



*Approved*  
*SNA*  
*3/3/26.*

**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**

**THIRTEENTH PARLIAMENT – FIFTH SESSION- 2026**

**DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE**

**REPORT ON:**

**THE CONSIDERATION OF THE MISCELLANEOUS FEES AND LEVIES  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2025)**

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 03 MAR 2026	<b>DAY:</b> TUESDAY
<b>TABLED BY:</b>	CHAIRPERSON DEPT. COMMITTEE ON TRANSPORT & INFRASTRUCTURE
<b>CLERK-AT THE-TABLE:</b>	WILLIS OBIERO

**Directorate of Departmental Committees  
Clerk's Chambers  
Parliament Buildings  
NAIROBI**

**MARCH, 2026**



## TABLE OF CONTENTS

<b>LIST OF ABBREVIATIONS</b>	<b>3</b>
<b>LIST OF ANNEXURES</b>	<b>4</b>
<b>1.0 PREFACE</b>	<b>6</b>
1.1 Introduction and Committee Mandate	<b>6</b>
1.2 Committee Subjects and Oversight	<b>7</b>
1.3 Committee Membership	<b>8</b>
1.4 Secretariat	<b>9</b>
<b>CHAPTER TWO</b>	<b>10</b>
<b>2.0 BACKGROUND</b>	<b>10</b>
2.1 Introduction	<b>10</b>
2.2 Analysis of the Bill	<b>10</b>
2.3 Situational Analysis	<b>11</b>
<b>CHAPTER THREE</b>	<b>16</b>
<b>3.0 PUBLIC PARTICIPATION / STAKEHOLDER ENGAGEMENT</b>	<b>16</b>
3.1 Submission by the Ministry of Roads and Transport	<b>16</b>
3.2 Submission by the Kenya International Freight & Warehouse Association	<b>20</b>
3.3 Submission by the Shippers Council of Eastern Africa	<b>25</b>
<b>CHAPTER FOUR</b>	<b>29</b>
<b>4.0 COMMITTEE OBSERVATIONS</b>	<b>29</b>
<b>CHAPTER FIVE</b>	<b>30</b>
<b>5.0 COMMITTEE RECOMMENDATION</b>	<b>30</b>
<b>CHAPTER SIX</b>	<b>31</b>
<b>6.0 SCHEDULE OF AMENDMENTS</b>	<b>31</b>

## **LIST OF ABBREVIATIONS**

CAP - Chapter (of the Laws of Kenya)

CS - Cabinet Secretary

DRC - Democratic Republic of Congo

ICD - Inland Container Depot

ICPAK - Institute of Certified Public Accountants of Kenya

IDF - Import Declaration Fee

KAM - Kenya Association of Manufacturers

KEBS - Kenya Bureau of Standards

KEPHIS - Kenya Plant Health Inspectorate Service

KIFWA - Kenya International Freight & Warehouse Association

KR - Kenya Railways

KRC - Kenya Railways Corporation

KRA - Kenya Revenue Authority

LAPSSET - LAPSSET Corridor Project (Lamu Port-South Sudan-Ethiopia Transport)

MGR - Meter Gauge Railway

PFMA - Public Finance Management Act

PPP - Public-Private Partnership

RDL - Railway Development Levy

RDLF - Railway Development Levy Fund

RTI - Railway Training Institute

SCEA - Shippers Council of Eastern Africa

SGR - Standard Gauge Railway

## **LIST OF ANNEXURES**

Annexure 1: Signed list of Members who attended the sitting that considered and adopted the report

Annexure 2: Minutes of the Committee on sittings to consider the Bill and adoption of the report

Annexure 3: Copy of the Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025)

Annexure 4: Correspondence to stakeholders requesting for submissions on the Bill;

Annexure 5: Newspaper advertisement inviting the public to submit memoranda on the Bill.

Annexure 6: Written submissions from Stakeholders.

## **CHAIRPERSON'S FOREWORD**

The Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025) was read a First Time on 12<sup>th</sup> February 2026 and subsequently committed to the Departmental Committee on Transport and Infrastructure for consideration and reporting to the House pursuant to the National Assembly Standing Order 127(1).

While conducting public participation, the Committee placed advertisements in the print media on 13<sup>th</sup> February, 2026, seeking comments from the public on the Bill pursuant to the provisions of Article 118 of the Constitution and Standing Order 127(3). The Committee also invited relevant stakeholders, namely the Ministry of Roads and Transport, the Kenya Revenue Authority, the Shippers Council of Eastern Africa, the Kenya International Freight and Warehouse Association, and the Kenya Transporters Association.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Bill. I wish to express my appreciation to the Committee Members and the Committee Secretariat for their resilience and devotion to duty, which made the consideration of the Bill successful. Finally, I wish to express gratitude to the Members of the public who submitted their views and comments on the Bill in the course of public participation. Their views and comments indeed were vital in the consideration of the Bill.

On behalf of the Committee and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honor to present to this House the report of the Committee on its consideration of the Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025).

The Committee has considered the Bill and recommends that the House **approves** the Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025) **with amendments**.

**HON. GK GEORGE KARIUKI, CBS, MP  
CHAIRPERSON**

## CHAPTER I

### I.0 PREFACE

#### I.1 Introduction and Committee Mandate

1.The Departmental Committee on Transport and Infrastructure is established under the National Assembly Standing Orders No. 216 (1). The functions and mandate of the Committee as per Standing Orders, No. 216(5) include: -

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b) To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
- c) To study and review all the legislation referred to it;**
- d) To study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
- g) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- h) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- i) To examine any questions raised by Members on a matter within its mandate.
- j) To examine treaties, agreements and conventions;

2.The subject matter of the Departmental Committee on Transport and Infrastructure are stated in the Second Schedule of the National Assembly Standing Orders as follows: Transport, including non- motorized transport and maintenance of Roads, rails, air and marine transport, seaports and national integrated infrastructure policies and programmes and transport safety.

