

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Thursday, 9th April, 2015****Special Sitting**

*(Convened via Kenya Gazette Notice
No. 2323 of 7th April, 2015)*

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

[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]

PRAYERS**COMMUNICATION FROM THE CHAIR**

CONVENING OF SPECIAL SITTING OF THE SENATE TO
CONSIDER THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILL NO. 11 OF 2015)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I have a short Communication to make.

Hon. Senators, I wish to welcome you from the Easter Holiday recess and thank you for finding time to attend this Special Sitting of the Senate. Having just commenced our very short recess during which time I am sure each one of you had scheduled major county events, I know it is because of the value you attach to the business of the Senate, especially the consideration of a key piece of legislation like the Division of Revenue Bill that you have created time to be here today.

Hon. Senators, you may recall that the Division of Revenue Bill (National Assembly Bill No. 11 of 2015) was read the First Time in the Senate on Wednesday, 1st April, 2015, and committed to the Standing Committee on Finance, Commerce and Budget for consideration.

Hon. Senators, for your information, Standing Order No. 160(3) provides that; and I quote:-

“The Senate shall proceed upon and conclude its consideration of the Division of Revenue Bill not later than ten days after the Bill has been introduced with a view to approving it, with or without amendments.”

The ten day period lapses tomorrow.

Hon. Senators, by a letter dated 2nd April, 2015, and pursuant to Senate Standing Order No.29(1), the Senate Majority and Minority Leaders, supported by seventeen other Senators, requested the Speaker to appoint a day for a Special Sitting of the Senate to consider the Division of Revenue Bill (National Assembly Bill No.11 of 2015). Following consideration of the request by the two Senators, the Speaker was satisfied that it met the requirements of Standing Order No.29(2) and it is in this respect that the Speaker convened this Special Sitting of the Senate via Gazette Notice No.2323 of 7th April, 2015, which was carried in a special issue of the Gazette on the same day.

Hon. Senators, as required by Standing Order No.29(5), the notice specified that the business to be transacted at that sitting would be the consideration of the Division of Revenue Bill (National Assembly Bill No.11 of 2015) as passed by the National Assembly without amendments on 25th March, 2015.

Hon. Senators, as specified in the Gazette Notice and in accordance with Standing Order No.29(5) of the Senate Standing Orders, the business specified in the Notice shall be the only business before the Senate during this Special Sitting following which the Senate shall stand adjourned until Tuesday, 28th April, 2015, at 2.30 p.m. in accordance with the Senate Calendar.

Indeed, hon. Senators will observe that Order Nos.3 and 4 in today's Order Paper, pursuant to these provisions of the Standing Orders and as indicated in the Gazette Notice, the business to be transacted is the consideration of the Division of Revenue Bill (National Assembly Bill No.11 of 2015) at Second Reading and Committee of the Whole stages.

Therefore, it is noteworthy and I wish to emphasize that in accordance with Article 123 of the Constitution and Standing Order No.71 for the Senate to proceed to Standing Order No.4, this Bill must be passed by a majority of delegations at the Second Reading, Order No.3. The same requirement applies for business under Order No.4; Committee of the Whole. I, therefore, urge you all to remain in the Chamber for the transaction of this very important business.

I thank you, hon. Senators.

(Applause)

PAPER LAID

REPORT OF THE FINANCE COMMITTEE ON THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO.11 OF 2015)

Sen. Billow: Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today:-

Report of the Standing Committee on Finance, Commerce and Budget on the Division of Revenue Bill (National Assembly Bill No. 11 of 2015)

(Sen. Billow laid the document on the Table)

The Deputy Speaker (Sen. Kembi-Gitura): Next Order.

BILL*Second Reading*

THE DIVISION OF REVENUE BILL (NATIONAL
ASSEMBLY BILL NO. 11 OF 2015)

POINT OF ORDER

AVAILABILITY OF REPORT BY COMMITTEE ON FINANCE,
COMMERCE AND BUDGET

Sen. Obure: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Obure, what can possibly be your point of order at this stage?

Sen. Obure: Mr. Deputy Speaker, Sir, I just want some guidance. I thank you for your guidance on the proceedings of today. I am sure the Chairperson is about to move this Bill; but the report of the Standing Committee on Finance, Commerce and Budget, which is supposed to be available to us, has not been availed. I believe that is what will be tabled here.

Secondly, the Commission on Revenue Allocation (CRA) is required to submit its recommendations to the Senate, National Assembly, the National Executive, county assemblies and the County Executives. I do not know whether this has been submitted, but I certainly do not have a copy myself---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senator! What are you referring to?

Sen. Obure: Mr. Deputy Speaker Sir, I am referring to Article 216(5) of the Constitution which requires the CRA to submit its recommendations to us. I have not seen any copy and I am just wondering how I will be in a position to debate this Bill even before I see the Report of our own Standing Committee and before I receive a report of the various recommendations made by the CRA.

The Deputy Speaker (Sen. Kembi-Gitura): So, your point of order is twofold; one, on the report being availed to Members; and, two, on compliance or otherwise of Article 216(5). Am I correct?

Sen. Obure: That is correct, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): What are you asking me to do?

Sen. Obure: Mr. Deputy Speaker, Sir, I was just wondering if we, in this House, are in a position to debate the Bill which is about to be tabled and moved meaningfully if we have not been in possession of these documents.

The Deputy Speaker (Sen. Kembi-Gitura): Yes, I hear you. Now, regarding your first point, that would be the easier part because we can suspend the sitting for copies to be made available to you, if that is what you wish. I am sure you are aware that we must complete debate on this issue today. Again, that is the easier part because we can extend time until we are through with the debate on this issue and pass or fail to pass the Division of Revenue Bill. So, the first part is not difficult because we can suspend the

House for a little while, if that will be the wish of Members, so that the copies can be made.

Sen. Obure, are you a Member of the Committee?

Sen. Obure: Mr. Deputy Speaker Sir, I am not a Member of the Committee.

The Deputy Speaker (Sen. Kembi-Gitura): The Committee has worked very hard within certain timelines because it is only on 1st April, 2015, that I committed the Bill to the Committee chaired by Sen. Billow, for it to be considered, appreciating that it must be completed within 10 days, which end tomorrow, as I have said in my Communication from the Chair. Indeed, I have just approved the report for tabling this afternoon over lunch because the Committee was still working on it until very late because it is not a small issue. So, first of all, I would like to commend the Committee for working very hard to ensure that we have the report.

(Applause)

I will consult on the issue of whether or not we should suspend the House. If we do, then you appreciate that we will need to extend the time accordingly.

Your second issue is constitutional; it is on Article 216(5). Now, you should have read the whole article so that it flows about the flow of events. It states:-

“The Commission shall submit its recommendations to the Senate, the National Assembly, the national executive, county assemblies and county executives.”

As I sit here, I do not know whether it came or not, but I am certain that a report must have come to the Senate or to the Committee. However, I do not think that will stop us from debating the Division of Revenue Bill because it has gone to the National Assembly, and I want to assume that all the steps that were required to have been taken, including negotiations on the amounts, duly took place and that is how the Bill was passed at the National Assembly level. That is also how it came to us on 1st April and the reason why the Committee has now come up with a Report which we are going to debate as we debate the Bill in the Second Reading so that we can go to the Third Reading. So, if it is the desire of the House, we can make those copies very quickly and then we reconvene so that we can have time to read it.

Hon. Senators, let me clarify this issue. The fact that there are no copies is not something that you can apportion blame on. As Sen. Musila would tell you – because he has been in this for a long time – you cannot make copies of a report until it is tabled. It has to be tabled first and only then can we make copies. This is because it has to show endorsement on it that it has been tabled. So, I am going to suspend the proceedings after I have listened to your points of order. I will listen to all of you until such time that we can then have a report that you have in front of you as we debate.

What is your point of order, Sen. Billow?

Sen. Billow: On a point of order, Mr. Deputy Speaker, Sir. The Bill itself, which is before the House, has been available to the Members from last week. The report of the Members which has copies of the Commission for Revenue Allocation (CRA) recommendations is really what we will be tabling. It is a Bill that focuses basically on how much money should go to the counties. It is something that if we present, Members will be able to get the input in our report. The substance of the report is very brief on

exactly whether or not we agree with the Bill. So, I would indulge the Members if they could allow it, because everyone needs to contribute and we need time. But, we will be able to present exactly what each of the parties has said about the figures.

(Sen. Ndiema raised his hand)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Ndiema, why are you raising up your hand instead of inserting your card?

Please, go on.

(Laughter)

Sen. Ndiema: Mr. Deputy Speaker, Sir, while I appreciate the work done by the relevant Committee, I think that for purposes of orderliness, because this is a serious matter, it would be very important that in exercises like this one, these matters are handled well in advance rather than to achieve everything---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Ndiema! It means that you are not listening to me. After I commended the Committee, I said that procedurally, you cannot make copies of a report that has not been tabled before the House. So, there is nothing wrong at all that the Committee has done in the circumstances. They have done everything they can. Like Sen. Billow said, we all had one week to read the report and the Bill itself, upon which the report is based. So, I do not wish to apportion any blame because there is none.

Sen. Ndiema: Mr. Deputy Speaker, Sir, I am not apportioning any blame. What I said is that in future, this report should be tabled well in advance.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Ndiema! You appreciate that we are on recess. So, when could it have been tabled? We are here on a Special Sitting to debate this Report.

Sen. Ndiema: Mr. Deputy Speaker, Sir, we had a whole year to do it.

The Deputy Speaker (Sen. Kembi-Gitura): I think that is pushing it too far. I am sure that you appreciate that we only got this Bill last week from the National Assembly.

My screen is scrambled. Is there any other point of order? May I request that we reduce these points of order, so that we have enough time to debate the Bill and Report?

Please, proceed, Sen. Kagwe. You are a Member of the Committee. Are you not?

Sen. Kagwe: Mr. Deputy Speaker, Sir, as a Member of the Committee, I think that it is important for us to appreciate that we had very little time to deal with this because of other issues. The matter does not come to the Committee a year in advance. So, it is not possible for us to discuss it a year in advance. We can only discuss it at the time it is sent by the National Assembly to the Senate. I want to propose a way forward.

(Sen. Wako consulted loudly while standing)

The Deputy Speaker (Sen. Kembi-Gitura): Please, take your seat, Sen. Wako.

Sen. Kagwe: Mr. Deputy Speaker, Sir, I want to propose a way forward, so that we do not dwell too much on whether or not to break. I propose that we take half-an-hour break after which everybody who wants to see the document will have seen and read it.

(Sen. Khaniri stood up in his place)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khaniri, why are you standing up yet I have not called you out?

Please, proceed briefly, Sen. Khaniri.

Sen. Khaniri: On a point of order, Mr. Deputy Speaker, Sir. I join you in thanking the Committee for the good job done within the specified time. However, I want to propose to my colleagues that the business on the Order Paper today is the Division of Revenue Bill, which we have been seized of for the last three or four days. The report of the Committee can be treated like an amendment to whatever business that we are discussing. Therefore, it does not warrant us to break for 30 minutes. We can go through the Report as the Mover moves the Bill. By the time the Mover and Seconder are done, we will have gone through the Report.

Sen. Wangari: On a point of order, Mr. Deputy Speaker, Sir. I join you in congratulating the Committee. I also note that we have had precedent before where some reports done by the committees, noting the work and the stakeholders that they have met, would be very good in guiding the House in terms of what direction we take in the discussion and debate of this Bill. I join Sen. Kagwe on the view that we have taken a break of one hour in other reports previously. However, since this is being brought in as an amendment, we can make it shorter and take 30 minutes. But going forward, I think it would be very important that we have the break to look at the report.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I do not know what you are standing to rule on. But I want to propose that, one, we do not turn this House into a rubberstamp. We have to work. I suggest that we give Members 30 minutes to read through the document and before 6.30 p.m., we move a Motion to extend our sitting until we are through with the business of the House. This will ensure that we do not just run through the business as if it has come here to be rubberstamped and sent on for implementation.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senators. All of you have basically said what I had said; that we are going to suspend the sitting. I think it is reasonable that we suspend the sitting for 30 minutes, so that as the Report is taken through the Second Reading of the Bill, all of you can have a report to look at. I think that will be right thing to do.

Regarding extension of time, that will depend on you and how the debate through the Second and Third Reading will go.

I direct that the House remains suspended for 30 minutes. We shall come back at 3.25 p.m. to continue with our business. I believe that by that time, all of you will have had copies and looked at them.

Hon. Members, the House is suspended for 30 minutes.

(The Senate temporarily adjourned for 30 minutes at 2.55 p.m.)

(The Senate resumed at 3.25 p.m.)

The Deputy Speaker (Sen. Kembi-Gitura): All right; I believe we can proceed now. Can you call the orders, please, so that we can proceed?

BILL

Second Reading

THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2015)

The Deputy Speaker (Sen. Kembi-Gitura): Where is the Senate Majority Leader? Sen. Billow, are you the one moving the Bill? Can you proceed?

Sen. Billow: Thank you, Mr. Deputy Speaker, Sir. I beg to move that the Division of Revenue Bill be read a Second Time.

Mr. Deputy Speaker, Sir, Article 124 of the Constitution of Kenya provides for the establishment of our Committee of Finance, Commerce and Budget, which has looked at this Bill because it is part of our mandate. I want to take the Members through it.

Mr. Deputy Speaker, Sir, the Division of Revenue Bill (National Assembly Bill No. 11 of 2015) was passed by the National Assembly on Wednesday, 25th March, 2015. The same was communicated to us; it was forwarded to our Committee and we looked at it. The Bill provides for the division of the nationally raised revenue between two levels of Government. The Bill itself is accompanied by a memorandum, which is an explanation of the revenue allocation. Article 218 of the Constitution also requires that we use the criteria provided for there. It also requires that we provide a summary of any significant deviation from the recommendations by the Commission for Revenue Allocation (CRA). So, the Bill has got a memorandum explaining all that.

Mr. Deputy Speaker, Sir, pursuant to Article 118 of the Constitution and Senate Standing Order No.130, our Committee considered the Bill; we invited key stakeholders, including the national Treasury, the Council of Governors (CoGs), the CRA, the County Assemblies Forum (CAF), the Controller of Budget and other members of the public, including non-state actors. In that regard, we facilitated public participation and took into account their views and recommendations in our Report to the Senate.

Mr. Deputy Speaker, Sir, I would like to remind hon. Senators that the enactment of this Bill is critical because it sets the stage for the preparation of the County Allocation of Revenue Bill, which will inform the preparation of the respective county budgets. Counties must do their budgets by the end of this month. So, we have very strict timelines and a very tight schedule. So, we are also submitting the Report of this Committee for the consideration and approval of the Members.

Mr. Deputy Speaker, Sir, this will be the third year that we, as the Senate, are looking at the Division of Revenue Bill. Section 3 of the Bill clearly sets out the object and purpose of the Act, which is to provide for an equitable division of revenue raised nationally between the national and county levels of Government for the next financial year. It also provides for the financing and continuation of ongoing services in accordance with Articles 187 and 203 of the Constitution.

Mr. Deputy Speaker, Sir, the Schedule to the Bill provides for the actual sharing out between the two levels of Government and then, of course, some sections of the Bill – Section 5 – looks at what will happen if there is variation. This is a standard section that we have provided in the last three years---

(Loud consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Members! Order! The consultations are too high and we have a very serious business to deal with. So, consult in low tones.

Sen. Billow: So, in Section 6, the Bill looks at the mechanisms for resolution of any dispute which, again, the objective is to avoid wasteful expenditure by going to court instead of pursuing the provisions of the alternative mechanisms provided in Article 189 of the Constitution.

Mr. Deputy Speaker, Sir, the most important part of the Bill is the Schedule, which is on page 6 of the Bill. Page 6 of the Bill shows Schedule (s.4), the allocation of revenue raised nationally between the national and county governments for the Financial Year 2015/2016, with three columns. There is a column on the level or type of allocation; the second column is on the amounts and then the percentages. So, I want to seek your indulgence to take hon. Members through this, because we appreciate that it is very important that you get it.

The total allocation to the national Government is Kshs978.692 billion, which includes the free maternal healthcare of Kshs4.2 billion, leasing of medical equipment of Kshs4.5 billion, it also includes Kshs2 billion for Level 5 hospitals and healthcare facilities compensation. We also have equalization fund which is Kshs6 billion because it is taking into account the arrears for the previous year. The county equitable share, which is the shareable allocation of revenue for the counties, is Kshs258 billion. The total sharable amount of revenue for both levels of government comes to Kshs1.142 trillion. Out of that, the allocation for the counties is in the next part.

The equitable share that the Bill recommends is Kshs258.008 billion. The Bill proposes the following conditional allocation:-

(1) Kshs25,733,685,204 billion, which comprises the following:-

(a) free maternal healthcare of Ksh4.2 billion;

(b) leasing of medical equipment of Ksh4.5 billion;

(c) level 3 hospitals, Ksh2 billion;

The Deputy Speaker (Sen. Kembi-Gitura): Level 5 hospital not Level 3.

Sen. Billow: Sorry, Level 5 and not Level 3.

(d) allocation from fuel levy fund which is 15 per cent, it is Kshs3.3 billion;

(e) healthcare facilities which is compensation for foregone user fees which is Kshs900 million;

(d) conditional allocation, these are loans and grants by donors to specific counties, is at Kshs10.6 billion;

So, the total county allocation proposed in the Bill is Kshs283.741 billion which represents 37 per cent of the audited revenue of 2012/2013. The next part of the Bill explains what all these figures mean. I will take Members through a couple of them. Page 8 and 9 is explaining the figures that we have already gone through. Before I do that, I

would ask the Members to look at page 10, which is the equitable share and how we arrived at the Kshs258 billion. This is on page 11, in the table No.1. This will show how we arrived at Kshs258 billion for the equitable share.

First, we adopted that baseline of last year which was Kshs226 billion. Starting from there, we built up the figure for this financial year. The first item to be added was the adjustment of the Kshs226 billion of last year. The first adjustment was the allocation for personnel emoluments for staff transferred to county governments from State Department of Livestock Development that was costing Kshs1.46 billion; allocation for village polytechnics which were under the Ministry of Education was Kshs935 million and funds relating to county functions which were transferred especially for agricultural training centres and agricultural mechanization which was Kshs545 million.

The adjusted baseline that we are using for last year is Kshs229 billion. For this year, they are adding two items which are adjustment for revenue growth of 10.4 per cent which comes to Kshs23.902 billion. Then there is adjustment for increases in salaries and allowances awarded by the Salaries and Remuneration Commission in 2014/2015, they have provided for Kshs4.5 billion which brings the total to Kshs258 billion. This is the basis on which they arrived at Kshs258 billion in this Bill.

Mr. Deputy Speaker, Sir, on the next page, we can go through the process of how they arrived at the conditional allocations. The first conditional allocation is the free maternal healthcare of Kshs4.2 billion. This grant is a transfer to the counties on reimbursement basis upon confirmation that the county governments had provided maternal healthcare services, which they also provided last year. This is an amount of Kshs4.2 billion strictly on the basis of the services that have been provided by counties for maternal healthcare in their facilities.

The second is the conditional grant to facilitate the leasing of medical equipment of Kshs4.5 billion. This grant is intended to facilitate the leasing of modern specialized medical equipment in at least two healthcare facilities.

Mr. Deputy Speaker, Sir, our Committee had raised some issues on that lease of medical equipment and Members expressed concern on that. We have agreed that we will hold a joint meeting between the National Treasury, the Ministry of Health and our Committee on Health to discuss that matter but the provision for this year is Kshs4.5 billion. Then there is a conditional grant for Level 5 hospitals of Kshs2.064 billion. Last year, we provided for a figure less than this of about Kshs1.8 billion and this year, the Bill is proposing that they provide Kshs2.064 billion.

The important point to note is that Level 5 hospitals still face many challenges. We had representation from the Governor in Kisii on Tuesday and from Nyeri, Machakos and a number of counties with those hospitals that are finding it very difficult to run. The Ministry is proposing, as some Members may be aware, to re-classify some of the hospitals into national referral hospitals. I think going forward, that is the plan they are looking at so that they are funded and maintained. They also think that some of them should be upgraded.

Then we have a conditional grant of Kshs900 million to compensate county health facilities on the foregone user fees. This is to sustain the Government policy of not charging user fees in public health facilities. We have a conditional grant for road maintenance levy of Kshs3.3 billion. This conditional grant is to enhance county

government capacity to repair and maintain county roads. It is the 15 per cent of the road maintenance levy which will be transferred to the county governments.

Mr. Deputy Speaker, Sir, we also had a conditional grant in the Bill of Kshs1.4 billion. This is a grant from the Government of Denmark and a loan from World Bank. These funds are intended to support the delivery of health services in county health facilities. When we come to the county allocation, we will look at the details per county that is where the allocation of each county will come in. Here, we are discussing the general figures of each counties but in the County Allocation of Revenue Bill, we will go into details of what goes to which county and how much.

Then there is the conditional allocation financed by other loans and grants received from devolvement partners amounting to Kshs9.3 billion. These allocations relate to loans and grants contracted prior to the establishment of the county governments. So there are ongoing projects and therefore the existing financing agreements guide the structures and management framework of all those programmes and projects.

