now Senator and the teams up there, took up the challenge and continued with the activities of the Senator. The people of Garissa never felt a loss in terms of the work that was in progress. Therefore, the coming in of young Sen. Abdulkadir Haji is not a surprise to most of us who know him and the credentials he comes with.

Mr. Speaker, Sir, I also thank the Members of the Senate who helped. I remember the Deputy Majority Leader working very hard to make sure we have this swearing-in today, and many of the Members who supported that. My only advice to Sen. Abdulkadir Haji is that you are now a full Senator. You should not do anything in half measures. You are the Senator of Garissa, and basically, in your full shoes. There are no more excuses about whether you are now new or inexperienced. We know you can run and do the work that is before you.

Just know that you have been elected to the Majority side. You are on the right side of the House.

*(Sen. Mutula Kilonzo Jnr. spoke off record)*

The main thing you need to remember is that we have offices and the Office of the Speaker, Office of the Majority Leader, Office of the Chief Whip and the others are open. We have an open-door policy and you can come in.

By the way, you need to know that there are some--- Of course, I know everybody wants to push you to think in terms of some side-shows. There are some side-shows that you heard from Sen. Mutula Kilonzo Jnr., Sen. Murkomen and others about the team that was there. That is history.

**Sen. Mutula Kilonzo Jnr.:** *Hakuna.*

*(Laughter)*

**The Senate Majority Leader** (Sen. Poghisio): We now have a balanced formula that has been used in this year's Division of Revenue Bill.

Mr. Speaker, Sir, I just want to encourage ourselves that when a new Senator comes in - you saw how that was done when the Leader of the Minority in his own right and the Deputy Leader on this side escorted the young new Senator - that already makes

sure that we are working across the aisle with each other. That was a very good thing they did to be seen to be working across the aisle.

Ramadhan Mubarak to you and your family and to all Muslims in this country and the world as they start this journey that is about to start today and maybe tomorrow.

Mr. Speaker, Sir, we all want to welcome the young Senator from Garissa. We call him young - of course he is young because I am older - he is older than some of these other people around here. I call him young because I know him that way.

I want to conclude by saying that Sen. Yusuf Haji trained his family well. He travelled in this country with his family wherever he worked. So, they are already nationalists. Sen. Haji Abdulkadir was always there everywhere the father went. He is a nationalist and that is why he portrayed heroism that we all know. So, he can do it here. He is eloquent, brained and he can run the County of Garissa and be part of the national agenda.

Congratulations again and welcome to the Senate.

Thank you.

#### CONVENING OF SPECIAL SITTING OF THE SENATE

**The Speaker** (Hon. Lusaka): Hon. Senators, it is my pleasure and privilege to welcome you to this Special Sitting. I hope that you have been adhering to the COVID-19 protocols and have now been vaccinated.

On the request of the Senate Majority Leader and with the support of the requisite number of Senators, I appointed today, Tuesday, 13<sup>th</sup> April, 2021 as a day for a Special Sitting of the Senate vide Gazette Notice No. 3298, dated 9<sup>th</sup> April, 2021.

In the Gazette Notice, I indicated that the business to be transacted at this Special Sitting shall be swearing-in of the Senator-elect for Garissa County and the consideration of the Division of Revenue Bill (National Assembly Bills No. 7 of 2021).

As you may recall, the Division of Revenue Bill (National Assembly Bills No. 7 of 2021) was tabled in the Senate on 30<sup>th</sup> March, 2021 pursuant to Article 218 (1) (a) of the Constitution and Standing Order No.181 (1) which provide that at least two months before the end of each Financial Year, there shall be introduced in Parliament a Division of Revenue Bill.

Further, Standing Order No. 181(3) provides that the Senate is required to conclude the consideration of the Division of Revenue Bill not later than 14 days after it has been introduced.

The Division of Revenue Bill (National Assembly Bills No. 7 of 2021) is critical because it provides for the division of revenue raised nationally among the national and county levels of government as required by Article 218 of the Constitution.

Further, the Supreme Court Advisory, Reference No. 3 of 2019, noted that the enactment of an Appropriation Act cannot precede the enactment of the Division of Revenue Act. The Appropriation Bill is crucial as it authorizes the national Government to withdraw money from the Consolidated Fund for the expenditure of the national government.

Consequently, the timely passage of the Division of Revenue Bill (National Assembly Bills No. 7 of 2021) is critical as it will inform the Annual Budget Estimates and the Appropriation Bill.

This is the reason for convening this Special Sitting and as provided in Standing Order No.137 (2), we shall consider the Bill at Second Reading, Committee of the Whole and the Third Reading.

In accordance with Standing Order No.30(5), the business specified in the Gazette Notice, and as outlined in the Order Paper shall be the only business before the Senate during the Special Sitting, following which the Senate shall stand adjourned until Tuesday, 11<sup>th</sup> May, 2021, at 10.00 a.m. in accordance with the Senate Calendar.

I thank you.

Before we do that, just like I have said, we shall adjourn until May, I would like to take this opportunity to give Sen. Abdulkadir Mohamed Haji an opportunity to make his maiden speech before we proceed.

**The Senator for Garissa County** (Sen. Abdulkadir Mohamed Haji): Thank you, Mr. Speaker, Sir, for giving me this opportunity to address this Honourable House.

I want to begin by expressing my gratitude to the Almighty God. I am grateful for his never ending grace, mercy and blessings, which have seen me through this past very difficult weeks.

As I rise to speak for the very first time today, I feel a profound sense of gratitude to the people of Garissa County. It is a remarkable privilege and honour they have given me to serve as their Senator.

The people of Garissa are optimistic, hopeful, patriotic, hardworking and determined people. A people defined by their values, traditions, culture and artefacts handed down by previous generations. A people with high aspirations for a better future and who continue to overcome great odds to play their part in nation-building. This is the character of the people I represent and these are the people I am honoured to serve.

To the elders, political leaders, women and youth leaders of Garissa County, I say thank you. You have shown what is possible when everyone is brought together at the table of brotherhood. You have shown that it is possible to reach consensus.

In the course of my service, I want to assure you that my key agenda will be to always strive to ensure that no matter the difference in opinion or position on issues, we will always have a platform to express them, be heard to reach a consensus for the good of our people and counties. I want to assure you that I will strive and do my very best to uphold the trust you have placed in me to be your voice inside and outside this House.

I also want to thank my Party Leader, His Excellency the President of the Republic of Kenya and my party for the overwhelming show of confidence and support.

Mr. Speaker, Sir, I also want to thank the Hon. Members here for their messages of congratulations and to just mention that they have put more pressure on me.

*(Laughter)*

They have spoken very kind words and I want to thank them.

Mr. Speaker, Sir, I stand before you today as a new Member with much to learn about the workings of this House. However, one thing that has stood out for me so far is the warm welcome I have received from the Hon. Members and staff who dedicatedly serve this House so admirably. For this, I say that I am grateful.

Hon. Members, my sense of reverence for this Senate is enhanced in the realisation that this is the third Senate since the formation of the Republic. The First

Senate was established in 1963 and it was dissolved in 1966. The Second Senate sat between 2013 and 2017. I am privileged to be part of the Third Senate.

*(Applause)*

As I reflect on this honourable institution, it is not lost on me that historically, the Kenyan Senate has always been formed at pivotal moments when our country tries to reengineer, renew and rebirth itself.

Indeed, the Senate has never grappled with easy issues. It has been faced with enormous challenges, and I will illustrate that briefly. When the First Senate was formed, at the formation of the Republic, it faced the challenge of a young nation trying to break free from the shackles of colonialism.

The Second Senate was birthed when Kenya ushered in a new constitutional dispensation. It was faced with the challenge of bringing to life the new constitutional order and setting up the foundations of ideals and aspirations contained therein.

The third convention of the Senate, which I now join, is also faced with tough challenges. The Covid-19 pandemic has tragically exposed the risks humanity faces and how unprepared we are to respond. People's health, wellbeing, and livelihoods are all affected. We are faced with a crisis which has only served to reveal various cracks in the fabric of our nationhood.

Make no mistake; this is a crisis faced world over. Every state in this world is grappling with the pandemic and we are no exception. However, an honest look at our country shows that the pandemic has revealed the growing economic and social inequalities that existed way before, but have now been worsened.

I join this House at a time when my people in Garissa and all Kenyans are experiencing unprecedented tough times. We are losing Kenyans to Covid-19; 2,300 and counting. These are not just statistics; they are fathers, mothers, sons, daughters, grandparents and friends. Families are in pain. As someone who has undergone the loss of a loved one, I know this pain all too well. It is a pain made worse by the uncertainty of what the future holds.

Does this Senate have a role in easing the collective pain we have undergone and continue to experience as a country? Does this Third Senate have a role in renewing the collective dreams, hopes and aspirations of Kenyans? In my humble opinion, we do have a role.

The Constitution empowers us to represent the interest of the counties and the governments. In this, I read that the debates and decisions that we make, especially during these challenging times, must be empathetic to the people we represent in those counties. We must show empathy by being creative in how we make sure that the resources that we oversight for our counties create a much needed relief for our people.

We must show our empathy by questioning our county governments on how they have utilized the resources that are meant to improve the healthcare over the years, especially during this pandemic. We must show our empathy to the people we represent when we condemn and swiftly act on any corruption that robs our counties of its future and potential.

It is not my intent to sound presumptuous for it is my first day. It is not my intention to sound or seem to advise my senior colleagues. However, it is not easy when

you are relatively youthful, as I am, and have to bear the heavy burden of expectations of the young people of Garissa County and Kenya at large upon your shoulders.

In fact, in their messages of congratulations, the young people asked me to figure out a way in which we can help expand the scope of opportunities for them. Many are grappling with unemployment and underemployment. During and after this Covid-19 pandemic, we will enter an age where work and jobs will be fundamentally disrupted than at any point in the history of our country. As at Friday, 9<sup>th</sup> April, 2021, the population of Kenya was just over 54.6 million, with the average age being 20 years. These majority, the youths, are discouraged and disillusioned by the uncertainty of the future that they face.

I join this honourable House from the private sector, having been a small business owner. I want to present to this Third Senate that we can imprint ourselves in the annals of history by figuring a way through which we can support the county governments to create an enabling environment where the youth can create small businesses, which are facilitated to thrive. That will in turn help the county governments to raise revenue and bridge the deficits that they are currently running and, more importantly, deal with the challenge of youth unemployment. As I earlier said, I am still very new and look forward to being guided on how I can serve to make this a reality for the youth in our counties.

I want to thank all those who supported me from across the political spectrum. I received invaluable support from different political caucuses. I do not take that for granted.

*(Applause)*

In fact, it has made me to reflect on the possibilities of what we can achieve when we put unity of purpose above divisive partisanship. We have before us an opportunity to set aside anything that divides us and work together to confront the challenges that we face during this pandemic period.

As I draw to a close, I want to talk about someone who means so much to me. To the hon. Senators here, my father was a friend and a colleague. To the people of Garissa County, he was their son, elder and servant. To Kenyans, he was a long serving public servant. To me, he was my father. Please, allow me to speak about him briefly.

Hon. Members, I am humbled to follow into this House, in the footsteps of my father. He was my mentor whose values and views I carry with me to this honourable Chamber. I, thank you, Hon. Members. Upon his passing on 15<sup>th</sup> February, 2021, the hon. Senator, Senior Counsel, Sen. Orenge, moved a Motion in this House, paying tribute to my father. I thank him.

*(Applause)*

I also thank all the hon. Members, who stood up, one after the other, and gave moving speeches as they remembered him with kind words. I thank you all. As a family, we watched you pay tribute and learnt new things about our father. On behalf of the entire family, especially my mother, I thank you all. God bless you.

*(Applause)*

What can I say about the world's greatest dad? I know it is a cliché for a son to say that about his father, but to us, his children, he was simply the best and the greatest. Dad was honourable, kind and more than fair. He was gentle, loving and so giving. He was always quick to forgive. He forgave anybody and everybody. He never ever kept a grudge. He was never pushed to get back at someone. It just was not in his nature. He loved us, his family.

He was an incredible husband to my mother, a wonderful father to us, a loving grandfather, a patient teacher and dependable friend. He taught us so much. More often than not, he taught us through his actions. He was a man of very few words. We learnt so many things from him. I miss him so much. I know we have all heard this before; that life is short and you do not know what you have until it is gone. This has been my reality since his departure.

My dad was tough on us, his children more so, on my brother because he was older than me. In retrospect, there was wisdom in this. I am also humbled by my mum's strength over the past few days and her ability to focus on the amazing life she shared with my dad, and not dwell on what she has lost. I hope that through this, I can find strength from her example and be there for her whenever she needs me. For years, mum and dad shared everything life could offer together. They were a great team supporting each other in every way.

I remember, growing up, my dad used to work and travel a lot. We would move from province to province or district to district. A Senator asked how many schools we went to. I went to eight primary schools in my life.

*(Applause)*

My day would not have us stay in one town while he stayed in another town. I remember one time I asked my mother: why does dad work so much? She looked at me and said, "All fathers work hard. All fathers work a lot." I did not realize it then, but that was one of the biggest lessons I learnt from my father; the value of hard work.

He woke up every day, put on his shoes and went to work. Even when he was unwell, he would get up and go to work. He truly believed that if you work hard, treated people with respect, helped where you could and with the little luck from God, he would have a meaningful life.

He showed strength and love right up until his last days with us. I loved my dad. I loved the times I spent with him, whether it was just talking at home, at his work place or on the campaign trail. There were always lessons to be learned.

I just realized this very morning that the month of Ramadhan has started. This is the month where families get together, break their fast together and worship together. This would be the first month of Ramadhan in life that I will spend without my dear father. It is not lost to me, and I can never forget that I am here today, as a Senator of Garissa County, due to the grace of God and because of the heritage my father has left. He bequeathed us, his children, something more valuable than all the treasures of this world. He left us with incredible and reliable friends – many friends.

*(Applause)*

I cannot even keep up with all of them. They are still sending us messages of what he meant to them. We are truly blessed and grateful to our late father. I pray to God, like a son prays for his late father, that God receives him in his mercy, protects him from the trials of the grave, provide him with light and honourable company in the grave. I pray to God to wipe away all his sins and grant the highest accord. Amen!