## **1.2 – Committee Subjects and Oversight**

3.The Committee is mandated to consider the following subjects as per the Second Schedule of the Standing Orders:

- (i) Transport, including non-motorized transport;
- (ii) Construction and maintenance of roads;
- (iii) Rails, air and marine transport; Seaports and national integrated infrastructure
- (iv) policies and
- (v) programmes; and
- (vi) Transport safety.

4.The Committee oversees the Ministry of Roads and Transport which has three (3) State Departments namely:

- i) The State Department for Roads;
- ii) The State Department for Transport; and
- iii) The State Department for Aviation and Aerospace Development.

5. Further, Committee oversees the State Department for Shipping and Maritime Affairs which is under the Ministry of Mining, Blue Economy, and Maritime Affairs.

### 1.3 Committee Membership

6.The Committee comprises the following Members:

The Hon. G.K. George Kariuki, CBS, M.P - **Chairperson**  
Ndia Constituency  
**United Democratic Alliance Party**

The Hon. Mutua Didmus Wekesa Barasa, M.P- **Vice- Chairperson**  
Kimilili Constituency  
**United Democratic Alliance Party**

The Hon. Arama Samuel. M.P  
Nakuru Town West Constituency  
**Jubilee Party**

The Hon. Abdul Rahim Dawood, M.P.  
North Imenti Constituency  
**Independent**

The Hon. Naicca, Johnson Many, CBS, M.P  
Mumias West Constituency  
**Orange Democratic Movement Party**

The Hon. Elsie Muhanda, M.P.  
Kakamega County  
**Orange Democratic Movement Party**

The Hon. Francis, Kajwang' Tom Joseph,  
CBS, MP  
Ruaraka Constituency  
**Orange Democratic Movement Party**

The Hon. Chege John Kiragu, M.P.  
Limuru Constituency  
**United Democratic Alliance Party**

The Hon. Kiaraho, David Njuguna, M.P. OI  
Kalao Constituency  
**Jubilee Party**

The Hon. Kiunjuri Festus Mwangi, M.P.  
Laikipia East Constituency  
**The Service Party**

The Hon. Bady, Bady Twalib, M.P.  
Jomvu Constituency  
**Orange Democratic Movement Party**

The Hon. Abdirahman, Husseinweytan  
Mohamed, M.P.  
Mandera East Constituency  
**Orange Democratic Movement Party**

The Hon. Komingoi Kibet Kirui, M.P.  
Bureti Constituency  
**United Democratic Alliance Party**

The Hon. Saney Ibrahim Abdi, M.P  
Wajir North Constituency  
**United Democratic Alliance Party**

The Hon. Jhanda Zaheer, M.P  
Nyaribari Cache Constituency  
**United Democratic Alliance**

## 1.4 Secretariat

7.The following Members of Staff service the Committee:

**Head of Secretariat**  
Ms. Tracy Chebet Koskei  
**Principal Clerk Assistant II**

Mr. Mohamednur M. Abdullahi  
**Clerk Assistant**

Mr. Binensa Mabungu  
**Clerk Assistant**

Mr. Abdinasir Y. Moge  
**Fiscal Analyst**

Mr. Erick Kariuki  
**Research Officer**

Ms. Faith Makena  
**Serjeant-at-Arms II**

Ms. Patricia Gichane  
**Legal Counsel**

Ms. Rinha Saineye  
**Media Relations Officer**

Ms. Rehema Koech  
**Audio Officer**

## CHAPTER TWO

### 2.0 BACKGROUND

#### 2.1 Introduction

8. The Miscellaneous Fees and Levies (Amendment) Bill, 2025, is sponsored by the Hon. Kimani Ichungwah, Member of Parliament and Leader of the Majority Party. The principal object of the Bill is to amend **the Miscellaneous Fees and Levies Act Cap. 469C** to expand the purpose of the 2% railway development levy provided for in section 8 of the Act.
9. The Bill seeks to vest the Railway Development Levy Fund with the established Railway Development Levy Fund Board. The Bill seeks to shift the administration of the Fund from the Cabinet Secretary for matters relating to finance to the Railway Development Levy Board and mandate the Board to allocate resources from the fund not exceeding 90% to secure additional funds for financing development and construction or railway transport infrastructure, for safety and economic regulation of railway infrastructure and on the approval of both Cabinet Secretary for Finance and Transport to finance rehabilitation of railway transport infrastructure.

#### 2.2 Analysis of the Bill

10. The Bill contains **three (3) Clauses** for consideration:

11. **Clause 1** provides for the short title

12. **Clause 2** seeks to amend Section 3 that provides for the functions and powers of the KRA Commissioner- General in particular the clause amends section 3 (1) by inserting the expression “unless otherwise provided for” the effect of which is to provide an exception to the control and collection of duties or levies under the Act by the Commissioner General.

*The Commissioner (unless otherwise provided for) shall be responsible for the control and collection of, and accounting for, duties, fees and levies paid under this Act and shall, subject to the direction and control of the Cabinet Secretary, have the superintendence of all matters relating thereto.*

13. **Clause 3** seeks to amend Section 8 of the Act by deleting and substituting subsection (3). The new subsection (3) expands the scope or purpose of the Railway Development Levy from simply the construction and operation of the Standard Gauge Railway to three new purposes:

- i. financing the development and construction of the railway transport infrastructure;
- ii. the safety and economic regulation of the railway infrastructure;
- iii. the rehabilitation of the railway infrastructure (this purpose is subject to approval of both Cabinet Secretary Finance and Transport).