Those are the figures in this Bill. The equitable share for the next financial year, as I have explained, was built up from last year's base of Kshs226 billion to arrive at Kshs258,008,000,000. The key component there is the revenue growth of Kshs23 billion. The second key item is the Kshs4.5 billion for salaries. That is how the Kshs258,008,000,000 is built up. The conditional allocation of Kshs25 billion comprises of maternity, general healthcare, lease of medical equipment and Level 5 hospitals, among other items. That is what is proposed. In discussing this Bill, we had an opportunity to sit with the Treasury to discuss why they are proposing these figures. We had a lot of discussions on each of these items. The minutes of this Committee provide for all that.

Page 15 of the Bill, Table 2, provides a basis for sharing our revenue between the national and county governments in accordance with Article 203 of the Constitution. Article 203 is very important to Members because it determines the criteria to be used. One of the criteria, for instance, is the national interest, public debt and so forth. For instance, if you look at Table 2 on page 15, you will see that the first row is on ordinary revenue for 2015/2016 which is Kshs1.2 trillion. That is what they expect to collect in the next financial year.

Under "b", the national interest under Article 203, is defined according to the Government after looking at those items; for example, enhancement of security operations. There is need to invest more in security. They are looking at getting more police vehicles like helicopters and items for security defence, among other things. An additional amount of Kshs18 billion will go into enhancement of security operations. National Irrigation and fertilizer clearance will take an additional Kshs12 billion to take care of food security which is a critical component.

There is the reengineering of the National Youth Service (NYS) where the Government will take on board tens of thousands of youth to train and employ them. An additional Kshs11 billion will be put there. The National Social Safety Net Fund takes care of the vulnerable in the society. The money has been there every year. The total is Kshs12.8 billion and this includes urban food subsidy for those in the slums and for all other categories. This one is disbursed through the Ministry of Labour and Social Services. We also have money for laptops for the schools at Kshs17.5 billion.

We have in item “c”, the Public Debt of Kshs362 billion. This concerns servicing of national loans. In item “d”, other national obligations that must be taken into account include the pensions, constitutional salaries and so forth. That comes to Kshs54.6 billion. We also have the constitutional commissions. The largest is the Teachers Service Commission (TSC). We also have the Commission on Revenue Allocation (CRA), Commission for the Implementation of the Constitution (CIC), Salaries and Remuneration Commission (SRC), Inter-governmental Budget and Economic Council (IBEC) and so forth.

These are all constitutional commissions and have been allocated Kshs179 billion. Out of Kshs179 billion, the TSC takes Kshs160 billion. We also have Parliament.

We also have other constitutional offices. For example, the Attorney General’s office, the Director of Public Prosecution (DPP’s) and so forth at Kshs6 billion. We have other statutory bodies like the Ethics and Anti-Corruption Commission at Kshs4.7 billion. We also have other national funds like the CDF, Uwezo Fund, among others, at Kshs37 billion. We have provision for emergency which includes contingencies and strategic grain reserve at Kshs7.9 billion. The Equalisation Fund is about Kshs6 billion. Once you remove all that from the Kshs1.2 trillion which is the resource envelop, you are left with Kshs477 billion to be shared between the national and the county governments from the national revenue. This is collectable in the next financial year. So, out of Kshs477 billion, it is proposed that Kshs283,741,685,204 goes to county governments.

The Kshs283,741,685,204, the Kshs25,733,685,204 Conditional Fund plus the Kshs258,008,000,000 equitable shares is what will go to the counties. So, the balance available for the national Government will come to Kshs193 billion only as a matter of fact for the entire 18 Ministries of the Government. That is what remains. The rest of the money has to be looked for through borrowing and grants from other institutions. That is basically a brief of what is on the table. I thought going through the table was important so that Members appreciate how we arrived at these figures.

We also received representation from the CRA. Article 205 of the Constitution, I will read it briefly; provides that:

“When a Bill that includes provisions dealing with the sharing of revenue, or any financial matters concerning county governments is published, the Commission on Revenue Allocation shall consider those provisions and may make recommendations to the National Assembly and the Senate.”

Therefore, the CRA is required by law, under the Constitution, once the Bill is published to give us a recommendation.

According to the Public Finance Management (PFM) Act, this requires that CRA provides a recommendation six months before a financial year ends. That means that by December, they must have submitted it. So that means that in December last year, they submitted a recommendation. That recommendation is the one that is in the Bill on page 21. Page 21 has a table which shows what the CRA recommended.

The law requires, in Article 218, that if there is any deviation between what the CRA recommended and what is being proposed by the national Government and Treasury, there must be an explanation. The rest of the sections from Table No.3 downwards explain the difference between what the CRA had proposed at the time, an equitable share of Kshs282 billion and the Treasury had proposed Kshs258,008,000,000 and so forth. What happened since – I need to explain this so that Members appreciate –

is that the law provides for Inter-governmental Budget and Economic Council chaired by the Deputy President - This one brings together all the executive arms of the Government.

At that Council, they negotiated and discussed the recommendations from the CRA plus what the Treasury has proposed and they agreed on the figures which are in the Bill. These are the figures I have just read to you of Kshs258,008,000,000 plus Kshs Kshs25,733,685,204 Conditional Fund. This is what they have agreed upon as the CRA. We asked them, in accordance to Article 205, to give us their recommendations and they did. In your report, you will find in a letter dated 8th, CRA recommendations which I will read.

In accordance with this provision, the Commission on Revenue Allocation makes the following recommendation on the Division of Revenue Bill, 2015; that Kshs978.692 billion be allocated to the national Government, Kshs6 billion be allocated to the Equalization Fund and Kshs258 billion be allocated to the county governments as equitable share. So, as far as the CRA recommendation is also concerned, they are in concurrence with what is in the Bill. The last recommendation is exactly that amount.

Mr. Deputy Speaker, Sir, we also had a meeting with the Council of Governors and a copy of their submission is also attached to the Report. They advised us that they are satisfied. It is a lengthy report. What they wanted was Kshs349 billion. They looked at what CRA recommended, they went into IBEC and negotiated and eventually, they agreed. It states:-

“The Council of Governors maintains that this allocation of Kshs258 billion is still not enough for the operation of the counties but it is a figure that was agreed upon by different institutions. The Council of Governors submits that it will work with it”.

Also, as the Council of Governors, they expressed satisfaction with the Kshs258 billion. In short, that is the status of the contributions made by the other stakeholders on this Bill.

Having deliberated on this matter and received all those representations and cognizant of the guardian role of the Senate in safeguarding the interests of counties and taking into account the efforts and involvement of the Senate in negotiating non-reduction of county equitable share during the scrutiny and approval of the Budget Policy Statement, the Committee proposes as follows:

(a) The Committee noted that there was need to provide for an additional conditional allocation of Kshs4.4 billion to counties to provide for county emergency funds. This will facilitate the setting up of county emergency funds for each county government in line with the provisions of the Public Finance Management Act (2012).

It is becoming apparent that there are a lot of emergencies. In some counties we have seen droughts that have led to death of animals and people. In others, there have been floods in recent weeks. There are all sorts of emergencies like accidents. In some counties in a very small stretch, there occur accidents every day in which so many people lose their lives. The Committee is recommending that we provide Kshs4.4 billion for that purpose.

Mr. Deputy Speaker, Sir, I will shortly explain where the Committee proposes that this money should come from.

(b) The Committee was of the opinion that we will bring an amendment at the Committee Stage for an additional Kshs1.536 billion for Level 5 health facilities.

The Members felt that the Kshs2 billion provided for Level 5 facilities was not adequate, so that the total for the Level 5 health facilities' conditional allocation will come to Kshs3.6 billion. In fact, in the public representations that we received, there were assessments which have been done by some organizations of the Level 5 hospitals. These hospitals have had serious problems in terms of service delivery; in terms of inadequacy of cash. So, we thought it is important to provide an additional Kshs1.5 billion to bring the total to Kshs3.6 billion.

Mr. Deputy Speaker, Sir, the Committee also noted the significant deviation made by the national Treasury in providing for adjustments of salaries and allowances for county assemblies and executives. We observed that the increment had been effected vide various gazette notices that had been issued by the Salaries and Remuneration Commission and other guidelines issued by the Transition Authority (TA).

If you remember, last year, the SRC reviewed the salaries and allowance of MCAs and other county executive officials. So, the total cost of that review was coming to Kshs12.5 billion. That was an additional cost. For example, the MCAs were allowed to have offices at the ward level in order to have some presence on the ground. The total cost of the additional allowances and salaries approved by the SRC was coming to Kshs12.5 billion.

In the Bill, Treasury had proposed that we give the counties an additional Kshs4.5 billion to support that. The counties were to look for the balance from their usual equitable share. The Committee looked at it and thought that it could be very difficult for counties because that is a huge amount and it will affect the amount of money that will go for development.

(c)The Committee is proposing to increase the allocation for salaries, gratuity and allowances for county executives and assemblies by an additional Kshs1.7 billion so that we bring the total to Kshs6.2 billion. In other words, that Kshs12.5 billion will be shared equally. The counties will get an additional Kshs6.5 billion and the Government saves Kshs6.2 billion.

Those are the three recommendations that we feel will lead to an amendment at the Committee Stage.

Where will the money come from? We looked at that and we proposed a couple of areas where this money will come from. First, we proposed that in the national interest on the Bill which provides for national irrigation and fertilizer clearance, it provides for Kshs12.5 billion to the national Government. We have said that agriculture is a devolved function and a lot of counties are doing their own irrigation schemes, looking at the possibility of getting fertilizer for their own farmers, *et cetera*.

So, there are challenges associated with this area of utilizing the entire provision of Kshs12.5 billion and we resolved to take Kshs2.5 billion from that allocation so that the national irrigation on page 15 of Table 2 of the Bill will come down to Kshs10 billion instead of Kshs12.5 billion. We said that the Kshs2.5 billion can be obtained from that.

Mr. Deputy Speaker, Sir, the second area we looked at is on the emergencies. On Row No. (e) on the same Table 2, they had provided for Kshs7.9 billion for emergencies. These emergencies is Kshs5 billion for contingencies and Kshs2.9 billion for the Strategic Grain Reserve. We did not touch the Strategic Grain Reserve, but on the contingencies of the national Government of Kshs5 billion, we shared it out equally so

that we gave Kshs2.5 billion to the counties and retained Kshs2.5 billion for the national Government.

It is becoming apparent, especially in the Arid and Semi-arid areas (ASAL) when there is drought, the Government is increasingly asking those counties to bear the bill of buying relief food and other things for the affected people. So, we also took from there Kshs2.5 billion. The total adjustment that we are proposing is Kshs7.7 billion and so the remaining Kshs2.7 billion will be deducted from the balance available from the national Government needs.

The total equitable share, if our proposed amendments are approved by this House during the Committee of the Whole will come to Kshs259.7 billion which represents 33 per cent of the audited revenue for 2012/2013. The conditional grants will increase from Kshs25 billion to Kshs30.1 billion because of the additional increase of Level 5 hospitals to Kshs3,600,480 and also the County Emergency Funds of Kshs4.4 billion. That will bring the total; both equitable and conditional share to Kshs291,444,185,204. This is on the table on page eight and nine of your Report. You will find the total County Allocation will come to Kshs291,444,185,204. That will come to 37 per cent of the total. That is what we have proposed.

Mr. Deputy Speaker, Sir, it is the feeling of the Members of the Committee on Finance, Commerce and Budget that we make the necessary adjustments. The import is very clear; that any adjustments or amendments to this Bill will lead to mediation between the two Houses of Parliament. That notwithstanding, that was the proposal by Members. We urge Members to critically look at that.

Mr. Deputy Speaker, Sir, lastly, if the Kshs291,444,185,204 will be passed, there will be substantial amount of money that will go to the counties. The Senate has always made it very clear, in the two years that we have looked at and enacted the Division of Revenue Bill, that it has been the intention of the Senate to provide for adequate funding to county governments so that we get improvement in service delivery, maintenance of our institutions and also get adequate money for development.

In the reports by the Controller of Budget last year up to now, we have seen that some counties have had very little money left for development because of the overheads, cost of maintenance, salaries and so forth. For example, whatever we gave to counties like Nairobi County is exactly equal to its 103 per cent of its remuneration. Their total personnel emoluments is actually equal to what we allocate, for instance. It is important that we give adequate money so that these institutions can run.

Secondly, there is local revenue that is generated by county governments. There has been concern in all reports by the Controller of Budget that county governments have been very inefficient in collecting revenue. In many of the big counties, we have not seen any significant growth. In fact, in some counties, we have seen a decline in collection of revenue. Concerns have been expressed in the many reports that have been issued by the Controller of Budget, the Auditor-General or other institutions that there is a serious problem of accountability for funds, particularly of local revenue that is collected.

We want to put county governments on notice because the law is very clear. All the money collected must be kept into the county revenue fund so that it can be accounted for and appropriated in accordance with the law and the Public Financial Management (PFM) Act.

Mr. Deputy Speaker, Sir, we need to make it very clear to county governments that there is a tendency of corruption within county governments. We saw the report recently. In the President's Speech, up to 13 county governors were cited to be corrupt. There were allegations of corruption in 13 counties. However, more importantly, more than 30 counties were mentioned in the Report. So, it is a matter of concern that barely two years into devolution - we will be celebrating two years of devolution next month when the Annual Devolution Conference will be held in Kisumu - there are concerns that billions of shillings are probably being lost through corruption. This is a matter that, as Senate, we need to be concerned about. This is a matter that should encourage us to come up with appropriate laws and regulations to tighten the control of money in county governments.

Mr. Deputy Speaker, Sir, without taking any more time, I urge Members to support the Bill and the proposed amendments. I thank the Office of the Speaker, the Clerk, all Members who have assisted us and some Members of my Committee who worked tirelessly over the last one week to get this Report.

We have particularly been very hard on institutions like the Commission on Revenue Allocation (CRA) where we demanded that they carry out their functions as required by the Constitution; that they be independent and give advice so that the Senate gets their recommendations and determines what to do.

That is what I had. I do not want to take any more time and I beg to move and ask the Senator for Kakamega County; Sen. (Dr.) Khalwale, to second the Bill.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I rise to second this very important Bill. As I do so, allow me to thank the Chairman of the Committee on Finance, Commerce and Budget for allowing me to second such an important Bill in this House. Equally, allow me to thank the Senate Minority Leader whose responsibility was to do what I am doing but he has allowed me to do it on his behalf.

I associate myself with all the statements that have been made by the Chairman of the Committee on Finance, Commerce and Budget; and Senator for Mandera. So that I am not repetitive, I intend to support the Bill by just pointing out to Members the salient issues that we must remain alive to as we pass this Bill.

Mr. Deputy Speaker, Sir, the first salient point, which the House needs to know, is that the CRA was not in agreement with the National Treasury or the IBEC in the figure that is presented before you. Our lead consultant under the Constitution is the CRA. It is the CRA which, in quotes, "would appear like should bind us," because, indeed, they are our consultants. Therefore, we should start by expressing our disappointment that the Chairman of the Commission, Commissioner Cheserem, has allowed himself to use the IBEC as his first port of call. That should not be the case. We encourage him that before he goes to the IBEC, he should pass through us so that he is enriched by our stand that we will agree with him or we will ask for more.

Mr. Deputy Speaker, Sir, the second point is that the figure of Kshs775,845,000,000 by the CRA is the equitable share which is based on the total sharable revenue. Members should remember that the revenue that we share is based on the last audited accounts approved by the National Assembly. These are the accounts of 2012/2013 Financial Year. We demand that the National Assembly Public Accounts Committee must do its work. We are losing out to the counties because ideally, we should have based our sharing on the audited accounts of the Financial Year 2013/2014.

Mr. Deputy Speaker, Sir, the revenue being collected is Kshs1.3 trillion and because of the National Assembly not being up to date in approving accounts, we are losing out. The counties would have got far much more.

The third point which I would like to talk about is the fact that the Chairman has confirmed to us that we have not agreed with the National Assembly. The figure given by the National Assembly and agreed together with Inter-Government Budget and Economic Council (IBEC) is Kshs253.5 billion. As a Committee, we have disagreed. We are saying that if we adopt this figure, we will paralyze critical functions in the counties. Therefore, we are leading this House in disagreeing with the National Assembly figure. We would like this House to support our amendment, which is that, it should move to Kshs259 billion for the following reasons:-

If you do not increase this amount to Kshs259 billion, it means that the conditional allocation that is meant to go to Level 5 hospitals would be Kshs2 billion only. This is completely inadequate. We are therefore saying if you support this amendment, it will move from Kshs2 billion to Kshs3.6 billion. This will go a long way in sorting out the challenges in Level 5 hospitals.

The second reasons why we would like the House to agree with us as a Committee that this figure be varied upwards is because of something called establishment of county emergency. We all know that when emergencies take place, they do not do so in the office of the national Treasury or the Office of the President; emergencies occur in the counties. The current practice where an emergency occurs in a county and the governor is reduced to only begging and drawing the attention of the national Treasury--- it might be working but maybe the money does not arrive at the right time and in some instances, it does not arrive at all.

We are saying that this money which the Treasury wants to hold, that is, Kshs4.4 billion, should go to the county Treasuries shared equitably so that governors can deal with emergencies as and when they occur. The national Treasury had suggested that we give county governments zero and in this amendment, we are saying that the county governments would be given Kshs4.4 billion.

The last reason why we need the House to support the Committee in the varied figure is because of the issue of salaries in the counties for members of the Executive and employees of the County Assemblies and the Members of the County Assemblies (MCAs). After the Commission on Revenue Allocation (CRA) met with the Salaries and Remuneration Commission (SRC), recommendations were made that necessitated earnings to go up within the year. If we do not make this amendment, the import is, as the county assemblies and as the governors attempt to increase the salaries of employees in accordance with the recommendations of SRC, they will have nowhere to get that money from.

As Senators, we were shocked that the chairman of the finance committee, the Governor for Wajir came and told us that they were in agreement with the Government that the money for salaries should not be increased. So, we asked him that since they are agreeing, where is he going to get money to increase salaries? He told us on the face that they are going to get it from the development budget. Our governors, in their haste to look like they are lawmakers have now agreed with IBEC that development which all of us are fighting for in our counties, be sacrificed for the sake of salaries. Therefore, let us

raise this money so that there is money for salaries for us to cushion the development funds to remain for development.

The final point which I would like to make was casually touched on by the Chairman and it has to do with the leasing of medical equipment. There is a figure of Kshs4.5 billion and another figure of Kshs6.3 billion that is meant to be given to the National Youth Service (NYS). These two Votes are actually scandalous for the following reasons; that the Kshs6.3 billion meant for NYS is being taken to the Ministry of Devolution and Planning. Therefore, the Ministry of Devolution and Planning which was meant to coordinate Government activities is now being given development money.

When you follow what development they are going to do, they are doing functions that are already devolved to county governments. So, why is the Ministry of Devolution and Planning going to do the jobs of governors? If they want to use NYS for training or whatever reason it is, let this money, Kshs6.3 billion, be with the governors for training NYS recruits. We are not able to recover it but I want us to remember it in the next financial year.

The Kshs4.5 billion is what the Chairman confirmed that we shall sit down with the Ministry of Health and the national Treasury to thrash it out. If we do not thrash it out, this House will be used to abet corruption in the sense that the equipment which is being given to the governors, you can do an outright direct purchase at Kshs181 billion. Since we do not have the technical know-how for servicing, there is a service back-up of 7.5 per cent which is equivalent to Kshs41.3 billion. When you add the two, it is equivalent to Kshs223 billion. So, allow the governors to do an outright direct purchase and allow them to enjoy service contract which will cost them only Kshs223 billion but in the contract being signed by the Government, this job of Private-Public Partnership (PPP) is costing Kshs808 billion, a difference of a whopping Kshs585 million.

This means that if we gave out this money as conditional grants to the county governments, in total, the governors would spend Kshs10 billion but because of PPP, we are spending Kshs31 billion. The question is; since the Kshs10 billion takes care of the purchase of equipment together with service contract, who is pocketing the difference of Kshs21 billion? These are the clever guys at the national Treasury, who hide the devil in the detail of figures, we pass them as parliamentarians and they go home laughing all the way to the bank.

Mr. Deputy Speaker, Sir, this is corruption and our President today is leading in fighting corruption. So, we want him to listen to us and direct PS Thugge and Cabinet Secretary Rotich to ensure that if it is the Ministry of Health whose mandarins want to walk away with Kshs21 billion, they be stopped because we have pointed that that out.

Finally, I want to appeal to the governors that when they sign the contracts for these equipments, they be alert. According to a report by the Committee on Health of the National Assembly Committee which pursued this matter, they have established that out of the seven contracts, only five have been signed, that is, theatre, radiology, Renal Unit and the Intensive Care Unit (ICU). What are the contracts that have not been signed? There are two critical contracts called Category 1 and Category 2 laboratory contracts.

Distinguished Senators, if you do not stop your governors from accepting that equipment without signing all the seven contracts, the consequence is that you are going to have an ICU and Renal Unit which are well equipped but cannot function because to

run it you need laboratory backup, and those contracts have not been signed. It is going to be a disaster and those units will not function.

Mr. Deputy Speaker, Sir, I beg to second and urge Members to support our amendment.