*(Applause)*

It is said that we must not only hope for the best, but also work for it. The wonderful people of Garissa have continued to raise my hopes through their determined spirits, resilience, hard work and patriotism. I look forward to getting to work for them and for this wonderful country, Kenya. I am also optimistic and hopeful that we, leaders, can collectively create a great future for this country.

Mr. Speakers, Sir, once again, I thank you and all the honourable Members here. I pray to God to bless us all. God bless our nation.

Mr. Speakers, Sir, I yield the Floor back to you.

*(Applause)*

**The Speaker** (Hon. Lusaka): Next Order.

*[The Speaker (Hon. Lusaka) left the Chair]*

*[The Deputy Speaker (Sen. (Prof.) Kamar in Chair)]*

## PAPERS LAID

*(Loud consultations)*

REPORT ON THE DIVISION OF REVENUE BILL  
(NATIONAL ASSEMBLY BILLS NO.7 OF 2021)

**Sen. (Dr.) Ochillo-Ayacko:** Madam Deputy Speaker, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 13<sup>th</sup> April, 2021-

Report of the Standing Committee on Finance and Budget on its consideration of the Division of Revenue Bill (National Assembly Bills No.7 of 2021).

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator.

There is a point of order from Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Madam Deputy Speaker. I request that this very good Report be circulated at the earliest opportunity for the benefit of Members. Alternatively or simultaneously, I request that it is posted on our various platforms, so that Members can have a benefit of it as we commence the debate on The Division of Revenue Bill.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): That is a good proposal, Senate Minority Whip.

**Sen. Cherargei:** Madam Deputy Speaker, to add on what Sen. Mutula Kilonzo Jnr. has requested, apart from circulating the Report online or in any other form, since Members are seized of it, and it is a critical document, we can also suspend the House until afternoon, so that we get time to go through the matter.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, we seem to be having two challenges because our microphones are not working as they should. We have about 35 minutes before we finish the session. I would like to accept the proposal by Sen. Cherargei that we suspend the Sitting until 2.30 p.m., in which case, we would have done the reading and the technical team would have sorted out the microphones.

The House, therefore, stands suspended until 2.30 p.m.

*(The Senate adjourned temporarily at 11.53 a.m.)*

*(The Senate resumed at 2.30 p.m.)*

*[The Deputy Speaker (Sen. (Prof.) Kamar) in the Chair]*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, this is a continuation of this morning's sitting. We had done Order Nos.1, 2 and 3.

Let us move on to the next Order.

Proceed, Senate Majority Leader.

## BILL

### *Second Reading*

#### THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO.7 OF 2021)

**The Senate Majority Leader** (Sen. Poghishio): Madam Deputy Speaker, I beg to move that the Division of Revenue Bill (National Assembly Bills No.7 of 2021) be now read a Second Time.

Madam Deputy Speaker, I will try and summarise what this Bill is about. The principal object of this Bill is to provide for equitable division of revenue raised nationally among the national and county governments as required by Article 218 of the Constitution in order to facilitate the proper functioning of county governments and ensure continuity of county services.

The Budget Policy Statement (BPS) was laid in this House on 16<sup>th</sup> February, 2021. Consequently, the Standing Committee on Finance and Budget Report was tabled on 24<sup>th</sup> February, 2021, and approved on 2<sup>nd</sup> March, 2021.

In compliance with Article 218(2) of the Constitution of Kenya as read together with the Public Finance Management Act, 2012; Standing Order No.181(1) provides that the Division of Revenue Bill shall be presented at least two months before the end of the



financial year. Further, pursuant to Standing Order No.181(3), the Senate is required to consider the Bill not later than 14 days after the Bill is introduced.

It is for this reason that the Hon. Speaker gazetted a Special Sitting to allow for this Bill to be passed before 30<sup>th</sup> April, 2021, while observing the COVID-19 protocols.

Madam Deputy Speaker, the consolidation of the Division of Revenue Bill in record time will further enable the Chairperson of the Committee on Finance and Budget to introduce the County Allocation Revenue Bill, not later than seven days after the enactment the Division of Revenue Bill, 2021.

This will smoothly pave way for the tabling of the Cash Disbursement Schedule in accordance with Standing Order No.183. Importantly, the Bill is prepared based on the approved Third Basis for Revenue Allocation among county governments pursuant to Article 217 of the Constitution as was approved in September, 2020.

Madam Deputy Speaker, later as we go into the details of the Committee of the Whole, Third Reading and so on, you will notice that it is true that the Third Basis for Revenue Allocation was arrived at under very controversial circumstances. Later on, it was agreed on and we passed it.

That Third Basis of Revenue Allocation has been applied. Therefore, I do not expect that there should be any issues arising as a result of what has been done on this budget.

Madam Deputy Speaker, Senators and colleagues, the Division of Revenue Bill, 2021 proposes an allocation of Kshs409,880,890,512 this Financial Year 2021/2022. This amount included an increase of Kshs53.5 billion or 16.9 per cent for equitable share. This includes an additional allocation from the share of national Government revenue and an additional conditional allocation from proceeds of loans and grants.

The Division of Revenue Bill, 2021, is so important for the Senate. As Members here know, our main constitutional duty is to defend counties and their governments. So, this Division of Revenue Bill, 2021, takes into account national interest, public debt and other national obligations and needs of disadvantaged groups and areas in accordance with Article 203(1) of the Constitution.

I would like to urge Members that we take the shortest time possible to pass this Bill. We will then have another opportunity to look at the details of this when we come to the Committee of the Whole.

Madam Deputy Speaker, let me summarise and bring to a close my presentation of this Bill. Most significantly, the Senate is constitutionally mandated as the protector of devolved units. As a result of this, Senators should not occasion any delay in passing the Division of Revenue Bill, 2021. I appeal to Members to be bipartisan as they allow this Bill to pass as fast as we can so that we can move on with the other levels of the revenue Bills coming to this House.

The division has already been done. We know the amount for the devolved units and for the national Government. We will have to be magnanimous in the sense that we, therefore, need to be unanimous in making sure that we pass this Bill and try to bring it to conclusion today.

In this spirit, I invite all Hon. Senators to evaluate and commit to support this Bill and have it passed within the constitutional statutory timelines that we have. As I have outlined above, this is for the benefit of the devolved systems and in support of the fulfillment of the national Government obligations.

Madam Deputy Speaker, counties right now are waiting for these allocations for the next financial year for purposes of their budgets and what they have planned. It is important that we try and do our part and not forget that it is our duty to do so.

In conclusion, allow me to thank all Members in advance. I am sure this morning when we looked at the Report of the Committee on Finance and Budget, we saw how the National Assembly dealt with this matter. This is their Bill. We have seen the details about the allocations in terms of the equitable share that Members will look at later. This includes the additional conditional allocations, loans and grants that come from various sources.

These sources include the European Union (EU), the International Development Association (IDA), the World Bank, Sweden agricultural drought resilient programmes and so on. They are part of the Kshs409 billion that will be disbursed to the devolved units.

Madam Deputy Speaker, I request all Senators for dedication and commitment. I thank them for their continued dedication in this term as we start the new Session of Parliament. As we do this, I thank them for accepting to cut short the time of the break that we have to come for this special sitting.

I appreciate the commitment because the number of attendees here shows the dedication of this House when it comes to financial issues and many other matters. They are committed. I thank the Members for coming. Please, any other time we call for another special sitting, it will be for important functions and commitments like this one. Therefore, I commit the Division of Revenue Bill, 2021 to you, dear Members and request you to support it.

In conclusion, let us continue to adhere to the COVID-19 rules. As we sit in this Chamber and as we go about our normal businesses, we take note that COVID-19 is a serious matter. Please take all precautions, we would like to see all of us healthy.

In that regard, I would like to move that the Division of Revenue Bill (National Assembly Bills No.7 of 2021) be now read a Second Time. I request the Senate Minority Leader to second the Bill.

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

One cannot over-emphasize the remarks made by the Senate Majority Leader in moving the Bill. However, it cannot be gainsaid that the passage of this Bill is important for the operations of counties and the country as a whole.

My only observation before I go into the content of what I want to contribute is that more than any other Bill, the Division of Revenue Bill is so critical and is a fulcrum of the activities of the Senate.

It is a bit of a shame that we are bringing it through a Special Sitting when most Members will not have the opportunity to look at the Report, dissect it and look at the Bill as it is presented. That is a bit unfortunate knowing our role. If you read Articles 217 and 218, our role is mandatory. We cannot move a step forward in the budgeting process without the passage of the Division of Revenue Bill.

The courts have said that we cannot have an Appropriations Act prior to the enactment of the Division of Revenue Bill. Going back to our role as the Senate, if our duty is to defend the counties and protect the interest of those who live in them, nothing is as important as the way the resources are shared. It is absolutely unfortunate that in the

sharing of these resources, the Senate has the shortest time possible to express itself in this very important issue.

I know that part of the difficulty is that when the Bill originates from the National Assembly and its passage after it is introduced controls, to some extent, the time within which it can be introduced in the Senate. However, I hope that in looking at the Constitution as a whole and the Public Finance Management Act, this is something we should do in the future so that we are not put under siege.

For example, the budgeting process for the next financial year started some time last year. The product of that process is partly, this Bill. It is not right that it is brought to the Senate at a time when not all Senators are available to fully and qualitatively contribute to it.

The other observation that I want to make is that as I speak today, most of the counties have not received their entitlements for the last three months. It is a constitutional obligation on the National Treasury that once we pass this Bill and it is enacted and assented to, anything due to the counties must be sent without delay. It is for good reason that Article 219 of the Constitution was put in very plain words. This is because historically speaking, under the old *Majimbo* System, one of the ways that was used to kill that initial form of federalism in this country was by denying the regions money or sending it late.

I hope that we do not read the Constitution purely as a guide. It looks like when it comes to matters like this, we use it as a guide and not as a directive. The Constitution tells us that anybody who is required to make a decision must do so in strict compliance with its provisions. A three months delay is not reasonable. It is an unfortunate delay of disbursement of funds to the counties.

I am glad with the Committee for agreeing with the decision of the High Court that conditional grants cannot be part of sharable revenue.

The Executive is good at playing gymnastics. They played it with the medical leasing equipment. It belonged to the counties, but they did not release the funds for them to spend and so they spent it at source. The Constitution says that anything that belongs to the counties must be taken to the counties. It cannot be held to. All the cash must be disbursed to the counties. They are the ones to decide how to spend it within the law and budget. I have seen the observations of the Committee on account of the case which was before the court. It was also reported today in the court.

Having said all this, there was a time that Stokely Carmichael called America a nation of thieves. The President of the Republic said that this country is losing Kshs2 billion through corruption per day. If there is a better definition of a nation of thieves, there is nowhere you need look for. *Hii maneno ya wizi* is part of our DNA. It cannot be dealt with purely by making statements.

Madam Deputy Speaker, if you look at the reports that come here, for example, that of the medical leasing equipment and Kenya Medical Supplies Authority (KEMSA), they concern the State.

My friend, the Senate Majority Whip, Sen. Wamatangi, when this money is being taken away you will know it. It is taken with speed like that of a rocket. Whenever those who are entrusted with funds smell it, they spend it before it arrives.

(Laughter)

I know the governors are now making a lot of noise about how the Senate is doing nothing. However, they have already smelt and built castles. They are not seeing the roads that they should be building. They are seeing something else. For example, when they meet the Senator for Nandi County, they make a lot of noise because he has been making noise because of what has been happening in Nandi. However, when the money comes, nobody calls you. They are just concerned about the noise that you are making. However, when the money comes, they will never tell you, “my Senator, please, come we want to look at this. Do you have any ideas?”

The President should not mince his words and actions. The amount of Kshs2 billion being spent every day, is a leakage. For example, if your house was leaking Kshs2 billion, that is a whole month rain. It is a flood or tsunami.

Madam Deputy Speaker, this nation has real shock absorbers. If you hear what is stolen every day and we are still surviving and breathing, we have great shock absorbers. God was great to this nation because we have a lot of patience.

There is a time in Italy if a person stole something, he or she was shot by a person on a motorbike. They did not shoot to kill, they would shoot on the knees to disable you. In some nations, a person is taken to the firing squad. However, we are a country of laws.

When you look at the reports of the Auditor-General, we are gangsters. We are a nation not just of thieves. This is a bandit economy and we must describe it as such. We cannot say that the people of Kenya are wrong. It is those who are given responsibility to look after this institution.

Sen. Omogeni is here and he likes reading about the Congress. In the United States of America (USA), if you are summoned to appear before the House of Congress, however mighty a person is, he or she will leave everything to appear before the House of Congress.

We have a situation in this country where the mighty and law are law unto themselves. They begin to wonder why the Senate would summon them. The day they were made Cabinet Secretaries, they swear by the Almighty God and they are very excited. However, they do not read the kind of legal edicts which are part of the law of the land, for example, the section that says that the Parliament can summon anybody at any time.

Madam Deputy Speaker, we are going through this terrible period. When there is a pandemic, war or disaster, they quickly smell the coffee. I do not know whether you remember the funds for the National Aids Programme which was wiped clean. They have also wiped clean the COVID-19 money at the national level and at the counties. The people at the national level should not take the battle to the counties; it is both of them. They have stolen money which should have saved lives, built and equipped more hospitals across the land.

The judge who was examined yesterday ended up being prosecuted in court. A lot of times, the people who should be prosecuted are never prosecuted. This is what is wrong.

I commend this Bill to the House despite what I have said. However, I will continue to say it because Kenya should never earn the honour of being referred to as a bandit economy or a nation of thieves.

*(Question proposed)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): I see an intervention from Sen. Farhiya.

**Sen. Farhiya:** Thank you, Madam Deputy Speaker. I stand in accordance to Standing Order No. 106(1) in terms of limitation of debate in the House.

It states that-

“The Senate may, on a Motion made by any Senator in accordance with this Standing Order, impose a limit in respect of debate on any particular Motion or Bill by allotting a limited period of time for such debate or by limiting the time during which Senators may speak in such debate or by imposing such limitations.”

