

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 2nd May, 2024

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

[The Speaker (Hon. Kingi) in the Chair]

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?

(The Clerk-at-the-Table consulted with the Speaker)

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Order, hon. Senators! I am informed that we now do have quorum. Clerk, proceed to call the first Order.

Senator for Nandi, kindly take your seat, so that I pass this Communication.

(Sen. Cherarkey crossed the aisle)

You are out of order, Senator for Nandi.

COMMUNICATIONS FROM THE CHAIR

WITHDRAWAL OF PUBLISHED SENATE BILLS

Hon. Senators, as you may recall, on Tuesday, 5th March, 2024, I communicated that following the adoption of the Report on the National Dialogue Committee by the Senate on the 21st February, 2024, the following legislative proposals recommended in the report be introduced in the Senate-

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- (i) The Elections Offences (Amendment) Bill, 2024.
- (ii) The Elections (Amendment) Bill, 2024.
- (iii) The Statutory Instruments (Amendment) Bill, 2024.
- (iv) The Political Parties (Amendment) Bill, 2024.

Given the importance of these Bills emanating from the bipartisan process, the Senate Majority Leader and the Senate Minority Leader agreed to co-sponsor the Bills. The Bills were subsequently published on 7th March, 2024 and read a First Time in the Senate on 20th March, 2024. The Bills having been read a First Time, were committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

In line with the requirements of Standing Order No.145, the Committee published, in two newspapers of national circulation, an advertisement on Friday, 19th April, 2024, calling for submission of memoranda on the said Bills, with the deadline for submission of the memoranda being scheduled for Friday, 3rd May, 2024.

Hon. Senators, on 22nd April, 2024, I received a letter from the Senate Minority Leader, Reference No. SEN/MLS/SOS/2024/005, expressing concern as to the content of the following Bills as published-

- (i) The Elections Offences (Amendment) Bill (Senate Bills No.9 of 2024).
- (ii) The Elections (Amendment) Bill (Senate Bills No.11 of 2024).
- (iii) The Political Parties (Amendment) Bill (Senate Bills No.13 of 2024).

(Sen. Abass consulted loudly)

Sen. Abass, you may have to listen carefully to what I am communicating.

Given the gravity of this matter, the Senate Business Committee (SBC) at its meeting held on Tuesday, 30th April, 2024 deliberated on the matter and resolved that corrective measures be taken as a matter of urgency in line with what had been agreed upon in the Report of the National Dialogue Committee.

This being the case, I direct that further consideration of the three aforementioned Bills be ceased in order to facilitate the corrective measures. For avoidance of doubt, the Standing Committee on Justice, Legal Affairs and Human Rights (JLAC) is directed to stop any form of public participation and the on-going receipt of memoranda.

In this respect, I direct the Office of the Clerk to liaise with the Senate Majority Leader and the Senate Minority Leader to have the said Bills corrected and republished for introduction in the Senate.

I thank you.

(Several Senators walked into the Chamber)

Take your seat, hon. Senators. I have a further Communication to make.

VISITING DELEGATION FROM TUMAINI VICTIMS AND SURVIVORS
ASSOCIATION OF 1998 USA EMBASSY BOMBING

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of representatives from Tumaini Victims and Survivors Association of the 1998 United States of America (USA) Embassy bombing in Nairobi.

The representatives are in the Senate on a courtesy call by the *Ad Hoc* Committee on Compensation to the Kenyan Victims of the 1998 Bombing of the USA Embassy in Nairobi.

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to the delegation. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

I do not see the Chairperson of the *Ad Hoc* Committee. Is the Vice-Chairperson present? If not, then I will call upon the Senate Majority Leader, in under one minute, to welcome the delegation.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. On behalf of my colleagues in the Senate, I welcome the Tumaini team that is visiting us.

They are aware that we are in the process of concluding on a Motion that was moved here by the Senator for Machakos, Sen. Agnes Kavindu. They have made tremendous progress with regard to securing their compensation and trying to find ways within which we can make sure that we at least walk in their footsteps, as we find ways of relieving the pain that they have lived with for quite a long time.

Therefore, I assure them that on behalf of this House, we shall do everything that is possible and within our reach to ensure that they eventually get justice.

The Speaker (Hon. Kingi): Next Order.

Proceed, Senate Majority Leader.

PAPERS LAID

LEGAL NOTICES FOR VARIOUS REGULATIONS

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Thursday, 2nd May, 2024-

The Valuers (Forms and Fees) (Amendment) Rules, Legal Notice No.69 of 2024.

The Survey (Electronic Cadastre Transactions) (Amendment) Regulations, Legal Notice No.70 of 2024.

The Survey (Amendment) Regulations, Legal Notice No.71 of 2024.

The Physical and Land Use Planning (Planning Fees) (Amendment) Regulations, Legal Notice No.72 of 2024.

The Community Land (Amendment) Regulations, Legal Notice No.73 of 2024.

The Land (Amendment) Regulations, Legal Notice No.74 of 2024.

The Land Registration (Revocation) Regulations, Legal Notice No.75 of 2024.

The Land Adjudication (Amendment) Regulations, Legal Notice No.76 of 2024.

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The Land Registration (General) (Amendment) Regulations, Legal Notice No.77 of 2024.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): The Chairperson of the Standing Committee on Education.

REPORT ON EARLY CHILDHOOD EDUCATION (AMENDMENT)
BILL (SENATE BILLS NO.54 OF 2023)

Sen. Joe Nyutu: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, 2nd May, 2024-

Report of the Standing Committee on Education on its consideration of the Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023).

(Sen. Joe Nyutu laid the document on the Table)

The Chairperson *Ad hoc* Committee on the Compensation to the Kenyan Victims of the 1908 Bombing of the United States of America Embassy in Nairobi.

PROGRESS REPORT BY *AD HOC* COMMITTEE ON COMPENSATION
TO KENYAN VICTIMS OF 1998 USA EMBASSY BOMBING

Sen. Chute: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, 2nd May, 2024-

Progress report of the *Ad hoc* Committee on the Compensation to the Kenyan Victims of the 1998 Bombing of the United States of America Embassy in Nairobi.

I beg to lay.

(Sen. Chute laid the document on the Table)

The Speaker (Hon. Kingi): Next Order, Clerk.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No.52(1). Proceed, Senator for Nandi, Hon. Cherarkey.

MAI MAHIU FLOODS TRAGEDY

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.52(1) to make a Statement on a matter of national and general topical concern, namely, the Mai Mahiu and other tragedies that led to the death of 180 Kenyans as of this morning because of the ongoing floods.

On Monday, we received shocking news from Mai Mahiu in Naivasha, Nakuru County, of Kenyans having been swept away by floods and raging water from a water-filled gully from Kiambu County. This resulted in the deaths of over 45 persons, but the number has gone slightly up. Others are hospitalized with varying degrees of injuries and others are still missing. Further, property of unknown value and livelihoods of hundreds of people were destroyed in the tragedy.