(Question proposed)

The Deputy Speaker (Sen. Kembi-Gitura): There is a lot of interest on this issue, as indicated on the screen. So, I may have to reduce the time to speak in due course.

Sen. Kagwe: Mr. Deputy Speaker, Sir, I rise to support this Bill. In doing so, I would like to thank both the Chairman and the Secunder of the Bill for highlighting resilient and important features.

Mr. Deputy Speaker, Sir, from the outset, I would like to highlight one or two things. The first one has to do with the fact that as a Committee, we have fought substantially to see that the amount that is being discussed goes up. However, the enemies of devolution today are not this House or the National Assembly, but corruption at the county level. They are nepotism and serious conflicts of interest in business within the county governments. We will increase wastage of resources, no matter how much we give here, unless we can increase the oversight capabilities of both the county assemblies and this House. Therefore, let us allocate the money, but also ensure that the money that was allocated by the National Assembly to this House – the Kshs1 billion – to increase our oversight is not tampered with for any reason and by anybody. I think that should be made very clear.

Mr. Deputy Speaker, Sir, secondly, as a House, we also need to ensure that we continue to support and speak to our county assemblies, so that we can emphasise the need for them to be more vigilant in managing the resources, oversighting and serious participation in the budget process of our counties. I think it is important for us to appreciate the three items that we touched on.

First, there is the issue of emergencies. This was after a very serious consultation and discussion. Right now, we have emergencies in places that are flooding. For example, when there is flooding in Budalangi, we must empower the county government to respond instantly and immediately. County governments are more accountable to the county citizens when there is an emergency and no response is taken. The second dimension is that the county governments will have no excuse why people should be suffering on the ground, when they have got some money that can immediately be deployed to resolve those problems.

When it comes to Level Five hospitals, I think it is important for the Senators to appreciate that the costing that was done by the Treasury was over Kshs10 billion. The amount of money that was originally given in the National Assembly was then split amongst the 47 counties, which made nonsense of the whole idea of conditional allocation for Level 5 hospitals because, essentially, what that means is that some of money for Kisumu Hospital, for example, went to the neighbouring county, which then brought their people for treatment in Kisumu, Nyeri, Kakamega, Kisii and so on. But we are alive to this and it is important for us to point out a factor in it.

If you look at page 6 of the Bill, you will find that within the national Government allocation figures, there is a figure for Level 5 hospitals of Kshs2 billion. If you go down and look at county allocation, there is another figure of Kshs2 billion. This means in effect that the actual allocation is Kshs4 billion. It is important for us to point out this even as we discuss it, because last year when we negotiated – and we were involved in the dispute resolution with Sen. Elachi and Sen. Mutula Kilonzo Jnr. – we agreed that we would split the cost that was demanded then; Kshs3.6 billion.

So, in real terms we are saying that we want some Kshs3.6 billion conditional allocation by the national Government directly into the counties. However, it also implies that there will be another Kshs3.6 billion from the national Government allocation; the matching fund that we have operated on since we negotiated the Kshs1.8 billion. I think we need to understand that and this message should be very clear to the Treasury, so that they do not say that we are asking for Kshs3.6 billion in total. Their matching fund is still required at the same level as the allocation for the county governments.

Mr. Deputy Speaker, Sir, the other thing to remember is that we passed a Bill in this House that 40 per cent of the amounts to be spent in the counties are going to be used for development. It can be a Bill or Act in futility if we do not have sufficient funds to allow for the 40 per cent. There is no need of telling a county like Nyeri, which is in deficit, that you are going to allow 40 per cent for development, when they do not even have enough to meet recurrent expenditure, let alone development matters. Therefore, one of the reasons we raised this amount to the level that we are proposing is to ensure that the Bill that was passed by this House can take effect at the county governments' level.

Mr. Deputy Speaker, Sir, I want to thank the National Assembly. For once, the National Assembly cooperated to a large extent on the determination of this position that we are currently in. I want to commend the Chairman for using very many methods to create harmony within the negotiations in the budget process. We are aware that Sen. Billow met many times with the Chairman of the Budget Committee of the National Assembly and agreed on many aspects. I am aware that our Chairman has continued to engage his counterpart in the National Assembly, including today, as we were negotiating this amount. Therefore, we also want to appeal to the National Assembly to see the sense in what we are trying to do here. They should understand that we do not just want to get some Kshs7 billion.

Finally, if you look at the amounts that we have asked for, on two items, we are asking for conditional grants. These are amounts that are going to be given to counties only on the grounds that they will be used for purposes for which they are set.

Mr. Deputy Speaker, Sir, the oversight related to those particular aspects is a lot higher than would otherwise be the case. This means that it is in the interest of the national Government to follow through and ensure that the money for the Level 5 Hospitals and emergency funds are only used for intended purposes and cannot be diverted into other uses. Therefore, it is important that we, as Senators, advise our counties that in the event they use money that is supposed to be conditional, say for a specific cause or function; it is recoverable by the national Government. It is important for us to point this out to the county assemblies so that at no time will that money be diverted to other aspects.

Mr. Deputy Speaker, Sir, it is also important for us to point out that a mistake was made last year when somebody said that if you do not finish the money allocated to the counties by 30th June of the year, it will then be taken back to the national Treasury. It is high time civic education took place in the country, especially in the county governments to sensitize them that once money has been allocated to a county government, it can never be taken back to the national Treasury. Many people do not seem to be alive to that fact. It is the county Treasury that maintains that money, whether it is used or not. However, the fact remains that the money belongs to the county government and can never revert back to the national Treasury.

Once again, Mr. Deputy Speaker, Sir, I want to thank the Chairperson and, indeed, the Committee for their hard work and support. I want to appeal to my fellow Senators to support this Bill so that we can finish it quickly and avoid extending time beyond 6.30 p.m.

Thank you, Mr. Deputy Speaker, Sir.

(Loud consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! I have 15 requests on the screen and each of you has 15 minutes to contribute. If you multiply that, it comes to 225 minutes. This is equal to 3.75 hours or almost four hours. You realize the fact that we do not have four hours remaining. If I give you 10 minutes each, that will translate to 150 minutes, which is about 2.5 hours. I think each of you would like to contribute. Therefore, I am proposing each Member to contribute for 10 minutes. But in fairness---

Hon. Senators: Five minutes!

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! You will contribute for five minutes, as you request because it is still within 10 minutes which I had earlier proposed. So, it is up to you. You can contribute for five minutes and you will save us a lot of time. However, I am looking at the bigger picture. So, it is going to be 10 minutes. But since I had granted Sen. Kagwe 15 minutes, I will grant 15 minutes to the next speaker. But he can speak for the period of time that he wants to speak as long as it is no more than 15 minutes.

What is your point of order, Sen. Muthama?

Sen. Muthama: Mr. Deputy Speaker, Sir, I do not want to look like I am challenging the ruling of the Chair, but what we should consider is the number of Senators we have here. If you take the number here and give that first 10 minutes, we will still be here at 6.30 p.m., with about 12 Senators to go. So, my suggestion is that we go straight away to five minutes so that we accommodate everybody.

(Applause)

The Deputy Speaker (Sen. Kembi-Gitura): Okay; let us look at this. Does that sound equitable?

Hon. Senators: Yes!

The Deputy Speaker (Sen. Kembi-Gitura): Does it?

(Loud consultations)

I am asking that question because I do not want anybody to say that they were shut out. First of all, if you refer to Standing Order No.29(5), there will be no need to apply for extension of time. We shall proceed until we finish Business, subject to not going beyond midnight. However, you do not need to make an application for the extension of time. So, you have until midnight. But if you want us to do five minutes, I will be quite happy because we are going to Committee of the Whole Stage which, in my view, is more critical than this stage. So, are we agreeing on five minutes?

Hon. Senators: Yes.

The Deputy Speaker (Sen. Kembi-Gitura): Okay, let us be fair to each other; if we can do two minutes, five minutes or whatever number of minutes, it would be very good, indeed. However, it is too early to curtail you to five minutes.

Proceed, Sen. Musila; you have 10 minutes.

Sen. Musila: Thank you, Mr. Deputy Speaker, Sir. I stand to support this Bill. Once again, we are here drumming support for our counties to get more revenue. I want to agree with the Senator for Nyeri about the need for us to ensure that the revenue that we fight for so hard to go to counties is properly utilized.

Mr. Deputy Speaker, Sir, in this Bill, I agree with the Chairperson who very efficiently delivered his speech, that there is a trend which is developing within the national Government to take a lot of money to the centre and deprive counties. For example, the money being given to the National Youth Service (NYS) and the Ministry of Devolution is a lot. This has been happening prior to devolution, where money was put in the centre and certain people used it to develop certain areas. So, in order to have equity in development, particularly in activities being run by the NYS, it will only be fair that this money is sent to counties.

Mr. Deputy Speaker, Sir, on the issue of health, I do not know about other counties; but in my own county – and I believe it is also true with other counties – health services have deteriorated greatly. In the past, when the national Government was running health services, it was difficult to find drugs missing in dispensaries and health centres. But today, some dispensaries have been shut down because of lack of personnel or drugs. Therefore, the issue of health services must be looked at very diligently in order to give sufficient funds for health services. That is why I support the proposal by the Committee to increase the amount being given for health services.

Mr. Deputy Speaker, Sir, we have been singing about Level 5 Hospitals; what about those counties which do not have these hospitals? The nearest Level 5 Hospital to Kitui County is Machakos and Embu. However, the service that we get in those hospitals is enough for us. We passed a resolution through a Motion in this House requiring that we should have Level 5 Hospitals in all counties in order to have equity in terms of health services.

Therefore, I would like the national Government to go further than simply allocating little money here and there, for Level 5 Hospitals and ensure that we develop them at all county headquarters. That way, we will be allowing people to access health services. Therefore, I want to applaud the Committee's recommendation that the amount of money available be increased to Kshs4.5 billion, as they have recommended.

Mr. Deputy Speaker, Sir, on the issue of the equipment that is to be leased for hospitals, I would like to request that this proposal be looked at more diligently. This is

because corruption – which is already a national issue that is being talked about – appears to be creeping in this institution so that before this amount of money is released to health facilities, due diligence should be done so that all the components of treatment, like the distinguished Senator for Kakamega has said, are available and the contract signed for so that we do not have white elephant equipment lying in counties.

Mr. Deputy Speaker, Sir, there is an amount of Kshs2.8 billion in the national Budget for the safety net. This is the money that is to be given to old people. As you recall, right on this Floor, many Senators expressed their concern about how this money is being used. As of now, the Ministry responsible has been unable to give us the names of the recipients of this amount. Therefore, here again money is being taken to people and is not being accounted for.

Every time, I have stood in regards to the issue of the revenue distribution, I have talked about the Equalization Fund. The Constitution allowed for the Equalization Fund in order to take care of areas that have been marginalized in the past. This fund which is now standing at Kshs6 billion is being given to some counties selected by the Commission of Revenue Allocation (CRA) without the approval of the Senate. On that basis, the Kshs6 billion is being allocated to some counties depriving counties that are already in need, like Kitui, Baringo and other counties that were already marginalized earlier on. The Constitution meant that this money cushions those counties and yet they are not benefiting. Therefore, I would like to see us get proper formula for the distribution of the Equalization Fund and ensure that we target those counties that are marginalized.

Mr. Deputy Speaker, Sir, we spoke about the ceilings of county assemblies. As I speak here, many county assemblies have been grounded because they do not have money to look at the programmes that the county governments are undertaking. The Governor for Wajir confirmed that MCAs do not need these salaries. This is one way of governors suppressing county assemblies so that they do not oversight them. Therefore, the proposal by the Committee that this amount of money be moved from the national Government to the county governments in order to get enough money to make sure that county assemblies run efficiently, is a good idea. Therefore, I strongly recommend, approve and support the recommendation by the Committee that the money for salaries and the county governments, especially for assemblies be increased.

Finally, I want to talk about the issue of emergencies. In this Bill, the national Government has been insisting on keeping emergency funds. As much as we know, most emergencies happen at the county level. Right now, quite a number of counties are facing drought. Many counties have not had rains for the last three, four or five seasons. Therefore, they are in great need of relief food, but the national Government cannot effectively supply foodstuffs to those counties. We devolved services so that county governments are closer to the people and that they understand the needs of the people and run quickly to the issues of emergencies.

The same goes to emergencies like flooding and death occurring through certain unexpected circumstances. Therefore, it is my view - and I also I support very strongly again the recommendation of the Committee - that while the national Government remains with some funds, money for emergencies, of necessity, must be directed to counties because that is where emergencies are. In the first instance, county governments must respond to emergencies even before the national Government response.

Mr. Deputy Speaker, Sir, the issue of accountability for funds by county governments has been raised. I have been consulting with my colleagues and we wonder how many of us Senators receive proposals of budgets from the county governors before they are sent to the county assemblies, so that you, as a Senator, are aware of the proposals the governor is making.

The Deputy Speaker (Sen. Kembi-Gitura): Order! Senator, your time is up.

Sen. Wangari: Mr. Deputy Speaker, Sir, I rise to support this Bill. I also want to add my voice in commending the good work done by the Committee. I am pleased because this amount was arrived at after consultations with various stakeholders.

I also want to register my disappointment with the CRA because it has treated this House unfairly. The recommendation that the CRA does should first come to this House because our mandate and responsibility is clearly stipulated in the Constitution and it should not be overlooked.

I want to touch on very few issues. First, it is the issue of Level 5 Hospitals. Last year, we had a very interesting debate. We, as a House, felt that the amount that was given was not sufficient. It was actually halved from the previous year. I can see that the Committee has recommended that this be upped a bit to Kshs3.6 billion.

Mr. Deputy Speaker, Sir, Level 5 Hospitals do not serve only the counties where they are; even if they are in eleven counties, they serve across counties. This amount is still not sufficient considering what is happening in the health sector. We have seen patients suffer and having to be transferred to Nairobi where they do not have enough room for medical care. It is a mess. We must make sure that this amount is actually improved, even if not this year, we should keep on improving it and not the other way round.

My second point is with regard to the issue of emergency fund. I am very supportive of the idea that counties are the ones that are very responsible for any disaster affecting the people. The other day, I saw my Governor appealing to the national Government to supply people of Nakuru with food. First of all, Nakuru County is not classified as a county which relies on relief food. However, there are areas in Naivasha and Gilgil where some people sleep hungry because of the dry season. It is a pity that Nakuru County Government is appealing to the national Government to provide them with money to buy food for their people. It is not fair. I support this Ksh4.4 billion emergency fund, but I also hope that the county government and the county assemblies, as they do their budgets will do clear regulations on how this money will be spent. We should come up with clear checks and balances to curb corruption and make sure money is used for the intended purpose.

Regarding the equalization fund, we have spoken about this fund for some time. We are told that there are some funds that are being carried over from the previous years. There is a balance of sum of Kshs1.8 billion from last year's allocation that was not disbursed. This was because the regulations that were supposed to unbundle this and make sure that it was done, have never been tabled and discussed. We must expedite this to the National Assembly because that is where the regulations go, that this money can save Kenyans and support very many counties, about six counties that had been listed. We cannot keep pushing it. We must expedite them and make sure that they are done in good time and make sure that these funds can be helpful to Kenyans.

Mr. Deputy Speaker, Sir, with regard to the issue of medical equipment, I have been very categorical that the counties can sign the contracts. I hope that governors will sign these contracts. However, the more I think about it, the more I see that we are excited by the fact that we have a problem in the health sector. Recently, the radiology machines at the Kenyatta National Hospital (KNH) broke down. It has been chaotic and very painful to see Kenyans condemned to death. Kenyans are staring at death in the face, helpless, not knowing what to do. As long as the machines will be leased, we will not be concerned about servicing. At times, we could even outsource since we do not have the know-how to repair. We have to outsource the technology and the manpower to deal with servicing.

I was initially very excited by this. I have also listened to the divergent views that have been given by governors, medical stakeholders and practitioners. We need to have a candid discussion between all these groups of people before we make up our minds so that we do not get excited. We should not help people and yet ten years down the line, we realise that this was just another corruption scandal. This must be done in the right way. Yes, it is good, but consultations must be done widely and conclusively.

Mr. Deputy Speaker, Sir, let people talk to one another and not at each other. Let us not lecture each other, but with one another. The national Government must do things above board and on the table so that we do not leave room for suspicions. We should ensure that everything is put on the table. Governors should not be used to rubber stamp what they do not understand. Let this be explained properly so that we know why it is better to lease and not to buy. Let people do evaluation on the cost benefit analysis of why it is better to lease and not to buy and what benefits or economies of scale we will get so that we get value for our money. I support that discussion that the Committee has already put in the Report and hope that this will be done in the proper way.

I also note that in the past year, we had an issue in terms of audited reports. We had delays. Even if we are not up to date, I want to note that this is an improvement. We are basing this Bill based on the 2012/2013 Financial Year audited accounts. We should not be begging every time for the Reports to be up to date. The National Assembly must do it, especially the Public Accounts Committee which must carry out its responsibility in making sure that audited reports are up to date, tabled and deliberated on. When we are handling division of revenue, we should not be asking why the accounts are not up to date. We spoke about this last year and even the year before.

With that, I support and hope that we can also encourage county governments to ensure that as they do their budgets, their priorities are very clear. This has to be emphasized because there are areas where we need more money in terms of maternal healthcare which is still below par. We have improved, but we are not still doing very well. We are still losing very many mothers and many children at birth which should not happen. Counties have a role to play and I hope that we will have the free maternity programme carried out by the national Government being carried in collaboration with the counties because that is where the hospitals are.

Sen. (Dr.) Machage: Asante, Bw. Naibu Spika. Leo ni siku ya maana kwa Seneti hii kwa sababu tunajadiliana pesa zilizotengewa Serikali za Kaunti. Sisi twataka kuupitisha Mswada wa kuzipa pesa Serikali hizi kwa minajili ya maendeleo na kazi zingine za muhimu. Hatupitishi pesa hizi kusudi magavana wa kaunti wajipendekeze kwa wananchi kwamba wao ndio wenye pesa. Kama hawaangalii runinga, waangalie ili

waone ni akina nani wanaopendekeza mgao huu wa pesa. Je, ni nani aliye na kibuyu au kifurushi cha pesa? Ni Bunge la Seneti. Wanafaa kwenda nje na kusema; “pesa hizi nimewaletea ni Sen. Machage aliyezetafuta.”

Hivi leo twaangaza macho yetu kwa Kshs258 billion ambazo zimegawa na Bunge la Kitaifa. Kuna mgao mdogo kwa minajili ya matibabu ya akina mama, vifaa vya matibabu, kusaidia hospitali za kiwango cha Daraja la 5 na kadhalika. Tunapendekeza kwamba Serikali hizi zipate mgao wa Kshs283,741,685,204. Hizi si pesa chache kwa sababu ukizaliwa leo na uanze kuzihesabu, utafika umri wa miaka 87 kabla kumaliza.

Bw. Naibu Spika, tulikuwa na shida kwa mgao uliopita. Lazima tuangalie na kuona tutapeana pesa kiasi kipi katika kila kaunti. Shida tuliyonayo ni ya ufisadi. Tayari, magavana kadhaa wametajwa katika orodha ya ufisadi. Je, tunawapa pesa zaidi ili waendeleo na visa vya ufisadi? Na si magavana peke yao, pia Mkaguzi Mkuu wa Serikali ametajwa katika orodha hii. Je, sasa tunawapa pesa zaidi waendeleo kuiba? Wamekuwa wezi sugu. Mhe. Rais mwenyewe, katika Hotuba yake, aliukemea ufisadi unaoendelea hapa nchini. Seneti hii iliunga mkono Hotuba yake kwa dhati. Sasa twataka kuona matokeo.

Bw. Naibu Spika, tunajua walitajwa lakini tumepata Ripoti ambayo imependekwa hapa na Mwenyekiti wa hii Kamati kwamba ni zaidi ya kaunti 30 ambazo zimetajwa. Wengine wamekula mpaka wameanzisha vita katika kaunti zao. Mifano mzuri ni kaunti za Narok, Tana River, Kilifi, Migori na kadhalika. Wemekula mpaka wamelewa; wanatapika kila mahali. Lakini sisi kama Seneti tunatekeleza waajibu wetu. Inafaa tuwaambie wananchi wafungue macho yao waangaze akili na mawazo yao vile pesa zao ambazo tunapendekeza leo hii zitatumika mashinani. Inafaa wananchi watambue kwamba hizi ni pesa zao na wala si pesa za gavana, eti ajifurahishe kwa kukimbia kwa magari ya ving'ora kushoto, kulia na kati.

Bw. Naibu Spika, hasa hizi pesa Kshs4 bilioni ambazo zimewekwa wakfu kwa sababu ya mambo ya dharura na majanga ambayo yatatokea; pesa hizi zitashughulikia mikasa kadha wa kadha. Kwa mfano shule ikiteketea, janga la kipindupindu kama ilivyo kule Migori na kadhalika---. Wakati jambo la dharura litatokea, gavana watajingamba kwa kupeleka kule hizi pesa na kudanganya wananchi kwamba wao ndio wamezitoa ilhali sisi ndio tunazipitisha hapa. Hizi ni hela za kuwasaidia wananchi hasa wakati wa majanga mashinani. Kwa hivyo, hatutaki kusikia kwamba mwananchi anaumiwa huku kuna pesa ambazo tunapitisha hapa. Haifai kumpigia magoti gavana, kumhusudu na kumuita majina ya enzi au ya kifahari ili afurahi naweze kuwarushia pesa chache kwa minajili ya janga litakalotokea mashinani. Inafaa wananchi wajue kwamba hii ni haki yao.