Madam Deputy Speaker, I propose that you limit debate to three minutes so that we can finish all the process for this Bill given that we are on recess and it will be expensive to call another meeting.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, we are aware that we also have colleagues who are on Zoom and they are waiting to contribute. That is a valid proposal. May I get your opinion on this?

Sen. (Dr.) Ochillo-Ayacko, are you giving us three minutes or more?

**Sen. (Dr.) Ochillo-Ayacko:** Madam Deputy Speaker, I will not be speaking on my individual capacity, but as the Chairperson of the Committee on Finance and Budget.

**The Deputy Speaker** (Sen. (Prof.) Kamar): I have seen Sen. Kibiru is going to be speaking. We will give him a chance first and then we will give Sen. (Dr.) Ochillo-Ayacko.

Sen. Were, is it different from three minutes?

**Sen. Were:** Madam Deputy Speaker, I would wish that you give us five minutes because the Division of Revenue Bill is an important aspect. It is actually the mainstay of the Senate, dividing revenue to counties. So, five minutes would be sufficient.

*(Applause)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Okay, let me start with the five minutes so that if it passes we do not go to the second minutes.

Hon. Senators, may I put it to you that we limit the time to five minutes?

*(Question put and agreed to)*

I will give the first chance to the Chairperson of the Committee, Sen. Kibiru and then I will come back to the Vice-Chairperson.

**Sen. Kibiru:** Thank you, Madam Deputy Speaker, for this opportunity. I want to start from the onset to thank my colleagues, especially the Committee Members. When we were asked by the leadership of the Senate whether we could make it for today's session to table our Report, I persuaded my Members to come out in numbers so that we could deliberate. Within a short period, we were able to call stakeholders and come up with the Report that is with us today.

I also want to thank the Secretariat, specifically the legal team and the Parliamentary Budget Office (PBO). They did come up very strongly and that is why we have some amendments from the Bill that came from the National Assembly.

Madam Deputy Speaker, this is a milestone because we were able to convince the National Treasury, Commission on Revenue Allocation (CRA), Council of Governors (CoG) and the Attorney-General that we must uphold the ruling of the court because it had been omitted in the Bill when it came from the National Assembly.

Having said that, I listened in the morning when we were congratulating the new Senator. Congratulations Sen. Haji Jnr. Where the “Team Kenya” teamed up very strongly, they could not miss a word every other time when they stood. That was Sen. Murkomen, Sen. Mutula Kilonzo Jnr. and others about how they did fought for some of the issues that we are enjoying today.

Madam Deputy Speaker, when I joined the university sometime back and I made samples of several classes, one Prof. Nyasani, may he rest in peace, I heard him say; how do you know what you know is what you know? I moved out of that class and went to another one where I was taught politics 101. I was told politics is who gets what, when and how. The end justifies the means as far scarce resources are concerned. Let us share the glory. This is because for those who were on the other better team, the one I call “the better Team Kenya”, if it was not for us standing firm, probably we would not have gotten to Kshs370 billion that we have today.

Madam Deputy Speaker, indeed, why we are in a Senate, we are supposed to debate is so that we can argue cases, agree to agree and, at times agree to disagree. It is out of that where we come up with better legislation and decisions. I want to pat everybody who participated both during those days when we were coming up with the formula and, indeed, those who will now be talking and praising the Kshs370 billion.

Madam Deputy Speaker, this is our country and we must always uphold our virtues, especially our ethos. I have heard the Senate Minority Leader come up very strongly on the bandit economy. He should also agree that there should be honour among thieves. If we are all thieves because he says we are bandits, then he should uphold some honour that we do not steal even from the sick. We do not steal from the downtrodden society. Let us uphold certain integrity. This cuts across all leaderships starting from the counties and national governments, including even us. We need to call ourselves for a small meeting and ask whether we have we lived up to our calling.

Madam Deputy Speaker, without much ado, I am happy. I was indisposed, but I was able to midwife my team to come up with this Report.

I request that we support it.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Kibiru, just hold for a second. There is a point of order although you are done.

**Sen. Kibiru:** Madam Deputy Speaker, let the question come.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. He has finished. Normally we do not allow a point of order to somebody who has completed. When you get your chance, you will tell us that.

Sen. (Dr.) Ochillo-Ayacko, proceed.

**Sen. (Dr.) Ochillo-Ayacko:** Thank you, Madam Deputy Speaker for correctly pointing out to Sen. (Dr.) Lang’at that he will have an opportunity to prove that he is not a thief. I also have that opportunity to say I am not a thief. I am not on trial so I will not

prove whether I am thief or not. I want to start by congratulating the newest Senator. I am happy that we have Sen. A. Haji. One Sen. Haji exits and another comes in.

Madam Deputy Speaker, this work that has brought what we are discussing today, I want to pay special gratitude to the Committee Chairperson, Sen. Kibiru. He had to chair one very critical session from the hospital. He really sacrificed from the hospital to ensure that we made it in time and we, therefore, have a report.

What is important to observe in this Report and also in this Bill is that as the Senate we have always believed in the rule of law. We have always believed in the sanctity of the law. When the court made a decision in the case that was taken to court by the CoG, High Court Petition No.252 of 2016, the court decided at Paragraph 72 and allow me to read it-

“When allocating funds to the county level of government as either a conditional or non-conditional grant, it is expected that the allocation is made from the national level of Government’s share. Secondly, it is trite law from the language used in Article 202 as read together with Article 218 (1)(a) of the Constitution conditional or non-conditional grants are not an item to be provided for under the Division of Revenue Act.”

Madam Deputy Speaker, you notice that invariably, the National Treasury and the National Assembly have been trying to make conditional grants part of the Division of Revenue Act. The court made its decision. We, as a Committee, decided to give life to that decision. That decision will go a long way into assisting and defining the mandate of the Senate.

The mandate of the Senate under Article 17 is to allocate horizontally funds to counties. It is our responsibility to divide the revenue among counties. When the national Government decides where we are not and where nobody participates how much to give a county and for what that money should be applied, that is a usurpation of our responsibility. We thought the court had spoken out loudly on that and it is important to capture it in the Report.

Madam Deputy Speaker, when we will be moving an amendment, that amendment will capture that. We will ensure that the power for some faceless and unknown characters to hide in boardrooms and decide that this money is for Managed Equipment Services (MES) and this is how it will be accounted for. It is a usurpation of our authority under Article 217.

It is also our authority under Article 96 (3) to oversight funds that are allocated nationally to counties.

Madam Deputy Speaker, some of these conditional grants do not come through this House. When that happens, how are they implemented minus a clear agreement under Article 190 of the Constitution as to how that responsibility is defined? How is the contract under which the grant has been allocated defined? We, as a Senate are bypassed when it comes to accountability for that money.

Madam Deputy Speaker, in this proposed amendment of the Bill, we are proposing to ensure that all monies that are allocated to counties are availed for accountability by the Senate and county assemblies. The county assemblies must look at the budget of the individual county executives and allocate money for various usage or departmental uses. When the National Treasury decides that they are allocating money

for something else and the county assemblies and the Senate is not aware, that becomes problematic.

With those few remarks, I support.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Sakaja, on Zoom.

**Sen. Sakaja:** Thank you very much, Madam Deputy Speaker, for this opportunity to contribute to the Division of Revenue Bill. I would, first of all, like to pass kind regards and compliments from Riyadh in Saudi Arabia to the Parliament of Kenya. I have been leading a delegation there on labour issues. We have more than 88,000 Kenyans here and a lot to come and report. We shall be making that report back to the House.

Additionally, I would like to take this opportunity to congratulate the Senator for Garissa who was sworn in the Session earlier today. I did not get an opportunity to speak, but I wish him all the best as he takes over from where the late Sen. Haji who was a friend to all of us, left off.

Madam Deputy Speaker, in supporting the Division of Revenue Bill, I have heard what Sen. Kiburu and the rest have said. Indeed, getting us to Kshs370 billion was not an easy task. It has come after a long convoluted process, but a process that is the essence of what Parliament is. Parliament is here to parlay, debate, parlay, and see who gets what. If we did not go through that, it would have taken the Senate of the Republic of Kenya more than 10 years - if you look at how the increments have been done over the years - to get to Kshs370 billion.

Despite everything that was said, I am proud that as the Senator of Nairobi, I was able to move Nairobi County from Kshs15 billion to Kshs25 billion and beyond as we move ahead. It was worth the sacrifice. We hope that we can ensure that there is fuller accountability for that money.

I will associate myself with the sentiments of Sen. (Dr.) Ochillo-Ayacko in terms of the role of the Senate in this process. Some things must be thought out as we move forward as a Senate. If you look at some of the proposals in the BBI that I support, we really need to look at some of the proposals and what they mean in terms of the role of the Senate, especially when it comes to the division of revenue.

Madam Deputy Speaker, we have allocated money to counties. The proposal of capping per capita gives us problems because if it is implementable, we have to come back and amend. I have held the fact that it is not, because if you remove the linked amount to the seven counties because their per capita, it is more than three times the rest or the lowest, then that extra money can only be applied to all the counties. There is no provision in law where you can divide sharable revenue to less than 47 counties.

That is a part that we need to look at, and I am glad that the Committee on Justice, Legal Affairs and Human Rights is looking at that aspect.

Further to that, this is part of the process. We have done the BPS and we are now doing the division of revenue. We need to ask ourselves very serious questions as a country. If you look at what remains at the top of the budget structure right now, many people have been asking where the extra 35 per cent in the BBI will be coming from. It is not an extra 35 per cent. It is still from 100 per cent. Instead of doing 85 per cent, we are now getting more.

Counties have been getting allocations that are way beyond that. If you look at the first year of devolution, it was way beyond that. I think it was 30 per cent. The next year it was also above. We are talking about the last audit revenue. However, if you look at



where we are today, in a month debt servicing is at Kshs53 billion. Salaries and pensions are at Kshs53 billion. Operation and maintenance comes to Kshs50 billion. Counties are getting Kshs26 billion. The development budget of the national Government is Kshs25 billion. That is a total of Kshs206 billion a month, yet we are only raising Kshs120 billion.

If you remove the debt servicing, salaries, operational maintenance and counties, because that is nondiscretionary, if it a first charge to the Consolidated Fund, then the only amount where we can get headroom is Kshs25 billion monthly. I think that the Committee on Finance and Budget needs to step up and address this issue.

Appropriation is done by the National Assembly. However, since we are a part of this process, we need to come in as the Senate and address the matter of the headroom that we will remain with as a county. I have just received the Exchequer release report today for Nairobi County. Every quarter we get a report of how much our counties are able to get. When it comes to the approved budget plus the supplementary budget, up until March, the Exchequer release in Nairobi is still Kshs1.2 billion.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Senator, because you are long distance I will give you thirty seconds.

**Sen. Sakaja:** Is the time less in long distance?

**The Deputy Speaker** (Sen. (Prof.) Kamar): The approved time is five minutes.

**Sen. Sakaja:** Thank you, Madam Deputy Speaker. When we are back, we will debate those things further, but we still have a lot of work to do. I hope that during this time of the Coronavirus Disease (COVID-19), we can still be able to be accountable and play our oversight role as a House.

I support the Division of Revenue Bill and I look forward to better days as a House.

Thank you, Madam Deputy Speaker, and may God bless you all. To our Muslim brothers and sisters, I wish you *Ramadhan karim, saum maqbul*.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. Travel safe.

Sen. (Prof.) Ongeru, while Sen. (Eng.) Maina prepares on Zoom.

**Sen. (Prof.) Ongeru:** Thank you, Madam Deputy Speaker. Let me also weigh in on the Division of Revenue Bill of 2021/2022. One of the striking features on this Bill is the fact that the conditional grants that had been taken by the National Treasury and given to road maintenance levy, the agricultural sector, and the Level 5 hospitals have now been transferred as conditional grants to be substantive budgets for the county governments. That is why you see some of these figures going up.

I would have anticipated that there would be a straightforward increase on the shareable revenue from the national Government. However, what they have done is juggle around with the figures and, therefore, take some of the functions that hitherto have been under the conditional grants to be part of the shareable revenue.

In effect, it should have been the case because we know that functions follow resources, and that has been our position in the past. Therefore, any shareable revenue must be able to be accountable on the basis of Schedule Four of the Constitution, which has already allocated functions of the county governments that must be carried out safely and timely.

My biggest worry is that the ballooning debt burden for this country is skimming away any amount that may be available as sharable revenue

We need to look at the debt management for this country because it is only given to a few individuals, who sit somewhere and agree on what must go where. Sooner or later, as a Senate and country, we must be able to rein in. What is left after skimming off the consolidated funds from the consolidated services, the public debt and pensions, there is very little left for us to share as sharable revenue among the counties.

One of the elements that is limiting us in getting the additional resources is the last audited accounts. At the moment, we are dealing with the Financial Year 2016/2017 when the budget provisions were projected at Kshs1.7 trillion. Currently, the Government is budgeting above Kshs3 trillion. That has given them appetite to borrow more, so that they can cover that hole. Consequently, the money that will come will be spent on redeeming the debt burden, rather than going to the development of county governments in a much timelier fashion.

I have a problem with the way the money is being released by the Exchequer. It appears as if it is a punishment to the county governments; that they must beg, wait and do all manner of things to be able to have that money released to them.

Currently, Kshs78 billion has not been released to the county governments. What is the National Treasury doing, yet we have been able to give out on the basis upon which each county is able to get its share of revenue? They have also been able to make budgets that have been passed by the county assemblies. They are waiting for this money to be expended.

From the position where I sat last time, as the Chair of the County Public Accounts Committee (CPAIC), one of the things I noted which was repugnant to the smooth running of the county governments in this country was that the money was being released as late as 30<sup>th</sup> of June. If anything, they would hold onto the window of opportunity, and some of it was being released as late as 4<sup>th</sup> and 5<sup>th</sup> of January. This required that county governments had to go all over again to do a supplementary budget to be able to cater for that.

I would like that element to be taken care of; that eventually people must get timely disbursement of funds, so that they can apply their budgets---

**The Deputy Speaker** (Sen. (Prof.) Kamar): It is done. Thank you, Senator.

Let us have the Senator of Nyeri County, online. Please, unmute so that we can hear you.

**Sen. (Eng.) Maina:** Thank you very much, Madam Deputy Speaker. I welcome Sen. Abdul Haji. Following in the footsteps of his father, we are all very confident that he will perform very well and the people of Garissa will see continued good leadership.