Mr. Speaker, Sir, I wish on behalf of this House, to sincerely pass our heartfelt condolences to the families of those who lost their loved ones and wish a quick recovery to those still receiving treatment in various hospitals. As we continue to pray, like you saw the President praying for them, for comfort and solace from God, I urge every Kenyan to take extra caution even as the heavy rains continue to pound various parts of the country. Even as relevant bodies seek to unravel what exactly happened, in Mai Mahiu, we have also seen floods in Narok, Kajiado, Machakos, Nairobi and Garissa and the bursting of River Tana at a place called Kisimayo---

Noting that it was initially reported that Kijabe Dam had burst its bank, sweeping away homes and causing deaths, it was later reported that a manmade gully in Kiambu County was filled with water, causing the tragedy. We call for speedy humanitarian assistance for the victims.

Mai Mahiu, among other tragedies across the country, pose questions on the role of the Water Resources Management Authority (WARMA), especially on temporary dams and water pans that have not been properly regulated. We also have water gullies and others that have been created illegally. We would like to know whether the authority has sanctioned and allowed development of such water pans and dams.

Mr. Speaker, Sir, you will remember that in the previous Parliament, during the Solai Dam Tragedy in 2018, as the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, we recommended that the responsible officers of WARMA, the National Environment Management Authority (NEMA) and the National Construction Authority (NCA) be charged with criminal neglect of duty. With the Mai Mahiu incident, it seems that the same is repeating. The WARMA should provide a comprehensive inspection report of all the dams, water pans and water gullies in the country, indicating measures taken to avoid bursting of dams during this rainy season across the country.

Mr. Speaker, Sir, the Kenya National Highways Authority (KeNHA) and the Ministry of Roads and Transport must ensure Kenyans have alternative routes, proper drainage along the roads, and swift restoration of damaged roads. When you drive around the City, there are many potholes that can cause death. There is need to have proper markings and signage, especially at blackspots.

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The responsible Cabinet Secretary seems to be getting his priorities wrong. Instead of addressing pertinent issues facing Kenyans, he is politicking while the roads and airports, like Jomo Kenyatta International Airport (JKIA), are in a deplorable condition, with leaking roofs and flooding everywhere being the order of the day.

I pray that no other Kenyan shall lose their life due to circumstances that can be avoided, either personally by individual citizens or by exercising caution, especially during this rainy season. I ask Kenyans to be careful while driving and avoid routes that have been closed by necessary agencies and stay safe.

Relevant authorities should exercise their mandate as expected. All officers criminally liable for issues and tragedies that have happened, including the Mai Mahiu tragedy among others across the country, should face the full force of the law. Those roads especially where bridges have been swept away must be audited. They should tell Kenyans whether it is safe to drive through those roads.

Mr. Speaker, Sir, with those many remarks, I urge Kenyans to be careful, especially during this rainy season.

I thank you.

The Speaker (Hon. Kingi): Next is the Senator for Lamu.

COMPLETION STATUS OF LAMU
TECHNICAL TRAINING INSTITUTE

Sen. Githuku: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the completion status of Lamu Technical Training Institute (TTI) in Lamu County.

In the Statement, the Committee should-

- (1) State the number of institutions of higher learning in Lamu West constituency.
- (2) Provide reasons for the delay in completion of Lamu TTI, a project initiated by the national Government in Hongwe Ward, Lamu County, scheduled for completion and opening by December 2016, stating why the contractor abandoned the construction midway.
- (3) Inform the Senate whether this project has been retendered, stating when the bid was advertised, the number of bids received, who won the award, the cost of the award, and the expected conclusion date of the project.
- (4) Confirm whether the previous contractor has been surcharged for constructing a structurally unsound building, poor workmanship, and embezzlement of public funds.
- (5) Table an audit of all funds spent in the construction of Lamu TTI by the aforementioned contractor, providing an assessment report on the feasibility of the project.

Mr. Speaker, Sir, I have another Statement.

RECONSTITUTION OF LAMU COUNTY
LANDS CONTROL BOARD

Sen. Githuku: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the reconstitution of the Lamu County Lands Control Board.

In the Statement, the Committee should-

(1) Give an update on the status of the reconstitution of the Lamu County Lands Control Board following the revocation of the appointment of the previous board.

(2) State the reason for the delay by the Government to reconstitute the said board, which has denied residents of Lamu West Sub County an opportunity to transact matters of land.

(3) Provide a timeline for the reconstitution of the gazettelement of the board to enable regulation and monitoring of land transactions, mainly agricultural land in Lamu West Sub County.

The Speaker (Hon. Kingi): The Statement by Sen. Gloria Orwoba is deferred pursuant to the Senator's request.

SURGE IN TREE FELLING IN NAIROBI CITY COUNTY

(Statement deferred)

The Speaker (Hon. Kingi): Next is the Senator for Nandi.

Sen. Cherarkey: Mr. Speaker, Sir, I have two Statements. I request that I read both.

The Speaker (Hon. Kingi): Proceed.

MISMANAGEMENT AND FINANCIAL
IMPROPRIETY IN THE SPORTS SECTOR

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding mismanagement and financial impropriety in the sports sector.

In the Statement, the Committee should-

(1) Evaluate the effectiveness of existing internal control mechanisms, Information Technology (IT) and accounting systems at the Sports, Arts and Social Development Fund (SSDEF) in preventing any leakages and ensuring prudent use and utilization of resources.

(2) Provide a comprehensive report on all financial assistance, including grants and subsidies, provided to federations from Financial Year (FY) 2019/2020 to date, specifying what each federation received and the criteria used in the distribution.

(3) Provide an account of all funds, particularly imprest, utilized for the World Rally Championships (WRC) from 2021 to date and explain the delay in disbursement of payments owed to the former World Rally Championship Secretariat.

(4) Inform the Senate of the findings of the most recent forensic audit pertaining to the construction of Posta Jamhuri Sports Grounds in Nairobi City County, Jomo Kenyatta International Stadium in Kisumu County, Wanguru Stadium in Kirinyaga County and Kirigiti Stadium in Kiambu County, providing justification for procurement processes adopted for each project.

(5) Explain any steps taken by the Government to recover any payments exceeding the market price along with any advance payments made for project mobilization for the specified projects.

NON-ADHERENCE TO CONSTRUCTION PLANS FOR INTERCHANGES ALONG NAIROBI WESTERN BYPASS

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads and Transportation on the state of the Nairobi Western Bypass, with specific reference to non-compliance with construction plans for interchanges.

In the Statement, the Committee should—

(1) Explain why China Road and Bridge Corporation (CRBC) omitted the construction of six interchanges along the Nairobi Western Bypass, yet they were approved in the initial plan at a cost of Kshs21.5 billion, and confirm whether public participation was conducted on the decision to omit the interchanges.

