



*Approved
SNA
3/3/26.*

PARLIAMENT
OF KENYA
LIBRARY


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)

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

Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI

MARCH, 2026



TABLE OF CONTENTS

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



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 12th 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 13th 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 (I). 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.

I.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 Chache 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
Total	5,745	13,091	14,586	16,662	17,707	22,248

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 13th 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 18th February 2026, the Kenya Revenue Authority vide a letter Ref: NA/DDC/IT&I/2026/008 dated 18th February 2026, the Kenya Transporters Association vide a letter Ref: NA/DDC/IT&I/2026/007 dated 18th 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 18th 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, 26th 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, 26th 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 23rd 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

13TH 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, 5TH 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	

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



THIRTEENTH PARLIAMENT - FIFTH SESSION - 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

**MINUTES OF THE TENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON
TRANSPORT AND INFRASTRUCTURE HELD ON THURSDAY, 26TH FEBRUARY 2026 IN
THE MINI CHAMBER, PARLIAMENT PRECINCTS AT 10:00 AM**

MEMBERS PRESENT

1. The Hon. GK George Kariuki, CBS, M.P. – **Chairperson**
2. The Hon. Arama Samuel, M.P
3. The Hon. Francis Kajwang' Tom Joseph, CBS, M.P.
4. The Hon. Chege John Kiragu, CBS, M.P
5. The Hon. Abdul Rahim Dawood, CBS, M.P
6. The Hon. Bady Bady Twalib, M.P.
7. The Hon. Naicca Johnson Many, CBS, MP
8. The Hon. Jhanda Zaheer, M.P
9. The Hon. Hussein Weytan Mohamed, MP
10. The Hon. Komingoi Kibet Kirui, M.P
11. The Hon. Saney Ibrahim Abdi, M.P.

APOLOGIES

1. The Hon. Didmus Wekesa Barasa, CBS, M.P. – **Vice-Chairperson**
2. The Hon. Kiunjuri Festus Mwangi, M.P.
3. The Hon. Muhanda Elsie, M.P
4. The Hon. Kiaraho, David Njuguna, MP.

IN ATTENDANCE

**KENYA INTERNATIONAL FREIGHT & WAREHOUSE ASSOCIATION
(KIFWA)**

1. Mr. Wyclyffe Wanda - Executive Officer
2. Ms. Imelda Mutiso - Legal Officer

MINISTRY FOR ROADS AND TRANSPORT

1. Mr. Davis Chirchir, EGH - Cabinet Secretary
2. Mr. Mohamed Daghar, CBS - Principal Secretary, State Department for Transport

- | | |
|-------------------------|---|
| 3. Mr. Philip Mainga | - Managing Director, Kenya Railways Corporation |
| 4. Mr. Mahat M. Somane | - Legal Counsel, Kenya Railways Corporation |
| 5. Ms. Vivian Mboga | - Admin, State Department for Transport |
| 6. Mr. Victor Gitonga | - Admin, State Department for Transport |
| 7. Mr. Abdulmalik Sugow | - Legal Officer, Kenya Railways Corporation |
| 8. Mr. Alex Mbuvi | - Legal Officer, State Department for Transport |

SECRETARIAT

- | | |
|--------------------------------|--------------------------------|
| 1. Ms. Tracy Chebet Koskei | - Principal Clerk Assistant II |
| 2. Mr. Mohamednur M. Abdullahi | - Clerk Assistant III |
| 3. Mr. Binensa Mabungu | - Clerk Assistant III |
| 4. Ms. Patricia Gichane | - Legal Counsel |
| 5. Mr. Erick Kariuki | - Research Officer |
| 6. Mr. Abdinasir Moge | - Fiscal Analyst |
| 7. Ms. Faith Makena | - Serjeant- At-Arms |
| 8. Mr. Yusuf Abdi | - Intern |

MIN./NO.046/NA/T&I/2026:

PRELIMINARIES

The meeting was called to order at 10:15 am with a prayer by Hon. Chege John Kiragu, CBS, MP. The Agenda of the meeting was adopted after being proposed by Hon. Bady Bady Twalib, M.P, and seconded by The Hon. Komingoi Kibet Kirui, M.P, as follows:

AGENDA

1. Prayers
2. Preliminaries;
 - i. Adoption of the Agenda
 - ii. Remarks by Chairperson
3. Confirmation of Minutes/Matters Arising;
4. **Meeting with the Kenya International Freight & Warehouse Association (KIFWA) deliberate on the Miscellaneous Fees and Levies (Amendment) Bill, 2025**
5. **Meeting with the Ministry for Roads and Transport to deliberate on the Miscellaneous Fees and Levies (Amendment) Bill, 2025**
6. Pending Business
7. Any Other Business
8. Adjournment

MIN./NO.047/NA/T&I/2026: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The Minutes of the 9th Sitting were confirmed as a true reflection of the proceedings having been proposed by Hon. Chege John Kiragu, CBS, MP and seconded by Hon. Komingoi Kibet Kirui, MP.

The Minutes of the 8th Sitting were confirmed as a true reflection of the proceedings having been proposed by Hon. Bady Bady Twalib, MP and seconded by Hon. Chege John Kiragu, CBS, MP.

The Minutes of the 7th Sitting were confirmed as a true reflection of the proceedings having been proposed by Hon. Arama Samuel, MP and seconded by Hon. Komingoi Kibet Kirui, MP.

MIN./NO.048/NA/T&I/2026: MEETING WITH THE KENYA INTERNATIONAL FREIGHT & WAREHOUSE ASSOCIATION (KIFWA) TO DELIBERATE ON THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL, 2025

The Executive Officer, **Mr. Wycliffe Wanda**, submitted the memoranda on the Kenya International Freight & Warehouse Association's views on the bill as follows;

I. ANALYSIS OF THE PROPOSED AMENDMENTS

1.1 Section 8(3) – Expansion of the Purpose of the Railway Development Levy

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.

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.

KIFWA's submissions

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

KIFWA further proposed 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.

COMMITTEE OBSERVATION

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

1.2 Section 8(4) – Establishment of the Railway Development Levy Fund

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

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.

KIFWA's submissions

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

1.3 Section 8(4A) – Establishment of the Railway Development Levy Fund Board

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

Current provision - There is currently no distinct statutory Board overseeing the Fund.

KIFWA's submissions

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

1.4 Section 8(4B) – Composition of the Railway Development Levy Fund Board

Proposed amendment

The Bill proposes the following composition: Chairperson appointed by the President; Principal Secretary responsible for railway transport; Attorney-General; Secretary to the Fund; and 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.