Ni lazima kuundwa kamati ya majanga mashinani. Tutapitisha hizi pesa, lakini usimamizi wake usiwe kitendawili ambacho kinaweza kutatuliwa tu na magavana. Hata kama Katiba inawapa magavana uwezo wa kugawa pesa hizi ni lazima wawe waangalivu. Ombi letu kwao n waache uchoyo na kujitukuza.

Sen. (Dkt.) Khalwale amesema kwamba vifaa vimetolewa na Serikali. Hata hiyo, pesa hazijatolewa kwa minajili ya kuanzisha mipango ya kujenga maharaba. Inafaa hili jambo liangaliwe kwa undani kwa sababu itakuwa ni aibu kama vifaa vitatolewa na Serikali kuu kwenda mashinani halafu visifanye kazi. Kwa hivyo, ni lazima tujenge mahabara na kuyapea vifaa. Mimi ni daktari na ninajua umuhimu wa hili jambo. Ni lazima hawa magavana waweke sahihi kwa vile vipengee vitatu ambavyo hawakutia

sahihi ili mpango huu ukamilike. Ninashukuru kwamba Serikali kuu imekubali kutoa hizi pesa. Tulikuwa tunafikiria kwamba watatoa vifaa mashinani halafu wakaingiza kwa mfuko. Ninashukuru kwa sababu wamefanya jambo la utu na la maana ili kuhakisha kwamba hizi pesa zimetoka kwa Serikali kuu.

Pia kuna pesa za ziada ambazo zitatolewa kwa zile sehemu ambazo labda maendeleo hayakufika. Ni lazima tuangalie mambo haya kwa sababu mgao wa hizi pesa hauleweki kabisa. Kuna sehemu ndogo ndogo ambazo zimejumuika kwa kaunti kubwa kubwa na kuonekana kana kwamba zimeendelea. Kwa mfano, kule mlima Kenya, ukienda sehemu zingine za Nyandarua, hazina maendeleo kabisa. Ukienda Kieni mahali pa ukavu, wako nyuma na unawalinganisha na---

The Deputy Speaker (Sen. Kembi-Gitura): Order! Senator, your time is up.

Sen. (Dr.) Machage: Ungenipa hata dakika moja tu!

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): Order! You must organize your time within the ten minutes due to you.

Sen. Elachi: Thank you, Mr. Deputy Speaker, Sir. I also rise to support the Report and to also thank the Committee for I know they have done very extensive work. I also want to thank all the stakeholders who attended the public hearings.

Mr. Deputy Speaker, Sir, it is time we gave a very clear recommendation to the CRA, that it will be prudent if every December we receive their recommendations on this Bill because that is what the Constitution says. We are hoping that this year we shall start on a new slate and ensure that within Article 216 of this Constitution we are able to agree and follow the procedure to the end.

I would also like to talk on two other issues with regard to this Bill. First, is the issue of equipment. I want to thank Sen. (Dr.) Machage because it was in 2013 when he brought before this House a Motion urging the Government to ensure that all Level 5 and Level 4 hospitals are provided with this equipment. The Constitution of Kenya, 2010, in Article 43 states that every person has the right to health. Women are the ones who suffer in this country when it comes to issues of equipment. When a woman in Turkana is taken ill and she wants to do dialysis, she must travel to Eldoret. That is because we only have four ICUs in this country; Nakuru, Mombasa, Eldoret and Nairobi.

Mr. Deputy Speaker, Sir, when we talk about this equipment, this was a tender that was floated way back in November 2013 and the companies that were awarded were very serious companies that even a Kenyan who would have wished to be part of this could not. We are talking about companies like Philips from the Netherlands and General Electric from the United States of America where we are sourcing radiology equipment.

The county that saddens me most is Garissa County where there is only one theatre table. During the recent terrorist attack in Garissa, the Government had to fly to Garissa six surgeons who were unable to work because there was only one theatre table. If, indeed, we had that equipment, today the number of casualties would have been less because we had to airlift those who were hurt to KNH.

It is also important for us to look at this situation from a different perspective. I want to inform the House that some of us before we became Senators, we supplied goods to the Government through a tendering process. I know how the Ministry has had

challenges. When we talk about managing equipment services, in sub-saharan Africa and even in the United Kingdom, this is the procedure they use. One of the things it does is to ensure that you have the same person to maintain the equipment and train the users. This helps to save a lot of money and ensures that taxpayers' money is properly used.

Companies from the United States of America (USA), Netherlands, China, Italy, India and the rest of the world that were awarded tenders are the same companies that have been supplying same things in the whole world and in our country. This time round, we are telling them to supply things to us and maintain the equipment. I know governors would have wished to be given the tender. If you have an investor who wants to invest in our country, will they invest in 47 counties? Will it be easy for them to do so? For example, I know Kakamega County will sign five contracts. In the five contracts, we shall have a dialysis machine, a radiology machine and all the five machines which the hospital has been struggling to have in the last 50 years. So, it is a must that they sign those five contracts. Why are different companies supplying different equipment?

[The Deputy Speaker (Sen. Kembi-Gitura) left the Chair]

[The Temporary Speaker (Sen. (Dr.) Machage) took the Chair]

Mr. Temporary Speaker, Sir, I urge the House to look keenly at those contracts. If you go to the Ministry of Health, you will find that governors started consultancies on these things last year. It is, therefore, upon us, as the Senate, to look at Sen. (Dr.) Machage's wish in his Motion, and support it; to have the equipment which we shall monitor. A sum of Kshs1 billion has been set aside for monitoring purposes. We should monitor whether the equipment has come, what was required and if the specifications are right. That will help. It will also help the Ministry of Health to move on and look at other issues that affect us. It will ensure that the personnel are taken care of.

Mr. Temporary Speaker, Sir, as we support this Bill, I know there has been issues with the equipment. However, the equipment will transform hospitals in the counties. For us women, we are the ones who go to hospitals everyday with our children. We know how we suffer. We know the challenges we face when we lie somewhere on the floor of a hospital waiting for dialysis. We know very well because we have our parents who come from home to KNH and line up because there is only one machine that caters for all patients.

Mr. Temporary Speaker, Sir, we know that the NYS is in the counties and projects will be for counties. We should support the two issues because they were brought up and supported in this House. I hope that we can question and consult with the Cabinet Secretary. Let us support these programmes so that we see to it that the Motions we have passed in this House start transforming the lives of people in our country.

As I support this Bill, I pray hard for Migori County. The best we can start with is just the basic; a latrine and cholera will come down. That is the basic thing to do and it is important. As we look for better machines, there are other things we need to ensure that we have which are basic for our own health.

Mr. Temporary Speaker, Sir, I beg to support and thank you for bringing the amendment in the House.

The Temporary Speaker (Sen. (Dr.) Machage): Looking at the number of Members interested, I further rule that the time limit be five minutes. The next speaker will have five minutes.

Sen. Muthama: Mr. Temporary Speaker, Sir, from the outset, I want to make it clear that we are discussing the accounts of the Financial Year 2012/2013. In supporting this Report, we must read it carefully, analyse it and come up with answers.

I wish the Chairman were here. If you go to page 9, this Report has a lot of discrepancies. This is what I want Senators to analyse. On page nine, starting with the column that reads "National Government," the allocation to the national Government is Kshs976,925,500,000. Out of this, Free Maternal Health Care is given Kshs4,298,000; Leasing of Medical Equipment is Kshs4.5 billion; Level 5 Hospitals Kshs3,600,480,000; Healthcare facilities, Kshs900 million; Compensation for foregone user fees County Emergency Funds is Kshs4.4 billion; Equalisation Fund is Kshs6 billion and County Equitable Share is Kshs259,774,500,000.

If you add the figures starting with Kshs1,242,700,000,000 all the way done, it is wrong. There is Kshs18 billion hidden in the addition which had never be thrashed out. That is point number one.

The Temporary Speaker (Sen. (Dr.) Machage): Order! What you have pointed out could have meaning. However, if you look at Order No.3 on our Order Paper, we are actually looking at the Bill; the Division of Revenue Bill (National Assembly Bill No. 11 of 2015). We are not discussing the adoption of the Committee's Report, just to correct you.

Sen. Muthama: Thank you very much, Mr. Temporary Speaker, Sir. However, I was just pointing out the errors. In mathematics, numbers must add up. If they do not add up, then there is something extremely wrong with these figures. There is Kshs18 billion hidden somewhere.

To conclude my contribution, Mr. Temporary Speaker, Sir, just read down there on the "Total Shareable Revenue." What does that mean? It means that the shareable revenue is Kshs1,242,700,000,000. However, the Chairman, his Committee and the CRA turn around and tell us that audited accounts are Kshs776.9 billion when allocation has already been made. Look at all this. These are physical numbers. Therefore, Kshs776.9 billion is a number that is picked and plucked there and we are told that is the audited account.

Mr. Temporary Speaker, Sir, we should deal with the true position. You cannot change me from what is provided for in the Total Shareable Revenue to read something else. I want Senators here to stand and tell me what exactly we are sharing here.

The Temporary Speaker (Sen. (Dr.) Machage): If you listened to me, that is why I advise and direct you to look at the figures on the printed Bill that is presented to us for discussion. I am sure the Committee may have noticed that. You should look at it. If you want to make any comments for the speaker's benefit, do so but you should look at the Bill and discuss it.

Sen. Muthama: Mr. Temporary Speaker, Sir, will you add me two more minutes because the interferences were many?

The Temporary Speaker (Sen. (Dr.) Machage): Okay, you have two more minutes.

Sen. Muthama: Thank you, Mr. Temporary Speaker, Sir. I still insist whether the Bill will come, whether it is on the way or whether it has been presented, currently, we are discussing about this Report. I emphasize the reading down there which says "Total Sharable Revenue." If that cannot be read and put into practice, then we do not need this Report. We should wait for the Bill and deal with it.

There is something extremely wrong here. I do not support the Report with great errors. That is stealing of public funds.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Muthama. Sometimes, it is good to listen to the Speaker when he gives advice and direction. Whereas your concern may be legitimate, you will not even have the opportunity to move any amendment on that Report. You can only make amendments at the Third Stage of the Bill. So, save your voice and energy. You have put the point, but listen to my advice on the real issue here.

One more minute, Sen. Muthama.

Sen. Muthama: Mr. Temporary Speaker, Sir, I agree with your advice. I take it seriously. However, let it be noted that what is written in this Report is written and what the Chairman read was a collection of every detail from this Report. If I had the Bill here, I would have talked differently. However, currently, I am dealing with this.

Mr. Temporary Speaker, Sir, I do not support.

Sen. Adan: Mr. Temporary Speaker, Sir, I rise to support this Report and the amendments. First and foremost, I am really disappointed with the CRA. It looks like the discussions we had with them prior to this Bill fell on deaf ears. It is not right for this Senate to be used as a rubber stamp. Secondly, the Constitution and other legislations are very clear in terms of how the budgets should be formed. I am sure Members of the public are informed about what is happening in the Budget. If a commission is not putting into consideration the recommendation by the Senate, then I do not know what we are doing here. To add my voice on the amendments, I would like to talk about Level 5 Hospitals. Some of us come from counties where there are no Level 5 Hospitals.

You will find that there is a mother who has a maternity problem. If she is taken to Isiolo County Hospital, she might not get the services she requires. So, where will she go? It is important to increase funding to Level 4 Hospitals. It is unfair for one person to travel all the way from Wajir, Isiolo or Marsabit all the way to Nyeri or to KNH.

Regarding the issue of village polytechnics, Kshs19 million has been allocated to each county. That is nothing. We must get our priorities right. There are some counties that do not have village polytechnics. Why can the CRA or the Government not look at the counties which do not have village polytechnics and give priority to them instead of giving each county Kshs19 million? This is really unfair and it should be reconsidered.

The other point is consideration by the stakeholders before we end up discussing this issue in the Senate. According to me, it is just formality. We listen to various stakeholders, but unfortunately, we do not consider their recommendations when we come up with a budget. We must change this routine.

Finally regarding security, we have a big challenge and I have seen the recommendations in the Bill. It is high time that we consider those amendments and seriously fund the security department and make sure the funding goes to the relevant counties facing insecurity in this country.

Regarding emergency funding, we have counties which require relief food year in, year out. It is important that we give people the formula of how to get bread and not bread itself because we cannot be depending on relief year in, year out, and the money allocated for emergency does not even reach the intended people, but end up in people's pockets. We must come up with proper structures in terms of dealing with our emergencies.

With those few remarks, I beg to support.

Sen. Boy Juma Boy: Asante sana, Bw. Spika wa Muda, kwa kunipa nafasi hii ili kwa roho ngumu na huzuni mwingi niunge mkono Mswada huu. Kama ningekuwa ni mtu wa kawaida ningepinga Mswada huu lakini kwa sababu mimi ni Seneta, nitaunga mkono. Nitatoa sababu kwa nini naunga mkono Mswada huu.

Naunga mkono Mswada huu kwa sababu tunaongeza pesa kwenda katika serikali za kaunti. Je, serikali hizi za kaunti zinajua kama sisi tunafanya kazi hiyo? Hao magavana wanajua na kuheshimu Seneti kwamba sisi ndio baba na mama wanaowapelekea pesa hizo? Leo hii hapa tunang'ang'ana kuongeza zaidi ya Kshs30 billion lakini ukifika huko, Maseneta hawajulikani wala hawaonekani mahali popote. Hakuna mahali ambapo Seneti inasemekana kwamba imefanya kazi hii. Hii imekuwa kama hadithi ya mnyama fulani kufukuza mnyama na akishamshika, anapewa mifupa. Sisi kazi yetu hatueleweki wala hakuna jambo lolote tunalolifanya katika kaunti zetu. Ikizidi, wanasema kwamba Maseneta wako Nairobi na kazi yao ni kula chapati na kuku na wala hatufanyi kazi.

Wakati huu haya ndio mambo ambayo tunatetea na tunataka pesa nyingi kwenda katika kaunti kwa sababu ya kufanya mambo ambayo yatakuwa na manufaa ya watu wetu. Kwa mfano, kuna pesa za dharura. Ni nani asiyekubali kwamba kaunti zetu zote zina mambo ya dharura. Kuna dharura za ukame, vyakula na kadhalika. Ndio maana kifungu hiki cha pesa za dharura ambazo zimetengwa na Seneti hii, naishukuru sana Kamati ya Fedha na Bajeti kwa kutenga fedha za dharura katika kaunti.

Tukiangalia fedha za afya ni kwamba Kamati ya Fedha na Bajeti yataka kuona kwamba wananchi katika kaunti wanapata huduma nzuri za afya. Jiulize ni hospitali gani katika kaunti utapata ina madawa na vifaa vya kutosha? Hali ni ile ya miaka nenda, miaka rudi na hakuna mabadiliko. Haya ndio mambo ambayo tunasema tuna uzitu mkubwa wa kuongeza pesa hizi. Tunachohitaji zaidi ni kuonekana ya kwamba kuna mambo yanayobadilika katika kaunti. Hali za wananchi wetu bado ni hali zile za "19 vua" kofia mpaka leo. Hakuna madadiliko hospitalini; foleni ni zile zile, shida ni zile zile. Sasa imekuwa ni hatari *bin danger*.

Sen. Hassan: Kwa hoja ya nidhamu, Bw. Naibu Spika wa Muda. Ningependa kuuliza huu mwaka wa "19 vua" kofia ni upi?

The Temporary Speaker (Sen. (Dr.) Mchage): Ni nidhamu au ni swali?

Sen. Hassan: Je, kutuambia sisi kwamba kuna mwaka unaitwa "19 vua" kofia ni haki?

The Temporary Speaker (Sen. (Dr.) Mchage): Basi jieleze, Mheshimiwa.

Sen. Boy Juma Boy: Bw. Spika, namshukuru. Mwaka "19 vua kofia" ni kutoka 1900 mpaka leo. Yaani kutoka hiyo miaka ilipoanza mpaka leo, hakuna mabadiliko yoyote, hali ni ile ile ya kutoka 1900 mpaka 2015; hali haibadiliki. Ndio maana tunasema kwamba vile tumekwenda katika ugatuzi, yatakikana kuwe na mabadiliko. Ndio kwa sababu tunaongeza pesa katika mgao wa serikali za kaunti.

Hatuongezi pesa ili walio na matumbo madogo wazidi kuwa na matumbo makubwa. Tunaongeza pesa kwa huduma ya mwananchi ili mabadiliko yaonekane. Si kwamba wakubwa wawe na magari kumi na tano bali tunaongeza ili huduma iwe bora. Inafaa ule mzalendo anayesimama kwenye foleni na kupiga kura aweze kuona mabadiliko. Hayo ndio mambo muhimu.

Jambo la pili---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Senator, your time is up.

Sen. Wetangula, as you present your views, your representative – Sen. (Dr.) Khalwale – said that he had your blessings to second this Bill. I want you to address the concerns of Sen. Muthama. If there is a mistake, create an avenue for amendment.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Temporary Speaker, Sir. I had to let Sen. (Dr.) Khalwale do the seconding because I just arrived this morning from India and had not gone through the Bill properly.

Now that I have read through the Bill, if you look at page 6 of the Bill, we are actually, as a Senate, perpetuating a fraud on the counties. When Sen. Billow was moving the Bill, he said that the most important table was on page 6. If you look at page 6, the percentages and figures given do not add up. We have been arguing that we need more money to go to the counties and devolved functions are not being adequately resourced. These include agriculture, water and rural roads. There are inordinately large sums of money held at the centre. The national Government is continuing to---

Sen. Mositet: On a point of information, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Order! Are you on a point of information or point of order? Can you clarify what you want?

Sen. Mositet: Mr. Temporary Speaker, Sir, if you check---

The Temporary Speaker (Sen. (Dr.) Machage): First of all, can you clarify what point you are on?

Sen. Mositet: Mr. Temporary Speaker, Sir, I am rising on a point of information.

The Temporary Speaker (Sen. (Dr.) Machage): Then he has to give you the permission Do you accept to be informed, Sen. Wetangula?

The Senate Minority Leader (Sen. Wetangula): Please, inform me.

Sen. Mositet: Thank you very much, Senate Minority Leader. I know that the Chairman said that we stick to page 6, but we also need to read Table 2 on page 15 of the Bill. On page 15, Table 2, the total revenue collection for Financial Year 2015/2016 is Kshs1,242,699,000. But what is being referred to on the other end is 33 per cent of money which was collected in Financial Year 2012/2013 is Kshs776.9 billion.

The Temporary Speaker (Sen. (Dr.) Machage): You will have to explain yourself later as the Vice-Chair of the Committee. Let Sen. Wetangula speak his mind.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I had not even made my point. I had already seen both tables.

Mr. Temporary Speaker, Sir, I was saying that we must, as a Senate, continue fighting for and making the CRA appreciate that the difficulties of implementation and absorption of money at the counties notwithstanding, functions must be sufficiently resourced for the resources to go to the counties. You cannot devolve agriculture and still have agricultural functions being handled at Kilimo House. You cannot devolve water and still have billions of shillings left in Nairobi on water.

If you look at the schedule on page 6 – Table 1 – the Total Sharable Revenue in the Bill is Kshs1,242,700,000,000. The Bill acknowledges as such, but we go on to mount a deception to the public and the counties by saying that what they are getting – Kshs258.008 billion is only 21 per cent of the sharable revenue. So, it is not true that the counties are being given 33 per cent of the sharable revenue. This is the fraud that I am talking about. At the end of the day, we are offloading services and functions without attendant financial support to the counties. If we are using Kshs776.9 billion as the sharable revenue, which is not the case in the Bill, then that cannot be the figure to use. If we are talking of 33 per cent, then the sharable revenue that goes to the counties is Kshs410 billion. This means that we have shaved off over Kshs140 billion that should go to the counties.

Mr. Temporary Speaker, Sir, I heard you when I was driving talking about corruption. Yes, there is corruption in the counties, but there is even bigger corruption at the centre. If you look at the so-called list of shame, if in a Cabinet of 18, six are sent home on suspicion of corruption, then you know very well where corruption is domiciled.

Sen. Mungai: On a point of order, Mr. Temporary Speaker, Sir. I would like the Senate Minority Leader to make a clarification because it appears like he is misleading the House. The Constitution talks about a percentage of the last audited accounts, and that is exactly what has been quoted here.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Mungai! I will give you time to explain yourself. Sen. Wetangula is explaining facts. Listen.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, he started by saying that it appears like I am misleading the House. How can it appear? It is either I am misleading the House or not, and I know that I am not.

Mr. Temporary Speaker, Sir, this is a Bill that has come to this House from the National Assembly. It is very clear for the distinguished Senator for Nakuru. If you look at page 6, the Total Sharable Revenue is Kshs1,242,700,000,000---

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, what Sen. Wetangula and Sen. Muthama may have pinpointed is not mischief of the Opposition. These are facts. Listen and let us determine whether we can correct them.