The Senate is mandated to have the central role of adjudicating funds to the counties and overseeing the same. As we pass this Bill, we must not forget that we still feel handicapped in our main role of oversight. It is one thing to give money and another to ensure that it goes into good use.

We are all aware of the stealing going on in this country, both at the national and county levels. If the taxpayers' money going to the counties was put into the real use for the ordinary *mwananchi*, in matters such as health, agriculture and education, we would be seeing tremendous development in this country. I am sorry to state that, that is not the case.

It is on record that this country loses US\$20 million every day. That is about Ksh30 billion a year, which is close to US\$1 billion. That is a colossal sum of money.

Truly, the Senate should be strengthened to have at least the oversight funds, so that a Senator can follow the money allocated to the counties and see where it goes.

Madam Deputy Speaker, sometimes we remain to witness the plunder and greed that is going on while we are incapacitated by the little money that we should be having for oversight. This is something this country has to sort out and the sooner, the better.

Our country is going through the COVID-19 pandemic crisis. I beseech counties that, at least for now, they should cast their eyes onto the health sector at the counties, so that our people who are struggling and in misery when they fall sick can have hope. There are other diseases as well, which need to be attended to.

I wish the funds we are voting for go into those uses. I hear that some counties have gone to an extent of connecting Wi-Fi in mortuaries. What does that mean? They are preoccupied in spending money for development and construction, where there are loopholes for getting kickbacks.

We, as the Senate, are committed to the welfare and goodness of this country and devolution that will give services to the ordinary *mwananchi*. We are committed to sealing the holes of seepage in this country, so that Kenya can stand as the country that we all envisage.

It is important for funds, as voted, to be disbursed to the counties, so that the few who are thinking of doing good to the *mwananchi* can do it.

Thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Please Senators who are online, do not go far because we are going to vote.

Proceed, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker, for giving me this opportunity to support this Bill. It is well meaning and in good tune that both the National Assembly and the Senate agree on it. The concurrence is very important because, at the end of the day, when the Bill passes, it will be a legal instrument which can be quoted any time. It will help in ensuring money is allocated to counties.

As I talk about money going to counties, it is important that it goes at the right time to avoid the backlog of clearing any pending bills in county governments. It will also ensure that money is also used at the time it is required.

It is also good that the Bill is speaking on the issue of sharing revenue between the national Government and county governments. It also talks about the Equalization Fund. This fund will address the gaps in the marginalized counties that lagged behind for a long time.

As a Senate, our concern is to ensure that services reach *wananchi*. It is important that when this money reaches the counties, it is used well and is not wasted or used for wrong purposes. As a Senate, our thinking and the passion that we have is to ensure that *wananchi* get services.

Madam Deputy Speaker, I want to speak about the issue of conditional grants. It is also good that the conditional grants are not in the Bill because it is not possible to really account for all the grants.

When you allocate money from the Senate, it is our onus to ensure that we see how the money has been used and that the money is accounted for. The money that passes here can also be accounted for in the county assemblies. It can be oversighted from the Senate and from the county governments.

However, when it comes to grants, sometimes there is uncertainty about some monies; when it is given and who oversees. We are supposed to allocate funds and then make a follow up to see and confirm that the usage of the money corroborates with the amount of money that we have taken to the counties.

Madam Deputy Speaker, as we talk about monies going to the counties, it is important that county governments ensure that no one is left behind. A certain amount of money should be set aside to ensure that children with disabilities get quality education.

Therefore, it is important that assessment centres are built in all counties. That is the beginning of ensuring that we are supporting children with disabilities in academia. After equipping the assessment centres, there is need to give human resource. There is need to equip schools for children with disabilities because their voices need to be heard.

When you are talking about the Equalisation Fund, it should go to all counties and it should support children with disabilities. When it comes to academics, they are low in academia. When it comes to academics, priority is not given to them.

Madam Deputy Speaker, I support this Bill. I hope that when money is added to go to the counties, that money will be set aside to ensure that children with disabilities are not left behind. Moreover, we should ensure that we invest in Early Childhood Development and Education (ECDE).

When we are talking about anything and you have not invested in ECDE, then we are not doing well as a country because we must start with a good foundation. ECDE is the bedrock of education. When we talk matters education and we have not prioritised ECDE, we are not being fair.

Madam Deputy Speaker, allow me to say that we must prioritise health because there are counties that are really suffering. You will find that people are suffering because they do not know what to do concerning their health.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. (Dr.) Musuruve, your time is up.

**Sen. Khaniri:** Madam Deputy Speaker, I want to thank you for the opportunity to make my comments on this Bill.

At the very outset, allow me to hail our Standing Committee on Finance and Budget for the expeditious way in which they handled this Bill.

Madam Deputy Speaker, you will remember that this Bill was only read for the first time in this House on 30<sup>th</sup> March, which is barely two weeks ago. The team, has in that short period managed to dispense of the Bill. They have met all the stakeholders including the Attorney-General, the National Treasury, the Council of Governors (CoG), the County Assembly Forum and other non-State actors in that short period. We must hail them for the good job that they have done and support the very important amendments that they have introduced, which will be coming in the Committee Stage.

Madam Deputy Speaker, the Division of Revenue Bill is one of the most important roles of this House. In fact, it is one of our cardinal responsibilities as a House. When we go to our various counties and tell *wananchi* and everybody that we are the ones who bring money, this is it. It is at this stage that we play a major role in ensuring that counties get sufficient monies and resources to run their government.

It should not be lost to us that the gains we are getting are after the fight that we put in last year, particularly those of us who were in Team Kenya. I want at this stage, to thank the Members of Team Kenya and particularly those who were from the counties that were gaining initially but decided to stand with the rest of Kenyans and the rest of

the counties that were losing by telling the Government that it is possible to have a win-win situation.

I want to thank Sen. Murkomen, Sen. Malalah, Sen. Mutula Kilonzo Jnr., Sen. (Dr.) Langat, Sen. Cheruiyot, the late Sen. (Dr.) Kabaka - may his soul rest in peace, the former Senator for Machakos - and all those who were gaining but then decided to stand with us who were losing.

Madam Deputy Speaker, it is because of the effort and the war that we fought at that stage that we managed to push this shareable revenue from Kshs319 billion to Kshs370 billion, gaining a whooping Kshs50 billion. It is because of that that I managed to fight for Vihiga to gain Kshs414 million. From Kshs4.6 billion, they were losing to Kshs4.4 billion, but now Vihiga is going to get Kshs5 billion. That is an additional Kshs600 million. I want to hail that team for the stand that they took and the perseverance that they put in.

However, as we pass this Bill, let me echo the words of Sen. Orenge that it is absolutely important that Treasury ensures timely disbursement of funds to our counties. This is expressly provided for in our Constitution, in particular Article 219 of our Constitution. Year-in-year-out the Treasury and the National Government have flouted this Article of the Constitution.

It is our role as the Senate to stand firm and ensure that the national Government and the Treasury for that matter, adheres to that Article of the Constitution that is Article 219 which states that money should expressly be disbursed to the counties when it is due.

**Sen. Cherargei:** Thank you, Madam Deputy Speaker, for this opportunity.

I want to say that as my colleagues have said, this is one of the important processes that we have as a Senate.

Madam Deputy Speaker, I will mention two things in the interest of time. All of us---

*(Loud consultations)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Please consult in low tones. A Member is contributing.

**Sen. Cherargei:** Madam Deputy Speaker, there is a significant improvement of Kshs370 billion, but we have expressed reservation because we did not know that the Government would go ahead and mingle it with the Road Maintenance Levy Fund to raise this. We thought that the additional Kshs53.5 billion would be directly shared from equitable shareable revenue.

I am happy because I was one of the biggest supporters of increment to counties under Division of Revenue and Third Basis Generation Formula. It was an honour to serve in the special committee and we resolved the stalemate that we faced. I am happy that Nandi is gaining an additional Kshs1.4 billion from what they have been getting through equitable sharing of revenue.

From what they have been getting through equitable sharing revenue. It is very important. The World Bank has been supporting infrastructural development though it has not ensured that the money is used within the provisions of the law. In as much as those funds are grants and donations, World Bank has to ensure that the counties adhere to the rule of law.

Article 219 of the Constitution is clear on what is supposed to be done. The late disbursement of funds to the counties is an elephant in the room. I do not know the reason as to why the current Cabinet Secretary (CS) in charge of National Treasury has a problem with disbursement of funds. The former CS of National Treasury would disburse funds by the 5<sup>th</sup> day of each month.

The Chairperson of the Council of Governors complained that National Treasury owes the counties Kshs52 billion. The financial year is almost coming to an end yet the National Treasury still owes the counties Kshs52 billion. We do demand that the counties account for the monies that they are given but there must also be timely disbursement of funds to the counties for our people to get the necessary services.

I want to comment on the ballooning public debts. I saw the proposals that were tabled in the National Assembly. It is unfortunate that a lot of money is being used to service public debt. We are currently approaching Kshs7.1 trillion and word in the corridors of Parliament has it that the National Treasury CS might be pushing to have the debt ceiling to Kshs12 trillion. The ballooning debt will continue to affect our development agenda. I am happy that I am one of the seven Senators who refused the increment of the public debt to Kshs9 trillion.

We must look at the terms of collection but we should consider what the new President of Tanzania, President Suluhu, said. She advised that people's business should not be killed as we collect tax. In Kenya, the Kenya Revenue Authority (KRA) is killing kiosks, Keroche Breweries and other Kenyan born and bred industries. It is for the same reason that Bidco is relocating to Uganda. Those are some of the serious pills that KRA must take in as much as they try to collect more revenue. They should ensure that people get value for money.

As we talk of division of revenue, we should also encourage the counties to give subsidies and other farm inputs to the farmers. It is now raining in the North Rift yet we have not seen subsidized fertilizers. To avoid inflation, the farmers from the North Rift region, which is one of our food baskets, should be given subsidies and farm inputs by the national Government and county governments.

I support the Report and the amendments that have been proposed by the Committee.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. We do have Sen. M. Kajwang' on the line.

**Sen. M. Kajwang'**: Thank you, Madam Deputy Speaker, for the opportunity to contribute to the debate. I join my colleagues in welcoming Sen. A. Haji to the House. I also want to thank the Committee on Finance and Budget, led by Sen. Kibiru, who I know was running the Committee from a not so comfortable bed. I wish him a quick recovery.

I also want to thank someone who participated in the public participation exercise; a young Kenyan called Robert Wakhungu Sakwa. He appeared before the Committee on Finance and Budget and provided his views on the Division of Revenue Bill. We need to get concerned.

When you look at the list of the people who came for public participation, you will realise that it is the usual faces; National Treasury, Institute of Certified Public Accountants of Kenya (ICPAK) and International Budget Partnership (IBP). We need to get concerned when the COG does not take part in the conversation on division of

revenue. It cannot be that they find it unnecessary to appear before the Senate just because they discussed it at Intergovernmental Budget and Economic Council (IBEC).

I also want to congratulate the entire House. This is a moment that we should be proud of, as a Senate. For the first time, since I joined this House, we have passed a Division of Revenue Bill without acrimony or fight with the National Assembly or the Executive. We have succeeded to increase the equitable share from Kshs316 to Kshs370 billion, which is a 17 per cent increment. As a result, my people of Homa Bay County will get at least Kshs8.3 billion that will be directed towards development.

*[The Deputy Speaker (Sen. (Prof.) Kamar) left the Chair]*

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

The formula that we adopted was progressive, service oriented and each county is going to benefit from the 17 per cent increased allocation. However, we must be careful of the paradox of plenty, which simply states that the more resources you have, the poorer you become. The County governments must resist the temptation that this is the time for the outgoing governors to erect statues and monuments and to come up with prestige projects in the name of legacy just because they have an extra Kshs50 billion.

I am the Chairperson of the Committee on Devolution and Intergovernmental Relations and one of the issues that we want to put on the table is that time is ripe for a national budget and economic conference.

In that conference, the national Government and the county government can have a convergence of budget priorities. A lot of the county fiscal strategy papers and the resulting budget were done on business as usual basis. Covid-19 has had a very biting impact on small businesses and it has disrupted livelihoods across counties.

Kenya is a unitary state and the government, at all levels, should look at budget priorities, across all the counties and across the national Government, and ensure that bulk of our budget goes towards health and reigniting the informal sector. This is an issue that we should address.

I know that we have other priorities in this country, like the constitutional review, but a national economic and budget conference is extremely important. That will help us stop a further wastage on the Kshs50 billion that we are sending to the counties.

Sen. Cherargei has talked about the conditional grants. We had made a proposal that the Road Maintenance Levy Fund (RMLF) should not be commingled with equitable share. Previously, it was easier to oversight those funds when it came as a conditional grant. In one of our meetings with the COG, we noted that they were also not decided as to whether RMLF should be part of the equitable share or whether it should remain as a conditional grant.

Be that as it may, I am still glad that these money is going to the counties. I just want to urge the county assemblies that the funds that were previously going into maintenance of roads and road networks in the counties should be clearly delineated and proper accountability mechanism should be put in place.

We have, again, increased the allocation to the Managed Equipment Scheme (MES) by Kshs1 billion in this Division of Revenue Bill. I have seen the Committee on Finance and Budget has tried to do the justification---

**The Temporary Speaker** (Sen. Nyamunga): Your time is up.

**Sen. M. Kajwang'**: Thank you, Madam Temporary Speaker. I support.

**Sen. Mutula Kilonzo Jnr.**: Thank you, Madam Temporary Speaker. I rise to support the Division of Revenue Bill. The Committee has sat painstakingly about this issue. Fortunately, the work that we did last year on the formula, in terms of the sharable revenue, has borne fruit.

The only portion that I want to highlight on is the conditional grants. I have reiterated that conditional grants have given our Committee endless problems. The problems are endless because there is no policy or framework on conditional grants, when they are negotiated, why they are negotiated and how they are given to respective counties.

I will pick on two conditional grants and highlight on them. The conditional grant on medical leasing equipment, if the proposal by the court was law, would not have been done the way it was done. The second one is a conditional grant about water towers. No Kenyan would sit in a meeting to negotiate a conditional grant of a water tower and leave out the Mau Forest. It is not possible and it is not Kenyan. Whoever does that is a foreigner.