(2) State whether there was any variation in the project and indicate the cost of variation, stating whether it was in compliance with the law.

(3) Explain the role of the KeNHA in the non-compliance of the project, detailing any action taken against the persons responsible, considering that the KeNHA was the supervising agency of the project.

(4) Outline any measures that the Ministry of Roads and Transportation put in place to mitigate against the dangers posed by the lack of interchanges at the Western bypass members of the public using the bypass since the route serves busy commercial centres and commercial vehicles.

I thank you.

LACK OF FRAMEWORKS IN NAIROBI AND MOMBASA COUNTIES TO RECEIVE CLIMATE ACTION FUNDING

Sen. Crystal Asige: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget concerning the lack of necessary frameworks in Nairobi and Mombasa Counties to receive climate action funding under the Financing Locally-Led Climate Action (FLLoCA) programme.

In the Statement, the Committee should—

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(1) State the level of awareness that the county leadership and relevant departments in Nairobi and Mombasa have regarding the FLLoCA requirements, stating the percentage of funding allocated to climate action activities in FY2023/2024;

(2) Assess institutional capacity and state deficiencies noted that have prevented the two counties from establishing the necessary frameworks for accessing these FLLoCA funds and recommend interventions, if any;

(3) Establish how counties are integrating disability-inclusive adaptation and rapid response measures in their climate action programmes, stating measures to ring-fence projects and interventions specifically for persons with disabilities under the programme.

(4) Disclose whether stakeholders within these counties, including civil society, private sector, grassroots communities and vulnerable groups have been involved in the process of establishing legal frameworks for climate action interventions and state the barriers to effective stakeholder engagements, if any;

(5) Undertake a fiduciary review of the FLLoCA programme since it began, consider the challenges and recommend necessary legal or administrative recommendations to ensure compliance by all counties and consider strategies on how best to support counties to move from adverse and qualified audit opinions to unqualified audit opinions following flagged-out audit queries from the county Office of the Auditor-General report for the FY2022/2023 as outlined in the Green Book review.

Mr. Speaker, Sir. I would like to go to my next Statement, kindly.

The Speaker (Hon. Kingi): Proceed, Senator.

ALLEGED PHYSICAL ASSAULT AND ARREST
OF SIMONA LEMOMO, A VISUALLY IMPAIRED
HUMAN RIGHTS ADVOCATE AT ONGATA
RONGAI POLICE STATION

Sen. Crystal Asige: Thank you, Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the alleged physical assault and arrest of Simona Lemomo, a visually impaired human rights advocate at the Ongata Rongai police station.

In this Statement the Committee should-

(1) Report on the circumstances surrounding this alleged attack that occurred on the 27th February 2024 at the Ongata Rongai police station;

(2) Provide a comprehensive report on investigations into this alleged incident stating whether those found culpable have been arrested and arraigned in court for prosecution;

(3) Outline the protocols followed by law enforcement agencies in handling cases of potential conflict involving PwDs, explaining any comprehensive measures in place to ensure the protection of such persons and other vulnerable individuals from police brutality;

(4) Expound on any training programmes in place for police officers to enable them to recognize and appropriately respond to PwDs, including the visually impaired, with a view to preventing the recurrence of similar incidences; and finally,

(5) State any measures the Ministry has put in place to offer support services to victims of such violence, particularly those with disabilities in seeking justice and accessing the necessary resources for recovery.

I thank you.

The Speaker (Hon. Kingi): Let us move to Statement pursuant to Standing Order No.57(1) by the Senate Majority Leader.

We will revisit it.

Statement pursuant to Standing Order No.58. The Senator of Nandi County, please, proceed,

Sen. Cherarkey: Thank you, Speaker, Sir. My apologies, I thought it was coming tomorrow.

DISRUPTION OF PERSONAL COMMUNICATION SERVICES ON X PLATFORM

Mr. Speaker, Sir, I rise pursuant to Standing Order No.58 to make a Personal Statement concerning the actions of social media platform X-corporation, formerly *Twitter*, in denying me assistance and access to my verified X or *Twitter* account.

I stand before you today to address a grave matter that undermines the democratic principles that we hold dear. Effective communication with our constituents is a cornerstone of our responsibilities as representatives. Regrettably, I must draw your attention to a severe infringement of my ability to serve Kenyans due to the actions or rather inaction of the X-corporation.

Since November, 2023, my verified account on X-platform with over 329,700 Kenyan followers and across the globe, because I am an international celebrity, has been inaccessible without explanation or remedy.

Despite repeated emails and a formal demand letter, the X-corporation has remained unresponsive. This silence equates to the muzzling of an important channel---

The Speaker (Hon. Kingi): Senator for Nandi County, you are supposed to read the Statement as approved by the Speaker. So, proceed to withdraw the element that was not contained in the approved Statement.

Sen. Cherarkey: Okay, Mr. Speaker, Sir, I withdraw that part of the Statement and I stand guided.

The Speaker (Hon. Kingi): Which part are you withdrawing?

Sen. Cherarkey: Mr. Speaker, Sir, the one of “international celebrity” and replace it with ‘village celebrity’.

(Laughter)

No, sorry, I withdraw it altogether, Mr. Speaker, Sir.

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The Speaker (Hon. Kingi): Proceed, Sen. Cherarkey.

Sen. Cherarkey: Mr. Speaker, Sir, I know Bishop is happy. I have an important channel of engagement between myself and the public. These malicious actions violate my freedom of speech and set a dangerous precedent.

The inability to access a platform for which communication services were paid disproportionately affects those of us in African nations. The lack of an accessible response mechanism exposes prejudice against our continent.

If a sitting Senator can experience this, it raises questions about how Kenyan citizens and African citizens would be treated in similar circumstances. We cannot allow multinational corporations to operate with impunity. Their actions must not be allowed to undermine the democratic rights of anyone, including elected representatives.

I believe X Corporation's, formerly *Twitter*, actions warrant an investigation by the Kenyan Government and this Parliament and require diplomatic engagement with the American government.

As a follow-up on action, I seek that the Cabinet Secretary for Information, Communication, and Digital Economy to-

1. Provide a report and offer detailed insight into the existing mechanisms of Government action and recourse for Kenyans facing similar prejudice;
2. Initiate formal communication with the X Corporation, explicitly outlining the violation of Kenyan law and expressing strong condemnation of the action and discriminatory implications;
3. Explore diplomatic channels with the American Government and emphasize the need for multinational tech companies to operate ethically and responsibly, especially when their services are offered in return for payment regardless of geographical location.

Without decisive action, Kenyans, both private citizens and the ones holding offices, will remain vulnerable to the capricious whims of multinational corporations. Let our message be unequivocal; African voices will not be silenced, intimidated or blackmailed and those attempting to do so will be held accountable.