The Senate Minority Leader (Sen. Wetangula): When these figures are corrected, the money will go to Nakuru, Baringo, Kajiado, Nyandarua and everywhere. Maybe Sen. Njoroge is the only one who does not represent a county.

The Temporary Speaker (Sen. (Dr.) Machage): Order! Sen. Njoroge represents a county.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, we have to correct this. On a point of order earlier on I said that we should not rubberstamp these issues. Even if it means again gazetting tomorrow as a Sitting day, because of the constitutional deadline, so that we look at these figures properly, we have to. We are leaving a whopping 79 per cent of the sharable revenue with the national Government, giving the counties a paltry 21 per cent and then publishing that we have given them 33 per cent. This is wrong.

More importantly, Mr. Temporary Speaker, Sir, we know that even as we have had challenges with some governors engaging in unacceptable conduct, some counties are doing very good and commendable devolution work. There are counties that are doing such good work that we need to give them more money. We have been saying that

we want the sharable resources to be based on budgets, not on audited accounts that are five years old---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Wetangula! Your time is up, but we will give you five more minutes.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, we have to change this. I want to urge hon. Senators to go through this very carefully. For those, like my brother from Nakuru, I am not speaking even as the leader of this side; I am speaking as a distinguished Member of this House. We have a constitutional duty to ensure that there is proper, accurate and honest revenue division. That is why I have been disagreeing with the CRA about them trooping to the Office of the Deputy President to sit there and purport that they are sharing the revenue.

If you may recall, in the Speech to the country through Parliament, even the President himself said that the Inter-Governmental Budget and Economic Council (IBEC) has already agreed on how to share revenue and they have agreed on Kshs258 billion. Then what becomes of the work of this Senate? This Senate is not a rubberstamp; we have to look at the figures. I want to encourage my colleagues behind me and even those across the Floor to bring amendments so that we achieve what we want the counties to achieve. I want to see Baringo County tarmacking roads; I want to see Kajiado County giving water to women; I want to see Nakuru County cleaning the streets; I want to see Lamu County doing something different from what the national Government has been doing. We can only do this by giving them more resources.

Mr. Temporary Speaker, Sir, the challenges of corruption is not for the lack of the law; it is the lack of the will to enforce the law. If we want to lock up all corrupt people in this country, we can; but we play politics with corruption to the extent that when we are naming corrupt people, it is such a fanfare as if Jesus has come back to earth. We want to see contemporaneous audits of the money being used by both county and national Governments. We want to see every expenditure – it is called budget tracking – that when you budget for money and you start spending it, you follow it at every stage to see whether it is being spent properly or not.

Mr. Temporary Speaker, Sir, I want to urge this House that if, indeed, we are going by the 33 per cent in the third column on page six, pretending that 33 per cent of what is indicated is from Kshs776 billion, we are cheating ourselves. Therefore, on that basis alone, we should reject this Bill. If we reject the Bill, it is not the end of it; it will go to mediation and figures will be looked at properly. We should not use the guise of constitutional constraints and timelines to allow counties to be shortchanged by the national Government.

At the end of the day, even where the resources are being left at the centre – like the resources in the Ministry of Devolution and what we are seeing in the National Youth Service (NYS) works – when will they ever reach Migori County? When will they ever reach Baringo County? When will they ever reach Elgeyo-Marakwet County? We want to see that the revenues that affect all counties being equitably distributed between counties for them to take charge of their developmental needs.

Mr. Temporary Speaker, Sir, I beg to oppose.

The Temporary Speaker (Sen. (Dr.) Machage): Order! I beg that you listen to me carefully. The Constitution and our own Standing Orders allow us to amend a Bill that has been pushed to this House by the Lower House. There is also a time guideline

that our Standing Orders give, which I may change. If you have an amendment that you think will bring value to this Bill, I am ready to bend that rule of the timeline and allow requests for amendments at the Third Reading instead of toppling off the whole thing and waiting for re-Gazettement of another sitting.

Proceed, Sen. Abu Chiaba.

Sen. Chiaba: Asante sana, Bw. Spika wa Muda, kwa kunipa fursa hii ili niungane na wenzangu kuunga mkono Mswada huu. Mswada huu ni muhimu sana katika Seneti kwa sababu ni mojawapo ya sababu ambazo Katiba yetu imetambua kuwa lazima Seneti iwepo katika ugawaji wa pesa kwa kaunti zetu 47.

Bw. Spika wa Muda, nataka kuchukua fursa hii kumpongeza Mwenyekiti wa Kamati hii na wote anaofanya kazi nao kwa kufanya kazi ngumu katika muda mfupi wa wiki mbili. Kazi hii haikuwa rahisi. Kwa furaha kubwa, naunga mkono Mswada huu kwa sababu tumeongeza pesa zaidi kwenda katika serikali zetu za kaunti ili ijulikane na watu wetu katika makaunti kwamba pesa zote zinazoshuka huko mashinani ni kwa sababu ya Maseneta na Seneti hii yote.

Nataka kuchukua fursa hii kuishukuru Seneti yote kwa kukubali kwamba Lamu ni moja katika kaunti zitakazopata ufadhili wa Kshs400 za kujenga makao makuu ya kaunti. Ni furaha kubwa ya kwamba pesa za kusawazisha wale ambao ni maskini zaidi au *Equalization Fund* zitapewa serikali za kaunti badala ya kwenda kwa Wabunge. Hali kama hiyo ndio inatutia moyo. Twafaa pia tuangalie kwa uangalifu mkubwa kama kuna mahali ambapo panahitaji kurekebishwa au kuletwa *amendments* hapa ili tufanye kazi hiyo ya kuangalia maslahi ya kaunti zetu na pesa ziende mashinani.

Kwa hayo machache, nakushukuru, Bw. Spika wa Muda, kwa kunipa fursa kama hii.

The Temporary Speaker (Sen. (Dr.) Machage): Proceed, Sen. Amos Wako.

Sen. Murungi: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Wako! There is a point of order. Have a seat.

What is it, Sen. Murungi?

Sen. Murungi: Thank you, Mr. Temporary Speaker, Sir. I know this is a very important Bill and this is the only chance that Senators have to speak on the budget making process. However, I am worried that some of us will not have a chance to speak to this important Bill because of time constraints. Could you consider reducing our time to five minutes so that as many of us can contribute?

(Loud consultations)

The Temporary Speaker (Sen. (Dr.) Machage): Order! Be patient. Actually, you were going to be the next on the list. Be patient and you will have your five minutes.

Proceed, Sen. Wako.

Sen. Wako: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to speak on this important Bill. We all know that the Division of Revenue Bill is, in fact, to me, the most important Bill that this Senate passes in any given year because it relates to the distribution of income between the national and county governments. Therefore, it is a pity that we are always reduced to this; that on this most important Bill, we are given only five minutes. But on some other peripheral Bills, we

can be given as much as half an hour. So, I would plead that, in future, particularly starting from next year, we do such things in such a way that we can even take three days debating this Bill and that each Senator is given adequate time.

(Applause)

I want to commend the Chairman of the Committee on Finance, Commerce and Budget. I just want to focus on one or two issues. The first issue is: What is the role of the CRA? We received a recommendation on 18th December, 2014 that was made pursuant to Article 216(1) of the Constitution. That recommendation is normally made after they have exercised their mind on it and professionally taken all the facts into account. It is an independent Commission. The intention was and it should remain an independent Commission, exercising its mandate professionally to make a recommendation to both the Senate and the national Government on what should be the sharable income. That is very important.

I was very surprised to learn that they made the recommendation. The recommendation was that the equitable sharable income should be Kshs282,445,000,000. The Council of Governors wanted an equitable share of Kshs349, 605,000,000. Is it right that they should thereafter withdraw that recommendation after the various meetings have been done and now say: "We now withdraw that one and agree with this one"? I am saying so, because when they withdrew the original recommendation, then some extraneous factors have been taken into account. When they agree with what has been agreed on between the governors and the Deputy President at the Summit, then it puts undue pressure on the Senate to also agree to fall in line, although we may not agree.

Mr. Temporary Speaker, Sir, in order for us to exercise our mind, I propose that the CRA makes one recommendation and whatever discussions that go on thereafter are reflected here for us to exercise our mind on what is right for our counties. I am very surprised that on a number of issues, for example, on education, the early pre-primary education and village polytechniques, where the CRA had recommended certain figures to go to the county governments, those recommendations were removed and yet those are functions which are given to the county governments under our Constitution.

(Loud Consultations)

The Temporary Speaker (Sen. (Dr.) Machage): Order! Hon. Senators, converse silently; we want to hear Sen. Wako.

Sen. Wako: Mr. Temporary Speaker, Sir, please, add me one or two minutes. The early childhood education and the village polytechnics are functions of the county governments. So, the CRA having recommended a figure of Kshs3.3billion to go for that particular function and thereafter listening around they agree that only Kshs0.9 billion should be given to the counties, obviously, it is inadequate.

The other item is on disaster management, which is also a function under the county government. I am disappointed that after the CRA had allocated the money for county disaster management, which is a function of the county governments, they thereafter again, changed their minds and reduced that item from the amount that is attributable to them.

The other item which also falls under Schedule Four is on county planning and housing. That is an amount allocated to the county governments initially for slum removal and upgrading. This is a very important function because if you go to the headquarters of most of these counties, they are not worth being called headquarters. Therefore, it becomes necessary right from the word go that the county governments should really plan properly their headquarters.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Wako.

Sen. Murungi, you may proceed.

Sen. Murungi: Mr. Temporary Speaker, Sir, I want to thank you for giving me this opportunity to support this important Bill with amendments that are being proposed by the Committee. Our role as Senate has not been clearly understood by those who read Article 96(2) and (3). It is very clear that it is our real as the Senate to allocate national resources to the counties. This is what we are doing through this Bill.

Mr. Temporary Speaker, Sir, it is you who was saying that governors go around saying they have given this and that, without mentioning that. Indeed, it is the Senators who have allocated the money which the governors are using for various projects within our counties. It is not fair for governors not to mention that it is the Senator who has brought these resources that they are using in the counties. I am very happy that the Senate is now considering how it will empower itself to pass that message to the people, so that we can go around our counties and explain the role of the Senators to the people.

The amount of money that we are transferring from the national Government to the counties this time, Kshs283 billion; it is a lot of money. It is our constitutional duty to make sure that the kshs283 billion being transferred to the counties is not stolen. That it goes towards the development of our counties. It is our constitutional duty to effectively oversight these national resources that are going to the counties. I believe that through this budget process, the Senate will also be properly empowered for us to play our constitutional role as specified in Article 96.

Secondly, our other institutions for over sighting these funds are the county assemblies; it has become impossible for the MCAs to oversight the governors and county executives because of insufficient exposure and lack of capacity. Indeed, the former Prime Minister once said that sometimes it is like we are sending someone carrying meat and then we send dogs after him. When the dogs get very near, he throws some bones and while the dogs are busy fighting for the bones, the person with the meat, disappears. The MCAs are not able to effectively oversight governors. This is because when they make noise, governors take them to conferences in Mombasa or some other places, and they are given good treatment. When they come back, they do not see anything wrong.

We should separate the finances of the county assemblies from those of the county executives, if the county assemblies are going to be effective oversight organs for these funds. The issue of financial autonomy of the county assemblies is critical. This Senate should give it some priority through this budget making process.

I am happy we now have increased allocations to Level 5 hospitals. In my own county, we are facing massive problems in health the sector. Indeed, in the past two weeks, I have attended five different funeral arrangements all because of cancer. We do not have facilities for chemotherapy, radiotherapy and such other things in our county. I hope that some of the money that we will transfer to Level 5 Hospitals will address those

non-contagious, but killer diseases like cancer and diabetes. Even people who are relatively rich are becoming bankrupt because of the expensive treatment and management of these complicated diseases that are affecting our people. I am also supporting the leasing of the equipment by the national Government to the Level 5 Hospitals because that is the only way we can repair the equipment quickly.

Sen. Mwakulegwa: Asante, Bw. Spika wa Muda, kwa kunipa nafasi hii ili nichangie Mswada huu. Kwanza, leo ni siku kuu katika Kenya nzima. Nataka magavana na waaakilishi wa wadi kujua kwamba Maseneta ndio wanaogawa pesa. Pesa hazitoki kwa magavana. Pesa zinatoka kwa Maseneta. Sisi ndio tunaogawa pesa. Leo, nataka wanisikilize vizuri. Pesa wanazozitumia kwenda safari za ulaya na kule kwingine ni sisi ambao tunazipitisha ili kufanikisha maendeleo.

Wakenya walipitisha Katiba mpya katika mwaka wa 2010 na wakasema wanataka ugatuzi kwa nia moja na sababu moja ya kuleta maendeleo. Miaka miwili tangu tuje hapa, hakuna maendeleo yanayoonekana mashinani. Hii ni aibu kubwa. Kwa hivyo, tungependa kuwaambia magava na waakilishi wa wadi kwamba pesa tunazotaka kuwaongezea leo si za kwenda safari ama kununua magari makubwa. Hizi ni pesa za kujenga kaunti ili tuwe na maendeleo. Nataka kuona barabara nzuri, watu wangu wakiwa na maji safi na hospitali zetu zikiwa na madawa na vifaa vingine. Hivyo ndivyo tutakapofurahia ugatuzi. Kwa sasa, wengi tunalia. Wanaochomoa vitambi wakijidai wao ndio wanaofanya kazi bora katika Serikali za kaunti lakini mwananchi analia.

Magavana 13 wanasemekana wako katika orodha ya wale waliopora pesa za wananchi. Leo, tunawaongezea pesa lakini tunataka kuwaonya kwamba pesa hizo ni za maendeleo na si kutumika kununua magari au kwenda ulaya ama kuwahonga wapinzani wao. Leo nataka kazi ya Seneta ijulikane. Nitaenda kwetu nisema kufikia leo, nimepeleka Kshs8 billion lakini hakuna chochote kinachoonekana pale mtaani kwa sababu waakilishi wa wadi na magavana wanaenda safari na kutumia pesa vibaya. Pesa tunazowaongezea leo zinafaa kuonyesha ugatuzi. Zile pesa ambazo tunapewa za uchunguzi Kshs1 billion na kuona pesa zimetetelezwa zitatafaa sana. Tutaleta ripoti hapa kuonyesha pesa ambazo zimetumiwa vibaya. Wakizitumia pesa vibaya, tutaleta Hoja hapa ya kuwaondoa magavana hao kabla ya mwaka 2017. Hii ni kwa sababu Katiba yakubali sisi tufanye hivyo.

Jambo la tatu ni kwamba pesa tunazoomba ziongezewe hazifai kuombwa. Pesa za majanga ni lazima ziende mahali majanga yanapotokea na hapo ni katika makaunti. Pesa za mishahara, hata kama kila mwaka kuna nyongeza ya mishahara, hiyo ni haki ya kibinadamu. Hatuombi pesa hizi. Ni lazima zipeanwe. Kitu tunachoomba ni kwamba pesa zikienda katika kaunti, zinafaa kugawa kinaga ubaga. Tunafaa kujua kiwango cha county assembly ni kipi na pia za Executive ni ngapi na za maendeleo ni ngapi. Wananchi wanafaa kujua. Ni haki yao kuuliza mbona hakuna maendeleo. Hatufai kungoja mpaka 2017 ili watu waondolewe.

Tunataka wakati huu, watu waajibike. Twataka waajibike. Wale ambao wametajwa katika orodha ya kupora wananchi nasikitika kwa sababu ni lazima kwanza wapelekwe kortini. Kama Gavana wangu angetajwa, ningekuwa wa kwanza kumtoa ofisi. Ni aibu kuona Gavana anakataa kusimama kando na huko amepora pesa za wananchi. Kama angetajwa Gavana wangu, ningekuwa wa kwanza kumtoa ofisi. Wacha pesa hizi zipelekwe katika kaunti. Tulipitisha pesa hizi si kutajirisha mtu mmoja lakini kuleta maendeleo katika kaunti.

Sen. Obure: Thank you, Mr. Temporary Speaker Sir for the opportunity. I want to take this opportunity to thank Members of the Committee for a good work done. We are considering a very important Bill whose intention is to provide for equitable division of revenue between the two levels of Government. This is a Bill whose intention is to ensure continuation of service delivery by providing the funds required. The amount proposed in this Bill to go to counties is Kshs258,008,000,000, sharable revenue. You will recall that is the figure that this Senate recommended, two years ago, as being sufficient to cover the functions of counties.

I do not think that there is equitable division in this respect. Only an amount of Kshs258,008,000,000 compared to a sharable revenue of Kshs1.25 trillion. In my opinion, the proposed share to the counties has fallen far short of expectations and is not adequate to meet the increasing need at the counties. However, once again, for the third year running, there is a significant difference between what is contained in the Bill and what the CRA has recommended. I cannot understand why that should be the case. We have established the CRA specifically to research. We have equipped them to make sure that they analyze the information that they give so that they arrive at a recommendation that is acceptable by all. They are an independent institution. The rest of us, including the national executive are partisan and, therefore, cannot judge cases where they themselves are involved.

Mr. Temporary Deputy Speaker, Sir, nevertheless, I want to support the various amendments proposed by the Chairman of the Committee on Finance, Commerce and Budget with respect to the emergency fund and increased funding to the Level 5 Hospitals for various reasons which have been explained here .

I also want to add the issue of fuel levy which is set aside specifically for the maintenance of roads, but now we know that the function of road maintenance is shared between the counties and the national Government. This should not be a conditional allocation to the counties. In fact, it should be part of the shareable revenue. I am questioning the figure of 15 per cent.

I support.

Sen. Moi: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. I would like to congratulate the Committee on Finance, Commerce and Budget for a splendid job done and all those who participated in the making of this Bill.

There is one aspect which if you look at the total equitable and the conditional, it comes to Kshs291 billion. I wish we could have taken it up to Kshs300 billion. That arises because the Public Accounts Committee (PAC) in the National Assembly is not burning the midnight oil. They should burn candles at both ends so that we should be talking of the 2013/2014 accounts. By doing so, we would be doing service to our counties.

The problem we are having at the counties is basically lack of funds. We have counties which cannot make ends meet let alone look for money for development. If we had used the 2013/2014 financial accounts, we would have found a way of increasing the funds to the counties. Our job as guardians and protectors of the counties has to be appreciated.

Mr. Temporary Speaker, Sir, I would like to congratulate the Committee for what they have done to the Level 5 Hospitals; the increase of funding to Kshs1.563 billion and

the proposed allocation for salary awards by Kshs1.8 billion and the Kshs4.4 billion allocated towards the establishment of the county emergency fund. This is highly critical. In Baringo County, we have been having issues with regard to insecurity. We have had situations where we have over 30 schools being shut down because of insecurity and yet the governor does not have funds to reopen them. With the funds which the Committee has allocated them, it will give us a good opportunity to get everybody to go back to school. Baringo County and Kitui counties have been fighting to get the Equalization Fund. I can see from the Bill that there is some good news to this end.

The money which has been reallocated like the Kshs2.5 billion from the national irrigation project was well thought out because agriculture has been devolved. Nowadays, you wonder why Kilimo House has six floors of people working for the agricultural department when they should have been devolved to the county level. We hope that next year, we shall have hit the Kshs300 billion mark which we will send down to the counties.

With those few remarks, I beg to support.

Sen. Madzayo: Asante sana, Bw. Spika wa Muda, kwa kunipatia nafasi hii ili nichangie Mswada huu. Ninataka kupongeza Kamati ya Fedha kwa sababu wamefanya kazi nzuri kwa kuleta Mswada huu. Mimi ninaunga mkono huu Mswada wa ugawanyaji wa pesa wa 2015.

Leo tunaupitisha Mswada huu kwa maunfaa ya serikali zetu za kaunti na si kwa manufaa yetu binafsi; bali ni kwa wananchi wa Kenya. Kwa hivyo, hivi leo inafaa wananchi watambue kazi ya Seneta. Tukipitisha pesa kwenda mashinani, hatutaki zitumiwe vibaya kwa njia yoyote ambayo haitaleti maendeleo kwa wananchi wa Kenya.

Mara nyingi tumeona Maseneta wakienda mahali, utakuta ya kwamba Seneta hatambuliwi kwa sababu wakati wa kutoa pesa, maseneta wengi huwa wamepungukiwa. Kwa hivyo, inafaa pesa hizi zitumiwe kwa ukadirifu. Inafaa pesa hizi zitumiwe vizuri. Hivi juzi hata mhe. Rais Uhuru Kenyatta alisema kwamba kuna magavana fulani ambao wametumia pesa vibaya. Kweli ni ubinadamu kwa mtu kutenda kitendo kama hicho. Lakini tunasema kwamba ikiwa jambo kama hilo liko, basi ingekuwa vizuri kama wangejiondoa ili uchunguzi ufanywe. Ikipatikana kwamba hawana makosa yoyote warudishwe kwa kazi zao kwa sababu hizi pesa tunapeleka katika kaunti ni nyingi sana na tunataka uangalifu. Tumeongezea pesa za mahospitali, barabara na hata kuongeza mishahara yao. Kwa hivyo, mambo ya matumizi ya pesa yanataka uangalifu zaidi. Watu ambao wamekadiriwa uwezo wa kutumia pesa inafaa wazitumie kwa hali ambayo wananchi wa Kenya wataona maendeleo katika serikali zao za mashinani.