It is not a Kenyan. That is a foreigner who does not understand that the protection of the Mau Forest has led to a water phenomenon in Baringo and Nakuru. It is the protection of that water tower. That is why the judge in Civil Case No. 252 did us a favour. The favour in this respect is that we get a Bill into this Senate with how conditional grants are done, when they are done, how they are sent to counties and how we oversight.

The Committee was led by Sen. (Dr.) Ochillo-Ayacko, a gentleman I have admired for a long time. I appeared before him in the year 2000 as a young man He really harassed my late father when he was the Chairperson of the Public Investments Committee (PAC). We have never had a better Chairperson. A person who has history of audit.

Therefore, these conditional grants are something that should worry us as Senators. Whether this Senate or the next one. In 2012, the World Bank did a report on conditional grants before the advent of devolution. They said that one of the biggest threats to the functions under the Fourth Schedule is conditional grants; that the Government will claw back on these functions by engaging in conditional grants without the input of counties.

That is solved by the ruling of the court in Petition No. 252 of 2016. I could not have been happier as a Senator in this House to have a footing on the Division of Revenue and Advisory II of 2013 and now an extra footing on conditional grants through Petition No. 252 of 2016 and an additional footing in legislation under Petition No.284 of 2019.

It is good to be a Senator of this Republic. I support the amendments. I hope all Senators will see our reason in finding a Bill that would ensure that there is equity in conditional grants. I support.

Thank you.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. Sen. Kimani Wamatangi, kindly, proceed.



**Sen. Wamatangi:** Thank you, Madam Temporary Speaker. I rise to support passage of the Division of Revenue Bill this afternoon. So that we do not become repetitive, I want to go straight to the few issues that I may want to highlight.

Madam Temporary Speaker, there has been a misconception largely because when the national Government gets its allocation- in this case, the Government is getting about Kshs1.7 trillion and county governments are getting about Kshs370 billion - it is assumed that the implementation and utilization of these funds should be parallel. You find that projects that are being implemented in the country---Every project is in a county, whether it is being implemented by the national or county government.

The running and implementation and utilization of these funds in a parallel method has resorted in us having so many projects that never gets finished.

**The Temporary Speaker** (Sen. Nyamunga): Sorry, hon. Senator. I would like to notify Sen. Wambua to be ready.

**Sen. Wamatangi:** Thank you, Madam Temporary Speaker. I hope my time has been held for that short time. My concern is that we have a symbiotic implementation whereby the national Government consults with county governments and vice versa especially because both levels hold their meetings and engagements at the summit. They should share the projects that they have and the areas of concern, so that there is that symbiotic concurrence and implementation of projects.

The other issue that I may want to highlight as a Member of the Senate, the House that is empowered by Article 96 of the Constitution is on the question of prudent expenditure of resources. We have to urge county governments to ensure that they prioritize usage of these funds to the most needy sectors of the economy of our county governments beginning with health, especially at this time when the country is battling COVID-19 pandemic.

Madam Temporary Speaker, supposing we did not have the funds that were being availed to county governments as special funds, what would happen? That must be a learning process for county governments to ensure that with the resource they get now, they have to start thinking and planning independently. This is because it is unpredictable how this virus will behave after. They should be prepared.

We should have an end to this question of there being riots, revolts and strikes by health workers in county governments, including doctors and nurses. This is something that county governments must think about and deal with from their own internal planning. It takes resources. That is the main bone of contention.

In agriculture, if we would be urging anything important to our county governments, it is to ensure that they enrich and enhance their core. Which means that each county government should be looking at its strength. In a county government where the mainstay of their people is livestock farming, that is where the county government should focus. Are we going to employ our resources and what do we need to do to make this better? If it is an agricultural county, for example, like Uasin Gishu and other areas, people grow maize. Think out and ask yourself how can we empower our people?

Madam Temporary Speaker, in my own county of Kiambu where people are small-scale farmers and business people, what is it that the county government should do to deploy those resources to empower, multiply and build capacity for the people at county governments? This is what we need to be talking about as we are encourage our county governments to ensure that these resources are spent prudently.

On the question of corruption, this is a subject that we can never exhaust. From the COVID-19 funds that were allocated to county governments that should be utilized to fight the corona virus diseases, the Report of the Auditor-General has not only been loud, but also vindictive that these funds have been not only misused, plundered, it has been stolen out rightly.

It worries me to think that as we have continuously complained here as a House, we sit behind the process such that we can never stop the crime. However, it is worse that the Auditor-General's Report is now the only tool that is used to fight corruption. It is the only report that people wait for to adjudge how counties are working.

It is in this respect that I loud my colleagues in this House. I know we have worked under very difficult circumstances. Since inception, the Senate in 2013 up to today, we have never had a single penny allocated to the Senate to fight and ensure that oversight is carried out properly.

Nevertheless, Senators have done the best they could under the circumstances. We should get out of our way and start asking ourselves, what else we are supposed to do to ensure that plundering and theft and corruption at county governments has come to an end.

As I finalize, we also need to urge governors and the management at the county government level to rethink to stop incurring more pending bills. This is not only a way--

**The Temporary Speaker** (Sen. Nyamunga): Senator, your time is up.

**Sen. Wamatangi:** Madam Temporary Speaker, I support.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Members, I would like to have your indulgence on two issues. First, we have three votes to take. This is a very critical Bill. That is the reason we were called for this Special Sitting. I would like to urge all the Members who are online to keep logging in. Do not log out because we will need you in a few minutes.

Secondly, we would like to have all the Members make their comment. However, at the rate of five minutes--- Everybody wants to speak. I do not know if we can reduce it to three minutes or leave it at five minutes.

**Hon. Senators:** Five minutes!

**The Temporary Speaker** (Sen. Nyamunga): We have 16 more Senators. We leave it at five minutes. Is that the mood of the House?

**Hon. Senators:** Yes.

**The Temporary Speaker** (Sen. Nyamunga): The mood of the House says five minutes. We will go by that.

**Sen. (Dr.) Ali:** On a point of order, Madam Temporary Speaker. If we continue that way, then some of us will not be able to talk. I prefer three minutes so that at least we have some one or two words to say.

**The Temporary Speaker** (Sen. Nyamunga): It is very clear but we must go by the mood of the House and the circumstances surrounding this sitting. We do not want people to drop out and miss voting. I will give you five minutes. The rest will have three minutes because the mood of the House is that we reduce time.

**Sen. Wambua:** Madam Temporary Speaker, I do not know whether I have five or three minutes. I need to be guided.

**The Temporary Speaker** (Sen. Nyamunga): You have three minutes.

**Sen. Wambua:** Madam Temporary Speaker, I thank you for the opportunity to also contribute to the Division of Revenue Bill. In support of this Bill, I want to thank Members of the committee led by Sen. Kibiru for doing a good job and getting us where we are today. Since I have three minutes only, I will be brief.

On the issue of the Exchequer releases to the county governments, it has been said by many of my colleagues that it is only two months to the end of the Financial Year 2020/2021, yet so much money is still held by the National Treasury. That is money that is supposed to be undertaking projects in the counties. We should not be requesting but directing. The National Treasury must be bound and guided by the rule of law in terms of Exchequer releases to the county governments for proper execution of projects.

Secondly, why I support the work done by the committee is because I have a big problem with the Roads Maintenance Levy Fund (RMLF) being used as part of sharable revenue to the counties. That will definitely occasion a lot of delays in roads constructions and maintenance and our road network in the country will definitely be affected.

I want to associate myself with the comments of Sen. Orenge when he spoke about the bandit economy that this country of ours has. The news is that people steal Kshs2 billion every day from President Uhuru Kenyatta's Government. We should stop just addressing the news.

We must be seen to be taking action against theft of public resources especially at a time like this when the economy is suffering from COVID-19 pandemic. Those governors that we fight for to get money but spend money on projects that are of zero benefit to the public must be held to account.

With those few remarks, I support.

**Sen. Omogeni:** Madam Temporary Speaker, first, I want to thank the Committee for this very good Report. I also take this opportunity to wish the Chair of the committee good speed in his recovery. I read in the newspapers yesterday that he is such a committed Chair, that he conducted the last business of his committee from his hospital bed.

Secondly, I also take this opportunity to congratulate Sen. A. Haji for his election as the Senator for Garissa. I hope the good Senator will ably wear the shoes of the late Sen. Haji who stood with this country the last time we were trying to fight for equity and fairness in distribution of money to the counties.

As a Senate, we should be proud of ourselves. This is the first time that money that will be shared to the counties under the Division of Revenue Bill has hit Kshs370 billion. This is the very first time in the history of our country under devolution.

We must also fully support the good work being done by the Judiciary. You heard the mention of Petition No.252 of 2016 where the High Court ruled that conditional grants cannot be part of the sharable revenue that goes to the counties. They added that if the national Government wants to give conditional grants to the counties, it should be from the share of the national Government.

If we do not tackle this invincible enemy called corruption that is facing this country, we will continue sending more money to the counties but we will never see any impact on the ground. As I speak, several counties are not even able to test COVID-19. I can speak for my own County of Nyamira and the neighbouring County of Kisii. A lot of money was given by the Government to the counties to fight COVID-19 but where did it

go? As Senators, we must really pull our socks in terms of oversighting the money that goes to our counties---

*(Sen. Omogeni's microphone went off)*

**The Temporary Speaker** (Sen. Nyamunga): Senator, your time is up. Let us listen to Sen. Farhiya.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for giving me this opportunity. From the outset, I thank our President, His Excellency Uhuru Muigai Kenyatta, for increasing the allocation to counties by Kshs53.5 billion.

I urge our colleagues in the National Assembly to fast-track the passage of the Equalization Fund Bill because it is almost 11 years since our Constitution was passed. The Equalization Fund had a lifetime of 20 years. By August, it will be 11 years since the passing of the Constitution. I think that is not fair for people who are affected by these Funds.

I thank the National Treasury for allocating the Funds all the time. However, their usage require passage of that Bill. By giving counties Kshs370 billion, we would have increased the amount by 27.3 per cent compared to the last audited accounts of Kshs1.4 trillion by the National Assembly. We also got additional funding from other departments of around Kshs36.1 billion. The money was taken from departments and given to the counties.

The other issue I would like to clarify is that the Council of Governors (CoG) was represented as part of public participation through their Finance Committee. I just wanted to make that correction since I sit in the committee.

The other comment I would like to make is about the public debt. It is our nature as Kenyans to complain about public debt and additional taxation but we want water and electricity among other things. This time round, we should congratulate our Cabinet Secretary for Finance. Despite the depression the whole world is facing, Kenya's economy grew by 0.6 per cent.

The other thing that I want the attention of the Senators because my time is limited is that there is a big problem with Early Childhood and Development Education (ECDE) in the counties. Part of the problem according to a research that was done by Institute of Certified Public Accountants of Kenya (ICPAK) ---

**The Temporary Speaker** (Sen. Nyamunga): Senator, your time is up. I would like to urge Members, please just put your work together and in three minutes, you should be able to articulate your issues.

Sen. (Eng.) Hargura, proceed.

**Sen. (Eng.) Hargura:** Thank you, Madam Temporary Speaker for giving me this opportunity to contribute to this important Bill which is one of the main functions of this House.

I would like to state that on the issue of disbursement of funds to the counties, this Bill is very clear. This is because Clause 5 has always been there and it has always stated that whatever funds are collected, if there is under collection, the share on the county should not be affected.

Then Article 219 of the Constitution also states that the national Government must disburse funds to the counties without undue delay, but it has not been so. The delay

of funding to the counties is against the law. It is something that the National Treasury has to realize that they have been contravening the law all this time.

Madam Temporary Speaker, the other one is the issue of inclusion of Roads Maintenance Levy Fund (RMLF) in the equitable share. The RMLF is a fund which was actually developed because with time roads were being constructed, but they were just quickly deteriorating because there was no maintenance mechanism.

It was an agreement between the World Bank and the Government of Kenya that the Government has to raise funds to maintain the roads, which they are borrowing money to construct. Now we have decided to kind of conveniently lose that memory.

Madam Temporary Speaker, part of this money which is supposed to maintain Class D roads and below is now being given to the counties unconditionally so that they can use and allocate it in the manner they deem fit. That means that five years or so, down the line we will be in the same situation that for roads to be constructed and maintained by the counties will deteriorate and we will start now going back to the same issue of how do we maintain roads in the counties while the national Government is maintain the roads under its purview from Class C and above.

We need to look at why we are giving these funds to the counties. From now onwards, Kenya Roads Board (KRB) will not be able to oversight that fund because there is no requirement that it has to be used for road construction. It will be used for anything else even paying salaries.

Madam Temporary Speaker, the other one is the issue of the Equalization Fund. The drafters of the Kenya Constitution 2010 knew very well that some parts of this country have been marginalized due to the Sessional Paper No.10 of 1965. That is why this fund was introduced. Now for the last 11 years, it has not been used. After the next nine years----

**The Temporary Speaker** (Sen. Nyamunga): Senator, your time is up. Sen. Were, proceed as Sen. (Eng.) Mahamud gets ready online.

**Sen. Were:** Thank you, Madam Temporary Speaker. I will only handle two issues because of the time limit of five minutes, otherwise I would have spoken for much longer. I will tackle two issues; one is the conditional grants that have now been lumped together under the sharable revenue.

Initially, it was easier to oversight particular allocations when you say this allocation if for village polytechnics, the other one is for Level Five hospitals. As overseers both at the county and the national level, which is the Senate, it was made easier.

Madam Temporary Speaker, I know they have quoted the Commission on Revenue Allocation (CRA) as having advised that since functions are being followed by funds or funds are following functions at the county level, it was necessary these conditions be lumped together. However, I am happy that the Committee has made this amendment and we shall be supporting it.

Secondly, I would like to talk about the accountability at the county level. Now that we have given them this money, we would like that they spend it wisely, reduce cases of pilferage as much as we have been told time in memorial that 30 per cent of our budget always go to pilferage or corruption.

Madam Temporary Speaker, this has happened even before devolution came. I want to encourage our leadership at the county level, the governors to help us reduce this

percentage that goes to corruption so that we are not told that we devolved corruption as well.