In conclusion, I urge this House to stand with me; and protect the digital rights of every Kenyan and African. I wish to emphasize that my account has not been banned, suspended or deactivated. Rather, I have been denied access rights by the X Corporation on an issue that can easily be sorted. However, this is out of discrimination. We should stand together not only as Kenyans, but as Africans against this discrimination.

The Speaker (Hon. Kingi): Senate Majority Leader, proceed to make your Statement pursuant to Standing Order No.57.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 7TH MAY, 2024

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I rise pursuant to Standing Order No.57(1) to present the business of the Senate for the week commencing Tuesday, 7th May, 2024.

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As indicated on today's Order Paper, at Order No.8, the Division of Revenue (National Assembly Bill. No.14 of 2024) has been listed for consideration at the Committee of the Whole Stage.

I wish to remind Members of the timelines that we mentioned last week on the need to conclude this business today. I humbly request that even as I conclude my Statement, the Whips from both sides of the House, Sen. Sifuna and Sen. (Dr.) Khalwale, to leave their phones. I can see both of them are using their phones. Let them get on to the business of preparing the House, so that we conclude this business urgently. If it was a radio set, based on where the two gentlemen come from, I would understand. However, I do not understand the obsession with mobile phones. We need to conclude on this Order.

I also wish to emphasize the importance of the Motion on the status of pending bills in our counties, which has been listed in today's Order Paper as Order No.20. As highlighted in the Motion, pending bills accumulated in counties have had far-reaching negative consequences, including the hindrance of counties' ability to sustain operations.

To this end, it is imperative that the Senate considers and passes this Motion in order to require counties to prioritize the settlement of the pending Bills. There have been amendments to this Motion, which Members can read. However, I feel we need to do more. In fact, I will point out to you that a few weeks ago, before we proceeded to long recess, you directed that the Office of the Clerk organizes for the Senate, in plenary, to have a meeting with the Controller of Budget. This was to happen when we resumed from recess. This is the second week of recess and this is yet to happen. This is an important exercise, which we need to undertake, so that the Senate can conclude on this important business.

The Senate Business Committee (SBC) will meet on Tuesday, 7th May, 2024 to consider the business for the week commencing Tuesday, 7th to Thursday. There are various Bills which are at the Second Reading Stage, which include-

- (i) The County Public Finance Laws (Amendment) Bill (Senate Bills No.39 of 2023).
- (ii) The Street Vendors (Protection of Livelihood) Bill (Senate Bills No.41 of 2023).
- (iii) The Energy (Amendment) Bill (Senate Bills No.42 of 2023).
- (iv) The National Construction Authority (Amendment) Bill (National Assembly Bills No.59 of 2022).
- (v) The Meteorology Bill (Senate Bills No.5 of 2023).
- (vi) The Statutory Instruments (Amendment) Bill (National Assembly Bills No.2 of 2023).

There are Motions scheduled for debate that week, which include-

- (i) Establishment of a Monthly Car Free Day and County Car Free Zones.
- (ii) Report of the 147th Assembly of the Inter-Parliamentary Union (IPU) and related Meetings held in Luanda, Angola from 23rd to 27th October, 2023.
- (iii) Establishment of National Teaching and Referral Hospitals in Kenya.

The tentative business scheduled for Wednesday, 8th May, 2024 will include the schedule of Questions as approved by the SBC at its meeting held on 23rd April, 2024.

The summary of the Questions addressed to the Cabinet Secretary for Interior and National Administration are listed.

The tentative business for Wednesday, 8th May, 2024 (afternoon sitting) will be-

(i) The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 46 of 2023); and,

(ii) The Nuts and Oil Crops Development Bill (Senate Bills No. 47 of 2023), as well as a host of other Bills that are listed.

Therefore, I wish to request that colleagues avail themselves for consideration of business as listed. We have important Bills that we need to conclude.

With those many remarks, I beg to lay the Statement on the Table of the Senate.

(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): Hon. Senators, before I call Order No.8, allow me to make the following Communications.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM KAJIADO COUNTY ASSEMBLY

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a delegation from the County Assembly of Kajiado. The delegation is undertaking a benchmarking visit to the Bunge Regulated Non-Withdrawable Deposit-Taking SACCO. They are accompanied by officials of the SACCO.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to the delegation. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

VISITING DELEGATIONS FROM BUNGOMA, SIAYA AND MANDERA COUNTY ASSEMBLIES

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of 20 members of staff from the county assemblies of Bungoma, Siaya, Mandera, and officers from the Parliamentary Service Commission (PSC). The officers are undertaking a capacity-building programme on Safety and Security Management in the Legislature at the Centre for Parliamentary Studies (CPST).

On behalf of the Senate and my own behalf, I extend a warm welcome and wish you a fruitful visit.

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VISITING DELEGATION FROM BISHOP CAVALLERA
GIRLS HIGH SCHOOL, MARSABIT COUNTY

In the Public Gallery, we have 30 students and two teachers from Bishop Cavallera Girls High School in Marsabit County, who are undertaking a one-day education visit in the Senate.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

I will allow the Senator for Kajiado, under one minute, to extend words of welcome to the delegation from Kajiado County. Then, I will allow the Senator for Bungoma, on behalf of Bungoma, Siaya, and Mandera counties to welcome the other delegation.

Lastly, Senator for Marsabit, extend words of welcome to the 30 students and two teachers who are in the Public Gallery.

In that order, proceed Senator for Kajiado.

Sen. Seki: Thank you, Mr. Speaker, Sir. I take this opportunity to thank the team from the Kajiado County Assembly who are on a benchmarking mission to Bunge SACCO, as indicated by the Speaker, to learn more about the operations and management of the SACCO within Parliament.

I welcome you to this Chamber, where we have Senators from all 47 counties. In our county, we have two delegates, Sen. Betty Montet and Sen. Tobiko, who are also colleagues in this Senate.

I thank you for choosing to benchmark within the parliamentary organization that provides services to parliamentarians.

Thank you. You are welcome.

As you go back home, I hope you will have learnt quite a lot. I look forward to seeing you starting the cycle in your county assembly and the entire Executive of Kajiado County.

Thank you very much and God bless you.

The Speaker (Hon. Kingi): The Senator for Siaya, avoid the kind of speech that the Senator for Kajiado has made. Give your speech in under one minute.

(Laughter)

Sen. (Dr.) Oburu: Thank you, Mr. Speaker, Sir, for the opportunity to welcome the delegation from the three counties of Bungoma, Siaya and Mandera.

You have made a good choice to come to the Senate. This Senate is meant to defend and represent counties, and you will not regret your presence here. This is the 'Upper House' of Parliament, and we are very grateful to you for having chosen to come to our Senate to listen.

Thank you very much and feel welcome.

The Speaker (Hon. Kingi): Proceed, Senator Chute.