14. **Clause 3** also seeks to amend Section 8 by deleting and substituting subsection (4). The new subsection (4) seeks to establish the Railway Development Levy Fund, into which the proceeds of the Railway Development Levy shall be paid, and vests the Railway Development Levy Fund in the Board. It also seeks to amend section 8 by introducing new subsections 4A-4I.
15. **Sub clause 4A** establishes the Railway Development Levy Fund Board and sets out its features as a body corporate with perpetual succession and a common seal.
16. **Sub clause 4B** provides for the membership of the Board to include a chairperson appointed by the President (from amongst those nominated by the Cabinet Secretary National Treasury), the Principal Secretary National Treasury, Principal Secretary Transport, the Attorney General, five other members nominated by the Cabinet Secretary Transport who are non-public officers with expertise in infrastructure finance, law investment or public private partnerships and the Secretary to the Board,
17. **Sub clause 4C** seeks to provide for the power of the Cabinet Secretary to make regulations on the recruitment and appointment of the Secretary to the Board and the staff of the Board, the management and administration of the Railway Development Levy Fund and the use and apportionment of the monies in the Fund.
18. **Sub clause 4D** seeks to provide that the regulations made under sub clause 4C are created under the Public Finance Management Act section 24.
19. **Sub clause 4E** seeks to provide for a proportion not exceeding 90% of the fund may be used to secure additional funds for the purposes of sub clause (3) (a) of the Bill.
20. **Sub clause 4F** seeks to provide for the administration costs of the Fund that shall not exceed 0.5% of the Fund.
21. **Sub clause 4G** seeks to establish three main accounts for monies accruing to the fund, they include, the Fund Account, the General Account for ordinary purposes of the Fund and the Special Account for the additional funds secured pursuant to sub clause (4E).
22. **Sub clause 4H** provides for the audit of the special account as per the Public Finance Management Act Cap 412A and Public Audit Act Cap. 412B.
23. **Sub clause 4I** seeks to provide for the quarterly reporting by the Board to the Cabinet Secretary, Transport, and Cabinet Secretary, Finance, on the inflows, outflows, and balances of the accounts established under Subclause (4G).

## 2.3 Situational Analysis

### i) Miscellaneous Fees and Levies Act, CAP 469C

24. The Miscellaneous Fees and Levies Act, CAP 469C was assented to on 31 August 2016 and has been amended several times. The Act provides for the imposition of duties, fees and levies on imported or exported goods and for connected purposes.

25. Section 8 of the Miscellaneous Fees and Levies Act provides for Railway development Levy. Specifically, section 8 states that;

- i. There shall be paid a levy to be known as the railway development levy, on all **goods imported** into the country for home use;
- ii. The levy shall be at the rate of **two per cent** of the customs value of the goods and shall be paid by the importer of such goods at the time of entering the goods into the country for home use;
- iii. The purpose of the levy shall be to provide funds for the **construction and operation** of a standard gauge railway network in order to facilitate the transportation of goods;
- iv. The Cabinet Secretary shall, by regulations, establish a railway development levy fund into which all the proceeds of the levy shall be paid; and
- v. The fund referred to in subsection (4) shall be established, managed, administered or wound up in accordance with section 24 of the Public Finance Management Act (Cap. 412A) and the regulations made under that Act.

26. On interpretation of terms, The Miscellaneous Fees and Levies Act, provides that: **Cabinet Secretary"** means the Cabinet Secretary for the time being responsible for finance

## ii) **Customs and Excise (Railway Development Levy Fund) Regulations. 2013**

27. The Customs and Excise (Railway Development Levy Fund) Regulations, 2013, commenced on 5 July 2013. The objective and purpose of the Fund shall be to provide funds for the construction and operation of a standard gauge railways network in order to facilitate the transportation of goods.

28. The Fund consist of;

- i. the proceeds of the railway development levy charged under section 8 of the Miscellaneous Fees and Levies Act, 2016;
- ii. grants or donations made to the Fund; and
- iii. any income generated from the proceeds of the Fund.

29. The regulations provide for an Advisory Committee that consists of:

- i. the Principal Secretary responsible for matters relating to finance who shall be the chairperson;

- ii. the Principal Secretary responsible for matters relating to transport;
- iii. the Principal Secretary responsible for matters relating to infrastructure; and
- iv. the managing director of the Kenya Railways Corporation.

31. The functions of the Advisory Committee shall be-

- i. to review and approve the annual work programmes and cost estimates; and
- ii. to oversee the management of the Fund and advise the Cabinet Secretary generally on the operations of the Fund

32. The following table depicts the amounts received as proceeds of the railway development levy by the state department for Transport from the Kenya Revenue Authority which is the appointed collector of the revenue

Year	Amount
2023	39,896,226,652
2022	35,632,564,903
2021	24,055,500,825

Source: Report of the Auditor General

### Kenya Railways Network Overview

33. Kenya Railways (KR) develops an integrated rail network and provides rail/inland waterways services under the Kenya Railways Act of 1978 (Cap 397). The objective is to stimulate economic development in the region by increasing efficiency and lowering the cost of transporting cargo between major ports on the Indian Ocean coast and hinterland current networks

- i. **Standard Gauge Railway (SGR):** Phase I (Mombasa-Nairobi, 472 km, started 2014); Phase 2A (Nairobi-Naivasha, 120 km, 2017). Expanded ICDs at Embakasi (Nairobi) and Mai Mahiu (Naivasha).

- ii. **Meter Gauge Railway (MGR):** 2,066 km total (mainline Mombasa-Malaba: 1,082 km; 7 branches).

Seven branches of Meter Gauge Railway		
Branch Line	Distance in Kms	Status
Nakuru – Kisumu	216.7	Operational
Thika– Nanyuki	177	Operational
Konza – Magadi	146.3	Operational (Leased)
Kisumu – Butere	69	Rehabilitated
Leseru – Kitale	64.9	Rehabilitated
Gilgil – Nyahururu	76.8	Rehabilitated
Voi – Taveta	118.6	Not operational

Financial Performance of KRC 2017 to 2023 (Kshs Millions)						
Revenue Streams	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
SGR	4,344	10,291	12,079	13,579	15,018	18,202
MGR	63	1,383	1,073	1,458	1,477	2,368
Railway training Institute (RTI)	206	280	180	214	337	436
Non-Rail Business	1,132	1,137	1,254	1,411	875	1,243
<b>Total</b>	<b>5,745</b>	<b>13,091</b>	<b>14,586</b>	<b>16,662</b>	<b>17,707</b>	<b>22,248</b>

### Strategic Expansion Plan (KR Strategic Plan 2023/24–2027/28)

- i. Extend SGR: Naivasha–Kisumu (Phase 2B, 269 km); Kisumu–Malaba (Phase 2C, 107 km).