Current provision - There is no existing Board under the current Act.

KIFWA's submissions

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

COMMITTEE OBSERVATIONS

The Committee rejected the proposal to have a representative from the clearing, forwarding and warehousing sector included in the board. Additionally, the nomination of Members of the Board was a prerogative of the Cabinet Secretary responsible for matters relating to railway transport and not the National Assembly.

MIN./NO.049/NA/T&I/2026: MEETING WITH THE MINISTRY FOR ROADS AND TRANSPORT TO DELIBERATE ON THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL, 2025

The Cabinet Secretary, Mr. Davis Chirchir, EGH, submitted the memoranda on the Ministry for Roads and Transport views on the bill as follows;

1. 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. 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.
2. 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. 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.

3. 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.
4. The Cabinet Secretary submitted that the Ministry is therefore of the view that it is necessary to harmonize the legal framework governing the RDLF and remove any ambiguities which 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.
5. The Cabinet Secretary informed the Committee that the amendments proposed under the Bill are intended to support 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.

Policy Justification for the Proposed Amendments

a) Expansion of the Purpose of the Levy

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.

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

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.

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

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.

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

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

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.

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

How the Amendments Legally Enable the Success of the Transaction

i) Regulations under the PFMA to operationalize the Fund and Board

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

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

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. 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.

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.

iii) Administrative Cost Ceiling (0.5%)

The Bill caps administrative costs of the Fund at 0.5%. This protects the integrity of levy proceeds by ensuring that the Fund remains primarily dedicated to infrastructure outcomes and financing obligations, rather than overheads.

iv) Segregation of Accounts: Fund Account, General Account, Special Account

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. A separate special account is essential to ensure the additional funds raised are traceable, properly controlled, and managed distinctly from ordinary Fund flows.

v) Audit, Reporting and Transparency for Special Account Transactions

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. 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.

In concluding his submission, the Cabinet Secretary stated that the amendments are designed to provide a legally robust framework that supports innovative resource mobilization 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.

MIN./NO.050/NA/T&I/2026: ANY OTHER BUSINESS

The following matters arose

- i) The Chairperson informed the Committee that it was scheduled to receive submissions from the Shippers Council of Eastern Africa on the Miscellaneous Fees and Levies (Amendment) Bill, 2025 on Friday, 27th February 2026.

The Committee was also informed that the Committee was scheduled to have an engagement with the management of Kenya Airways (KQ) on Friday, 27th February 2026, at the KQ Headquarters, then proceed to Mombasa for a boardroom engagement with the Airline on Saturday, 28th February 2026.

MIN./NO.051/NA/T&I/2026: ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at 1:15 pm. The next meeting will be held on notice.

SIGNED.....DATE.....

HON. GK GEORGE KARIUKI, CBS, MP

CHAIRPERSON



THIRTEENTH PARLIAMENT - FIFTH SESSION - 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

**MINUTES OF THE NINTH SITTING OF THE DEPARTMENTAL COMMITTEE ON
TRANSPORT AND INFRASTRUCTURE HELD ON TUESDAY, 24TH FEBRUARY 2026 IN
COMMITTEE ROOM 25, 5TH FLOOR BUNGE TOWER AT 10:00 AM**

MEMBERS PRESENT

1. The Hon. GK George Kariuki, CBS, M.P. – **Chairperson**
2. The Hon. Didmus Wekesa Barasa, CBS, M.P. – **Vice-Chairperson**
3. The Hon. Kiunjuri Festus Mwangi, M.P.
4. The Hon. Arama Samuel, M.P
5. The Hon. Chege John Kiragu, CBS, M.P
6. The Hon. Abdul Rahim Dawood, CBS, M.P
7. The Hon. Bady Bady Twalib, M.P.
8. The Hon. Naicca Johnson Many, CBS, MP
9. The Hon. Muhanda Elsie, M.P
10. The Hon. Hussein Weytan Mohamed, MP
11. The Hon. Komingoi Kibet Kirui, M.P
12. The Hon. Saney Ibrahim Abdi, M.P.

APOLOGIES

1. The Hon. Francis Kajwang' Tom Joseph, CBS, M.P.
2. The Hon. Kiaraho, David Njuguna, MP.
3. The Hon. Jhanda Zaheer, M.P

SECRETARIAT

- | | |
|--------------------------------|--------------------------------|
| 1. Ms. Tracy Chebet Koskei | - Principal Clerk Assistant II |
| 2. Mr. Mohamednur M. Abdullahi | - Clerk Assistant III |
| 3. Mr. Binensa Mabungu | - Clerk Assistant III |
| 4. Ms. Patricia Gichane | - Legal Counsel |
| 5. Mr. Erick Kariuki | - Research Officer |
| 6. Mr. Abdinasir Moge | - Fiscal Analyst |
| 7. Ms. Faith Makena | - Serjeant- At-Arms |
| 8. Mr. Yusuf Abdi | - Intern |

MIN./NO.040/NA/T&I/2026:

PRELIMINARIES

The meeting was called to order at 10:29 am with a prayer by the Chairperson.

Thereafter, the Chairperson informed the Committee that the Kenya Transporters Association had been invited to appear before the Committee on the Miscellaneous Fees and Levies (Amendment) Bill, 2025. However, the Association communicated to the Committee Clerk that it would submit its written comments by Wednesday, 25th February 2026.

Further, the Agenda of the meeting was adopted after being proposed by The Hon. Chege John Kiragu, CBS, M.P, and seconded by The Hon. Naicca Johnson Many, CBS, M.P, as follows:

AGENDA

1. Prayers
2. Preliminaries;
 - i. Adoption of the Agenda
 - ii. Remarks by Chairperson
3. Confirmation of Minutes/Matters Arising;
4. Briefing by the Legal Counsel & the Research Officer on the Miscellaneous Levies (Amendment) Bill 2025
5. Pending Business
6. Any Other Business
7. Adjournment

MIN./NO.041/NA/T&I/2026:

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The Confirmation of the Minutes of the previous sittings was deferred.

MIN./NO.042/NA/T&I/2026:

BRIEFING BY THE LEGAL COUNSEL ON THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL, 2025

The Legal Counsel informed the Committee that 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.

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.

Analysis of the Bill

The Legal Counsel informed that the Bill contains three (3) clauses for consideration:

- i. Clause 1 provides for the short title 4. 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.*

- ii. 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:
 - a) financing the development and construction of the railway transport infrastructure;
 - b) the safety and economic regulation of the railway infrastructure;
 - c) the rehabilitation of the railway infrastructure (this purpose is subject to approval of both Cabinet Secretary Finance and Transport).
- iii. 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.
- iv. Clause 3 also seeks to amend section 8 by introducing new subsection 4A-4I.
- v. 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.