I support.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator.

Sen. (Eng.) Mahamud, proceed online.

**Sen. (Eng.) Mahamud:** Thank you very much, Madam Temporary Speaker for giving me the opportunity to contribute to this Division of Revenue Bill 2021. This Bill relates to the very important role of the mandate of the Senate. It will be important that this Bill is given enough time so that Members can debate and interrogate all the issues that are raised in it, including the debt strategy.

Now that we are there in this session, I would like to support the Report and thank the Members of the Committee. We were in this Committee before and I thank them for the good work they have done now.

Madam Temporary Speaker, I would like to congratulate ourselves as Senators for the good work we did last year. Had we not stood firm and say that we cannot release funds to the counties, we would not be where we are today. The Executive did at that time try its best to arm-twist the Senate, but they did not manage.

You realize that we are very strong when we work together as a team. If we get united for the sake of this country and the mandate of the Senate so that the Senators work together, we can achieve a lot. Little did we know that time the national Government can promise an extra Kshs63 billion to the Senate.

Madam Temporary Speaker, that has happened now and, in fact, we have this Bill today which is proposing Kshs370 billion to the counties. However, again the Executive is trying to continuously trying that the funds be co-mingled together.

There are two issues. Level 5 hospitals maybe is not supported by legal backing. However, the issue of fuel levy for which is Road Maintenance Fuel Levy Act for which we know that money is supposed to be used for road maintenance and administration. It is not acceptable that you can lump that together and co-mingles it with sharable revenue so that counties can allocate that money the way they want.

Madam Temporary Speaker, this money which is allocated to counties normally is earmarked. Work programmes are sent to KRB and they are done for roads. The way it is today, this money will be spent to build houses. I do not accept. Not that we are getting Kshs370 billion, but the reality is actually that we are being cheated. Please let us remove that fuel levy money aside and make sure it is allocated even if the money goes below Kshs370 billion.

There is the issue of Level 5 hospitals. There are no Level 5 hospitals in all the counties. They are only a few of them. If those counties are now going to get money it will be given to everybody equally, how will you manage those Level 5 hospitals where many people go there because the population and those attending those hospitals are many?

Madam Temporary Speaker, money is allocated to counties every year through Division of Revenue Act to County Allocation of Revenue Act, but again the National Treasury is not allocating money on time to counties. The National Treasury must give counties on time.

**The Temporary Speaker** (Sen. Nyamunga): Senator, kindly wind up. Your time is up.

**Sen. (Eng.) Mahamud:** Madam Temporary Speaker, there is the mandate of collecting revenue. The role is done by the national Government and it is not the county governments. Please give the counties their money so that they can do their function. Counties must apply their money properly so that there is no corruption.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. Your time is up. Sen. Madzayo, proceed.

**Sen. Madzayo:** Asante, Bi Spika wa Muda. Jambo la kwanza nataka kumshukuru Mwenyezi Mungu kwa sababu ya uwezo wake alioufanya mpaka hivi leo tumefikia kilele cha Ripoti hii. Safari hii ilikuwa ni ya kutoka mbali. Tuliweza kupigania hizi pesa za ugatuzi ambazo zinakwenda katika serikali zetu za mashinani. Hatimaye zile kaunti ambazo zilikuwa zinapoteza ziliweza kupata ile pesa na kuongezwa tena zingine juu mojawapo ikiwa zile serikali za ugatuzi za jimbo letu la Pwani.

Kulingana na Katiba ya Kenya Kipengele cha 96, kinapatia mamlaka ama majukumu ama uwezo Bunge la Seneti kuweza kutekeleza wajibu huu. Watapigania na kutetea kuona ya kwamba pesa zinazokwenda katika serikali za ugatuzi kote mashinani katika serikali 47 zimeweza kwenda bila uharibifu wa aina yeyote ama kupotea. Maseneta walio hapa walisimama kidete. Ningependa kuwashukuru sana kwa sababu ilikua hali ya vuta nikuvute, lakini mwishowe tulifaulu.

Bi. Spika wa Muda, hii Ripoti inasema kwamba Serikali isicheleweshe hizi pesa kwenda kwa Serikali za ugatuzi. Hizi pesa zinahitajika kupeleka madawa, maendeleo na vitu vingi ambavyo vinaweza kurahisisha maisha ya watu wa kaunti kuwa bora zaidi. Pesa hizi zina maana sana.

Vile vile, ningependa kutoa onyo kwamba wote ambao wanahusika kuangalia hizi pesa wazitumie kwa usawa; zisitumiwe ovyo au kwa njia ya ufiada. Hizi pesa ni muhimu kuleta miradi mbali mbali katika serikali za kaunti. Kupitia serikali za ugatuzi, barabara zinatengenezwa, hospitali zinapata dawa, na kina mama wanapata njia ya kwenda kwa shughuli zao mbali mbali. Hizo shughuli zote zinategemea hizi pesa.

Bi. Spika wa Muda, la mwisho, ni lazima kuwe na mahospitali. Naona muda wangu umekwisha, lakini hivi juzi kumekua na ajali katika barabara ya Malindi. Kumekua na ajali mbali mbali---

**The Temporary Speaker** (Sen. Nyamunga): Senator, your time is up.

Sen. Halake.

**Sen. Halake:** Thank you, Madam Temporary Speaker. I rise to support this Division of Revenue Bill. In the interest of time, I am will keep it to two issues. First, I would like to congratulate the Committee. They have done a great job in a very short period of time. I would also like to congratulate this Senate for executing their mandate wonderfully.

This particular Division of Revenue Bill is the first one that is really facing devolution, meaning that we have gone beyond the minimum to provide more revenue to the counties from the sharable revenue. It is Kshs370 billion, and collectively with the conditional grants, Kshs409.88 billion. It is a very big win for devolution, and I hope that this money will be used properly by our counties.

In terms of the fight that went into making sure that devolution gains and it is resourced, I would like to congratulate this House for standing steady. Counties like Isiolo, which was losing Kshs869 million, did not lose that amount of money. That would have meant shutting down most of the services in the counties.

Madam Temporary Speaker, there is, however, something very peculiar that I have noticed, as I was reading this Report. While the conditional grants from loans and development partners support social sectors like the healthcare system, universal services, education, and drought resilience programmes in northern Kenya, our own resources from the national Government are not really facing these sectors. I wonder why we use donor money for social sectors, but use our own funds for other things.

As this House, in terms of our oversight, we need to see that the money that we raise within our own country is actually serving the people that are most vulnerable, and not leaning it to the development partners, who may withdraw the funding.

The other situation we have found ourselves in this country is that of the Anti-retrovirals (ARVs). Our people that are on the first line of ARV medication cannot access the commodities because it was mostly being funded by development partners. This is one area of risk that this House must start to oversight very keenly.

Madam Temporary Speaker, in terms of the Budget Policy Statement (BPS), I know that this Division of Revenue Bill is based on the BPS. At the time of the development of the BPS, the priorities were perhaps a bit different from what they are now. We are now going into the post Coronavirus Disease (COVID-19) recovery strategy, and I hope that our county---

**The Temporary Speaker** (Sen. Nyamunga): Your time is up.

Sen. Faki.

**Sen. Faki:** Asante, Bi. Spika wa Muda kwa kunipa fursa hii kuchangia Mswada wa ugawaji wa rasilimali katika Muhula wa 2020/2021. Kwanza, ningependa kujiunga na wenzangu ambao wamezungumzwa kabla yangu wakichangia Mswada huu. Ninaunga mkono Mswada huu.

Donda sugu ambalo liko katika nchi yetu hivi sasa ni ufisadi. Ufisadi umetanda katika kila sehemu ya Serikali, iwe ni serikali za ugatuzi au Serikali Kuu. Hii ilidhibitishwa na Rais Uhuru Kenyatta hivi majuzi aliposema kwamba kwa siku moja, Kshs1 billioni zinapotea kwa sababu ya ufisadi. Kwa hivyo, Sisi kama Seneti, katika jukumu letu la kuchunguza na kuangalia Serikali, inafaa tufanye mambo zaidi kuliko tunavyofanya sasa.

Bi. Spika wa Muda, hivi majuzi Mombasa kulizinduliwa daraja la watu kuvuka kwa miguu kutoka upande wa Likoni kuingia mjini. Daraja hili limesababisha watu kuzuiliwa kuvuka kutumia *ferry* kati ya Saa Kumi na Moja alfajiri hadi saa mbili asubuhi, na Saa Kumi jioni mpaka Saa Mbili usiku. Hii imesababisha msongamano mkubwa katika daraja lile.

Daraja hilo halijachunguzwa na kudhibitiwa kuwa lina uwezo wa kubeba watu wangapi kwa wakati mmoja. Wale wanaovuka kwa sasa ni wengi sana kwa sababu kumekua na uhaba wa vyombo vya usafiri kutoka Likoni kwenda mjini. Kwa hivyo, lengo la kuzuia maambukizi ya Virusi vya Corona halitaweza kufikiwa kwa sasa kwa sababu watu wanasongamana. Vile vile, hawana nafasi ya kutembea vile walivyokua wanatembea awali.

Tatizo lingine lilochangiwa na hili daraja ni biashara, hususan meli zinazolingia kushusha na kupakia mizigo katika Bandari ya Mombasa. Kazi yao imekatizwa. Kati ya Saa Kumi na Moja alfajiri mpaka Saa Mbili asubuhi, meli zile haziwezi kuingia ndani ya bandari ili kushusha mizigo. Vile vile, inapofika Saa Kumi jioni, meli haziwezi kutoka nje ya Bandari ya Mombasa.



Hii inasababisha msongamano wa meli katika Bandari la Mombasa na pia inaweza kusababisha meli zinazolingia Bandari ya Mombasa zilipishwe gharama zaidi kwa sababu kila meli ina wakati wake wa kusafiri.

Iwapo usafiri utacheleweshwa, mashirika ya meli yataweka *delay surcharge* kwa Bandari ya Mombasa. Hii yote imesabaishwa na Serikali kutohusisha wananchi katika zile miradi wanapanga kufanya.

Asante.

**The Temporary Speaker** (Sen. Nyamunga): Sen. (Dr.) Ali, on Zoom.

**Sen. (Dr.) Ali:** Thank you, Madam Temporary Speaker. I thank the Senate for the job that we did. We did a very good job last time, but unfortunately, what we have done will just go down the drain when the Building Bridges Initiative (BBI) passes because of the per capita, as Sen Sakaja mentioned earlier.

Counties like Isiolo, which were losing around Kshs406 million, will now lose billions. Counties like Tana River will lose Kshs2 billion. Therefore, what will be the use of the Senate? What will Article 217 of the Constitution do, because it will be overridden by Article 203 (m) when BBI passes?

When we talk of resources that follow functions, that is true. We always talk about that, but devolution talks of the water, health, agriculture, and many other sectors being devolved. Where is that money though? Why is that money in the headquarters? Every financial year, the money increases by billions. The Ministry of Health and the water sector increase by billions and our job is just to talk about devolution and devolved functions, when no money goes to those areas.

Madam Temporary Speaker, the courts did a good job. They fought for us and did the right thing, but when other issues come up, we talk about following the law, yet things are not done properly. When things are not done properly, this country will not function properly as well. We are talking about corruption.

It is true, as the Minority Leader said, that this is a country of thieves, where nothing happens to the thieves. Only the ones who steal goats, sheep and chicken are taken to court and jailed. Nothing happens to the bigger thieves. They steal, eat, enjoy and abuse everybody right, left and centre, and nothing happens to them. That is why we have the KEMSA and MES scandals. Even so, we are still increasing the MES money to over Ksh7 billion. Is this where we want this country to go?

The President said that we are losing Kshs2 billion per day. Where is the Directorate of Criminal Investigation (DCI), Ethics and Anti-Corruption Commission (EACC) and Directorate of Public Prosecutions (DPP)? Why is action not taken? These people who are taking Kshs2 billion per day should go and rot in Kamiti Maximum Security Prison and the Government recover the money.

Madam Temporary Speaker, the Auditor General---

**The Temporary Speaker** (Sen. Nyamunga): Sen. (Dr.) Ali, your time is up.

We promised to give Sen. Olekina five minutes.

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I rise to support this Division of Revenue Bill. I register my appreciation for this Senate, and to let Kenyans know out there that this Senate fought for them to get more money. When people ask what a Senator does, a Senator comes to fight for more money.

In the Financial Year 2020/21 Narok County was getting Kshs8 billion, but because we passed the revenue formula in this House, Narok County will get Kshs8.8

billion. When I sit at my home, I am happy to have done my job that Narok County will get that money.

As is support this Bill, I am quite happy with the Committee on Finance and Budget for the recommendation they have brought because this Division of Revenue Bill is cleaner now. I love the recommendation that the Committee has proposed, and I will go directly to them. It says “total revenue share; National Government Equalization Fund and County Equitable Share.” County Equitable share is Ksh370 billion.

I want to correct my colleagues who are saying that we are touching money from conditional grants. No! If the national Government wants to give country governments money from conditional grants, let them bring money from somewhere else, but the money which will go to counties as shareable revenue is Ksh370 billion with the amendment. That is the naked truth.

I am annoyed by the Equalization Fund. As I speak, this country is ravaged by the COVID-19 pandemic. There are 84 hospitals that have been built in marginalized counties, which were supposed to benefit from the Equalization Fund, but they are rotting because the national Government has not paid the contractors, and we are saying that we do not have hospital beds.

The Cabinet Secretary for Health, Hon. Kagwe, instead of promising Kenyans that we are going to get Kshs4 million vaccines by June, which we know will not come, should sit down with these counties. Since health is devolved, they should see how they can move that money from the Equalization Fund from the National Treasury, and pay those contractors, so that we can create more rooms for the people who are sick.

As we pass this Bill, I encourage counties to continue putting more emphasis on raising own-source revenue. The Majority Whip will bear me witness that I shared---

*(Loud consultations)*

**Sen. Olekina:** I was given five minutes. The Speaker rules, not me.

Most counties do not concentrate on own-source revenue. It is about time that you do because we are all complaining here that the national Government is not releasing money on time. If we look at the Division of Revenue Bill, Page 247, Column G, the net balance left for the national Government for the last financial year was a deficit of Ksh161 billion.