- ii. Scope Lamu–Isiolo–Moyale/Nakodok (LAPSSET corridor)
- iii. To increase the rail market share of Port throughput from 26% in 2022 to 42% by 2027.

## CHAPTER THREE

### 3.0 PUBLIC PARTICIPATION / STAKEHOLDER ENGAGEMENT

30. To undertake public participation in the Constitution and Standard Orders, an Advertisement inviting the public to submit memoranda on the Bill was published in the newspaper on 13<sup>th</sup> February 2026. The Committee also invited comments on the Bill from relevant stakeholders namely; the Ministry of Roads and Transport vide a letter Ref: NA/DDC/IT&I/2026/009 dated 18<sup>th</sup> February 2026, the Kenya Revenue Authority vide a letter Ref: NA/DDC/IT&I/2026/008 dated 18<sup>th</sup> February 2026, the Kenya Transporters Association vide a letter Ref: NA/DDC/IT&I/2026/007 dated 18<sup>th</sup> February 2026, the Kenya International Freight and Warehouse Association and the Shippers Council of Eastern Africa vide a letter Ref: NA/DDC/IT&I/2026/010 dated 18<sup>th</sup> February 2026.

31. The Committee received submissions from the following stakeholders:

- a) The Ministry of Roads and Transport;
- b) The Kenya International Freight and Warehouse Association; and
- c) The Shippers Council of Eastern Africa

32. The submissions of the stakeholders are outlined below:

#### 3.1 Submission by the Ministry of Roads and Transport

The **Cabinet Secretary for the Ministry of Roads and Transport, Mr. Davis Chirchir**, appeared before the Committee on Thursday, 26<sup>th</sup> February 2026 and submitted as follows;

33. The Railway Development Levy (RDL) was first imposed through Section 117A of the Customs and Excise Duty Act which was repealed in November 2015 by the Excise Duty Act Cap. 472.

34. Pursuant to the repealed provision which imposed the RDL, the Cabinet Secretary for the National Treasury issued the Customs and Excise (Railway Development Levy Fund) Regulations, 2013 to establish the RDLF. These Regulations were issued in accordance with Section 24(4) of the Public Finance Management Act, Cap. 412A, and as a result, the RDLF was vested in the National Treasury, rather than being vested in an entity with separate legal personality as is the case with similar funds such as the Road Maintenance Levy Fund, which is vested in the Kenya Roads Board.

35. The Excise Duty Act contained savings and transitional provisions in Section 46(2) which provided that Section 117A of the Customs and Excise Act shall continue to apply until the RDL is provided for in other legislation. This occurred in 2019 when the Miscellaneous Fees and Levies Act, Cap. 469C was amended by the Finance Act to insert Section 8 which is currently in force, and which imposes the RDL. Therefore, Section 117A of the Customs and Excise Act ceased to apply.

36. The 2013 Regulations issued under the Customs and Excise Act were also preserved by Section 46(5) of the Excise Duty Act which provides that the 2013 Regulations would remain valid until

subsidiary legislation with respect to the same matter is made under the Excise Duty Act. No such subsidiary legislation has been made under the Excise Duty Act. While making amendments to expand the scope of the RDLF, the Cabinet Secretary for the National Treasury issued the Customs and Excise (Railway Development Fund) (Amendment) Regulations, 2020, through Legal Notice No. 86. However, these 2020 Regulations were issued under the Miscellaneous Fees and Levies Act rather than under the Excise Duty Act.

37. The state of affairs is therefore as follows:

- i. The RDL is imposed under the Miscellaneous Fees and Levies Act;
- ii. The RDLF, which houses the RDL, is established under the 2013 Regulations which were issued under the Customs and Excise Act and preserved by the Excise Duty Act; and
- iii. The most recent amendment to the RDLF legal framework was made using an instrument issued under the Miscellaneous Fees and Levies Act, rather than under the Excise Duty Act as provided for in Section 46(5) of the same Act.

38. The Cabinet Secretary stated that the Ministry is therefore of the view that it is necessary to harmonize the legal framework governing the RDLF and remove any ambiguities that may exist. In doing so, we are also of the view that there are much needed reforms to position the RDLF as a tool to unlock large scale funding for key infrastructure projects which will drive trade and regional integration.

39. The Cabinet Secretary informed the Committee that the amendments proposed under the Bill are intended to support the Government's objective of mobilising large-scale, long-tenor capital for priority railway transport infrastructure by enabling an innovative financing approach anchored on the Railway Development Levy (RDL). The key policy intent is to ensure the RDL is governed through an institutional and legal framework that can support transactions where a portion of the Fund is applied to secure additional funding, while maintaining robust public finance safeguards.

**(i) Why the Government is Pursuing Securitization as an innovative Funding Model**

40. The Cabinet Secretary stated that Railway transport infrastructure requires large upfront capital investment. Conventional public financing methods (annual budget allocations) are often insufficient for mega infrastructure, and sovereign borrowing may be constrained by fiscal headroom, competing priorities and debt management considerations.

41. Further, the Cabinet Secretary informed the Committee that Securitization is an innovative funding approach because it enables the Government to raise substantial upfront financing by leveraging predictable future cash flows (in this case, the railway development levy collections) without waiting for those collections to accrue over many years. The underlying economic rationale is to accelerate the delivery of infrastructure by converting a long-term revenue stream into upfront

capital, subject to a clear legal framework that ensures proceeds are applied for approved purposes and that there is accountability in the management of funds.

42. The Bill is therefore designed to ensure that the levy framework is not merely a collection mechanism, but also a legally bankable framework that can support additional funding to accelerate railway infrastructure development.

## **(ii) Policy Justification for the Proposed Amendments**

### **a) Expansion of the Purpose of the Levy**

43. The current law limits the levy purpose to the construction and operation of the Standard Gauge Railway network. The Bill expands the purpose of the levy to cover broader railway transport infrastructure needs, including financing the development and construction of railway transport infrastructure, safety and economic regulation of railway infrastructure and (upon approvals) rehabilitation of railway transport infrastructure.