- vi. 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.
- vii. 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.
- viii. Sub clause 4D seeks to provide that the regulations made under sub clause 4C are created under the Public Finance Management Act section 24.
- ix. Sub clause 4E seeks to provide that 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.
- x. Sub clause 4F seeks to provide for the administration costs of the Fund that shall not exceed 0.5% of the Fund.
- xi. Sub clause 4G seeks to establish three main accounts for monies accruing to the fund, which 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).
- xii. 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.
- xiii. 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 account established under Subclause (4G)

MIN./NO.043/NA/T&I/2026: BRIEFING BY THE RESEARCH OFFICER ON THE MISCELLANEOUS FEES & LEVIES (AMENDMENT) BILL, 2025

The Research Officer informed the Committee that the Bill also proposes to confer on the **Cabinet Secretary** the power to make regulations for the administration and management of the fund; allocations from the fund; and the use of a proportion of the moneys in the construction and management of railway infrastructure and railway related transport infrastructure

Situational Analysis

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

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.

The Researcher further informed the Committee that 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**

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.¹

The Fund consist of-

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

The Researcher presented the amounts received as proceeds of the Railway Development Levy by the state department for Transport from the Kenya Revenue Authority as follows;

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

ii) **The Miscellaneous Fees and Levies (Amendment) Bill, 2025**

The Miscellaneous Fees and Levies (Amendment) Bill, 2025 seeks to expand the purpose of the levy by deleting Section 8 (3) of Miscellaneous Fees and Levies Act, CAP 469C, which stated that "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", and substituting the purpose of the levy with providing funds for:

- a) Financing the development and construction of railway transport infrastructure;

- b) The safety and economic regulation of railway infrastructure; and
- c) On approval of the Cabinet Secretary responsible for matters relating to railway transport infrastructure.

The Researcher further informed the Committee that 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 the hinterland current Networks

The Researcher urged The Committee to consider incorporating the following amendments

- i. Include the Managing Director Kenya Railways as a Board member of RDLF. This ensures operational expertise and better alignment with KR plans and strategic objectives.
- ii. Under (4C) that provides for “ The cabinet Secretary shall make regulations , the CS referred to is for Finance, the Committee can consider adding in consultation with CS responsible for matters relating to railway transport. This will balance finance oversight with rail-specific input for coordinated policy.
- iii. The National assembly to approve securitization of the Levy fund. This will strengthen parliamentary control over 90% fund use for loans/bonds.

Members Concerns

The Members raised the following issues:

- i) Members questioned the rationale for creating a new Board yet Kenya Railways Limited already exists as a commercial entity. They sought clarity on whether the new Board would duplicate roles currently undertaken by Kenya Railways or fundamentally separate infrastructure financing from railway operations.
- ii) Members raised concerns about the requirement for approval by both the Cabinet Secretary for Finance and the Cabinet Secretary for Transport before funds are used for certain purposes. They noted this could; delay implementation and create conflict if one CS approves and the other declines.
- iii) Members noted that the Bill does not clearly define which Cabinet Secretary is being referred to in certain clauses, potentially creating ambiguity between Finance and Transport.
- iv) Members sought clarification on the meaning of “economic regulation of railway infrastructure” and what activities this would cover.

MIN./NO.044/NA/T&I/2026: ANY OTHER BUSINESS

The Chairperson informed the Committee that it was scheduled to meet with the Cabinet Secretary for Roads and Transport, the Managing Director of the Kenya Railways Corporation, the Shippers Council of Eastern Africa, and the Freight Forwarders and Warehousing Association on the Miscellaneous Fees and Levies (Amendment) Bill, 2025 on Thursday, 26th February 2026.

MIN./NO.045/NA/T&I/2026: ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at 11:50 am. The next meeting will be held on notice.

SIGNED.....DATE.....

HON. GK GEORGE KARIUKI, CBS, MP

CHAIRPERSON

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

SPECIAL ISSUE

Kenya Gazette Supplement No. 214 (National Assembly Bills No. 57)



REPUBLIC OF KENYA

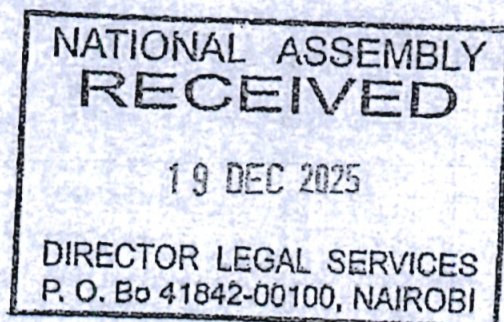
KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2025

NAIROBI, 19th December, 2025

CONTENT

Bill for Introduction into the National Assembly —	PAGE
The Miscellaneous Fees and Levies (Amendment) Bill, 2025	1335



**THE MISCELLANEOUS FEES AND LEVIES
(AMENDMENT) BILL, 2025**

A Bill for

AN ACT of Parliament to amend the Miscellaneous Fees and Levies Act, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Miscellaneous Fees and Levies (Amendment) Bill, 2025.

Short title.

2. The Miscellaneous Fees and Levies Act (hereinafter referred to as “the principal Act”) is amended in section 3(1) by inserting the expression “unless otherwise provided for” immediately after the expression “The Commissioner shall”.

Amendment of section 3 of Cap. 469C.

3. The principal Act is amended in section 8, by—

Amendment of section 8 of Cap. 469C.

(a) deleting subsection (3) and substituting therefor the following new subsection—

“(3) The purpose of the levy shall be to provide funds for—

- (a) financing the development and construction of railway transport infrastructure;
- (b) the safety and economic regulation of railway infrastructure; and
- (c) on the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to railway transport, rehabilitation of railway transport infrastructure.”

(b) deleting subsection (4) and substituting therefor the following new subsection—

“(4) There is established a fund known as the Railway Development Levy Fund, into which the proceeds of the levy shall be paid, and which shall vest in the Board established under subsection (4A).”

(c) a special account, into which shall be paid and from which shall be disbursed the additional funds secured pursuant to subsection (4E).

Cap. 412A.

Cap. 412B.

“(4H) All transactions relating to the special account established pursuant to subsection (4G)(c) shall be recorded, reported on and audited in accordance with the Public Finance Management Act, the Public Audit Act and any other relevant written law.

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

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Miscellaneous Fees and Levies Act (Cap. 469C) to expand the purpose of the Railway Development Levy.