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Sen. Chute: Thank you very much, Mr. Speaker, Sir. Let me also join you in welcoming teachers and students from Cavalleria Girls School. This school is situated in Karare, South Saku Constituency. This school is doing very well in Marsabit. It is a girls' school, which is among the top performers. I congratulate them together with the teachers and ask them to do even much better. Let me take this opportunity to pray for them to go well back home and make sure that they work very hard.

I thank you.

The Speaker (Hon. Kingi): Next Order, Clerk

COMMITTEE OF THE WHOLE

(Order for Committee read)

[The Speaker (Hon. Kingi) left the Chair]

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Wakili Sigei) in the Chair]

(Several Senators stood up in their places)

(Loud consultations)

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Senators, kindly resume your seats.

Order, hon. Members. Kindly resume your seats.

Hon. Members, let us settle down, we are in the Committee of the Whole.

THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO.14 OF 2024)

The Temporary Chairperson (Sen. Wakili Sigei): The Senator for Nandi, let us settle down. Hon. Senators, we are proceeding to Committee of the Whole to consider the Division of Revenue Bill (National Assembly Bills No.14 of 2024.

Hon. Members, we will proceed to deal with Clauses.

Clauses 3-5

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

Division will be at the end.

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The Schedule

The Temporary Chairperson (Sen. Wakili Sigei): It is at this point that I call upon the Chairperson of the Standing Committee on Finance and Budget to move.

Sen. Ali Roba: Mr. Temporary Chairman, Sir, I beg to move-
THAT the Bill be amended by deleting the schedule and substituting therefore with the following Schedule -

Type/Level of allocation	Amount in Kshs.	Percentage (%) of 2020/21 audited and approved Revenue i.e., Kshs. 1,570,562,945,014
A. Total Sharable Revenue	2,948,123,505,582	
A. National Government	2,524,318,490,857	
B. Equalization Fund	7,852,814,725	0.50%
C. County equitable share	415,952,200,000	26.48%

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clause 2, the Title and Clause 1

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

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Hon. Members, we are done with canvassing on the amendments as proposed on the Division of Revenue Bill (National Assembly Bills No.14 of 2024).

We will proceed to deal with the next Bill shortly before we go for division, that is, The Conflict of Interest Bill (National Assembly Bills No.12 of 2023).

Sen. Wambua: On a point of order, Mr. Temporary Chairman, Sir.

(The Temporary Chairperson (Sen. Wakili Sigei) consulted with the Clerk-at-the-Table)

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Senators, we now move to consider The County Governments (Amendment) Bill (Senate Bills No.25 of 2023).

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THE COUNTY GOVERNMENTS (AMENDMENT) BILL
(SENATE BILLS NO.25 OF 2023)

Clause 2

(Question, that Clause 2 be part of the Bill, proposed)

Division will be at the end.

The Title and Clause 1

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

Division will be at the end.

Sen. Wambua: On a point of order, Mr. Temporary Chairman, Sir. It is just a matter of procedure. You had called the Conflict of Interest Bill (National Assembly Bills No.12 of 2023), and after consultation with the Senate Majority Leader, a decision has been made that you suspend that.

You should go on record that that Bill will have to be suspended for now. He had called it. It is on record that he had called it.

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Members, we have concluded on these two Bills; the Division of Revenue Bill (National Assembly Bills No.14 of 2024, which had amendments and the County Governments (Amendment) Bill (Senate Bills No.25 of 2023), which did not have any amendment.

We are proceeding to Division.

Serjeant-at-Arms, ring the Division Bell for 10 minutes.

(The Division Bell was rung)

The Temporary Chairperson (Sen. Wakili Sigei): Serjeant-at-Arms, let the Bell be rung for another 10 minutes.

(The Division Bell was rung)

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Members let us resume our seats. We now have the requisite number to proceed to division.

Sen. Joe Nyutu and Sen. (Dr.) Khalwale, kindly resume your seats. Sen. Madzayo and Sen. Cherarkey, kindly take your seats.

Serjeant-at-Arms, you may now stop the Bell, so that we proceed. Kindly draw the Bar and close the Doors.

(The Bar was drawn and the Doors closed)

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Members, we are now going to division on The Division of Revenue Bill (National Assembly Bill No.14 of 2024).

I will now put the question, which is, that the Schedule be amended as proposed.

Hon. Members, let us log out. Serjeant-at-Arms, kindly collect cards from unattended units. Hold on as cards that are unattended are being collected. You can now log in and proceed to vote.

(Hon. Senators proceeded to vote)

(Electronic voting in progress)

The Temporary Chairperson (Sen. Wakili Sigei): Sen. Sifuna and Sen. Okiya Omtatah, could you approach the Chair.

*(Sen. Sifuna and Sen. Okiya Omtatah
approached the Dispatch Box)*

Hon. Senators, we now go to the next Division. It is the Division on all clauses.

(Question put and Senators proceeded to vote)

(Electronic voting in progress)

Sen. Madzayo, Sen. Chesang, Sen. Thang'wa and Sen. Okiya Omtatah, proceed to be assisted to vote.

(The Senators approached the Dispatch Box)

Sen. (Dr.) Khalwale, approach the Dispatch Box.

(Sen. (Dr.) Khalwale approached the Dispatch Box)

THE DIVISION OF REVENUE BILL (NATIONAL
ASSEMBLY BILLS NO.14 OF 2024)

DIVISION

ELECTRONIC VOTING

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

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AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Dullo, Isiolo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang', Elgeyo Marakwet County; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Ogola, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC; Sen. Wakili Sigei, Bomet County; and Sen. Wambua, Kitui County.

NOES: Nil

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Senators. These are the results of the Revenue Bill (National Assembly Bills No. 14 of 2024) on the Schedule-

AYES: 30

NOES: 0

ABSENTIONS: Nil

The "Ayes" have it.

(Question carried by 30 votes to Nil)

DIVISION

ELECTRONIC VOTING

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

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Dullo, Isiolo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang', Elgeyo Marakwet County; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Ogola, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC; Sen. Wakili Sigei, Bomet County; and Sen. Wambua, Kitui County.

NOES: Nil

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The Temporary Chairperson (Sen. Wakili Sigei): These are the results of the Revenue Bill (National Assembly Bills No. 14 of 2024) on all Clauses-

AYES: 30

NOES: 0

ABSENTIONS: Nil

The “Ayes” have it.

(Question carried by 30 votes to Nil)

THE COUNTY GOVERNMENTS (AMENDMENT) BILL
(SENATE BILLS NO.25 OF 2023)

The Temporary Chairperson (Sen. Wakili Sigei): We are now proceeding to the next Division on the County Governments (Amendment) Bill (Senate Bills No.25 of 2023) on all clauses.

Hon. Senators, you may proceed to vote.

(Electronic voting in progress)

Sen. Okiya Omtatah, Sen. Kathuri Murungi and Sen. Julius Murgor approach the Clerk’s Table.