44. **Policy rationale:** A modern railway system requires investment beyond a single segment of SGR construction. The expanded purpose ensures the levy supports the broader rail infrastructure ecosystem required for a functional network.

### **b) Establishment of the Railway Development Levy Fund in Primary Legislation**

45. The Bill establishes the Railway Development Levy Fund in the Act and provides that the proceeds of the levy shall be paid into that Fund.

46. **Policy rationale:** Placing the Fund squarely in primary legislation strengthens clarity and certainty over the custody of levy proceeds and ensures the Fund is anchored in a stable statutory framework.

### **c) Establishment of the Railway Development Levy Fund Board as a Statutory Body Corporate**

47. A central policy rationale of the amendments is to create a separate statutory entity - the Railway Development Levy Fund Board - capable of holding assets, entering contracts and performing functions necessary for management of the Fund.

48. The Bill provides the Board's corporate capacities, including the ability to sue and be sued and to enter into contracts.

49. **Policy rationale:** For a transaction that involves applying a portion of the levy proceeds to secure additional funding, an entity with legal personality and contracting capacity is required. This enables transparent execution of transaction documentation and facilitates enforceability for financiers and the Government alike.

#### **d) Governance and Board Composition**

50. The Bill sets out the Board composition, including representation from the Principal Secretaries responsible for railway transport and finance, the Attorney-General, and independent members with expertise in infrastructure finance, law, investment or PPPs.

51. **Policy rationale:** The composition blends sector leadership and public finance oversight with specialized professional competence relevant to structured infrastructure financing.

#### **(iii) How the Amendments Legally Enable the Success of the Transaction**

##### **a) Regulations under the PFMA to operationalise the Fund and Board**

52. The Bill mandates the Cabinet Secretary to make regulations on recruitment, management and administration of the Fund and usage/apportionment of monies - expressly providing that these regulations shall be made under and in accordance with section 24 of the Public Finance Management Act.

53. This ensures the operational framework (including approvals, accounting, and controls) is anchored in the PFMA regime - critical for credibility and compliance.

##### **b) Power to use a proportion of the Fund to secure additional funding (90% cap)**

54. The Bill provides that a proportion of the Fund not exceeding ninety per cent (90%) may be applied to secure additional funding for railway transport infrastructure.

55. The policy intent of setting a cap (rather than permitting 100%) is to embed prudence and liquidity protection within the statute by ensuring that a residual balance remains available in the Fund to support the Fund's other lawful functions, including ongoing programme commitments, planned infrastructure expenditure, statutory administration costs within the prescribed limits, and any contingencies that may arise in the ordinary course of implementing railway infrastructure mandates.

56. In this respect, the cap ensures the Fund can support resource mobilisation while retaining an appropriate buffer to preserve operational continuity and sound public financial management.

##### **c) Administrative Cost Ceiling (0.5%)**

57. The Bill caps administrative costs of the Fund at 0.5%.

58. This protects the integrity of levy proceeds by ensuring that the Fund remains primarily dedicated to infrastructure outcomes and financing obligations, rather than overheads.

#### **d) Segregation of Accounts: Fund Account, General Account, Special Account**

59. The Bill requires establishment of accounts by the Board (with approval of the Cabinet Secretary), including: a Fund account, a general account for ordinary purposes, and a special account for additional funds secured pursuant to the set-aside power.
60. A separate special account is essential to ensure the additional funds raised are traceable, properly controlled, and managed distinctly from ordinary Fund flows.

#### **e) Audit, Reporting and Transparency for Special Account Transactions**

61. All special account transactions must be recorded, reported and audited in accordance with the PFMA, the Public Audit Act and other written laws. The Board is also required to submit quarterly reports detailing inflows, outflows and balances of the accounts.
62. These controls address governance expectations and ensure the additional funds raised and applied through the Fund are subject to continuous oversight and accountability - supporting investor confidence and public finance integrity.
63. In concluding his submission, the Cabinet Secretary stated that the amendments are designed to provide a legally robust framework that supports innovative resource mobilisation through the use of a portion of the levy proceeds to secure additional funding, while incorporating strong public finance safeguards. The Bill therefore provides a coherent statutory basis for accelerating railway infrastructure delivery and ensuring transparent, accountable management of levy proceeds.

#### **3.2 Submission by the Kenya International Freight & Warehouse Association**

64. The Kenya International Freight and Warehouse Association representatives appeared before the Committee on Thursday, 26<sup>th</sup> February 2026 and submitted as follows;

#### **Analysis of the Proposed Amendments**

##### **i. Section 8(3) - Expansion of the Purpose of the Railway Development Levy**

65. **Proposed amendment:** The Bill proposes to expand the statutory purpose of the Railway Development Levy (RDL) to include;
- a) financing the development and construction of railway transport infrastructure;
  - b) the safety and economic regulation of railway infrastructure; and
  - c) rehabilitation of railway transport infrastructure, subject to approval by the Cabinet Secretary responsible for railway transport.

66.**Current provision:** Under the Act, the RDL is solely intended to provide funds for the construction and operation of a standard gauge railway network to facilitate the transportation of goods.

67.KIFWA supports the proposed expansion, noting that Kenya already has a significant SGR network operational. Expanding the levy's statutory purpose to include infrastructure development, maintenance, and rehabilitation is justified to ensure sustainability and operational efficiency.

68.KIFWA further proposes that the scope expressly include any infrastructure that supports importation into Kenya, ensuring that the levy contributes to the broader logistics and trade facilitation ecosystem.

#### **ii. Section 8(4) - Establishment of the Railway Development Levy Fund**

69.**Proposed amendment:** The Bill proposes the formal establishment of a Railway Development Levy Fund in statute.

70.**Current provision:** The Act currently empowers the Cabinet Secretary, through regulations, to establish the Fund. To date, no such regulations appear to have been enacted.

71.KIFWA supports the statutory establishment of the Fund, noting that it enhances transparency, accountability, and certainty regarding the custody and utilization of RDL proceeds.

#### **iii. Section 8(4A) - Establishment of the Railway Development Levy Fund Board**

72.**Proposed amendment:** The Bill proposes a statutory Board as a corporate body with perpetual succession, into which the Fund shall vest.