Clause 1 of the Bill provides for the short title of the Act.

Clause 2 seeks to amend the Miscellaneous Fees and Levies Act to clarify the role of the of the Commissioner-General of the Kenya Revenue Authority where the Act has conferred mandate on another authority, in order to avoid conflict between the Commissioner and that authority.

Clause 3 of the Bill seeks to amend section 8(3) of the Act by deleting the existing subsection and substituting it with a new provision that expands the purpose of the Railway Development Levy to include the development, construction, upgrading, rehabilitation and management of railway infrastructure and railway related transport infrastructure.

The proposed amendment also provides for the establishment of the Railway Development Levy Fund into which the proceeds of the levy shall be paid, and the establishment of the Railway Development Levy Fund Board to administer and manage the Fund.

The Bill also proposes to confer on the Cabinet Secretary the power to make regulations for the administration and management of the Fund; allocations from the Fund; and the use of a proportion of the moneys in the Fund to secure additional funds for the development, construction and management of railway infrastructure and railway related transport infrastructure.

Further, the Bill proposes to provide for the establishment of accounts into which the proceeds of the Levy shall be paid and the additional funds secured from the apportioned funds from the Fund, and reporting and auditing on the financial affairs of the accounts.

Dated the 18th December, 2025.

KIMANI ICHUNGWAH,
Leader of Majority Party.

Section 3 of Cap. 469C which it is intended to amend—

3. Functions and powers of the Commissioner and other officers

(1) The Commissioner 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.

(2) The Commissioner shall appoint such officers as may be necessary for the administration of this Act.

(3) The Commissioner may authorize any officer appointed under this section to perform any of the functions of the Commissioner under this Act or the regulations, other than the functions under subsection (2)

(4) Every authorised officer appointed under this section shall enforce, and ensure due compliance with, the provisions of this Act and the regulations, and shall make all due inquiries in relation thereto.

(5) Every authorised officer appointed under this section shall, on demand, produce such documents establishing his or her identity as may be approved by the Commissioner.

(6) Every authorised officer shall, in carrying out the provisions of this Act, regard and deal with all documents and information relating to fees and charges and all confidential instructions in respect of the administration of this Act which may come into his possession or to his knowledge in the course of his duties as confidential.

(7) Any decision made and any notice or communication issued or signed by any authorised officer may be withdrawn or amended by the Commissioner or by the authorised officer concerned, and shall, until it has been so withdrawn, be deemed to have been made, issued or signed by the Commissioner.

Section 8 of Cap. 469C which it is intended to amend—

8. Railway development levy

!"# There shall be paid a levy to be known as the railway development levy, on all goods imported into the country for home use.

!\$# 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.

(2A) Deleted by Act No. 4 of 2023, s. 71 (b).

(3) 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.

(4) The Cabinet Secretary shall, by regulations, establish a railway development levy fund into which all the proceeds of the levy shall be paid.

(5) 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.

(6) No levy shall be charged in respect of the goods specified in Part B of the Second Schedule when imported or purchased before clearance through customs.

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



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842 - 00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 Ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA/DDC/T&I/2026/009

18th February, 2026

Mr. Mohamed Daghar, CBS

Principal Secretary
State Department for Transport
Ministry of Roads and Transport
Transcom House, Ngong Road
NAIROBI

Mr. Philip J. Mainga, EBS

Managing Director
Kenya Railways Corporation
Workshops Road, Off Haile Selassie Avenue
NAIROBI

Dear *Sir*,

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE TO CONSIDER THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2025)

The Departmental Committee on Transport and Infrastructure is established under National Assembly Standing Order 216 and is mandated to **“study and review all legislation referred to it”**.

As you may be aware, the Committee is considering the **Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025)**. The Bill is sponsored by the Leader of the Majority Party, **Hon. Kimani Ichung’wah, EGH, MP**, and seeks to amend the Miscellaneous and Levies Act (Cap. 469C) to expand the purpose of the Railway Development Levy.

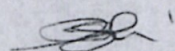
In considering the Bill, the Committee is required to engage with stakeholders before reporting to the House. In this regard, the Committee has resolved to invite the Cabinet Secretary for the Ministry of Roads and Transport to a meeting to make submissions on the Bill.

This is to invite the Cabinet Secretary for the Ministry of Roads and Transport to attend a meeting of the Committee scheduled for **Thursday, 26th February 2026**, to be held in **Committee Room 20, 5th Floor, Bunge Tower, Parliament Buildings**, at **10.00 am**.

We request that you provide twenty (20) copies of the Cabinet Secretary's submissions during the meeting and send a soft copy to the Office of the Clerk via email: cna@parliament.go.ke by **Tuesday, 24th February 2026**. We have enclosed herein a copy of the Bill for reference.

Our liaison officers for this activity are **Ms. Tracy Chebet, Head of Department (Infrastructure Sector)**, who may be contacted on tel. no. **0726416794** or email: tracy.koskei@parliament.go.ke and **Mr. Mohamednur M. Abdullahi** on tel. no. **0720928507** or email: mohamednur.abdullahi@parliament.go.ke.

Yours *Sincerely*



Serah Kioko, MBS

For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

Mr. Davis Chirchir, EGH
Cabinet Secretary
Ministry of Roads and Transport
Transcom House – Ngong Road
NAIROBI

CPA Dr. Aurelia C. Rono, CBS
Principal Secretary
State Department for Parliamentary Affairs
Railways Building, Haile Selassie Avenue
NAIROBI



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**


P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote
Ref: NA/DDC/T&I/2026/010

18th February, 2026

Mr. Agayo Ogambi
Chief Executive Officer
Shippers Council of East Africa
Inland Container Depot, Off Mombasa Rd, KPA
P.O BOX 1291-00600
NAIROBI

Dear 

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE TO CONSIDER THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2025)

The Departmental Committee on Transport and Infrastructure is established pursuant to National Assembly Standing Order 216, and is mandated to, among other things, “study and review all legislation referred to it.”

The Committee is considering the **Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025)**. The Bill is sponsored by the Leader of the Majority Party, Hon. Kimani Ichung’wah, EGH, MP, and seeks to amend the Miscellaneous and Levies Act (Cap 469C) to expand the purpose of the Railway Development Levy.

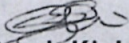
In considering the Bill, the Committee is required to engage with stakeholders before reporting to the House. In this regard, the Committee has invited you for a meeting to deliberate on the Bill. The meeting is scheduled for **Thursday, 26th February 2026**, at **11:00 am** to be held in **Committee Room 25, 5th Floor, Bunge Tower, Parliament Buildings**.