DIVISION

ELECTRONIC VOTING

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

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Dullo, Isiolo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang’a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang’, Elgeyo Marakwet County; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Ogola, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang’wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC; Sen. Wakili Sigei, Bomet County; and Sen. Wambua, Kitui County.

NOES: Nil

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The Temporary Chairperson (Sen. Wakili Sigei): Hon. Senators, these are the results of the Division on the Bill:

AYES: 30

NOES: 0

ABSENTIONS: Nil

The “Ayes” have it.

(Question carried by 30 votes to Nil)

With that, hon. Members, we are moving to reporting. I call upon the Chairperson and the Mover of the Bill. Sen. Ali Roba, proceed to move. Where is Sen. Ali Roba?

Proceed, Senate Majority Leader

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Chairman, Sir, I beg to move that the Committee do report to the Senate its consideration of the Division of Revenue Bill (National Assembly Bills No. 14 of 2024) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Wakili Sigei): I now call upon the Mover of the County Governments (Amendment) Bill (Senate Bills No. 25 of 2023) to move.

Sen. Cherarkey: Thank you, Mr. Temporary Chairman, Sir. I beg to move that the Senate do agree with the Committee of the Whole in the said Report, and request Sen. Osotsi to second.

The Temporary Chairperson (Sen. Wakili Sigei): Sen. Cherarkey, you are meant to move the Report.

Sen. Cherarkey: Sorry, Mr. Temporary Chairperson, Sir, can I take it again?

The Temporary Chairperson (Sen. Wakili Sigei): Please take it again.

Sen. Cherarkey: Mr. Temporary Chairperson, Sir, I beg to move that the Committee of the Whole do report to the Senate its consideration of the County Governments (Amendment) Bill (Senate Bills No.25 of 2023) and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Members, let us rise.

(The House resumed)

[The Deputy Speaker (Sen. Kathuri) in the Chair]

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Hon. Senators, we are on reporting of the Division of the Revenue Bill (National Assembly Bills No. 14 of 2024). The Chairperson?

REPORTS AND CONSIDERATION OF REPORTS

THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO.14 OF 2024)

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered the Division of Revenue Bill (National Assembly Bill No.14 of 2024) and its approval thereof with amendments.

The Deputy Speaker (Sen. Kathuri): Thank you.
Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said report. I request the Senator for Makueni to second.

Sen. Maanzo: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to move that the Division of Revenue Bill, (National Assembly Bills No.14 of 2024), be now Read a Third Time.

I request the Senator for Lamu to second.

Sen. Githuku: Mr. Deputy Speaker, Sir, I second.

The Deputy Speaker (Sen. Kathuri): Thank you.

(Question proposed)

(Question put and agreed to)

We now go to the Division. Do we need to ring the Bell? We are voting electronically, Members.

(Loud consultations)

Okay. Fine. Let us report on the other Bill.

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THE COUNTY GOVERNMENTS (AMENDMENT) BILL,
(SENATE BILLS NO.25 OF 2024)

The Deputy Speaker (Sen. Kathuri): Proceed, Chairperson.

Sen. Wakili Sigei: Thank you very much, Mr. Deputy Speaker, Sir. I beg to report that the Committee of the Whole has considered the County Governments (Amendment) Bill, (Senate Bills No.25 of 2023) and its approval thereof, without amendments.

The Deputy Speaker (Sen. Kathuri): Mover, Sen. Cherarkey.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I beg to move that the Senate do agree with the Committee of the Whole in the said report.

I request Senator Osotsi to second.

The Deputy Speaker (Sen. Kathuri): Sen. Osotsi, do the needful.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Deputy Speaker (Sen. Kathuri): Proceed, Mover.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I beg to move that the County Governments (Amendment) Bill, (Senate Bills No. 25 of 2023) be now read a Third Time.

I request my sister, Sen. Beatrice Ogola, to second.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Beatrice Akinyi Ogola.

Sen. Ogola: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I see no interest on this. We can now go to Division. We will start with the first one, the Division of Revenue Bill (National Assembly Bills No.14 of 2023). Question put and hon. Senators proceeded to vote. If you have logged in, proceed to vote.

(Electronic voting in progress)

THIRD READINGS

DIVISION

ELECTRONIC VOTING

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(Question, that the Division of Revenue Bill (National Assembly Bills No.14 of 2024) be read a Third Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang, Elgeyo-Marakwet; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita-Taveta County; Sen. Ogola, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda Odhiambo, Kisumu County; Sen. Wakili Sigei, Bomet County; and, Sen. Wambua, Kitui County.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, the results of the Division are as follows-

AYES: 30

NOES: Nil

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 30 votes to 0)

(The Bill was accordingly read a Third Time and passed)

DIVISION

ELECTRONIC VOTING

(Question, that the County Governments (Amendment) Bill (Senate Bills No.25 of 2023) be now read a Third Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang, Elgeyo-Marakwet; Sen. Lomenen, Turkana County;

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Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita-Taveta County; Sen. Ogola, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda Odhiambo, Kisumu County; Sen. Wakili Sigei, Bomet County; and, Sen. Wambua, Kitui County.

The Deputy Speaker (Sen. Kathuri Murungi): Hon. Senators, the results of the Division are as follows-

AYES: 30

NOES: Nil

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 30 votes to 0)

(The Bill was accordingly read a Third Time and passed)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I want to reorganize the Order Paper this afternoon. We shall skip Order Nos. 11, 12, 13, 14, 15, 16, 17, 18, and 19 and go to Order No.20.

Clerk, please call out the Order.

MOTION

STATUS OF PENDING BILLS IN COUNTIES

AWARE THAT, as at 31st December, 2023, according to the County Governments Budget Implementation Review report for the first half of the financial year 2023/2024, County Governments had accumulated a total of Kshs156.34 billion in pending bills with Nairobi City County accumulating the largest share of Kshs107, 037,053,000 followed by Kiambu and Mombasa Counties at Kshs5,711,614,412 and Kshs3,922,131,877 respectively;

CONCERNED THAT, the accumulated pending bills in counties have significantly affected service providers in the counties leading to the closure of businesses, stalling of county projects, adversely affecting economic growth in counties, service delivery and ultimately slowing down the country's economic growth;

FURTHER CONCERNED that most of the service providers in the counties are battling court cases lodged against them by their financiers and suppliers while others are languishing in poverty exacerbated by the increased cost of living, with

increased mental health disease incidences and others dying as a result of the effects of colossal amounts of debt owed to them by county governments;

NOW, THEREFORE, the Senate-

1. Recommends that all County Governments pay verified pending bills amounting to less than Kshs 1 billion by the end of this financial year and those above Kshs1 billion by the end of the financial year 2024/2025; and
2. Resolves that-
 - i. Pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prioritize payment of pending bills as a first charge on the County Revenue Fund failure to which the subsequent quotas budget releases will not be done.
 - ii. County Governments shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations.
 - iii. Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates.
 - iv. County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.