73.**Current provision:** There is currently no distinct statutory Board overseeing the Fund.

74.KIFWA supports the establishment of a dedicated Board, which will strengthen governance and fiduciary oversight of levy proceeds.

#### **iv. 2.4 Section 8(4B) - Composition of the Railway Development Levy Fund Board**

75.**Proposed amendment:** The Bill proposes the following composition:

- a) Chairperson appointed by the President;
- b) Principal Secretary responsible for railway transport;
- c) Attorney-General;
- d) Secretary to the Fund; and

- e) Five non-public officer members appointed by the Cabinet Secretary responsible for railway transport, with expertise in infrastructure, finance, law, investment, or public-private partnerships.

76. **Current provision:** There is no existing Board under the current Act.

77. KIFWA proposes that the Board also include a representative from the clearing, forwarding, and warehousing sector. Freight forwarders are directly involved in the administration and payment of the RDL and have practical knowledge of the levy's operational complexities.

78. Including sector representation will enhance technical insight, stakeholder accountability, and operational relevance.

### **Amendments to be considered**

#### **Clause 3**

##### **i. Expansion of the scope of the Railway Development Levy (RDL)**

#### **Proposal:**

79. Amend Section 8(3) of the Act to allow the levy to fund "any other connected purposes" related to railway infrastructure, including infrastructure that supports importation, such as cargo handling facilities, port operations, and other logistics infrastructure linked to the movement of goods.

#### **Rationale:**

80. The current statutory purpose of the levy is limited to the construction and operation of the Railway network. Expanding the scope to include other connected purposes ensures the levy can support complementary infrastructure that facilitates trade and importation, thereby enhancing the efficiency of Kenya's logistics and transport ecosystem.

81. KIFWA further proposed that "**connected purposes**" be defined for purposes of Section 8 (3) to include infrastructure such as cargo handling facilities, port operations, and other logistics infrastructure linked to the movement of goods. They noted that the amendment will ensure the levy contributes effectively to the broader trade facilitation and logistics ecosystem, enhancing efficiency and supporting sustainable import operations.

#### **Committee Observation**

The Committee rejected the proposal as it would bring ambiguity for the purpose of the levy.

#### **Sub clause 4B**

##### **ii. Board Composition - Inclusion of KIFWA Representation**

**Proposal:**

82. Amend Section 8(4B) to ensure that the Railway Development Levy Fund Board includes a representative from the clearing, forwarding, and warehousing sector.

**Rationale:**

83. Freight forwarders and logistics providers are directly involved in the administration and collection of the RDL and understand its operational complexities, the inclusion of KIFWA or sector representation enhances the Board's technical insight, accountability, and responsiveness to trade facilitation challenges.

84. It also aligns governance with stakeholder best practice and ensures decisions reflect practical realities of levy implementation.

**Committee observation**

85. The Committee rejected the proposal as there was no justification for their inclusion in the Board. Additionally, the nomination of the Members of the Board was a prerogative of the Cabinet Secretary responsible for matters relating to railway transport.

**iii. Expansion of the exemption from RDL to include Raw Materials and Capital Goods**

**Proposal:**

86. Amend Section 8(6) and Part B of the Second Schedule to exempt all raw materials and capital goods used in manufacturing from the RDL.

**Rationale:**

87. KIFWA submitted that this would encourage investment, reduce production costs, and promote industrialization. It also aligns with Government objectives for value addition, job creation, and economic growth.

**Committee observation**

88. The Committee rejected the proposal as it was beyond the scope of the Bill.

**iv. Expansion of the exemption from RDL to Include Air Cargo**

**Proposal:**

89. Exempt air cargo shipments from the RDL.

**Rationale:**

90.KIFWA submitted that Air cargo generally does not use railway infrastructure; applying RDL increases costs without supporting railway development. And therefore, exemption would improve logistics competitiveness and ensure levy application is targeted and efficient.

### **Committee Observation**

92. The Committee rejected the proposal as it was beyond the scope of the Bill.

#### **v. Expansion of the exemption from RDL to Include Courier and E-Commerce Parcels**

##### **Proposal:**

91.Exempt small courier parcels and e-commerce shipments from the RDL.

##### **Rationale:**

92.These parcels are mostly transported by air or courier services and do not utilize rail infrastructure. This exemption would encourage e-commerce growth, which contributes to government revenue and employment. The Government is currently levying digital tax on e-commerce. The proposal also aligns with proportionality principles and reduces the compliance cost burden on small-value shipments.

#### **vi. Alignment of RDL with Import Declaration Fee (IDF)**

##### **Proposal:**

93.Clarify in the Bill that the Railway Development Levy (RDL) shall continue to be collected alongside the Import Declaration Fee (IDF), as provided for under Section 7 of the Miscellaneous Fees and Levies Act, Cap. 469.

##### **Rationale**

94.In practice, both the IDF and RDL have historically been administered simultaneously on imported goods. The Bill, in its current form, does not explicitly provide for both levies, creating potential ambiguity, administrative challenges, and disputes. Clarifying the simultaneous collection of RDL and IDF ensures predictable compliance for importers and administrative efficiency.

95.In concluding their submissions, KIFWA stated that they recognize the importance of the Miscellaneous Fees and Levies (Amendment) Bill, 2025, in supporting the development and sustainability of Kenya's railway infrastructure.

### **Committee Observation**

96.The Committee rejected the proposal as it was beyond the scope of the Bill.

### 3.3 Submission by the Shippers Council of Eastern Africa

97. The **Shippers Council of Eastern Africa** made a written submission dated 23<sup>rd</sup> February 2026 and submitted as follows;

98. The Shippers Council of Eastern Africa (SCEA) submitted that they support the establishment of the Railway Development Levy Fund and its Board. They are cognizant that rail infrastructure development is critical to ensuring reliable, efficient, competitive, and sustainable movement of goods from the Port of Mombasa to Nairobi, Naivasha, Malaba, Nakuru, Kisumu, and transit countries, including Uganda, Rwanda, South Sudan, DRC, and Burundi, markets that account for nearly 30% of Mombasa Port throughput.