We request that you submit electronic copies of your submission to the Committee through the Office of the Clerk via email address: cna@parliament.go.ke by **Wednesday, 25th February, 2026** and provide twenty (20) hard copies of the submission during the meeting. We have enclosed herein a copy of the Bill for reference.

Our liaison officers for this activity are **Ms. Tracy Chebet, Head of Department (Infrastructure Sector)**, who may be contacted on tel. no. **0726416794** or email:

tracy.koskei@parliament.go.ke and Mr. Mohamednur M. Abdullahi on tel. no. 0720928507 or email: mohamednur.abdullahi@parliament.go.ke.

Yours *Sincerely,*



Serah Kioko, MBS

For: CLERK OF THE NATIONAL ASSEMBLY



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/T&I/2026/006

19th February, 2026

Mr. Fredrick Aloo

National Chairman
Kenya International Freight & Warehouse Association
K.P.A. ICD (Embakasi)
Agents' Block, Ground Floor
P.O. Box 57969-00200

NAIROBI

Dear Sir,

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE TO CONSIDER THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2025)

The Departmental Committee on Transport and Infrastructure is established pursuant to National Assembly Standing Order 216, and is mandated to, among other things, **“study and review all legislation referred to it.”**

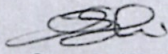
The Committee is considering **the Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025)**. The Bill is sponsored by the Leader of the Majority Party, Hon. Kimani Ichung'wah, EGH, MP, and seeks to amend the Miscellaneous and Levies Act (Cap 469C) to expand the purpose of the Railway Development Levy.

In considering the Bill, the Committee is required to engage with stakeholders before reporting to the House. In this regard, the Committee has invited you for a meeting to deliberate on the Bill. The meeting is scheduled to be held on **Thursday, 26th February 2026, at 12:00 pm in Committee Room 25, 5th Floor, Bunge Tower, Parliament Buildings.**

We request that you submit electronic copies of your submission to the Committee through the Office of the Clerk via email address: cna@parliament.go.ke by **Wednesday, 25th February, 2026** and provide twenty (20) hard copies of the submission during the meeting. We have enclosed herein a copy of the Bill for reference.

Our liaison officers for this activity are **Ms. Tracy Chebet, Head of Department (Infrastructure Sector)**, who may be contacted on tel. no. **0726416794** or email: tracy.koskei@parliament.go.ke and **Mr. Mohamednur M. Abdullahi** on tel. no. **0720928507** or email: mohamednur.abdullahi@parliament.go.ke.

Yours sincerely,



Serah Kioko, MBS

For: CLERK OF THE NATIONAL ASSEMBLY



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/T&I/2026/008

18th February, 2026

Mr. Humphrey Wattanga

Commissioner General
Kenya Revenue Authority
KRA Headquarters, Times Tower, Haile Selassie Avenue
NAIROBI

Dear Sir,

**RE: REQUEST FOR SUBMISSION OF COMMENTS ON THE
MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 57 OF 2025)**

The Departmental Committee on Transport and Infrastructure is established pursuant to National Assembly Standing Order 216, and is mandated to, among other things, “study and review all legislation referred to it.”

The Committee is considering the **Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025)**. The Bill is sponsored by the Leader of the Majority Party, **Hon. Kimani Ichung’wah, EGH, MP**, and seeks to amend the Miscellaneous and Levies Act (Cap 469C) to expand the purpose of the Railway Development Levy.

In considering the Bill, the Committee is required to engage with stakeholders before reporting to the House. In this regard, the Committee requests for your comments on the Bill for consideration by the Committee.

Additionally, the Committee requests the following information regarding the Railway Development Levy:

- 1) Actual amounts of revenue collected by KRA from the Railway Development Levy for the last five Financial Years (2020/21; 2021/2022; 2022/23; 2023/24 and 2024/25); and
- 2) Amounts remitted to the Kenya Railways Corporation by KRA in the last five financial years; the dates of remittance and the Banks through which the remittances were done (provide documentary evidence).

It will be appreciated if the submissions are received by **Wednesday, 25th February, 2026. pm**. You may send a soft copy to the office of the Clerk of the National Assembly via cna@parliament.go.ke. We have enclosed herein a copy of the Bill for reference.

Our liaison officers for this activity are **Ms. Tracy Chebet, Head of Department (Infrastructure Sector)**, who may be contacted on tel. no. **0726416794** or email: tracy.koskei@parliament.go.ke and **Mr. Mohamednur M. Abdullahi** on tel. no. **0720928507** or email: mohamednur.abdullahi@parliament.go.ke.

Yours *Sincerely*



Serah Kioko, MBS
FOR: CLERK OF THE NATIONAL ASSEMBLY



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: **NA/DDC/T&I/2026/007**

18th February, 2026

Mr. Philemon Koko
Chief Operations Officer
Kenya Transporters Association
Opposite Tudor Water Sports
Tom Mboya Road, Tudor
MOMBASA

Dear *Sir*

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE TO CONSIDER THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2025)

The Departmental Committee on Transport and Infrastructure is established pursuant to National Assembly Standing Order 216, and is mandated to, among other things, “**study and review all legislation referred to it.**”

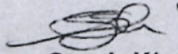
The Committee is considering the **Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025)**. The Bill is sponsored by the Leader of the Majority Party, Hon. Kimani Ichung'wah, EGH, MP, and seeks to amend the Miscellaneous and Levies Act (Cap 469C) to expand the purpose of the Railway Development Levy.

In considering the Bill, the Committee is required to engage with stakeholders before reporting to the House. In this regard, the Committee has invited you for a meeting to deliberate on the Bill. The meeting is scheduled for **Tuesday, 24th February 2026 at 12:00 pm** in Committee **Room 25, 5th Floor, Bunge Tower, Parliament Buildings.**

We request that you submit electronic copies of your submission to the Committee through the Office of the Clerk via email address: cna@parliament.go.ke by **Monday, 23rd February, 2026** and provide twenty (20) hard copies of the submission during the meeting. We have enclosed herein a copy of the Bill for reference.

Our liaison officers for this activity are **Ms. Tracy Chebet, Head of Department (Infrastructure Sector)**, who may be contacted on tel. no. **0726416794** or email: tracy.koskei@parliament.go.ke and **Mr. Mohamednur M. Abdullahi** on tel. no. **0720928507** or email: mohamednur.abdullahi@parliament.go.ke.