Bw. Spika wa Muda, sisi katika Seneti hatutakubali pesa ambazo zinapelekwa mashinani zitumiwe vibaya. Ikiwa zitatumia vibaya, basi hatua ya kisheria ni lazima ichukuliwe.

Kwa hayo machache, ninaunga mkono Mswada huu.

Sen. Mositet: On a point of order, Mr. Temporary Speaker, Sir. Considering that this is one of the most important Bills for this Senate, and I believe each and every Member wants to speak to it, including me. However, at the time, I request that the Mover be called upon to reply and then we could make our contributions during the Committee of the Whole.

The Temporary Speaker (Sen. (Dr.) Machage): If you look at Standing Order No.29, it states that this Bill should be discussed until it is concluded. However, at times

knowing the weaknesses of the House, we need the prerequisite numbers to vote. Therefore, I am actually convinced by Sen. Mositet that, that is necessary. I will allow one Member from either side of the House and thereafter call upon the Mover to reply.

Hon. Senators: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): If you want to discuss matters already ruled by the Speaker, then you are out of order. Did you hear me correctly?

Sen. Bule: Hoja ya nidhamu, Bw. Spika wa Muda. Sisi tunawakilisha Wakenya walio wengi huko mashinani. Leo ni siku muhimu na ni lazima kila mmoja wetu apate nafasi ya kutosha ili tuweze kuangazia yaliyomo katika Kenya.

Sen. Ndiema: On a point of order, Mr. Temporary Speaker, Sir. This is a very important day. Some Members have already had the opportunity to talk. We all represent each individual 47 counties. Those who wish to talk, because we came to talk and contribute, should be given the opportunity.

The Temporary Speaker (Sen. (Dr.) Machage): I have heard that.

Yes, Sen. (Dr.) Kuti.

Sen. (Dr.) Kuti: Mr. Temporary Speaker, Sir, I had seen the list. If it will be followed without overruling what you said, then I will be the next.

The Temporary Speaker (Sen. (Dr.) Machage): Order, the decision on who speaks is bestowed upon the Speaker. So, whatever list you looked at does not matter.

Let us listen to Sen. Mutula Kilonzo Jnr. Before he comes, I will make this ruling.

Owing to the desire of many Members wanting to be heard, after Sen. Mutula Kilonzo Jnr. speaks and the next one that I will call upon from the Government side, I will reduce the time to two minutes. Sen. Mutula Kilonzo Jnr. and the next speaker will have five minutes. Thereafter, other speakers will have two minutes each.

Sen. Mutula Kilonzo Jnr: Mr. Temporary Speaker, Sir, I will not repeat what everybody else has said. However, once again, we find ourselves in another predicament where we are arguing about the provisions of the Constitution on what is sharable revenue under Article 202 on revenue raised nationally and revenue that is supposed to be divided between county governments and the national Government under Article 203(2) and (3).

Mr. Temporary Speaker, Sir, once again, I repeat what I said last year. We must insist to have audited accounts that are up to date so that we do not end up in the sort of argument that I have seen this afternoon about revenue collected nationally and revenue that is supposed to be divided under the Constitution. The last audited accounts talk about of Kshs776 billion. Even if we do not like it, we cannot violate the Constitution because that is what it says.

Mr. Temporary Speaker, Sir, in my view – I have said this before – this time round I am happy that the Committee on Finance, Commerce and Budget has finally disagreed with the proposals with the CRA. The CRA attempted to side-step our Committee on Finance, Commerce and Budget in terms of explaining to us one by one why they agreed to the figure of Kshs258 billion, but not a higher figure. The reason I say so is because under Article 218, the recommendations that my Chairman; Sen. Wako was referring to, the figures that are contained and were issued in December, 2014, should have come to us so that we negotiate with them in order to arrive at the figures that we have amended hence, the reason I support the amendment to increase the Emergency Fund.

During debate in the last Division of Revenue Bill, I was not in this Chamber. I was in Makeni attending the burial of 28 people who died out of alcohol poisoning. The national Government promised to pay the victims' families, but it did not. That is the reason I support the proposal by the Committee that we return the allocation of Kshs4.4 billion proposed by the CRA.

Secondly, Sen. Murkomen is one of the Members who have defended and, in fact, requested this House to look at the question of emoluments of county assemblies yet the CRA and governors have gone ahead to agree to a reduction. That is the reason I support the amendment to increase the allocation.

With regard to Level 5 Hospitals, as far as I and the Committee are concerned, this is not negotiable. On the leasing of equipment Kshs4.5 billion, we have recommended that this House looks at the figure so that the question of value for money - where the Government proposes to lease, but in the end result, it will be much better to purchase the equipment outright - be looked into so that we get value for money.

Lastly, Mr. Temporary Speaker, Sir, we have proposed that there should be an amendment to the Public Financial Management (PFM) Act so that the sort of rush you have seen this week where we spend sleepless nights crossing all over to recommend, amend or debate the division of revenue should not happen again because this should be the House of origin in terms of division of revenue.

Mr. Temporary Speaker, Sir, I beg to support with the proposed amendments by the Committee on Finance, Commerce and Budget.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I rise to support the Division of Revenue Bill with the amendments proposed by the Committee on Finance, Commerce and Budget.

Mr. Temporary Speaker, Sir, quick provisions of the Constitution, just like my learned colleague, Sen. Mutula Kilonzo Jnr. had referred to, make it very clear in Article 203 that it must be above 15 per cent of the last audited accounts. The last audited accounts provide for us Kshs776 billion. In the calculation, it comes to 33 per cent.

Mr. Temporary Speaker, Sir, I have said this and I repeat; we must not, as a Senate and as a country, get obsessed with the percentage although the Constitution says that it must be at least 15 per cent. More focus should go to costing of functions; that resources shall facilitate functions being performed by counties. We note, oblivious to the fact that the national Government functions are supposed to be funded, that the national Government functions also support what is being done in the counties.

Mr. Temporary Speaker, Sir, last week, all of us here debated about putting more money and investing in the security sector. Security is a national Government's function. We cannot rob the national Government of security functions to fund trips of County Executive Committee (CEC) members to Kuala Lumpur and Jerusalem to see where Jesus was born. So, we must always remember that it is important for us to measure---

We, as a Senate, are interested in the money that goes to the national Government and county governments to facilitate counties to function to ensure that the national and county governments perform their functions.

Secondly, Mr. Temporary Speaker, Sir, there is additional money for emergency. In the absence of proper definition of what an "Emergency" is--- The Constitution provides that disaster management is a concurrent function to be performed by both the

national and County Governments. There must be a clear mechanism of what amounts to a disaster and an emergency.

Mr. Temporary Speaker, Sir, there are people who have been drinking. You try to educate them to avoid drinking, but they do not stop. If people die as a result of what we would say the law of *volenti non-fit injuria*; it is them who have made the decision. We cannot call that an emergency. In law, that is *volenti non-fit injuria*.

The Temporary Speaker (Sen. (Dr.) Machage): Order, may I give you free advice as a medical doctor.

Sen. Murkomen: As long as my time is held, Mr. Temporary Speaker, Sir, I will receive your advice.

The Temporary Speaker (Sen. (Dr.) Machage): Alcohol poisoning is a medical emergency.

Sen. Murkomen: Thank you, Mr. Temporary Speaker, Sir. However, alcohol poisoning is not a national disaster. I just wanted to respond to Sen. Mutula Kilonzo Jnr., that there are things that will not fit within the definition of an emergency. I may have a different opinion from another person but we must have a legal framework that gives a clear definition because we might have a governor who will want to go and attend an investor's conference in Dubai as an emergency. There must be a clear definition of what becomes an emergency for the country because the manner in which expenditures have been going on in the counties is very suspect.

Finally, I do not like to find myself in this rush. I do not feel like my thought process has been utilized. I feel that we have not used our brains to contribute effectively to this Bill. As a House, we need to support the Committee on Finance, Commerce and Budget because they have applied their minds, contributed immensely and varied the figures professionally. It is for that reason that I support this Bill. It should be an opportunity for us as a House to pass this Bill so that we can progress to the next stage.

Lastly, corruption in the counties must not be condoned. I have asked my county and I want to ask all other counties to appreciate that a county is not a private entity for one person to say that he or she is running it. The other day I told the MCAs for Wajir and Mandera that it is very shameful that MCAs go to a function and instead of saying that the resources have been allocated by the Senate, they advocate all the resources to one person; the governor. They thank the governor for constructing the road and so on. The kind of sycophancy that is going on at the county and driven by ignorance of the fact that counties are being run by multi-institutions like the Senate, the county assemblies and so on means that we cannot reduce them to a one-man institution.

I support the Bill with amendments.

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, I have been thinking about the points of order that were raised by Sen. Mositet, Sen. (Dr.) Kuti and Sen. Ndiema. I am tied by the Standing Orders when a Member rises. I want to look at Standing Order No.98. These Standing Orders were made by you and they govern me.

I will, therefore, put the Question.

*(Question that the Mover be called upon
to reply put and negatived)*

We are now going to do two minutes each. Who was on the Floor?

Sen. Ndiema.

Sen. Ndiema: Thank you, Mr. Temporary Speaker, Sir, for allowing me to contribute. This is a very important Bill and that is why I was very anxious to contribute. This is a day that we are deciding how much money goes to the counties and how much remains in the national Government. It is our duty to protect and defend our counties. I want to thank the Committee for recommending that we increase the funds to the counties. I also want to congratulate the Kenya Revenue Authority (KRA) for doing a good job. I also want to question the ability of those who are dealing with audit because they have denied counties the resources. When we get reports from the Director of Budget on the performance of counties on revenue, it is worrying. I would urge the same Committee to look at what is ailing the counties in terms of revenue collection.

Mr. Temporary Speaker, Sir, I support the proposal to increase funds for salaries, emergencies and Level 5 hospitals. But I want to caution and request my colleagues that the savings or areas to be reduced should not be as suggested. It has been suggested that the funds meant for fertilizer and strategic grain reserve be reduced. Even with the current allocations, we are not getting enough. It has been proposed in the Bill that it was going to rise from Kshs2.7 billion to Kshs2.9 billion. Therefore, if further reduction is done, then we are paying lip-service to agriculture, which is devolved.

Mr. Temporary Speaker, Sir, there are certain functions of agriculture which can best be done at the national level, for example, provision of fertilizer and purchase of grain---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Your time is up.

Sen. (Prof.) Lesan: Thank you, Mr. Temporary Speaker, Sir. Let me also take this opportunity to thank the Committee for the work that it has done on this Division of Revenue Bill.

I will only raise one point concerning the funds which have been allocated to the National Youth Service (NYS). I think the funds which were allocated to the NYS, which we are going to do proper legislation for, are a blessing for this country because a week ago, we lost many Kenyans. I think we lost the majority of them because they lacked survival tactics. I am sure that every Senator knows that we lost 142 students. If these students had skills, which can be acquired through the NYS training, many of them would have been saved. If those four skinny people had come to the dormitory I was in with other young men, during those years, they would hardly kill ten people. We had the survival skills and would be able to defend ourselves.

Through the NYS funds, I think the nation will be able to defend itself through the skills that will be acquired. If these funds are used carefully, we are going to awake this nation which at the moment is fairly careless. If a small bomb explodes here in Nairobi, you will see a lot of people congregating at the scene, hence putting themselves in real danger. They do so because they are not conscious of survival tactics. Therefore, the fact that these funds are there is welcome. I wish they could be increased. I hope that, as Senators, we are going to discuss fully how we can give NYS training to everybody who is 17 years old, before they can get identity cards. We know that this kind of training happens in countries like Israel---

The Temporary Speaker (Sen. (Dr.) Machage): Your time is up.

Sen. Bule: Asante sana, Bw. Spika wa Muda, kwa kunipa fursa hii. Leo ni siku muhimu katika taifa letu ambayo inaangaziwa katika kila sehemu ya nchi.

Ninaunga mkono Mswada huu kuhusu mgawo wa mapato kwa kaunti zetu. Hata hivyo ningependa kusisitiza kwamba pesa ambazo zinatengewa kaunti zetu hazipaswi kwenda kwa mifuko ya magavana au vijana ambao wameajiriwa katika kaunti hizo.

Bw. Spika wa Muda, pesa tunazozungumzia leo hii zinatokana na sisi kupigana miereka na Serikali kuu.

(Applause)

Hon. Senators: Waambie!

Sen. Bule: Yatakikana pesa hizi zikipatikana zitumiwe kwa usawa. Pesa hizi hazikutolewa ili ziende kununua *helicopter* ya kumpeleka Governor Israel, America au Abu Dhabi; pesa hizi sio za kupeleka katika akaunti za magavana huko Abu Dhabi au humu nchini, kwa sababu kila gavana ana akaunti huko Abu Dhabi.

Hon. Senators: Ndio! Waambie! Toboa maneno!

(Applause)

Sen. Bule: Kila gavana yuko na *helicopter*, *kulingana---*

The Temporary Speaker (Sen. (Dr.) Machage): Order!

(Sen. Bule spoke off record)

Order! Order! Order!

Sen. Bule: Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Proceed, Sen. (Dr.) Kuti.

Sen. (Dr.) Kuti: Thank you, Mr. Temporary Speaker, Sir. It is a very disappointing thing that we debate this very important Bill in such a hurry to the point that we scramble for minutes and our thoughts are now more on the time allocated than on the issues in the documents.

(Applause)

It is a shame because this is a very important document and we need to be given adequate time to ventilate and contribute to it. But the way it is now, it is such that after I finish making this statement, my time will be over.

Mr. Temporary Speaker, Sir, what I wanted to say in this little time I have been given is that everything is about good timing. When we were doing the budget policy statement, we were given less than 24 hours to contribute to that very important document. Today, we are called upon, in less than four or five hours, to debate and pass this Bill. This beats the whole purpose for which we have actually been elected. If you look at Article 96, that is actually the prime reason why we are in this House. So, it is a shame and we really need to look at this matter and revise this system so that priority agenda like this one should be given more time.

I support the provision for emergency funds, and I would have said much on this issue but we have to move on. On the issue of leasing equipment as the Chairperson of

the Committee on Health, I have sat with the Cabinet Secretary (CS) for health, Mr. Macharia, and I am privy to the---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Order! I want you to listen to me carefully. The Members in the House now, in my own recollection, are usually the Members who are in this House for most debates. That goes without saying. The unfortunate situation we have today – I want you to listen and let us not over hammer this point to make it so prominent in the HANSARD – this Bill must be passed by a certain number of delegations. That is the dilemma and that is why your Speaker is trying to guide you on this very important issue. However, you have the mandate because any of you may move a Motion, which I will accept, of increasing the number of minutes per Member to speak to the original 15 minutes, but I have cautioned you about the importance of passing this Bill today. Otherwise, if the time lapses, it will need gazettelement of another sitting day and you know what it means on the timelines. It is true that we are being gagged by the so-called timelines, like Sen. (Dr.) Kuti has said. I do not want to repeat this again.

Proceed, Sen. Hargura.

Sen. Hargura: Mr. Temporary Speaker, Sir, thank you for giving me this opportunity. I support this Bill with amendments by the Committee on Finance, Commerce and Budget. From the Bill, you can see that the Commission on Revenue Allocation (CRA) had proposed Kshs282 billion for the counties while we have the Division on Revenue Bill indicating Kshs258 billion. The CRA has been doing some good work but they should have come to us, we discuss and support them on this, so that they are not arm-twisted the way it is always done where their figures are always reduced.

The shareable revenue is divided into two; the national Government Equalization Fund and the county governments. I have issues with this Equalization Fund. We have been having it in the previous budgets but it has never been availed to the affected counties for remedying the marginalization which it is intended for. Up to now, we have not seen it being used, so it is better for the concerned bodies to move first and have this Equalization Fund actualized. It is better if it is done according to Article 204 (3) (b) of the Constitution which states:-

“The national Government may use the Equalization Fund-

(b) either directly or indirectly through conditional grants to the counties in which marginalized communities exist”.

It is better for the national Government to use that provision and have these funds directly disbursed to county governments. We need to have a very clear picture of how much the Equalization Fund has accumulated---

The Temporary Speaker (Sen. (Dr.) Machage): Your time is up.

Sen. Mositet: Mr. Temporary Speaker, Sir, thank you for giving me this time. I really understand what my colleagues are going through since this is the most memorable day for the Senate. This is the day where the whole country expects the Senate to perform its mandate. I believe that the governors, the MCAs and *wananchi* are excited because we are debating on the amount that we are going to have for the year 2015/2016. I will just compare this moment to the moments of a Christian during Christmas Day and *Eid ul fitr* to the Muslims or any other important day in one’s life.

I support this Bill and I know that the Committee did its best. It worked around the clock. In fact, just to let you know, the Committee Members have been meeting from 7.30 a.m. on Tuesday and yesterday, the secretariat was still working on it. Today, we met as early as 8.00 a.m. I believe that is why we are here. Just like what my colleagues have said, it is very important for the CRA, the National Treasury and the Inter-Governmental Budget and Economic Council (IBEC) to respect the mandate of the Senate. The governors should not go behind the Senate, they should know that it is the Senate that should negotiate and that has the mandate to determine the amount which is going to the counties---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Proceed, Sen. Hassan.

Sen. Hassan: Asante, Bw. Spika wa Muda, kwa kunipa fursa hii ya kuchangia Mswada huu na Ripoti hii ya Kamati ya *Finance, Commerce and Budget*. Mengi yamesemwa na wenzangu, lakini ninaunga mkono na kujishirikisha na maoni yaliyotolewa na Sen. Wetangula na Sen. Muthama. Lakini katika yote haya, nimesikia wengi wakisema kwamba tunazipeleka fedha kwa magavana. Magavana hawa hawataki kuwajibika kwa mtu yeyote. Labda sisi tuna viungo spesheli ambavyo tumepewa na Mwenyezi Mungu ambavyo vinafanya tupitishie sheria ambayo inawafanya wawajibike mbinguni peke yake. Magavana hawa hawataki kuwajibika kwa Seneti, hawataki kuwajibika kwa Tume ya Ufisadi au kwa mtu yeyote. Wanataka kupelekewa neema ili watumie. Labda wangependa tusema kwamba kwa sababu wao ni waokozi wetu, basi tunafaa kuwapa nafasi ili wasiajibike kwa njia yoyote. Mahali wametufikisha hawaamini kwamba wanaweza kuwajibika kwa mtu yeyote.

Mimi ningependa kuunga mkono Mswada huu, lakini inafaa tuzingatia swala la magavana kuwajibika. Kama hawataki kuwajibika kwetu, viumbe, basi wanafaa kuwajibika kwa Mwenyezi Mungu. Watu hawa 47 wako katika tabaka lao. Wanataka kupewa pesa na kufanya kazi. Leo tunapigana hapa kuhakikisha kaunti zetu zimepata pesa. Tunapoenda katika kaunti, wanatudharau na kutufanyia mambo mengi na kutuonyesha kwamba wao ndio wafalme na wakubwa; wao ndio watawala. Kama wanataka utawala, basi waje hapa ili wapitishie kanuni za pesa. Mimi hapa na wenzangu tunajaribu ili tupate kiwango kikubwa cha pesa kuwafadhili.

Sen. Mungai: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. I would like to specifically thank the Committee on Finance, Commerce and Budget for realizing that Kshs4.4 billion Emergency Fund was necessary. The fact that governors said they were satisfied without it shows that what Sen. Mositet said is true; that they should ensure that before they conclude on these figures, the Senate is consulted.

I would also like to thank the Committee for ensuring that the figure for Level 5 hospitals was adjusted by Kshs1.5 billion. We cannot over-emphasize the fact that there is serious under-funding for the Level 5 hospitals. Some of us are Senators from counties whose populations are very high. Therefore, it is important that Funds that the Government is setting aside are adequate. We should ensure that, indeed, patients who visit the Level 5 hospitals get the medical care that they expect. As I conclude, because of time, let me thank the Committee on Finance, Commerce and Budget for adjusting salaries for county executives.

The Temporary Speaker (Sen. (Dr.) Machage): Your time is up.

Sen. (Eng.) Muriuki: Thank you, Mr. Temporary Speaker. It is very unfortunate that we came all the way and we end up with only two minutes to make our contributions to this Bill. Nonetheless, I think it is a big day that we have to allocate Kshs291 billion to the counties as opposed to the small amount which went there last year.

Having said that, I think we have to address the issue with regard to medical equipment. Whereas I fully support the action by the national Government to provide this equipment, I also support the leasing. I think it is a good idea.

Nonetheless, the governors' concern was that they were not fully consulted. Presuming what we read in the media is correct, then I think they have a point because priorities can differ. In a county like Nyandarua, we do not even have two hospitals and maybe this issue would have been remodeled differently. Having said that, let me also in the same breath raise an issue that the Kshs293 billion will be very useful, but there are some four counties like Nyandarua County which are very unfortunate because when devolution came, we found ourselves with no previous local authority offices to inherit or even the provincial administration because of certain historical circumstances.

Mr. Temporary Speaker, Sir, I have proposed an amendment to support the four counties which found themselves in those very unfortunate circumstances and that is Nyandarua, Tharaka Nithi, Tana River and Lamu. The other issue is the Emergency Disaster Fund. I think it is a good idea to provide some funds for it, but our experience---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Your time is up. Sen. G.G. Kariuki!