(Sen. Olekina on 28.3.2024)

*(Resumption of debate interrupted
on 24.4.2024 - Morning Sitting)*

The Deputy Speaker (Sen. Kathuri): Who was on the Floor? Do you have the record? If you do not have one, then we can have---

(The Clerk-at-the-Table consulted with the Deputy Speaker)

Sen. Methu had a balance of 10 minutes. If he is around, he can utilise his minutes. If not, then we should have Sen. Maanzo Daniel Kitonga.

Sen. Maanzo: Thank you, Mr. Deputy, Speaker, Sir, for giving me an opportunity to contribute to this important matter. We have pending bills for the national and county governments. It is a serious matter in the county governments.

As you have seen from the Motion, Nairobi City County has accumulated the largest share of Kshs107,037,053,000, followed by Kiambu at almost Kshs6 billion and Mombasa at almost Kshs4 billion. When you have so many pending bills in the nation, especially in the counties, it means you are holding business people at ransom. It means that business people are unable to work. They could be at home with their businesses most probably closed down.

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This happened in Machakos County one time. Quite a number of businessmen who Machakos County owed money have done fantastic work in quite a number of projects in Machakos. The County Government of Machakos was not able to pay them.

Similarly, in the County Government of Makueni, there are quite a number of bills which have been pending for years and have been carried forward to the current government. I am aware that the current governor of Makueni has made an attempt to pay quite a number of pending bills. However, we still have a lot of money owed to contractors in Makueni.

That is making contractors bitter and affecting even taxes of the country. Such people would have paid taxes and the country would have progressed. Therefore, this Motion is important. We need to have a way of clearing, as much as possible, all pending bills in the national and county governments because they affect budgeting and progress of a county.

I support this Motion. The country should have a plan to clear all pending bills nationally and in the counties. Let them make sure that the same are verified, so that the country is not defrauded through fake contractors and contracts where money is owed.

Mr. Deputy Speaker, Sir, it is important to have a way of verifying. As soon as a pending bill is verified, it should be paid.

I thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Methu, you can utilize your balance of 10 minutes.

Sen. Methu: Mr. Deputy Speaker, Sir, I had already made part of my contribution. Before I stopped, I was painting an image as a Member of the County Public Accounts Committee (CPAC) and my Vice-Chairperson is here. I wanted to show how county governments end up with holes in their budgets.

I was pointing to this scenario which is uniform among all our counties when it comes to own source revenue. Even if we make payment of these pending bills a first charge and county governments do not estimate their own source revenue in regards to what they have collected within that financial year, we may not achieve much.

You find a county that has collected Kshs450 million, Kshs500 million or Kshs600 million in their budget, but in their budget statements, they estimate to collect Kshs1.2 billion. It is out of this budget that they developed their procurement plans. Ultimately, having expected to collect Kshs1.2 billion, they end up collecting Kshs700 million or Kshs800 million. This then leaves a hole of about Kshs400 million in their budgets. All counties need to address this deficit.

I know Sen. Cherarkey will help me. There is another budgetary provision that they intend to beat by overestimating their own source revenue. The Constitution and the Public Finance Management Act, 2015 that we rely on require that at least 30 per cent of the budgets of all the county governments, including the national Government, must go to development. So, this money they put in their budgets, in their own source revenue, is part of what goes to development.

I would want you to look at the pending bills that we are speaking about, not just for Nairobi City County, Kiambu County, or Mombasa County, you rarely find pending

bills for recurrent. You only find pending bills for development. Therefore, county governments must take it very seriously, especially when it comes to their own source revenue.

Finally, when I last stood here, I said that governments have perpetuity. Some counties have had two or more governors. For example, Nyeri and Kiambu counties have had more than three while Nyandarua has had three governors. The moment the first governor left office, the second governor when he took over, established a pending bills verification committee.

Now, if you have looked at all your pending bills, all of them and processed, you have a list of eligible pending bills and another list here of ineligible pending bills. If you have accepted that this is an eligible pending bill, why do you not pay it?

I was asking here and I have been asking the same question in CPAC where I serve as a Member, for a murram road that was done in the year 2013, and that one sits in your books as pending bills, how do you send the auditors to confirm whether that road exists or not? Now, with this kind of flooding we are experiencing in the country, both murram and main tarmac roads are being washed away. What would become of a 12-year-old murram road?

We all know a pending bill is money that somebody has rendered a service to the Government using his own money, but the Government has not paid him. People take loans and die. It is becoming catastrophic to do business with counties. It is the least fashionable unless the governor is your brother, cousin, boyfriend, girlfriend or husband for that matter, because you will be paid. It is difficult to do business with counties because there are two things. First, to even get that job, you have to know the governor very well. More importantly, to get paid for that job or service that you have rendered to that county government becomes very difficult.

As I wind up, it is not just about saying that pending bills are a first charge. The Controller of Budget (CoB) must help by insisting to governors that before they approve payment of new bills, there must be a roadmap of what they have done with the pending bills. Since 2014, the days of Dr. Edward Ouko, the Auditor-General at that time, he did an audit on the pending bills for all the counties. He gave them a report on the pending bills that they were supposed to honour. Some of those who were there in 2014, 10 years later, to this minute, have not been paid.

The CoB ought to help us in ensuring that the approval of all the requisitions that have been made by county governments in terms of settlement of pending bills. It should be chronological in a matter of the age of that bill. What is the sense of you getting paid for a job or a service that you rendered last year and a person who rendered the same service six years ago is not getting paid? Why are you jumping the queue? Is it because campaigned for, or have any relationship with the governor? That should not be the case. It should not be a death sentence or suicide to offer services to county governments.

As we deliberate on these pending bills, for example, Nyandarua County, has a very huge pending bill on Ol Kalou Stadium which its construction started in 2013 the year I joined the university. I was in the university for four years, graduated and got married. I am now a father and Senator yet, a person who rendered the services when I

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was at the university has not been paid. Now auditors are being asked to verify whether the grass was planted on that stadium in 2015. What are we doing to our counties? What are we doing to our resources? If the people of Nyandarua County have never had an opportunity to use Ol Kalou stadium, where is prudence in the usage of the resources? How do we say that the people of Nyandarua County are benefiting from facility?

It is not just about pumping money into a project. It is about pumping money into a project that is helpful to the people. People should be able to say that they can truly see their Kshs100 million or Kshs200 million; not on the books, not in the radio, not in speeches, but by utilizing that particular facility. They should point at JM Hospital and say, “this hospital has got about Kshs500 million and that is why we are getting this kind of service.” I support that the National Treasury must do something, but most importantly, the CoB must put her foot forward. In the Constitution, there was a reason why the office of the CoB was created. It was to help us in terms of answering some of these questions. No money is drawn from the County Revenue Fund (CRF) without the direct nod of the CoB.