Yours sincerely,



Serah Kioko, MBS

FOR: CLERK OF THE NATIONAL ASSEMBLY

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



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT- FIFTH SESSION (2026)
THE NATIONAL ASSEMBLY

**IN THE MATTER OF ARTICLE 118 (1) (b) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF—
(1) THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL, 2025 (NATIONAL
ASSEMBLY BILL NO. 57 OF 2025); AND
(2) THE NATIONAL INFRASTRUCTURE FUND BILL, 2026 (NATIONAL ASSEMBLY BILL NO.
1 OF 2026).**

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1)(b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the **Miscellaneous Fees and Levies (Amendment) Bill, 2025 (National Assembly Bill No. 57 of 2025)** and the **National Infrastructure Fund Bill, 2026 (National Assembly Bill No. 1 of 2026)**, were Read a First Time and referred to the relevant Departmental Committees for consideration and reporting back to the House.

IT IS NOTIFIED that—

- (1) The **Miscellaneous Fees and Levies (Amendment) Bill, 2025 (National Assembly Bill No. 57 of 2025)** is a Bill sponsored by the **Leader of Majority Party** that seeks to amend the Miscellaneous Fees and Levies Act, Cap. 469C to specify the purposes for the Railway Development Levy, including financing the development and construction of railway transport infrastructure; the safety and economic regulation of railway infrastructure and rehabilitation of railway transport infrastructure. Additionally, the Bill proposes to establish the Railway Development Levy Fund Board to manage the Railway Development Levy Fund. The amendments proposed in the Bill do not create a new levy or additional taxation measure as the Railway Development Levy has been in place since 2016.
- (2) The **National Infrastructure Fund Bill, 2026 (National Assembly Bill No. 1 of 2026)** is a Bill sponsored by the **Leader of Majority Party** to establish the National Infrastructure Fund. Under the Bill—
- (a) The National Infrastructure Fund is proposed to scale up and accelerate development of catalytic national infrastructure; to mobilize private capital and non-traditional sources of infrastructure finance; and to reduce the reliance of public debt for the financing of commercially viable infrastructure investments.
- (b) The Fund shall be managed by a Board of Directors that is required to develop a five-year investment policy;
- (c) The source of funds for the Fund include proceeds from privatization and disposal of government assets and such monies as may be appropriated by the National Assembly.

NOW THEREFORE, in compliance with Article 118(1)(b) of the Constitution and the National Assembly Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Committees listed below—

NO	BILL	DEPARTMENTAL COMMITTEE
1	Miscellaneous Fees and Levies (Amendment) Bill, 2025 (National Assembly Bill No. 57 of 2025)	Transport and Infrastructure
2	The National Infrastructure Fund Bill, 2026 (National Assembly Bill No. 1 of 2026)	Finance and National Planning

IT IS FURTHER NOTIFIED that in addition to receipt of written memoranda, engaging relevant stakeholders and consulting experts, the **Departmental Committee on Finance and National Planning** will also hold County **Public hearings** on the **National Infrastructure Fund Bill, 2026 (National Assembly Bill No. 1 of 2026)** as indicated below as part of the public engagement—

S/No.	COUNTY	VENUE	DATE	TIME
1.	Homabay	Governor's Park	13 th February 2026	10.00 am
2.	Mombasa	Tononoka Social Hall	13 th February 2026	10.00 am
3.	Kilifi	Coast Development Authority Social Hall, Kilifi	14 th February 2026	10.00 am
4.	Kwale	Kwale Cultural Center, Matuga	14 th February 2026	10.00 am
5.	Nairobi	KICC	27 th February 2026	10.00 am

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Building, and on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Building, Nairobi**; or emailed to cna@parliament.go.ke to be received on or before **Friday 20th February, 2026 at 5.00 p.m.**

**S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY**

13th February, 2026

"For the Welfare of Society and the Just Government of the People"

Annexure 6: Written submissions from Stakeholders.



MINISTRY OF ROADS AND TRANSPORT

The Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE TO CONSIDER THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2025)

Reference is made to your letter Ref: NA/DDC/T&I/2026/009 dated 18th February, 2026 inviting the Cabinet Secretary for Roads and Transport to appear before the Departmental Committee on Transport and Infrastructure to make submissions on the Miscellaneous Fees and Levies (Amendment) (National Assembly Bill No. 57 of 2025) and, in particular, the proposed amendments relating to the Railway Development Levy Fund (RDLF).

1. Introduction and Context

Hon. Chairman, the Ministry appreciates the opportunity to appear before the Departmental Committee on Transport and Infrastructure in relation to the Miscellaneous Fees and Levies (Amendment) (National Assembly Bill No. 57 of 2025).

Hon. Chairman, it is prudent for me to highlight that the changes proposed to the RDLF legal framework through the Bill are long overdue. As this House is aware, 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.

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.

Hon. Chairman, 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.

Hon. Chairman, 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.

Hon. Chairman, the state of affairs is therefore as follows:

- a. The RDL is imposed under the Miscellaneous Fees and Levies Act;
- b. 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
- c. 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.

Hon. Chairman, the Ministry is therefore of the view that it is necessary to harmonize the legal framework governing the RDLF and remove any ambiguities which 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.

Hon. Chairman, 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.

2. Why the Government is Pursuing Securitization as an Innovative Funding Model

Hon. Chairman, 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.

Securitization is an innovative funding approach because it enables 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 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 management of funds.

Hon. Chairman, 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.

3. Policy Justification for the Proposed Amendments

a) Expansion of the Purpose of the Levy

Hon. Chairman, 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.

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

Hon. Chairman, 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.

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

Hon. Chairman, 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.

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

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

Hon. Chairman, 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.

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

4. How the Amendments Legally Enable the Success of the Transaction

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

Hon. Chairman, 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.

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)

Hon. Chairman, 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.

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.

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%)

Hon. Chairman, the Bill caps administrative costs of the Fund at 0.5%.

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

Hon. Chairman, 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.

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

Hon. Chairman, 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.

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.

5. Conclusion

Hon. Chairman, the amendments are designed to provide a legally robust framework that supports innovative resource mobilisation through 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.

Hon. Chairman, I submit.

A handwritten signature in black ink, appearing to read 'Davis Chirchir', with a long horizontal flourish extending to the right.