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, I want to thank all the Senators for their contributions because I am a Member of the Committee that came up with this Report and that is why I would have not felt bad even if I was not going to speak. They have agreed with our proposals and we are most grateful.

This Government has been in office for about two years, and I am sure that governors and MCAs have now started to realize that there are auditors who audit expenditure. I think we should not keep on crying about what the governors are doing. In this country, we have all institutions which have been empowered by law to decide for the county governments. We can pass any law provided we do not conflict with the current Constitution.

Mr. Temporary Speaker, Sir, governors have realized that without the Senate, they will be working in futility. For example, when we suggested adding them more money, one of the governors stood before us and said that he is satisfied with the allocation because he has no problem and we wished he understood the problem of the people who elected him because none of them would dare do that.

Sen. Njoroge: Mr. Temporary Speaker, Sir, thank you for the opportunity. I am very grateful as a Member of this Committee to all the Senators who have supported our Report. This is also a big lesson to the CRA and IBEC because they had overstepped their mandate and sought Kshs250 billion while not involving the Senate. As far as the county allocations are concerned, the Senate has the final say. I would like to urge governors to use this money in a transparent manner. This money is not meant for them to do their private businesses.

Thank you.

The Temporary Speaker (Sen. (Dr.) Machage): I call upon the Mover to reply.

Sen. Billow: Mr. Temporary Speaker, Sir, I thank all the Members who have contributed to this very important Bill. I agree with most Members that it would have been much better if we had more time allocated for it.

Mr. Temporary Speaker, Sir, I want to clarify on the provisions of Article 203 with regard to the percentage which some Members do not access properly. Article 203 is very specific that in terms of the percentage, the revenue should not be less than 15 per cent. Let me just read for you because this matter always raises issues. Even last year, we had the same issue.

Article 203(2) says:-

“For every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than fifteen per cent of all revenue collected by the national government.”

Article 203(3) states that:-

“The amount referred to in clause (2) shall be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.”

Mr. Temporary Speaker, Sir, if you look at the Schedule we have on page 8 of the Report, you will see that the last audited and approved accounts are for the Financial Year 2012/2013. The revenue in that financial year was Kshs776 billion. When you take the total amount of the equitable share which is Kshs259.774 billion that we have allocated, you will see it is a percentage of Kshs776 billion. If you take the total of Kshs291 billion, that is the percentage of Kshs776 billion for the purpose of ensuring 15 per cent which is set on that basis. Members should not confuse that figure which is the actual revenue we expect to collect in the next financial year. That is a different matter. We intend to collect Kshs1.2 trillion in the next financial year, according to the Government, out of which county governments will get Kshs291 billion.

Mr. Temporary Speaker, Sir, I want to advise Members that with regard to contingencies, some of the counties have already passed Bills in their assemblies. These are County Emergency and Disaster Preparedness Bills. There are template Bills that had been developed by the Kenya Red Cross and shared with most counties which empower counties to develop disaster responsiveness. It involves emergencies of accidents which may include fire, drought, floods and other kinds of things. The basis for application of that money would be in the context of such legislation in our view.

Otherwise, I beg to move.

The Temporary Speaker (Sen. (Dr.) Machage): Before I put the Question, I order that the Division Bell be rung for five minutes.

(The Division Bell was rung)

[The Temporary Speaker (Sen. (Dr.) Machage) left the Chair]

[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]

The Deputy Speaker (Sen. Kembi-Gitura): Draw the Bar and lock the doors. Hon. Senators, we are going to go for the vote now. I have to put the Question.

THAT the Division of Revenue Bill, National Assembly Bill No.11 of 2015 be read a Second Time.

An. Hon. Senator: Does it affect counties?

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, all Bills that come to the Senate are county Bills. All Bills that come to the Senate become Acts of Parliament. An Act of Parliament is a matter affecting counties. No Bill can come here if it does not affect counties, so we have to vote. That rule you are contemplating pertains only to Motions and not Bills.

Are we ready? We are going to take one minute to vote. You may vote now. Assisted voters will wait for the print-out.

DIVISION

ELECTRONIC VOTING

*(Question, that the Division of Revenue Bill
(National Assembly Bill No11 of 2015) be read a
Second Time put and the Senate proceeded
to vote by county delegations)*

AYES: Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen. G.G. Kariuki, Laikipia County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Kutu, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Moi, Baringo County; Sen. Mositet, Kajiado County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

NOES: Sen. Hassan, Mombasa County.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! The results of the Division are as follows:-

AYES: 31

NOES: 1

ABSTENTIONS: Nil

The Deputy Speaker (Sen. Kembi-Gitura): The "Ayes" have it.

(Question carried by 31 votes to 1)

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

(The Bar was undrawn and doors opened)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! You will recall that when I gave the Communication from the Chair, I did mention that we are here for only one business. We have dealt with Order No.3. Before we move to Order No.4, which is the Committee of the Whole, may I just remind you that we have one more very important vote to make and we must have the threshold of 24 Senators. I request that all of us are here so that we can finalize the business of today.

Next Order!

COMMITTEE OF THEWHOLE

(Order for Committee read)

[The Deputy Speaker (Sen. Kembi-Gitura) left the Chair]

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Murkomen) took the Chair]

DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2015)

The Temporary Chairperson (Sen. Murkomen): Order, hon. Senators! We are in the Committee of the Whole to consider the Division of Revenue Bill and we will move as follows. We will first start by considering the Clauses that have no amendments; we will then proceed to the ones that have amendments before we go to Divisions.

Clauses 3, 4, 5 and 6

(Question proposed)

Since these clauses have no amendments, there will be a Division at the end.

Schedule

The Temporary Chairperson (Sen. Murkomen): There is an amendment proposed by the Senate Majority Leader to be moved by the Chairperson.

Proceed, Sen. Billow.

Sen. Billow: Mr. Temporary Chairperson Sir, on behalf of the Senate Majority Leader, Sen. (Prof.) Kindiki, I beg to move that the Bill be amended by deleting the Schedule and substituting therefor the following new Schedule-

SCHEDULE

(s.4)

ALLOCATION OF REVENUE RAISED NATIONALLY BETWEEN THE NATIONAL AND COUNTY GOVERNMENTS FOR THE FINANCIAL YEAR 2015/16

Type/Level of Allocation	Amount in Ksh.	Percentage (%) of 2012/13 Audited Revenue(i.e. Ksh. 776.9 billion)
National Government	976,925,500,000	
Of which:		
<i>Free Maternal Health Care</i>	4,298,000,000	
<i>Leasing of Medical Equipment</i>	4,500,000,000	
<i>Level-5 Hospitals</i>	3,600,480,000	
<i>Healthcare facilities compensation for forgone user fees</i>	900,000,000	
<i>County Emergency Funds</i>	4,400,000,000	
Equalisation Fund	6,000,000,000	0.80%
County Equitable Share	259,774,500,000	33%
Total Shareable Revenue	1,242,700,000,000	

County Allocations

County Equitable Share	259,774,500,000	
Conditional Allocations (<i>of which</i>):	31,669,685,204	
1. <i>Free Maternal Health Care</i>	4,298,000,000	
2. <i>Leasing of Medical Equipment</i>	4,500,000,000	
3. <i>Level-5 Hospitals</i>	3,600,480,000	
4. <i>Allocation from Fuel Levy Fund (15%)</i>	3,300,000,000	
5. <i>Healthcare facilities compensation for forgone user fees</i>	900,000,000	
6. <i>Conditional Allocations - loans and grants</i>	10,671,205,204	
7. <i>County Emergency Funds</i>	4,400,000,000	
Total County Allocations	291,444,185,204	37%

The Temporary Chairperson (Sen. Murkomen): What is the justification?

Sen. Billow: Mr. Temporary Chairperson, Sir, the reason is as we mentioned earlier; we have amended by increasing the amount of money that will go to the county governments. The equitable share has increased from Kshs258 billion to Kshs259.7 billion. The conditional allocation will increase from Ksh25.773billion to Kshs31.669 billion. We increased Kshs1.6billion to allow for additional money to help in payment of salaries and allowances as per the requirement of the Commission on Revenue Allocation (CRA) circular. We have increased the county conditional allocation by providing for the county emergency funds of Kshs4.4billion and an additional kshs1.6 billion to Level Five hospitals. That brought the total of the whole allocation of revenues to the counties to Kshs291,444,185,204 billion which represents 37 per cent.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): We will go to Division at the end.

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

There being no amendment, we will go to Division right now.

(The Division Bell was rung)

The Temporary Deputy Chairman (Sen. Murkomen): The Bell should ring for another two minutes.

(The Division Bell was rung for a further two minutes)

Order, hon. Senators. Take your seats so that you vote. We have three votes. The first one is on Clause 3, 4, 5 and 6. I will put the question.

Clause 3, 4, 5 and 6

We will first vote on Clause 3, 4, 5 and 6 which have no amendments then we move to the ones with amendments.

We will vote for 30 seconds starting now.

DIVISION

ELECTRONIC VOTING

*(Question that Clause 3, 4, 5 and 6 be part of the Bill put and the
Senate proceeded to vote by county delegations)*

The Senate Leader of Minority (Sen. Wetangula): On point or order, Mr. Temporary Chairman, Sir. If you allow me to raise an issue about the Nairobi Delegation; the Senator for Nairobi is on record as saying that he has stepped aside – whatever that means – he said that he will not attend sessions, he is no longer a Deputy Whip and he will wait until whatever is going on is over. Can, therefore, the Nairobi Delegation have a proxy to vote for that Senator because I believe the distinguished Senator who is the Chief Whip for the Majority side is voting as a Nairobi proxy. If the voter has stepped aside, can there be a proxy?

The Temporary Chairperson (Sen. Murkomen): Sen. Wetangula, where did you hear what you are alleging to have heard? Where is your evidence?

The Senate Leader of Minority (Sen. Wetangula): Mr. Chairman, Sir, even the Chair should take judicial notice of the happenings in the country. That is why he is not here. This is a special sitting and you have not seen him. He has said so very clearly, uncontradicted, that he has stepped aside. It may be a political gimmick but we take it for what it is.

The Temporary Chairperson (Sen. Murkomen): This is a very straightforward matter. I do not wish to entertain more points of order. We are in the midst of our vote; we are going to the second vote. I only allowed interlude because Sen. G.G. Kariuki had not signed against his manual voting.

The Senate is a House of record and until evidence by way of gazette notice--- as long as there is a Senator representing Nairobi County in this House, there is no legal mechanism that will determine whether somebody is out of office or not. The office of the Speaker is not aware of any provisions of law that would provide opportunity for vacancy on the senatorship for Nairobi. As long as the Senator for Nairobi is in office, there is a proxy to vote.

Hon. Senators, I know the Division Bell had been rung, but there is a small procedural hitch. We have the Deputy Speaker who will take over the Chair when the House resumes but he has been locked outside. At my discretion as the Chairperson, I will allow 30 seconds for the Bell to be rung before the next Question to allow him to come in.

However, the results of the first Division are as follows:-

AYES: Sen. Billow, Manderu County; Sen. Bule, Tana River County; Sen. Boy Juma Boy, Kwale County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen. G.G. Kariuki, Laikipia County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Dr.) Kuti, Isiolo County; Sen. Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mungai, Nakuru County; Sen. Mositet, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong’o, Nyamira County; Sen. Wako, Busia County and; Sen. Wetangula, Bungoma County.

NOES: Sen. Hassan, Mombasa County.

AYES: 28

NOES: 1

ABSTENTIONS: Nil

The Temporary Chairperson (Sen. Murkomen): The “Ayes” have it. I order that the Division Bell be rung for 30 seconds.

(Question carried by 28 votes to 1)

(Question, that Clause 3, 4, 5 and 6 be part of the Bill put and agreed to)

(The Division Bell was rung)

The Temporary Chairperson (Sen. Murkomen): Let the Bars be drawn.

(Bars were drawn)

I apologise for purposes of the record.

Order, hon. Senators. There will be no debate on the delegation and the senatorship of Nairobi County. I have ruled that there is a Senator for Nairobi County and there is no debate about that. Any other debate can be done outside the Senate. Whatever pronouncements that were read in the newspapers have no validity in this House.

I want to correct something on the first results for the record.

The results were as follows:-

AYES: Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen. G.G. Kariuki, Laikipia County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mungai, Nakuru County; Sen. Mositet, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong’o, Nyamira County; Sen. Wako, Busia County and; Sen. Wetangula, Bungoma County.

NOES: Nil.

ABSTENTION: Sen. Hassan, Mombasa County.

The Temporary Chairperson (Sen. Murkomen): Hon. Senators, the correct results are as follows:-

AYES: 28

NOES: Nil

ABSENTIONS: 1

The “Ayes” have it.

(Question carried by 28 votes to nil)

(Question that Clause 3, 4, 5 and 6 be part of the Bill agreed to)

Hon. Senators: Point of order.

The Temporary Chairperson (Sen. Murkomen): Anyone who has a point of order will have to wait. There is no point of order during voting. What I did for the Senate Minority Leader was exceptional.

Schedule

I put the question that the Schedule be amended as proposed by the Senate Majority Leader. This was moved by the Chairman of the Committee.

Senators: Point of order.

The Temporary Chairperson (Sen. Murkomen): Hon. Senators, I have said that there is no point of order unless you have a problem with the way the question is framed.

Sen. Billow: Mr. Temporary Chairman, there is a further amendment to the Schedule from the Senate Majority Leader that has just been approved by the Speaker. I seek your guidance on how to go about it.

The Temporary Chairperson (Sen. Murkomen): Sorry, Sen. Billow. We are in Division but not in---. I will take the advice of the Speaker himself on that matter.

Sen. Billow: Can I explain, Mr. Temporary Chairman?

The Temporary Chairperson (Sen. Murkomen): Yes, proceed.

Senators: Point of order.

The Temporary Chairperson (Sen. Murkomen): Order, Senators. I will rule accordingly. Let us maintain order.

Sen. Billow: Let me explain, Mr. Temporary Chairman. There is an amendment from the Senate Majority Leader that four county headquarters; Nyandarua, Tharaka-Nithi, Lamu and Tana River County - that do not have headquarters - be provided an additional Kshs1.6 billion for construction of county headquarters. This will bring the conditional allocation to Kshs33.2 billion and the total to Kshs293 billion.

The Temporary Chairperson (Sen. Murkomen): Order, Senators.

Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Temporary Chairman, I appreciate the pain that the Senate Majority Leader is going through. However, you will remember that we are voting after you put the question. Since you put the question and the same amendment did not go through the first step that precedes putting the question, it means that he has been overtaken by events.

Mr. Temporary Chairman, if the Deputy Speaker had known that this is the stage we had reached, he would not have approved. He approved in good faith but we have been overtaken by events.

The Temporary Speaker (Sen. Murkomen): Order, Senators. Chairman, I appreciate what you have said but unfortunately, it is the procedure. The Senate Majority Leader was here, we even waved him back when he was walking out. Unless we are provided with a procedure for handling that one, we cannot do it midway. There has to be a debate. I have to propose the Question. I am a great sympathizer of that amendment but unless you give us the rules---

Sen. (Eng.) Muriuki, I am giving you a chance to contribute.

Sen. (Eng.) Muriuki: Mr. Temporary Chairman, Sir, I want to appeal to the House, through the Chair, that the four counties that are appealing for the support of the House---

The Temporary Speaker (Sen. Murkomen): Senator, have you finished?

Sen. (Eng.) Muriuki: You have not even listened to me.

The Temporary Speaker (Sen. Murkomen): You said you are appealing, but under which Standing Order?

Sen. (Eng.) Muriuki: It is under Standing Order No.1 where the Chair can rule that it is in order.

The other Senators can also speak, but hear me first.

We walked out but this amendment was already with the Clerk and had been approved by the Speaker. If there was inadequacy, it was not on the Mover and I would urge that you do the best you can.

The Temporary Speaker (Sen. Murkomen): Order, Sen. (Eng.) Muriuki. We are in Division and the bars have not been drawn. We have a way out for Sen. (Eng.) Muriuki, but we have not reached there yet. We will finish and at the time we are reporting to the House, it can be subject for your recommittal to the Committee for that reason and it would be the House to decide at that stage. So, you need to work with the necessary people.

Sen. Wako: Mr. Temporary Chairman, Sir, I want to inform this House that Speaker ole Kaparo, when he was faced with a similar situation, he ruled that you cannot, during the Committee Stage, bring an amendment, which has not been the subject of debate during the Second Reading because that would be to ambush the House. In other words, I sat here throughout but I never heard anything about county headquarters. If it was stated, let me be reminded. None of these people argued.

(Loud consultations)

The Temporary Speaker (Sen. Murkomen): Order, Senator!

Sen. Wako: They should have submitted during the Second Reading.

The Temporary Chairperson (Sen. Murkomen): Order, Senators! Can you resume your seats and vote? Let me make it clear that for purposes of the amendment provided by Sen. (Eng.) Karue, during reporting we can provide a mechanism for the House to vote to go back to the Committee stage. That is provided for in the Standing Orders. But as at now, let us vote.

I put the Question, that the Schedule be amended as proposed by the Senate Majority Leader and be part of the Bill. That is the amendment as initially proposed by the Chair.

You have 30 seconds to vote, starting now.

(The Senators proceeded to vote)

DIVISION

ELECTRONIC VOTING

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

AYES: Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. G.G. Kariuki, Nyandarua County; Sen. (Eng.) Karue, Nyandarua County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Kuti, Isiolo County; Sen. Lesan, Bomet County; Sen. Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Moi, Baringo County; Sen. M. Kajwang', Homa Bay County; Sen. Mositet, Kajiado County; Sen. Mungai, Nakuru County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Wetangula, Bungoma County; and, Sen. Wako, Busia County.

NOES: Nil.

ABSTENTION: Sen. Hassan, Mombasa County.

The Temporary Chairperson (Sen. Murkomen): Order, Senators! The results of the Division are as follows---

AYES: 31

NOES: 0

ABSTENTIONS: 1

The "Ayes" have it.

(Question carried by 30 votes to nil)

(Schedule as amended agreed to)

Let us have the last Division.

(Loud consultations)

Clause 2, Title, Clause 1

The Temporary Chairperson (Sen. Murkomen): I now put the question; that Clause 2, the Title and Clause 1 be part of the Bill. You have 30 seconds to vote, starting now.

(Hon. Senators proceed to vote)

DIVISION

ELECTRONIC VOTING

(Question, Clause 2, Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen. G.G. Kariuki, Laikipia County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Dr.) Kutu, Isiolo County; Sen.(Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Moi, Baringo County; Sen. Mungai, Nakuru County; Sen. Mositet, Kajiado County; Sen. Murungi, Meru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Musila, Kitui County; Sen. Mutula Kilonzo Jr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen.Wako, Busia County and; Sen. Wetangula, Bungoma County.

NOES: Nil.

ABSTENTION: Sen. Hassan, Mombasa County.

The Temporary Chairperson (Sen. Murkomen): The results are as follows:-

AYES: 30

NOES: Nil

ABSTENTIONS: 1

The Temporary Chairperson (Sen. Murkomen): The Ayes have it.

(Question carried by 30 votes to nil)

(Clause 2, Title and Clause 1 agreed to)

I call upon the Mover to move.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Chairman, Sir.

The Temporary Chairperson (Sen. Murkomen): What is it Sen. (Dr.) Khalwale, you have been very agitated for too long.

Sen. (Dr.) Khalwale: Mr. Temporary Chairman, Sir, I am not agitated, for the record, I just want to bring to the attention of the House that while the House was in Session the Chair was making calls on his cell phone. If we want to be taken seriously as a Senate and if the Chair wants to call for order in this House, how will he call for order when he is disorderly?

Mr. Temporary Chairman, Sir, we would like you to rule.

The Temporary Chairperson (Sen. Murkomen): Order Sen. (Dr.) Khalwale. The Mover should now move. Open the door and draw the Bar. Proceed, Sen. Billow.

DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY
BILL NO.11 OF 2015)

Sen. Billow: Mr. Chairman, I beg to move that the Committee do report to the Senate its consideration of the Division of Revenue Bill (National Assembly Bill No.11 of 2015) and its approval thereof with amendments.

Sen. Murungi seconded.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]

**REPORT, CONSIDERATION OF REPORT
AND THIRD READING**

THE DIVISION OF REVENUE BILL (NATIONAL
ASSEMBLY BILL NO.11 OF 2015)

Sen. Murkomen: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered the Division of Revenue Bill (National Assembly No.11 of 2015) and its approval thereof with amendments.

Sen. Billow: Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

An hon. Senator: You should move that the Motion be amended by inserting the following words at the end thereof-

Subject to the recommittal of the Schedule to the committee.

The Deputy Speaker (Sen. Kembi-Gitura): Order, I am in control of the House. I do not think that it is fair that we address the Chairman that aggressively. Mr. Chairman, you were moving that the House doth agree with the Committee on the said Report.

Sen. Murkomen: Seconded.

(Question proposed)

Order, hon. Members! Let us understand the procedure. Sen. Billow has moved that we adopt the Report. I have proposed a question and now the Report is open to debate. That is the debate we should follow. If there is no debate I will put the question.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I beg to support.