99. They noted that with Port of Mombasa throughput currently at 45.3 million tonnes and growing at an annual rate of 10.9%, such growth cannot be sustainably supported by road transport alone, underscoring the importance of adequate and well-funded rail infrastructure.

100. SCEA further submitted that over the last two years, total tonnage of cargo transported by rail to the Inland Container Depot Nairobi increased by 15%, from 5.73 million tonnes in 2024 to 6.6 million tonnes in 2025, illustrating the growing importance of rail freight to national logistics. They cautioned that in the absence of adequate funding, competitive and reliable rail freight services cannot be sustained and risk regression, potentially eroding gains achieved following the development of the Standard Gauge Railway (SGR). They emphasized that continuous and adequate training in rail and rail-related disciplines is essential and proposed that capacity-building and training be included as eligible components under the funding framework.

101. However, against the backdrop of other levies and fees on imports including IDF (revenue of between KSh 45–60 billion), KEPHIS charges, KEBS charges, and NEMA (KSh 150 per item), SCEA proposed that to cushion imports from the high cost of levies, the Railway Development Levy (RDL) be reduced from the proposed 2% to 1%. They noted that imports remain critical to Kenya's economy, with RDL collecting about KSh 48 billion annually and IDF between KSh 45–60 billion, and commended Kenyan businesses for their resilience despite challenging conditions. They further proposed exemptions for raw materials and relief supplies in order to balance reduced business costs with rail development.

102. On governance, SCEA urged that the Shippers Council of Eastern Africa be included in the Railway Development Levy Fund Board to represent the interests of importers, manufacturers, and producers, ensuring that their interests and concerns are adequately represented.

## **Proposed Amendments**

### **i. On Clause 3B Section 8(3)**

103.Delete (c) on the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to the railway transporter, rehabilitation of railway transport infrastructure and instead add “that the funds shall also be used for Rail Freight subsidizing, Training, railway related courses, maintain loading infrastructures, construction of railway sidings, purchase on reefers, wagons and research and development”

## **Committee Observation**

104.The Committee rejected this proposal.

### **i. Clause 3(c) – New Section 8(4B) - The Board**

105.Insert a new paragraph after (f): “(g) The members under paragraph (e) shall serve for a term of three years, renewable once, and appointments shall be through a competitive process.”

## **Rationale**

106.Introducing term limits and a competitive appointment process enhances governance, reduces risks of entrenchment or favoritism, and ensures fresh perspectives, in line with best practices for public boards.

### **i. Clause 3(c) - New Section 8(4B)(e) - The Board Membership**

107.Amend to specify that the five members appointed by the Cabinet Secretary must be nominated by relevant professional bodies and Private Sector Business Membership Organization and having the requisite expertise. We propose that the following be the relevant professional and business organization submitting representative to the Board (1) Shippers Council of Eastern Africa (2) the Engineers Board of Kenya, (3) ICPAK, or the Law Society of Kenya, (4) KAM (5) KIFWA).

## **Rationale**

108.As currently drafted, the Cabinet Secretary has full discretion to appoint these five members. Mandating nominations from professional bodies enhances the independence of the Board and ensures a high level of technical expertise in infrastructure and finance. Cargo owners especially the Shippers Council of Eastern Africa and beneficiaries of the resultant investments, movement of goods, to represent the interest of Shippers/Manufactures/Importers/Producers

### **i. Clause 3(c) - New Section 8(4E)**

109.Amend to reduce the maximum proportion of the Fund that can be used to secure additional funds from “**ninety per cent**” to “**Seventy-Five per cent**”.

## **Rationale**

110. Allowing 90% of the Fund to be used as security for further borrowing could lead to over-leveraging and leave insufficient liquidity for the Fund's primary operational purposes. A lower cap promotes better fiscal sustainability. We propose 75% that can be used to secure additional funds and not 90% as proposed.

## **Committee observation**

111. The Committee rejected this proposal as a modern railway system requires huge and intensive large-scale, long-term capital for its implementation.

### **i. Clause 3(c) - New Section 8(4F)**

112. Amend to provide for a slightly higher administrative cost cap, such as "one per cent", or provide a breakdown of what constitutes these costs.

## **Rationale**

113. A cap of **0.5%** for administrative costs is exceptionally low compared to other public funds. There is a risk that this limit may be unrealistic for the effective recruitment and operation of a professional Board and secretariat, potentially leading to operational hurdles.

## **Committee Observation**

114. The Committee rejected this proposal, given the estimated annual RDL collections of Kshs. 45 billion, an estimated Kshs. 200 million was adequate for administrative costs.

### **i. Clause 3(c) - New Section 8(4I)**

115. Amend to: "The Board shall submit to the Cabinet Secretary, the Cabinet Secretary responsible for matters relating to railway transport, and the National Assembly, once every three months reports detailing the inflows, outflows, and balances of the accounts established pursuant to subsection (4G), and make such reports publicly available on the Board's website."

## **Rationale**

116. Remove the word at least and make it mandatory once every quarter to CS and Parliament. The current bill only mandates reporting to the executive branch. Requiring these reports to be tabled in Parliament ensures broader public accountability, enhances parliamentary oversight and public transparency allows the legislature to monitor the inflows and outflows of the Railway Development Levy Fund effectively. This is crucial for public funds.

### **Committee observation**

117. The Committee supported the proposal to have the Board report to the Parliament, however the Committee resolved that the reporting should be done annually.

#### **i. RD Levy amount/rate**

118. Reduce from 2% to 1%.

### **Rationale**

119. To balance between reducing business costs and rail development. With the projected port throughput annual increase of over 10% we are certain that the increased port throughput shall cushion against possible revenue loss when the 1% is adopted.