Davis Chirchir, E.G.H
CABINET SECRETARY



HEAD OFFICE - NAIROBI
K.P.A ICD - Embakasi
Agents Block, Ground Floor
P.O. Box 57969, 00200
Nairobi, Kenya
Mobile: +254 738 271 219
Email: info@kifwa.co.ke

MOMBASA OFFICE:
Mombasa Trade Centre,
Nkrumah Road, 3rd Floor, South Wing
P. O. Box 99708 - 80107
Mombasa, Kenya
Mobile: +254 706 217 445
Email: info@kifwa.co.ke

The Clerk of the National Assembly
The National Assembly
Main Parliament Buildings
P.O. Box 41842-00100
Nairobi, Kenya

25 February 2026

Attention: Departmental Committee on Transport and Infrastructure

Dear Sirs,

RE: SUBMISSION OF LEGISLATIVE PROPOSALS ON THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2025)

We, the Kenya International Freight & Warehousing Association (“KIFWA”, “we”, or “us”), refer to the invitation from the Office of the Clerk of the National Assembly to appear before the Departmental Committee on Transport and Infrastructure to consider the Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025) (the “Bill”).

We note that the Bill proposes to amend the Miscellaneous Fees and Levies Act, Cap. 469, to expand the scope and application of the Railway Development Levy (RDL), establish a governing Board, and create a fund for levy proceeds.

KIFWA, as the representative body of freight forwarders and logistics service providers in Kenya, hereby submits detailed proposals and observations for the Committee’s consideration. Our submissions cover, among other matters:

- expansion of the scope of the RDL to include infrastructure supporting importation;
- Board composition to include sector representation;
- targeted exemptions to support investment, industrialization, and trade facilitation; and
- alignment of the RDL with the Import Declaration Fee (IDF) to ensure clarity, predictability, and administrative efficiency.

We respectfully request that the Honourable Committee consider and adopt the proposed amendments set out in our accompanying memorandum

Member: FEAFFA
Federation of East African Freight
Forwarders Association



Member: KEPSA
Kenya Private Sector Alliance
The Voice of Private Sector in Kenya

Enclosed herewith, please find attached our detailed submissions on the Bill.

Yours faithfully,

For: Kenya International Freight & Warehousing Association (KIFWA)



Wycliffe Wanda
Executive Officer

Contents

1. Analysis of the current provisions of the Act	4
1.1 Current Legal Framework of the Railway Development Levy	4
1.2 Existing Statutory Exemptions	4
1.3 Limited Manufacturing-Related Exemptions	4
2. Analysis of the Proposed Amendments	6
2.1 Section 8(3) – Expansion of the Purpose of the Railway Development Levy	6
2.2 Section 8(4) – Establishment of the Railway Development Levy Fund	6
2.3 Section 8(4a) – Establishment of the Railway Development Levy Fund Board	6
2.4 Section 8(4b) – Composition of the Railway Development Levy Fund Board	7
3. Detailed Submissions on Amendments to be considered	8
4. Conclusion	10

1. ANALYSIS OF THE CURRENT PROVISIONS OF THE ACT

The Miscellaneous Fees and Levies Act, Cap. 469C of the Laws of Kenya (the “Act”) is an Act of Parliament that provides for the imposition of duties, fees, and levies on imported and exported goods, and for connected purposes.

The Miscellaneous Fees and Levies (Amendment) Bill (National Assembly Bill No. 57 of 2025) (the “Bill”) proposes to amend the Act to expand the purpose and application of the Railway Development Levy (“RDL”).

1.1 Current legal framework of the Railway Development Levy

The RDL is established under section 8 of the Act and is imposed on all goods imported into Kenya for home use. The levy is payable by the importer at the point of entry of the goods for home use at a rate of two per cent (2%) of the customs value (CIF) of the imported goods.

Under section 8(3) of the Act, the purpose of the levy is to provide funds for the construction and operation of a standard gauge railway network in order to facilitate the transportation of goods.

1.2 Existing statutory exemptions

The Act provides limited exemptions from the RDL, primarily set out in Part B of the Second Schedule. The categories of imported goods currently exempt from the levy include *inter alia*:

- i. goods imported for the implementation of officially funded aid projects;
- ii. goods imported for official use by diplomatic and consular missions, the United Nations and its agencies, and institutions or organisations exempt under the Privileges and Immunities Act;
- iii. goods originating from East African Community Partner States that meet the East African Community Rules of Origin;
- iv. goods imported or purchased for the construction of bulk storage facilities supporting Standard Gauge Railway operations with a minimum storage capacity of one hundred thousand (100,000) metric tonnes, as approved by the Cabinet Secretary responsible for transport;
- v. currency notes and coins imported by the Central Bank of Kenya;
- vi. liquefied petroleum gas (LPG);
- vii. Aircrafts.

1.3 Limited manufacturing-related exemptions

Exemptions relating to inputs and raw materials for manufacturers are narrowly framed and currently apply only to:

- i. pharmaceutical products;
- ii. the construction and maintenance of human vaccine manufacturing plants;
- iii. companies operating under a special operating framework arrangement with the Government; and
- iv. the manufacture of textile products in Kenya.

The Act further provides a residual exemption for such other goods as the Cabinet Secretary may determine to be in the public interest or necessary to promote investment, subject to a minimum investment value of five billion Kenya shillings (Kshs 5,000,000,000).

2. ANALYSIS OF THE PROPOSED AMENDMENTS

2.1 Section 8(3) – Expansion of the Purpose of the Railway Development Levy

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.

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.

KIFWA's submissions

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.

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.

2.2 Section 8(4) – Establishment of the Railway Development Levy Fund

Proposed amendment

The Bill proposes the formal establishment of a Railway Development Levy Fund in statute.

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.

KIFWA's submissions

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

2.3 Section 8(4A) – Establishment of the Railway Development Levy Fund Board

Proposed amendment

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

Current provision

There is currently no distinct statutory Board overseeing the Fund.

KIFWA's submissions

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

2.4 Section 8(4B) – Composition of the Railway Development Levy Fund Board**Proposed amendment**

The Bill proposes the following composition:

- Chairperson appointed by the President;
- Principal Secretary responsible for railway transport;
- Attorney-General;
- Secretary to the Fund; and
- 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.

Current provision

There is no existing Board under the current Act.

KIFWA's submissions

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

3. DETAILED SUBMISSIONS ON AMENDMENTS TO BE CONSIDERED

1. Expansion of the Scope of the Railway Development Levy (RDL)

Proposal:

- 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:

- 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.
- KIFWA further proposes 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.
- This amendment will ensure the levy contributes effectively to the broader trade facilitation and logistics ecosystem, enhancing efficiency and supporting sustainable import operations.

2. Board Composition – Inclusion of KIFWA Representation

Proposal:

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

Rationale:

- Freight forwarders and logistics providers are directly involved in the administration and collection of the RDL and understand its operational complexities.
- Inclusion of KIFWA or sector representation enhances the Board’s technical insight, accountability, and responsiveness to trade facilitation challenges.
- It also aligns governance with stakeholder best practice and ensures decisions reflect practical realities of levy implementation.