At the same time, I beg to move:

THAT, the Motion be amended by inserting the following words at the end thereof-

“subject to the recommittal of the schedule to the committee of the whole.”

This amendment relates to the debate and discussion we have just had here. For all intents and purposes, the only argument I have heard from my senior, Sen. Amos Wako, is about a past decision, a past speaker, about ambush.

The issue of the counties where headquarters do not have any facilities at all; where county assemblies are operating from tents; where the Governor is operating from a prefab---. This issue was before this Senate last year. It is something that is well known countrywide. We are not saying that every other county has perfect headquarters but, at least, in most counties, there are some structures to house the governor and the county assemblies; the former local authority premises.

I am pleading with my colleagues, hon. Senators, to kindly help these four counties; Tana River, Lamu, Nyandarua and Tharaka-Nithi. I am begging so that an amount of about Kshs400 million is not too much. I am begging once again that if we intend to give some dignity of Government, indeed, in these counties, that we approve these amendments.

I beg to move.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, you understand why it is becoming a little bit complicated, but I am sure you are going to bear with me because on the second amendment, the Committee of the Whole decided what it has decided and it has been moved by the Senate Majority Leader.

I am now going to propose a Question which is that the Senate Majority Leader begs to move that the Motion be amended by inserting the following words at the end thereof “subject to the re-committal of the Schedule to the Committee of the Whole”.

This is an unusual procedure because the Chairman of the Committee of the Whole ruled. What it means is that you are going to debate whether or not it should be re-committed to the Committee of the Whole. This Motion does not need to be seconded.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Please, Sen. (Dr.) Khalwale, let us try and follow the procedure. I am certain we are going to finalize this sooner than later. Let us not skip any of the steps because the record will show that we skipped certain steps in the procedure.

(Question of the amendment proposed)

Sen. (Eng.) Muruiki: Thank you Mr. Deputy Speaker, Sir. I support this amendment. In doing so, allow me to bring the House to the status that some of the counties like Nyandarua find themselves in. Whereas today we are going to send a reasonable amount of money - much better than last year - to the counties, some counties, due to historical reasons, found themselves in situations that they are unable to operate because of not having premises from where to operate. When devolution came, the counties were expected to inherit units which were former offices or premises that belonged to the defunct local authorities; the municipal councils and the county councils. To some extent they even inherited offices of the former provincial administration.

What happened is that counties like Nyandarua did not inherit any of those because the historical circumstances were that during era of the provincial administration, for one reason or the other, the Government had established the headquarters of the

district in another county. When the counties were started, we found ourselves having to vacate from Nyahuru which is in Laikipia County to a shopping centre in Ol Kalou. The end result of that is that if you attempt to build the headquarters from the funds ordinarily allocated to a county through the formula or the Bill, that county, be it Nyandarua, Tharaka-Nithi, Tana River or Lamu County would then be using funds which are supposed to be for development; what other counties are doing with roads, water and so on.

My appeal to the House is that we should help the four counties. At the moment, our county assembly operates from a church. The Governor rented space in the shopping center above some shops. The end result is that even some services like water, sewerage and so on--- We do not have our county headquarters. Even the investors who would otherwise come to our county will not come to a place where---

Mr. Deputy Speaker, Sir, I beg and appeal to Members to support the small amendment so that we include a small amount to help the four counties to at least be like other counties. With that, we can move on as one nation.

The Deputy Speaker (Sen. Kembi-Gitura): I do not know how long you want us to debate this particular issue. The originator of this amendment has taken a very short time. I will give each of you two minutes, so that we can be done with this.

Sen. Wako.

Sen. Wako: Mr. Deputy Speaker, Sir, this problem has been a subject of a Motion passed by this House. When we passed that Motion, the idea was that most of county governments would inherit property of the former provincial administrations. Now, an amendment has been made and passed to state that all properties of the former provincial administrations remain the property of the national government, with a consequence that all counties are in a similar position, but in varying degrees. It appears to me that this is an issue which should be looked into thoroughly. It may very well be that particular counties will get more allocations, while others may get fewer allocations. With that amendment to the legislation, every county including Busia County is suffering.

Mr. Deputy Speaker, Sir, I object.

Sen. Mositet: Thank you Mr. Deputy Speaker, Sir. Hon. Senators, with all due respect, I know that the amendment has come late. However, I happen to have visited Nyandarua County and saw the suffering that the County was going through. It is not good to oppose for the sake of opposing. We are here not just---

(Loud Consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Members. I request that you allow us to listen to each other particularly because you are given two minutes only.

Sen. Mositet: Mr. Deputy Speaker, Sir, what I saw was not good. For example, the Governor's office was rented on top of a bar. In fact, what the hon. Senator has said about the county assembly being in a church compound is true. That is what I saw and believe that they still operate from there.

So, whatever they are asking, even though it is quite late, it is upon this honourable House to see that each and every county functions properly. If we can, at least, through any amendment, assist the four counties, I do not see any harm in that.

Thank you, Mr. Deputy Speaker, Sir, I beg to support that.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, with all due respect, I rise to oppose. The reason is that the former President, hon. Kibaki and the former Prime Minister, hon. Raila, actually designed a model county assembly and a model county headquarters for the governor. At that time, it was not clear what we would do for the provincial administration. But, as soon as the Jubilee Government came to power, it brought back the provincial administration that was to be done away with. Counties that had hoped that those structures would be inherited are not different from what is obtaining in Tana River and the other three counties.

Mr. Deputy Speaker, Sir, I have physically gone to Homa Bay, Siaya, Taita Taveta headquarters and many other and actually the governors are operating from makeshift structures. In the other counties, there was the start off fund of Kshs62 million through the Transition Authority (TA), some counties decided to use that money to refurbish the would-be headquarters. All counties require money and the next financial year, let us agree as the Senate and vote money for all the 47 counties.

I oppose.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Abu Chiaba.

Sen. Chiaba: Asante sana, Bw. Naibu Spika, kwa kunipa nafasi hii na mimi katika sauti ya kuomba kwa marafiki zangu kama Sen. Juma Boy Juma ambao walikuwa na bahati ya siku za nyuma, kwamba Kaunti ya Lamu ni ile imekuwa *marginalized* kwa miaka yote. Governor hana mahali pa kukaa na kwa sasa amekodesha mahali. Mimi niko na ushahidi kamili. Nimeenda na Kamati ya Energy ikiongozwa na Sen. Moi, tulimtembelea governor akiwa na sitting room, room moja, na juu ni mahali analala.

Jambo la kusikitisha ni *county assembly*. *County assembly* ni nyumba ya akina mama ambao ni maskini. Hivi sasa wametoa ilani kwa county assembly waondoke. Kwa hivyo msiangalie kwamba siku zilizopita watu wamejenga upande wao. Sisi ambao hatukuwa na uwezo tusaidiane.

Bw. Naibu Spika, Kaunti ya Tana River, mnajua vile ilivyo, watu wakienda kule wanasema hii si Kenya. Kwa hivyo tunaomba kwa unyenyekevu hizi kaunti nne na mimi najua kwamba rafiki yangu, Sen. Wetangula, atapiga kura kuniunga mkono, nitamtangaza kule ya kwamba yeye ni mmoja katika wale. Akipiga Nyuma ya hapo, basi asahau mambo mengine.

Asante sana.

(Laughter)

The Deputy Speaker (Sen. (Dr.) Machage): Two minutes only.

Sen. (Dr.) Machage: Bw. Naibu Spika, nipe nafasi niseme haya. Kila mtu akianza kulia, wengine wako na sauti kubwa kuliko wengine. Lakini sio kwamba wengine hawana uchungu. Wengine hulia kimoyomoyo, lakini wote huwa wanalia. Wote tuko na shida hiyo. Katika Kaunti ya Migori, tunakodesha nyumba. Naibu governor alifukuzwa kutoka kwa ofisi ya serikali kwa sababu ni hiyo serikali ya Jubilee imekata kuonga Katiba yasema nini kwamba tuwe na serikali moja mashinani. Wamesema kwamba lazima serikali za *provincial administration* ziwepo.

Basi mle hayo machungu. Isingekuwa hivyo basi tungewawia radhi na kuwapa nafasi hawa wenzetu wapate wanayoomba. Wote tuko kwa kikapu hicho na yafaa tuwe na Mswada mpya kwamba makao makuu yajengwe. Tupitisho hilo ili sisi wote tupate

bahati. Lakini vile ilivyo, watu wane wanaomba na sisi wengine mnataka kutuangusha kura twende nyumbani. Hatuwezi kukubali nzi akidoea na kutumbukia ndani ya mchuzi wetu. Nakataa katakata!

Sen. Murkomen: On a point of order, Mr. Deputy Speaker, Sir. Am I in order, seeing the mood of the House, under Standing Order No.98, to call for the Mover to reply so that we can vote.

The Deputy Speaker (Sen. Kembi-Gitura): Order! I hear you, but I will allow a few more. You can make that application after we have heard a few more.

Sen. Bule.

Sen. Bule: Asante, Bw. Naibu Spika kwa kunipa fursa hii. Eneo la Tana River lilikuwa limesahulika kwa miaka nyingi. Lakini leo wakati kuna pendekezo la Tana River kusaidiwa, je, kwa nini sasa Wakenya wasiwe na huruma kwetu? Naomba Maseneta wenzangu waangalie masilahi ya wengine. Sala wa Bwana inasema: “Mtakie mwenzako lile unalojitakia nafsi yako.”

Wengine wamebarikiwa na maendeleo. Je, ukiamua leo kwamba sisi pia tujengewe nyumba kisha tujenge yako kesho, kuna shida? Nawaomba wenzangu kwamba mimi ni mmoja wenu. Naomba tupewe pesa hizo leo ili mpate kura yangu.

Asante.

The Deputy Speaker (Sen. Kembi-Gitura): Who is Temporary 4? You have spoken already. Please, withdraw your request.

Like one of you said, maybe this is one of the most important days for the Senate, because we are making an extremely important decision on the division of revenue and matters appertaining thereto. It is 8.30 p.m. but we will finish in a short time. There are some Senators who are interested in this issue because it affects them directly.

Sen. Kiraitu, you have two minutes.

Sen. Murungi: Mr. Deputy Speaker, Sir, allow me to refresh the memory of the Senators. The Senator for Nyandarua, Sen. Muriuki, brought a Motion to this Senate. We debated it and it was unanimously passed by all the Senators. It touched on the four headquarters that are subject to these amendments today. I do not know what has happened between when we passed that Motion and now because it seems there is some resistance.

Let us, as a House, be consistent. We are a House which believes in affirmative action. One way of demonstrating that we care for those of our brothers who are disadvantaged is through supporting this amendment. I am aware about the situation in my neighbouring county – Tharaka Nithi – because I drive through there everytime I go to Meru or come to Nairobi. Indeed, they are in a worse situation than Nyandarua, because in Nyandarua, at least, there is a church compound where these people meet. In Tharaka Nithi they have pitched a tent. In Nyandarua, the Governor has an office on top of a shop, but there is nothing in Tharaka Nithi. I understand what the *Emeritus*, the Senior Senator for Busia is saying. We can look at Busia and other deserving counties next year. But for now---

The Deputy Speaker (Sen. Kembi-Gitura): Your time is up.

Sen. Musila.

Sen. Musila: Thank you, Mr. Deputy Speaker, Sir. I want to confirm that I know the conditions of the headquarters of Tana River because I was a District Commissioner there. We were in Lamu the other day with Sen. Moi; I know about Nyandarua because I

was the District Commissioner in Laikipia for many years, and Tharaka-Nithi are my neighbours.

But having said that, Mr. Deputy Speaker, Sir, I want hon. Senators to know that these conditions are not unique to those four counties. Kitui County rents a building from the Ministry of Water and, in fact, you recall that even the Governor had been evicted at one time by the former Minister for Water. All of us here need money to build headquarters and, therefore, I can only support that Motion if there is a further amendment to include all the 47 counties.

Therefore, Mr. Deputy Speaker, Sir, I beg to oppose.

(Applause)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. G.G. Kariuki, you have two minutes.

Sen. G.G. Kariuki: Thank you very much, Mr. Deputy Speaker, Sir. This matter is very clear, as it has been said by Sen. Murungi because we passed a resolution here sometimes ago and we all agreed as a House that we shall give Nyandarua and other counties some money to build their headquarters. We all agreed on that issue. But even now, the situation needs not change unless--- Not all county headquarters are up to date; but there are some counties which do not have county headquarters. Therefore, the issue of Nyandarua and Tharaka-Nithi is very disturbing and the public will not understand. Today, we are passing about Kshs291 billion to be distributed to all the counties and here they are looking for Kshs1.8 billion. That is very little money.

(Loud consultations)

Hon. Members, I think you better bear with them and we start with them and then in the next budget, we can also appoint a Committee which will go round the county to see all the headquarters and bring a recommended structure which will be agreed by everybody. This is because I am not so sure that there is anyone here who will be saying that he or she is satisfied. Laikipia is in a new place; we have no headquarters there where this House decided it should be the headquarters.

So, Mr. Deputy Speaker, Sir, I beg to---

The Deputy Speaker (Sen. Kembi-Gitura): Order, hon. Senator! Your time is up.

Sen. (Dr.) Kuti, are you on a point of order?

Sen. (Dr.) Kuti: Yes, Mr. Deputy Speaker, Sir. Will I be in order to ask the Mover to reply, because the mood is very clear and we cannot change the minds of the people? So, we better just end this matter.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. (Dr.) Kuti. I would agree that the position seems to be the position that people are taking, either or. In any case, most of you have now sought the Floor. So, can the Mover reply?

(Applause)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, this matter has been with this Senate. This is now the third year, if I recall; so, it is not

something that is being crafted now by anybody or imagined. These counties have consistently pleaded with this House because this is the House of equalization and the case has been made. I do not think there is need to waste any time, trying to regurgitate the very compelling reasons that have been given for these four cases.

Secondly, Mr. Deputy Speaker, Sir, let me make my last plea to honourable Senators. I plead with you, once more as House of equity and equalization, to approve the request for Nyandarua, Tharaka-Nithi, Tana River and Lamu to put up a modest place with the belief that going forward, we will require a comprehensive overview of the entire country so that, going forward, we can continue to equalize the rest of the counties so that each county can have a place where the organs of its government can sit and deliberate on the issues at the local level.

Mr. Deputy Speaker, Sir, I beg to move.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I will now put the Question. This issue does not affect counties, so it is going to be an “aye” or “nay” vote.

(Loud Consultations)

An hon. Senator: What about the original question on the report of the Committee?

The Deputy Speaker (Sen. Kembi-Gitura): That is the one I will deal with further on. I will put the Question, which is that, the House do agree with the Committee in the said Report. You would argue that it affects counties but this is intercessory, so it does not affect counties. Therefore, we do not have to go to Division, unless you ask for the Division after this vote is taken.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, I am on my feet. You know you are not supposed to interrupt the Speaker when he is on his feet but I would like us to move on this together so that we understand each other. There is a Motion because the Chairman of the Committee begged to move that the House do agree with the Committee on the said Report. That is what we are dealing with. I proposed the Question that the House do agree with the Committee on the same Report. Then there is the debate on this issue.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Order! That is the point at which we are now because we are going to debate or vote on the Motion that we adopt the Report of the Committee. Are we together so far? That is the point at which we are at the moment.

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

(Debate on the original Motion resumed)

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I know we are all fatigued but I am concerned that we seem to be losing out on the important issue

of procedure. The procedure is, for a Motion to be debated, there must be Notice of Motion given. I am not challenging what has happened but I just wanted us to remember that indeed, there was no Notice of Motion given for us to go ahead to do what we did.

The Deputy Speaker (Sen. Kembi-Gitura): Order Sen. (Dr.) Khalwale, please sit down. I was not here when you were at the Committee Stage. The amendment that has to do with what you are debating, which was like a further amendment to the one that came from the Committee which was given earlier and which we debated and passed, then the Motion that we have been debating by the Senate Majority Leader but from Sen. (Eng.) Muriuki Karue indirectly. Now, that is what you debated.

You debated on an amendment not a Notice of Motion. I do not agree that a Notice of Motion ought to have been given because that time we were at the Committee Stage. I got a Report from the Committee that there was a Motion to re-commit that specific aspect of it again to the Committee of the Whole. That is the point at which we are.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, would I be in order to request Sen. (Dr.) Khalwale to read Standing Order No.174 (2), it will answer him.

The Deputy Speaker (Sen. Kembi-Gitura): If you allow me, hon. Senators, as pertains to what we have been dealing with, we have done it procedurally. Since the recommittal has been defeated, we will go back to the Report that was made to the Speaker on the decision of the Committee of the Whole. That is the position we are at now. So, I am personally confident that we have done the correct thing as pertains to procedure.

Let me say this for the sake of good order. I am sure you understand my outlook towards these things. As far as I am concerned, I am sure we have dealt with the issue of recommittal. The issue of recommittal is over. So, we will not recommend that amendment to the Committee of the Whole. So, now we are an open house where we are dealing with the issue of the main Report so that we either pass the Bill or not pass it. That is the position as I see it.

I had proposed a question that the House doth agree with the Committee in the said Report. If there is no debate, I will put the question.

(Question put and agreed to)

Sen. Billow: Mr. Deputy Speaker, Sir, I propose that the Division of Revenue Bill be now read a Third Time.

The Deputy Speaker (Sen. Kembi-Gitura): Who is seconding you?

Sen. Murkomen: Seconded.

(Question proposed)

The Senate Minority Leader (Sen. Wetangula): Thank you Mr. Deputy Speaker, Sir. This is now time for real debate. Now that we are passing this Bill, I want to urge Senators, particularly the oversight committee chaired by Sen. (Dr.) Khalwale and whose Vice Chairperson is Sen. Hassan, that the level of preferage, theft, corruption – we shall not tire in saying this – is very high. Two weeks ago, I met all committees from my county assembly.

Sen. Murkomen: Who wants to listen to him?

The Senate Minority Leader (Sen. Wetangula): Sen. Murkomen, you may appear very clever but you have a duty to listen.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. Did you hear Sen. Murkomen asking; who wants to listen to him?" That kind of behavior---

The Deputy Speaker (Sen. Kembi-Gitura): I proposed the question. Therefore, the floor is open for debate. As I told you when I communicated to you earlier, you can go on until midnight. The only thing you cannot do is to go beyond midnight.

The Senate Minority Leader (Sen. Wetangula): We gazetted this day so that we are here to debate.

Sen. Murungi: On a point of order, Mr. Temporary Speaker, Sir. We do agree that this was a Special Sitting and, indeed, Members are entitled to debate, but we are now at the Third Reading Stage and the debate at this stage should not be like the debate on the Second Reading. We should just make one or two comments and sit down. We are begging the Senate Leader of Minority to respect the traditions of the House and not debate as if it is on the Second Reading.

In view of this hour and the biological forces that are operating, I move that the contributors be limited to one minute.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, I will allow you to finish, but you have noted the mood of the House.

The Senate Leader of Minority (Sen. Wetangula): Mr. Deputy Speaker, Sir, I was not even going to take more than three minutes. I do not know why there is this impatience. Let not our cry for accountability be a ritual. We must make the governors accountable. Our Committee of oversight must liaise with the oversight committees at the counties and find a way of telling them to track the budgets that are implemented so that thefts are stopped.

I finish by advising young Murkomen that as you grow up you will realize the value of listening to others because your right to speak must be equal to your duty to listen to others. You may be too clever by half, but you will find that it does not work.

(Loud Consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order hon. Senators. Sen. Murkomen, you are in the Speaker's Panel and so let us agree that we must follow procedure. I have only one more request from the Floor and I am going to allow Sen. (Dr.) Kuti one minute and then I will put the Question.

Sen. (Dr.) Kuti: Mr. Temporary Speaker, Sir, personally I very disappointed for the fact that we were not given enough time to ventilate on this Bill. I hope next year we shall have ample time to debate and ventilate on this matter.

(The Division Bell was rung)

The Deputy Speaker (Sen. Kembi-Gitura): Could the Bars be drawn and the Doors closed?

(The Bars were drawn and the Doors closed)

Hon. Senators, could you log in and vote? This is the final vote for the day. You have one minute to vote. Any Senator who wishes to be assisted can proceed to the Clerk's Desk.

(Some Senators moved to the Clerk's Table)

DIVISION

ELECTRONIC VOTING

(Question, that the Division of Revenue Bill (National Assembly Bill No. 11 of 2015) be read a Third Time, put and the Senate Proceeded to vote by County Delegations)

AYES: Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. G.G. Kariuki, Laikipia County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. Kembu-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Moi, Baringo County; Sen. Mositet, Kajiado County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Wako, Busia County; and, Sen. Wetangula, Bungoma County.

NOES: Nil.

ABSTENTION: Sen. Hassan, Mombasa County.

The Deputy Speaker (Sen. Kembu-Gitura): Hon. Senators, the results are as follows:-

AYES: 31

NOES: Nil

ABSTENTIONS: 1

The "Ayes" have it.

(Question carried by 31 votes to nil)

(Question put and agreed to)

(The Bill was read a Third Time and passed)

ADJOURMENT

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, we have come to the end of business this afternoon and tonight. Therefore, the House shall stand adjourned until Tuesday, 28th April, 2015, at 2.30 p.m.

The Senate rose at 9.00 p.m.