With money having gone to Kshs370 billion we might be sitting down here, patting our shoulders and saying that we have done a good job as the Senate. This country will not have a deficit of Ksh384 billion. What does that translate to? More debt and taxes. We cannot bake our cake and eat it. We have to be factual.

We are doing a good job in fighting for more money to go to counties, but we also have to be cognizant of the fact that during a pandemic period, when the Government cannot raise more money, there is no money that goes the county governments. The best thing that county governments can now do is to raise more own-source revenue. Governors, please, now that you know you are not getting the billions you were getting from the national Government, focus on own-source revenue.

Finally, let me correct the Senator of Wajir. I am not a proponent of BBI, but if it was to pass, Wajir would get Kshs11 billion. It will not lose money. We have to speak

facts, as they will help us. Every county will get more money. Those are the facts, and the truth has no shades of grey.

I support this with the amendments. I congratulate the team that worked very hard to be able to bring the amendments.

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker. I support the Division of Revenue Bill. The Senate is doing great work as far fighting for this money to go to our counties. However, we still have some few challenges that I want to highlight here, right from the National Treasury.

If you go to our counties, you will see most of the projects that have stalled and become white elephants, and the governors still complain that the National Treasury has not released the money on time. The Senate is doing well, but the challenge is still with the National Treasury.

This delay in disbursement of funds to the counties has led to some of the projects stalling. Most of the contractors have failed to get their money. There is a lot of money that the contractors have not received. This should be taken seriously.

Although this House is empowered by Article 96 (3) of the Constitution to determine the money that goes to the counties, last time it almost split this House by half. The greatest challenge is on oversight. We are in charge of the oversight, but the greatest challenge is that we are not empowered to do that. The organ that is supposed to do it is the Auditor General.

We have been attending the County Public Accounts and Investment Committee (CPAIC) meetings and realized that even the Auditor General has been delaying so much, such that if you check the audit report we are going through now, it is of the last three years when the money has already been misused by the governors and other people who are concerned with it. Corruption has taken place. People have developed themselves instead of the county projects.

The other problem that should be checked is the delay by the Auditor General. We have a lot of challenges. The other day, we saw news on *Citizen TV* that the money that we had determined to fight COVID-19 was misused. The governors engaged some dubious contractors---

**The Temporary Speaker** (Sen. Nyamunga): Your time is up, Senator.

Sen. Pareno.

**Sen. Pareno:** Thank you, Madam Temporary Speaker. I will try to just do it in point form because the time is very short.

First of all, I would like to congratulate Sen. Abdul Haji. For him to be elected unopposed means that the people of Garissa trust him.

Madam Temporary Speaker, the Third Basis of sharing of revenue has come to be after a long fight by this Senate. I say it is a fight because some of our Senators were even arrested, so that they do not vote in this House. That was the conclusion of the committee that investigated. Therefore, it is a good job by this Senate.

The increase of Kshs53.3 billion should not be in vain. It should translate to service delivery to the people, and we expect to see the counties use this money in a way that they shall be happy that this increase has come to be.

I was with my Member of County Assembly (MCA) two days ago, Hon. Peshut of Maroro Ward and he told me that they have not received salaries for the last two months. Therefore, there is no money in the counties because the National Treasury does

not disburse in good time. We speak of big money and increase, but they keep delaying the services to the people. I hope that this time, they will improve in service delivery.

Madam Temporary Speaker, on the ruling of the High Court, it was a 2016 High Court ruling. I wonder when they will put in a framework that will dispense the money in an alternative way and not under division. I think this House will have a mandate to see that this framework is done. Otherwise, the conditional grants will be delayed.

I am saddened though I will not oppose this because we need money for the counties. I feel sad that there is an increase in conditional allocations to the Managed Equipment Services (MES), which is a project that we investigated. I was in that *Ad hoc* Committee.

We have now increased the allocation by another Kshs1 billion despite us reporting to this House - a report that was thrown out by this House - that there was so much corruption to an extent that, for example, a stethoscope costing Kshs5,500 was going for Kshs1.2 million. It is leased at Kshs4,500, but what reflects in our records is that it is leased at a cost of Kshs1.2 million.

This is corruption at its highest level. I do not know what we will do about it. Instead of stalling this project and its implementation, we increase money by Kshs1 billion. That is sad and I hope there will be a way we can improve the services after this--

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**Sen. Shiyonga:** Thank you, Madam Temporary Speaker.  
I hope I am audible enough.

**The Temporary Speaker** (Sen. Nyamunga): Yes, you are.

**Sen. Shiyonga:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this Bill. I want to start by welcoming the newly elected Senator, Sen. Abdul Haji, to this House. Feel most welcome and we are happy to be with you.

I would also like to congratulate the Standing Committee on Finance and Budget that has made sure that this Bill is discussed in this House and passed because it is a Bill that holds together the nation and the counties through the national revenue allocation.

Madam Temporary Speaker, it cannot go without me discussing about the corruption that we have in this country and the disbursement of funds. When we have late disbursement of funds, especially those that are going to the county government, then it will definitely open up a new tap, where corruption takes place. Counties get loopholes of making sure that they fill up these pending bills by using the other money that comes in, probably from grants or donations they get from partners. When this money comes in late, they have another avenue of using or misusing it.

It is high time that we speak to this country through one voice. As much as the Senate has used its time fighting to make sure that funds go to the county governments and be utilised in development structures that have been put in place, the money is not supposed to be used by governors or people in the counties for their assets or their own development. It is also not money for personal use. It is money that should be used to improve the livelihoods of the people in the counties.

Madam Temporary Speaker, I want to reiterate the point of us having this money doing the right thing. The recommendations that have been passed in this Bill are the right ones and should go together with what we are discussing here. If we entertain

corruption and deny this House money to oversight, then we are doing injustice to ourselves.

However, with this, I hope that the Government will look at the Senate and give us money in due course, so that we can oversight the money that goes to the county governments and make sure that development takes place at all levels, both at the national Government and county governments.

Otherwise, I want to congratulate the Committee for the excellent work that they have done, observations and doing this work in the shortest time possible.

Thank you, Madam Temporary Speaker.

**Sen. Mwaruma:** Thank you, Madam Temporary Speaker, for this opportunity to contribute to the Bill. I welcome Sen. Abdul Haji to the Senate. I wish him well as he joins the Senate of Kenya and serves the people of Garissa.

Secondly, I would like to congratulate the Committee on Finance and Budget for working expeditiously and burning the midnight oil under the stewardship of Sen. Kibiru, who was indisposed. They have done a very good job to deliver the Bill in time.

I would also like to congratulate the Senate of Kenya for working very hard to deliver on their mandate to protect and defend devolution. In so doing, through this Division of Revenue Bill we are taking Kshs70 billion more to the counties.

For my county of Taita-Taveta, we are getting shareable increase from Kshs4.2 billion to Kshs4.8 billion, an increment of Kshs600 million. That is money that will go to the development of Taita-Taveta County. Therefore, we would like to congratulate ourselves as Members of the Senate and the Senate of Kenya.

Madam Temporary Speaker, allow me to say two things. The threat to devolution and delivering goods and services to our people is the delay in disbursement of money in terms of shareable revenue to our counties. If you go to the counties, our healthcare system is on its deathbed because we do not have drugs and reagents in the hospitals. The nurses are either on strike or go-slow because they do not get all their allowances. If there is no medicine, somebody who is sick in the hospital will not wait for the medicine. Therefore, we would like to urge the Treasury to release money in good time, so that our people can get services because they are dying like flies due to that mistake.

Remember that universal healthcare is part of a key area in the Big Four Agenda. Look at the issue of agriculture, which is also devolved and food security is a part of the Big Four Agenda. Right now, in most areas of Kenya, it is raining and most counties subsidize farm inputs. If we do not have money released to the counties, then people will not plant and, therefore, the agenda of food security will not be achieved.

Madam Temporary Speaker, talking about the other item of Big Four Agenda, industrialisation, most of our industries are agro-based. How would we achieve---

**The Temporary Speaker (Sen. Nyamunga):** Your time is up.

**Sen. Loitip:** Shukran Bi. Spika wa Muda kwa kunipa fursa hii niweze kuchangia Mswada wa ugavi wa rasilimali 2021/2022. Kwanza, ningependa kusema kama Seneta wa Kaunti ya Lamu kuwa naunga mkono Ripoti hii.

Pili, natoa shukrani zangu za dhati kwa Kamati ya Fedha na Bajeti inayoongozwa na Sen. Kibiru kwa kuja na Ripoti ambayo ni kabambe na kuzingatia kila kaunti isiweze kupoteza rasilimali yoyote.

Kwa sababu ya muda, nitazungumza maswala mawili tu. Swala la kwanza ni kuhusu ufisadi. Zote tunajua kuwa kazi ya Bunge la Seneti ni kusimamia rasilimali za kaunti na kuweza kuhakikisha kuwa rasilimali zimefika katika Kaunti.

Lakini, bado kuna ufisadi na viongozi wetu wamedhibiti ya kwamba Kshs2 bilioni zinapotea katika hii nchi kila siku na hiyo ni hali ya kusikitisha. Ningependa hii iwe changamoto kwa wale viongozi ambao wako mashinani, wakiongozwa na magavana. Hao viongozi wanafaa kujua ya kwamba rasilimali ambayo tumependekeza iwafikie mashinani ni pesa za wananchi, kwa hivyo wazitumie vizuri.

Jambo la pili ambalo ningependa kuzungumzia ni kuchelewa kwa ugavi wa rasilimali. Katika kaunti ya Lamu, kuna hospitali ambayo imekuwa ikijengwa maeneo ya Mpeketoni. Kwa miezi sita ambayo imepita, hakuna kitu ambacho kimeendelea hapo. Hiyo rasilimali imesimama. Najua kwamba Maseneta wengine wataniunga mkono kwa sababu kuchelewa kwa rasilimali ni donda sugu katika kaunti zetu.

Kaunti ya Lamu imeongezewa Kshs500 milioni kutoka Kshs2.5 billioni hadi Kshs3.1 billioni.

Asanteni sana.

**Sen. Murkomen:** Madam Temporary, Speaker, from the onset, I want to state that I support the Bill and the amendments that have been proposed by the Committee. I congratulate the Committee for doing a good job. They have advised the House on matters concerning the conditional grants.

As per the decision of the court, the Division of Revenue Bill should only deal with shareable revenue between the two levels of the government. It should not be shrouded by other conditional grants, which mislead the public that the counties are getting a lot of money, yet that money is not shared equitably among the counties.

It must go to the annals of history that we achieved the Kshs370 billion after a very protracted fight, which kept us in this House for three to four months. We negotiated continuously. In fact, the process went for more than a year, but it was intense in the last four months. Some of our colleagues were arrested, intimidated and harassed, but the experience serves as a lesson to those who will choose to practice politics. They should know that standing by the right thing helps the whole country to benefit, and not just them.

When we started the debate on the allocation of revenue formula, Elgeyo-Marakwet County was among the counties that were supposed to benefit. It was supposed to get Kshs300 million. Many people from my county criticized me. They said that I was anti Elgeyo-Marakwet and they questioned the reason I was supporting the counties that were losing money. However, I am glad to tell the country that by standing with the counties that were supposed to lose resources, Elgeyo-Marakwet County is now getting an extra Kshs700 million. That came in because I stood for the right thing. Therefore, we should always stand for the right thing.

I hope that the Executive will not accede to the process of this Bill, just to meet its short term interest. We want the resources meant for the counties to be transferred to them. At the moment, the counties are having arrears of over three months and cannot function. We have given the counties Kshs371 billion and we should also ensure that the disbursements happen in time. This is a challenge to the Controller of Budget and the institutions that have the constitutional responsibility, such as National Treasury, which are supposed to ensure that the counties are resourced. They should follow the

Constitution and ensure that our counties get money on time. The people at the county level require resources.

I am a proud Senator of Elgeyo-Marakwet County and Senator in this Chamber. It is good to see that the effort we put in since 2013, the fights that we had in the courts and the fight to be respected by both levels of government have borne fruits. It is good to be able to eventually sit in this House, in our lifetime and celebrate the benefits of hard work, which has ensured that resources go to our counties.

I beg to support.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. Hon. Senators, we only have three more Members to go. That will take less than ten minutes. I urge you to remain online; do not disconnect. We need to take the three votes. Can all the Senators who are around make it to the Chamber?

*(Sen. (Dr.) Milgo spoke off record)*

**The Temporary Speaker** (Sen. Nyamunga): Senator, we can hear you.

**Sen. (Dr.) Milgo:** Madam Temporary Speaker, it is my hope that the money will now assist the county governments to pay the bills to the people who have offered them their services. Some counties have even had a challenge paying salaries.

My major worry is the lumping of conditional grants and equitable shares. I want to isolate a case where Kshs2 billion was dispatched for Technical and Vocational Education and Training (TVET) institutions. Many counties used that particular fund to put up excellent TVET institutions, but there are two counties that diverted funds because of corruption, which is rampant in the counties. Now that this money has been lumped together, it will be a challenge for us to oversight that fund and follow up where the money has gone.

Kenya has set out to become a middle income county by the year 2030. What is missing is the skill gaps, which can be supplied through the TVET institutions. If you go outside this country, you will realise that Kenyans are admired for their wonderful skills. However, our skills are still lacking.

Part of the conditional grants were going to universal healthcare, but the rampant corruption in the counties made it difficult for them to come up with good health centers. If we had built the health centers, we would have handled Covid-19 with a lot of ease. It is incumbent upon this Senate to play its oversight role, so as to ensure that money is not lost. We have been added over Kshs50 billion, which is good money. However, we know that all that can be a challenge if the money is not used for its not intended purpose.

I welcome Sen. Abdul Haji to the Senate---

**The Temporary Speaker** (Sen. Nyamunga): Senator, your time is spent.

*(Sen. Seneta spoke off record)*

**The Temporary Speaker** (Sen. Nyamunga): Senator, are you online?

**Sen. Seneta:** Yes, Madam Temporary Speaker. Are you getting me?

**The Temporary Speaker** (Sen. Nyamunga): Yes, we can hear you.

**Sen. Seneta:** Thank you, Madam Temporary Speaker, for giving me the opportunity to add my voice on this important Bill. I want to celebrate the Senate for ensuring that the allocation to the counties is increased in this Financial Year, 2021/2022.