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

Proposal:

- 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:

- This encourages investment, reduces production costs, and promotes industrialization.
- It also aligns with Government objectives for value addition, job creation, and economic growth.

4. Expansion of the exemption from RDL to Include Air Cargo

Proposal:

- Exempt air cargo shipments from the RDL.

Rationale:

- Air cargo generally does not use railway infrastructure; applying RDL increases costs without supporting railway development.
- Exemption improves logistics competitiveness and ensures levy application is targeted and efficient.

5. Expansion of the exemption from RDL to Include Courier and E-Commerce Parcels

Proposal:

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

Rationale:

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

6. Alignment of RDL with Import Declaration Fee (IDF)

Proposal:

- 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 / Observation:

- 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.

4. CONCLUSION

KIFWA recognizes the importance of the Miscellaneous Fees and Levies (Amendment) Bill, 2025, in supporting the development and sustainability of Kenya's railway infrastructure.

We have provided detailed submissions highlighting:

- the need to expand the scope of the Railway Development Levy to include infrastructure that supports importation and trade facilitation;
- the importance of sector representation on the Railway Development Levy Fund Board to strengthen governance and technical oversight; and
- targeted exemptions to support investment, industrialization, e-commerce, and efficient logistics operations.

KIFWA respectfully requests that the Committee give due consideration to these proposals to ensure that the Bill effectively contributes to trade and logistics efficiency and aligns with industrial and investment objectives.

**Shippers
Council of
Eastern
Africa**



SCEA Submission
On
THE MISCELLANEOUS FEES AND LEVIES (AMENDMENT) BILL, 2025
To
National Assembly
23/02/2026

Shippers Council of Eastern Africa
Add: P.O. Box 1291-00606 Nairobi
Location: Inland Container Depot (ICD) Nairobi, off Mombasa Road, (KPA)
Tel: +254 708-299175
Email: ceo@shipperscouncilea.org URL: www.shipperscouncilea.org

A) ABOUT SCEA

The Shippers Council of Eastern Africa is the premier advocacy organization of cargo owners in Eastern Africa. SCEA was established in 2006 to advocate for a stronger business environment through better policies and regulations that would result in efficient and cost-effective transport and logistics systems. SCEA was formed by five (5) founding members including the Kenya Association of Manufacturers (KAM), Fresh Produce Exporters Association of Kenya (FPEAK), East African Tea Trade Association (EATTA), East Africa Cement Producers Association (EACPA), Kenya Coffee Traders Association (KCTA) and the Petroleum Institute of East Africa (PIEA). SCEA is established under the laws of the Republic of Kenya with the following purpose:

- Provide a platform for cargo owners to articulate their concerns to government and logistics service providers in a unified voice.
- Provide timely interventions in operational issues that face members.
- To influence development of policies, legislation, and regulatory frameworks to support greater logistics efficiency and an enabling business environment through evidence-based research.
- Promote and disseminate best practices in transport, logistics and trade facilitation.
- Empower members by sharing industry information that will grow their businesses.

B) Introduction

SCEA supports the establishment of the Railway Development Levy Fund and its Board. However, against the backdrop of other levies and fees on Imports including IDF (revenue of between Kshs. 45billion – Kshs. 60billion), KEPHIS charges, KEBs Charges, NEMA (Kshs 150 per item) we propose that to cushion imports from high costs of levies the RDL be reduced from proposed 2% to 1%.

We appreciate and 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.

With Port of Mombasa throughput currently at 45.3 million tones and growing at an annual rate of 10.9%, it is evident that this growth cannot be sustainably supported by road transport alone. This underscores the critical importance of adequate, well-funded rail infrastructure development.

Its noteworthy, that over the last two years, The total tonnage of cargo to the inland container depot Nairobi transported by rail, increased by 15% from 5.73m tonnes in 2024 to 6.6m tonnes in 2025 illustrating the importance of rail-freight to our logistics.

In the absence of adequate funding, competitive and reliable rail freight services cannot be sustained and risk regression, potentially eroding the significant gains achieved following the development of the Standard Gauge Railway (SGR). Additionally, continuous and adequate training in rail and rail-related disciplines is essential. We therefore propose that capacity-building and training be included as eligible components under the funding framework.

Imports remain critical to Kenya’s economy, with RDL collecting about KSh 48 billion annually and IDF between KSh 45–60 billion. We commend Kenyan businesses for their resilience despite challenging conditions. To balance reduced business costs with rail development, we propose reducing the levy from 2% to 1%, with exemptions for raw materials, relief supplies, industrial equipment, and project equipment. Given projected throughput growth, this reduction will not diminish total revenues.

On the Railway Development Levy Fund Board, we urge the inclusion of the Shippers Council of Eastern Africa to represent the interests of the importers, manufacturers, produces in ensuring and the interests and concerns are on the table.

C) Proposed Amendments

NO.	CLAUSE	PROPOSED AMENDMENT	RATIONALE/JUSTIFICATION
1.	Clause 3B Section 8(3)	Delete (c) on the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to railway transporter, rehabilitation of railway transport infrastructure. Instead add c) 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	It is not clear what responsibility is being conferred here Support to training is essential for human resources development and ensuring the development infrastructure are well maintained. Development of sidings will address the challenges of last miles to the final destination – business premises
2.	Clause 3(c) – New Section 8(4B) The Board	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."	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.

3.	Clause 3(c) - New Section 8(4B)(e) The Board Membership	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).	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 interests of Shippers/Manufactures/Importers/Producers
4.	Clause 3(c) - New Section 8(4E)	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 ".	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.
5.	Clause 3(c) - New Section 8(4F)	Amend to provide for a slightly higher administrative cost cap, such as " one per cent ", or provide a breakdown of what constitutes these costs.	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.
6.	Clause 3(c) - New Section 8(4I)	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."	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. Which is crucial for public funds.
7.	RD Levy amount/rate	Reduce from 2% to 1%	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.

D) Conclusion

To ensure sustainability, accountability, and fairness, the proposed amendments are essential. They will safeguard the interests of cargo owners, strengthen governance, and promote efficient rail infrastructure development while reducing the cost of doing business in Kenya.

Agayo Ogambi
Chief Executive Officer
Shippers Council of Eastern Africa
Phone No: 0722 970 936
Email: agayo.ogambi@shipperscouncilea.org
P.O. Box 1291-00606 Nairobi
Inland Container Depot (ICD) Nairobi, off Mombasa Road, (KPA)