### **Committee Observation**

120. The Committee rejected this proposal.

## CHAPTER FOUR

### 4.0 COMMITTEE OBSERVATIONS

121. The Committee, having had engagements with stakeholders and considered submissions received, made the following observations;

- 1) The purpose of the Bill is to expand the purpose of the Railway Development Levy to cover broader railway transport infrastructure needs, including financing the development and construction of railway transport infrastructure, safety and economic regulation of railway infrastructure, and (upon approvals) rehabilitation of railway transport infrastructure. The current law limits the levy purpose to the construction and operation of the Standard Gauge Railway network;
- 2) A modern railway system requires investment beyond a single segment of SGR construction. The expanded purpose ensures the levy supports the broader rail infrastructure ecosystem required for a functional network. Notably, the Bill therefore supports the Government's objective of mobilizing large-scale, long-tenor capital for priority railway transport infrastructure by enabling an innovative financing approach anchored on the Railway Development Levy (RDL). The key policy intent is to ensure the RDL is governed through an institutional and legal framework that can support transactions where a portion of the Fund is applied to secure additional funding, while maintaining robust public finance safeguards;
- 3) The Bill establishes the Railway Development Levy Fund in the Act and provides that the proceeds of the levy shall be paid into that Fund. Placing the Fund squarely in primary legislation strengthens clarity and certainty over the custody of levy proceeds and ensures the Fund is anchored in a stable statutory framework;
- 4) The Bill also provides that a proportion of the Fund not exceeding ninety per cent (90%) may be applied to secure additional funding for railway transport infrastructure, the estimated collection from the Levy is Kshs. 45 billion;
- 5) The Bill establishes the Railway Development Levy Fund Board as a Statutory Body Corporate capable of holding assets, entering into contracts and performing functions necessary for the management of the Fund, ensuring transparency in the execution of transactions; and
- 6) The Bill also sets out the Board composition, including representation from the Principal Secretaries responsible for railway transport and finance, the Attorney-General, and independent members with expertise in infrastructure finance, law, investment or PPPs. The composition blends sector leadership and public finance oversight with specialized professional competence relevant to structured infrastructure financing.

## CHAPTER FIVE

### 5.0 COMMITTEE RECOMMENDATION

122. Having had engagements with stakeholders and considered submissions received, the Committee recommends that the House **approves** the Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025) **with amendments** as proposed in Chapter Six of this report.

SIGNED.......... DATE..... 03/03/2026.....

HON. GK GEORGE KARIUKI, CBS, M.P.

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRANSPORT AND  
INFRASTRUCTURE

## CHAPTER SIX

### 6.0 SCHEDULE OF AMENDMENTS

Upon considering the Miscellaneous Fees and Levies (Amendment) Bill, 2025, National Assembly Bill No. 57 and submissions from stakeholders, the Committee proposes the following amendments:

#### I. CLAUSE 3

**THAT** Clause 3 of the Bill be amended in paragraph (c) —

**(a)by inserting the following new subsection immediately after the proposed new subsection (4B) —**

(4BA) The functions of the Board shall be to —

- (a) formulate the strategic direction of the Fund including strategic plans, investment plans and policies;
- (b) set up administrative, governance and financial management structures of the Fund;
- (c) oversee the administration and management of the Fund;
- (d) coordinate the optimal utilization of the Fund in implementing programmes relating to the purpose for which the Fund is established;
- (e) supervise the performance of the Secretary to the Board, officers and staff of the Fund;
- (f) approve, monitor and evaluate the delivery of goods, works and services procured by the Fund;
- (g) approve and review the annual work programme and budget of the Fund;
- (h) approve, with the concurrence of the Cabinet Secretary, the investment policy, investment plan and risk threshold of the Fund; and
- (i) perform any other function necessary to promote the objects and purpose of the Fund.

#### **Justification:**

The amendment seeks to provide for the functions of the Board established under the proposed subsection 4A.

**(b)by inserting the following new subsection immediately after the proposed subsection (4B)—**

(4BB) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, the Board shall have the power to—

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Board;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursements in accordance with the Act;
- (d) invest the funds of the Board not immediately required for the purposes of this Act in such a manner as it may determine; and
- (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments shall be made by the Board.

**Justification:**

The amendment seeks to set out the powers of the Board established under the proposed new subsection 4BB.

**(c) in the proposed new subsection 4I by inserting the words “and annually to the National Assembly” immediately after the words “at least once every three months”.**

(4I) The Board shall submit to the Cabinet Secretary and Cabinet Secretary responsible for matters relating to railway transport at least once every three months and annually to the National Assembly reports detailing the inflows, outflows and balances of the accounts established pursuant to subsection (4G).

**Justification:**

The amendment seeks to mandate the Board to also report to the National Assembly on an annual basis on the inflows, outflows and balances of all the accounts of the Fund.

**Annexure I: Signed list of Members who attended the sitting that considered and adopted the report**





REPUBLIC OF KENYA THE  
NATIONAL ASSEMBLY

13<sup>TH</sup> PARLIAMENT - FIFTH SESSION - 2026

DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

MEMBERS ADOPTION SCHEDULE

DATE: 03/03/2026 START: 10:20am END: 11:40am

VENUE: Committee Room 25, 5<sup>th</sup> floor, Bunge Tower

AGENDA: Adoption of the Report on the Miscellaneous fees and levies  
(Amendment) Bill (National Assembly Bill no. 57 of 2025)

NO.	NAME	SIGNATURE
1.	The Hon. GK George Kariuki, CBS, MP – Chairperson	
2.	The Hon. Didmus Barasa, CBS, MP- Vice Chairperson	
3.	The Hon. Kiunjuri, Festus Mwangi, MP	
4.	The Hon. Abdul Rahim Dawood, CBS, MP	
5.	The Hon. Arama Samuel, MP	
6.	The Hon. Bady, Bady Twalib, MP	
7.	The Hon. Francis, Kajwang' Tom Joseph, CBS, MP	
8.	The Hon. Kiaraho, David Njuguna, MP	
9.	The Hon. Naicca, Johnson Many, CBS, MP	
10.	The Hon. Chege, John Kiragu, CBS, MP	
11.	The Hon. Elsie Muhanda, MP	
12.	The Hon. Saney, Ibrahim Abdi, MP	
13.	The Hon. Hussein Weytan Mohamed, MP	
14.	The Hon. Jhanda Zaheer, MP	
15.	The Hon. Komingoi, Kibet Kirui, MP	