I want to point out three issues. I urge the county governments to ensure that a big percentage of this money goes to development projects. Most of our counties allocate money for social programmes like women groups and other small programmes like food stuffs, instead of allocating money in physical projects, which can impact the life of their citizens.

County governments should ensure that there is proper collection of own revenue for those monies to be reallocated to them.

There will be late disbursement of monies or National Treasury without money. Since we are going for governors, we use the revenue that they collected. Therefore, we may not really get the much money that has been allocated to the counties. Maybe, it will be on paper. As for now, we have no monies for salaries and development in the counties because there is late disbursement. They must also put proper systems of revenue collection.

Finally, Madam Temporary Speaker, there must be proper use of these funds.

**The Temporary Speaker** (Sen. Nyamunga): Senator, your time is done.

**Sen. Seneta:** Madam Temporary Speaker, there must be proper use of these funds.

**The Temporary Speaker** (Sen. Nyamunga): Thank you.

Finally, Sen. (Rev.) Naomi Waqo.

**Sen. (Rev.) Waqo:** Thank you, Madam Temporary Speaker, for giving me this opportunity to add my voice to this very important Bill. From the onset, I want to say that I support the Division of Revenue Bill with amendments. We all remember that getting to where we are was not easy. 'Team Kenya' together with others stood firm and made sure that we fought for the citizens. I thank God that, today, the counties will get Kshs370 billion, which will be divided among the 47 counties.

Madam Temporary Speaker, I support this Bill and also thank our President, who listened to us and at the end of the day, allowed the increment to Kshs370 billion.

Before I proceed, Madam Temporary Speaker, allow me to congratulate Sen. Abdulkadir Haji and tell him that we are praying for him as he joins the Senate. His father was a role model. It is our prayer that he will also be a role model to the young people in our society.

Going back to the issue of the revenue sharing, the issue of corruption in our country is getting out of hand. I wonder why every time we complain and say this without taking much action. Corruption at the county level is on the rise. We speak of COVID-19 billionaires at the national level, while at the county level we have COVID-19 millionaires.

Madam Temporary Speaker, it is important for us to urge ourselves and the Government to take more serious action against any member of any office who is involved in corruption to be arrested and charged.

Madam Temporary Speaker, before I finish, I want to say something---

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senator, your time is up.

**Sen. (Rev.) Waqo:** Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. May I take this opportunity to call upon the Mover to reply.

**The Senate Majority Leader** (Sen. Poghisio): Madam Temporary Speaker, I beg to reply.



Madam Temporary Speaker, I want to thank Members who have spoken on the Bill and supported it, to make sure that we pass it. This is a big improvement from the last Division of Revenue Bill. It is in tandem with the provisions of our Constitution, where it provides for no less than 15 per cent. This now represents 27.3 per cent. That is something that the Senate has been able to fight to support counties.

Madam Temporary Speaker, you can see why Members are asking for accountability and saying that the disbursements should be quick and urgent, as soon as it is possible, and the counties become responsible. I have listened to suggestions by Members. I want to support that. There is a lot of money coming in. Apart from the equitable share, there is lot of other monies that are going to support various programmes. Therefore, the capacity of the counties to absorb and account for these funds is going to be a big issue.

Those of you who are running counties out there, be prepared and forewarned; it is public money. It is for the people and the counties. We want to make sure that the money is put to good use.

I would like to use this opportunity, therefore, to thank all those who have spoken and made contributions. On the issues they have raised, the Government is taking very keen attention and interests in what we have to say.

Madam Temporary Speaker, it is for me to request Members to vote and pass this Bill, so that we move to the next level, which is the County Allocation of Revenue Bill.

With those few remarks, Madam Temporary Speaker, I am very glad that today, we will vote online. To those who are online, I want to appeal to them to stay online as we have done, so that they can finish with this vote.

I beg to reply.

Thank you.

*(Question proposed)*

**The Temporary Speaker** (Sen. Nyamunga): I now order that the Division Bell be rung for only one minute.

*(The Division Bell was rung)*

Can we have tellers? Can the tellers from both sides move forward to the dispatch, Sen. Halake and Sen. Pareno?

Hon. Senators, we have three votes. Let us not go away. The Senators online, please, keep logged in. We want to spend the shortest time possible to take the three votes. This is a matter concerning counties. We will do it directly through the Clerk. He will do it by calling out the names.

*(The Senators proceeded to vote by Roll Call)*

That was Sen. (Dr.) Zani. She is now on the screen. Senator, kindly, repeat.

*(Roll Call voting in progress)*

**DIVISION****ROLL CALL VOTING**

*(Question, that the Division of Revenue Bill (National Assembly Bills No. 7 of 2021) be read a Second Time, put and Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Chebeni, Uasin Gishu County; Sen. Cherargei, Nandi County; Sen. (Prof.) Ekal, Turkana County; Sen. Faki, Mombasa County; Sen. Halake, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. Kavindu Muthama, Machakos County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. (Dr.) Lang’at, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Loiptip, Lamu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. Moi, Baringo County; Sen. Murkomen, Elgeyo Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. M. Kajwang’, Homa Bay County; Sen. Mwaruma, Taita Taveta County; Sen. Ndwiga, Embu County; Sen. (Dr.) Ochillo-Ayacko, Migori County; Sen. Orengo, Siaya County; Sen. (Prof.) Ongeru, Kisii County; Sen. Outa, Kisumu County; Sen. Olekina, Narok County; Sen. Poghisi, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. (Dr.) Zani, Kwale County.

**Teller for the Ayes:** Sen. Halake

**NOES:** Nil.

**Teller for the Noes:** Sen. Pareno

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, these are the results of the Division-

**AYES:** 34

**NOES:** Nil

**ABSTENTIONS:** Nil

The “Ayes” have it.

*(Question carried by 34 votes to nil)*

*(The Bill was read a Second Time and committed to a Committee of the Whole today by leave of the House)*

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

**COMMITTEE OF THE WHOLE**

*(Order for the Committee read)*

*[The Temporary Speaker (Sen. Nyamunga) left the Chair]*

**IN THE COMMITTEE**

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

THE DIVISION OF REVENUE BILL  
(NATIONAL ASSEMBLY BILLS NO. 7 OF 2021)

**The Temporary Chairperson** (Sen. Pareno): Hon. Senators, we are doing Committee of the Whole on the Division of Revenue Bill (National Assembly Bills No.7 of 2021).

*Clauses 3, 4, and 5*

*(Question that Clauses 3, 4 and 5 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*The Schedule*

Mover to move amendments. The Chairperson of the Committee on Finance and Budget, proceed.

**Sen. (Dr.) Ochillo-Ayacko:** Madam Temporary Chairperson, I would like to move-

THAT the Bill be amended by deleting the Schedule and substituting therefore the following new Schedule,

**SCHEDULE** (s.4)

**ALLOCATION OF REVENUE RAISED NATIONALLY BETWEEN THE NATIONAL AND COUNTY GOVERNMENTS FOR THE FINANCIAL YEAR 2021/22.**

Type/level of allocation	Amount in Ksh.	Percentage (%) of 2016/17 audited and approved Revenue i.e. Ksh. 1,357,698 Million
A. Total Sharable Revenue	1,775,624,173,860	
B. National Government	1,398,798,856,427	
C. Equalization Fund	6,825,317,433	0.50%
D. County equitable share	370,000,000,000	27.3%

Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clause 2, the Title and Clause 1*

*(Question that Clause 2, the Title and Clause 1 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

We now proceed to Division and we will answer to two questions. We need to get some Tellers from both sides. Sen. Olekina is from this side. Sen. Halake?

I put the question that the Schedule be amended as proposed. That is number one.

Number two, I put the question that Clauses 3, 4, 5, the Schedule (as amended), Clause 2, the Title, and Clause 1 be part of the Bill.

You will therefore respond to two questions.

*(Voting in progress)*

THE DIVISION OF REVENUE BILL  
(NATIONAL ASSEMBLY BILLS NO.7 OF 2021)

**DIVISION**  
**ROLL CALL VOTING**

*(Question, that the Schedule be amended as proposed, put and the Senate proceeded vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Chebeni, Uasin Gishu County; Sen. Cherargei, Nandi County; Sen.( Prof.) Ekal, Turkana County; Sen. Faki, Mombasa County; Sen. Halake, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. Kajwang' Moses, Homa Bay County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru, County; Sen. Kinyua, Laikipia County; Sen. (Dr.)Lang'at, Bomet County; Sen. (Dr.)Lelegwe, Samburu County; Sen. Loitiptip, Lamu County; Sen. Madzayo, Kilifi County; Sen.(Eng.) Maina, Nyeri County; Sen.(Eng.) Mahamud, Mandera County; Sen. Moi, Baringo County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jr., Makueni County; Sen. Mwaruma, Taita Taveta County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orenge, Siaya County; Sen. Outa, Kisumu County; Sen. Poghisi, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County, Sen. Wambua, Kitui County and Sen.(Dr.) Zani, Kwale County.

**Teller of the Ayes:** Sen. Halake

**Noes:** Nil

**Teller of the Noes:** Sen. Olekina.

**Sen. (Eng.) Maina:** Madam Temporary Chairperson, I wish to vote.

**The Chairperson** (Sen. Pareno): You have already voted. We are asking you to hold for the next vote.

**Sen. (Eng.) Maina:** Thank you.

**The Chairperson** (Sen. Pareno): The results for the vote on the first question are as follows-

**AYES:** 35

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 35 votes to nil)*

**The Chairperson** (Sen. Pareno): Is that Sen. Kavindu trying to reach out?

**Sen. Kavindu Muthama:** Yes, Madam Temporary Chairperson. I was voting “Yes.”

**The Temporary Chairperson** (Sen. Pareno): Hold on for the next vote. You are too late. We have already communicated the results.

**Sen. Seneta:** Madam Temporary Chairperson, make sure that you also pay attention to those voting online.

**The Temporary Chairperson** (Sen. Pareno): You are out of order, Sen. Seneta. We paid attention to everybody.

*(Question, that Clauses 3, 4 and 5, The Schedule (as amended), Clause 2, the Title and Clause 1 be part of the Bill, put and the Senate proceeded vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Chebeni, Uasin Gishu County; Sen. Cherargei, Nandi County; Sen. (Prof.) Ekal, Turkana County; Sen. Faki, Mombasa County; Sen. Halake, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. Kavindu Muthama, Machakos County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Loitiptip, Lamu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Maina, Nyeri County; Sen. (Eng.) Mahamud, Mandera County; Sen. Moi, Baringo County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwaruma, Taita-Taveta County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orengo, Siaya County; Sen. Outa, Kisumu County; Sen. Poghiso, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County, Sen. Wambua, Kitui County; and Sen. (Dr.) Zani, Kwale County.

**Teller of the Ayes:** Sen. Halake

**Noes:** Nil

**Teller of the Noes:** Sen. Olekina.

**The Chairperson** (Sen. Pareno): The results of the vote for the second question are as follows-

**AYES:** 35

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 35 votes to nil)*

**The Senate Majority Leader** (Sen. Poghisio): Madam Temporary Chairperson, I beg to move that the Committee of the Whole do report to the Senate its consideration of the The Division of Revenue Bill (National Assembly Bills No.7 of 2021 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

### **REPORT AND CONSIDERATION OF REPORT**

#### THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 7 OF 2021)

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, it is time to report progress. Proceed, Chairperson.

**Sen. Pareno:** Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered The Division of Revenue Bill (National Assembly Bills No.7 of 2021) and its approval thereof with amendments.

**The Temporary Speaker** (Sen. Nyamunga): Proceed, Mover.

**The Senate Majority Leader** (Sen. Poghisio): Madam Temporary Speaker, I beg to move that the House do agree with the Committee in the said report, and request the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo): Seconded.

*(Question put and agreed to)*

*(Applause)*

**The Senate Majority Leader** (Sen. Poghisio): Madam Deputy Speaker, I beg to move that The Division of Revenue Bill (National Assembly Bills No.07 of 2021) be now read a Third Time, and request Sen. Orengo to second.

**The Senate Minority Leader** (Sen. Orengo): Madam Temporary Speaker, I second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Nyamunga): We will have a Roll Call Division. This being a matter affecting counties, I direct the Clerk to go through the Roll Call.

Tellers, please, come forward; Sen. Halake for the “Ayes” and Sen. Olekina for the “Noes.”

### THIRD READING

THE DIVISION OF REVENUE BILL  
(NATIONAL ASSEMBLY BILLS NO. 7 OF 2021)

### DIVISION

### ROLL CALL VOTING

*(Question, that the Division of Revenue Bill (National Assembly Bills No. 7 of 2021) be now read a Third Time, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Chebeni, Uasin Gishu County; Sen. (Prof.) Ekal, Turkana County; Sen. Faki, Mombasa County; Sen. Halake, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. Kavindu Muthama, Machakos County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Loiptip, Lamu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Moi, Baringo County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jr., Makueni County; Sen. Mwaruma, Taita Taveta County; Sen. Ndwiga, Embu County; Sen. (Dr.) Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. (Prof.) Onger, Kisii County; Sen. Orengo, Siaya County; Sen. Outa, Kisumu County; Sen. Poghiso, West Pokot County; Sen. Seneta, Kajiado County; Sen. Sakaja, Nairobi City County; Sen. Wamatangi, Kiambu County; Sen. Wetangula, Bungoma County; Sen. (Dr.) Zani, Kwale County.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, the results of the Division are as follows: -

**AYES:** 35

**NOES:** Nil

**ABSTENTIONS:** Nil

The ‘Ayes’ have it.

*(Question carried by 35 votes to nil)*

*(The Bill was accordingly read the Third Time and passed)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I want to take this opportunity to thank all of you for having shown nationhood by the debate we have had

this afternoon and by the voting. It was a long day. We started in the morning up to now. We want to thank you so much for your vigilance.

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, there being no other business, the Senate stands adjourned until Tuesday, 11<sup>th</sup> May, 2021, at 10.00 a.m.

The Senate rose at 6.00 p.m.