The person who has the gate valve of money going to counties is the CoB. If the CoB rejects a requisition that has been done by the counties, that would be the only route of ensuring that we force, if we must, county governments and devolved units to honour their dues.

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Methu.

Sen. Cherarkey, you have the Floor.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. I support this Motion on pending bill brought by one of my lustrous Members of the Committee. I was taking notes literally, impressed with the grasp of the issues.

I thank you because there are people in Nandi, Nyandarua, and Meru counties, and across the country who are dead or taking diabetic and blood pressure medications because their mistake was to supply to county governments. People have sold property and forfeited loan payments. I know several businessmen and women who took Local Purchase Orders (LPOs) to the bank as collateral and ended up losing their houses, land and wealth.

We must speak with one voice as a country. We cannot allow a section of Kenyans who sacrifice their resources to ensure continuity of service provisions in State departments and county governments to suffer. I am aware that in the past, we have tried to ensure that when money is released as per Article 219 of the Constitution, 2010, it is disbursed immediately.

I will paraphrase what is happening at the moment. Under the law, the budgets are budgeted by the county governments and county assemblies. There is a procurement plan. This means that most of the county governments are violating the law. Since, before public participation, the Finance Bill and the procurement plan are processed and under the Public Finance and Management Act, they must be approved.

When you visit the National Treasury, Meru, Nandi, Vihiga, Mombasa, Garissa, Marsabit, Siaya and Homa Bay counties, money has been disbursed. However, when you go to these counties, they have pending bills. For example, my governor called Members

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of the County Assembly (MCAs) to Kaimosi the other day. He told them that the county could not develop in this financial year because of pending bills amounting to Kshs850 million. However, when you look at this schedule, Nandi County had pending bills amounting to Kshs306,553,678 as of June last year. Governors are taking advantage. The reality on the ground, as they say, '*vitu kwa ground, ni tofauti*,' it is Kshs305 million. What was the intention of the difference of Kshs850 million and Kshs305 million? This is a way to misappropriate the funds. The MCAs do not have a way of verifying.

There is also a misnomer. I want to chant the charge in the Constitution Petition E003 of 2023 in Kitale High Court. Allow me to quote the High Court that ruled that governors do not have the power to form verification committees on pending bills.

It is the exclusive domain of the office of the Auditor-General to verify the pending bills in this country. This matter was canvassed, heard, and determined by the Kitale High Court in Petition E003 of 2023. For instance, a governor may not like the face of the Senator for Vihiga County, Sen. Osotsi, and declare his pending bills ineligible. When they like your face, they declare the bill legible to be paid.

I thank the Kitale High Court for this declaration. They deserve to be applauded. Governors would resume office, verify the pending bills, and declare some fake and others genuine so that they can 'eat,' as John Githongo said in his book, '*It Is Our Turn to Eat*.'

The user paraphrase that is common among the Mount Kenya people. I know you are conversant being a Njuri Ncheke. They say that even if your mother is old, she is still your mother. This is what the governors have been using to plunder, pilferage, larceny and corruption at the expense of our people.

Mr. Deputy Speaker, Sir, I thank my professor who taught me civil litigation at Moi University at the FLB/2201, Professor Nixon Sifuna. He ruled the other day that if a county government or a State agency fails to pay you, for instance, Parliament, you attach its property.

I would like to inform Kenyans suffering because of the county governments. If they see a vehicle for the county government of Meru and they have your debt, clump it, take it to the market, sell it, and recover the debt. This is the only language they will understand.

In Nandi County, for example, if there is anybody who has supplied resources and used their money, should they spot the governor's car with the flag, stop, freeze, seize and sell it in an auction, do the recovery proceedings, and pay themselves. This is the reasoning behind Prof. Nixon's sifuna. I know that this wisdom is highly sought after. I am willing to provide the full citation of Prof. Nixon Sifuna's ruling to Members.

This is why some of us questioned the opening and operationalization of Bunge Tower without paying for the certificate that had been raised. One day, we will wake up to find somebody with a bigger chain than what Sen. Okiya Omtatah used to chain himself at Milimani Law Courts at the doors of Bunge Tower.

That is the reason Prof. Nixon Sifuna determined this matter because of the situation faced by our people. How can you explain that the Nairobi Metropolitan Services (NMS), which existed for two years, has a pending bill of Kshs14.5 billion?

They had only devolved three or four functions. Yours truly, the current Cabinet Secretary of Interior and National Administration, our brother, Senate Majority Leader *emeritus* Sen. (Prof.) Kindiki, ruled from where you are sitting and declared NMS an illegal criminal enterprise. They owe this nation Kshs14.5 billion. It had only three functions. Where is the money and who ate it? This matter should be referred to the CPAC, so that we can follow up and ensure there is implication.

In February, 2024, when there was verification of pending bills, the Crop Development Authority was leading with a pending bills of Kshs16 billion. It was followed by the National Youth Service (NYS) with a pending bill of Kshs14.5 billion. The sad reality is that Kenyans are owed Kshs550,000, Kshs20,000 and Kshs100,000 which shows these are ordinary people.

Why is it that these people do not have conscience to pay pending bills to people whose amounts total up to Kshs5 million? You will see pending bill cases of Kshs50,000 and Kshs200,000. Why would a mother in Nkubu supplying goods to Meru County Government be owed Kshs50,000 for five years?

I remember in Circular No.20 of 2019, the National Treasury wanted to stop disbursement to 15 county governments for non-payment of pending bills. What became of it? The National Treasury issued Circular No.7 of 21st June, 2023, to stop funds to specific counties. Pending bills should be the first charge. The law is clear. Who is violating it? This is why in Prof. Nixon Sifuna's ruling a person owed pending bills could attach the agency's property.

When you look at Gazette Notice No. 297 on 14th January, 2005--- I was in Form Three at one of the greatest schools; Kapsabet Boys High School, the school of African sons and gentlemen piping wisdom. There was a Gazette Notice No.297 on the guidelines for payment of pending bills. We are killing our businessmen and women. Unless we want to auction this country into the road to Shanghai for people who can give us money through the Export-Import (EXIM) Bank and other organizations.

Mr. Deputy Speaker, Sir, if they want the people to rise, it is by supporting them through the bottom-up economic model which the President is supporting. We must support those people who are younger. I can see my time is fast spent. On this Motion, I urge the governors, that they must ensure pending bills are paid to all Kenyans. Many Kenyans have sold their property and taken loans from the bank. I was talking with another gentleman and his house is almost being auctioned, simply because of non-payment. Their only mistake was to trust and supply the entity. Their only mistake was to ensure the entity functions because when somebody supplies water to this Chamber, we do not pay immediately. They have to wait for payment. They ensure that the Parliament and the county governments continue to function.

My colleagues Senators, we need to rise to the occasion and stand with those ordinary Kenyans. I feel bad when I meet somebody in Nandi County who is being owed Kshs20,000, Kshs100,000 or Kshs500,000 for the last almost 10 years. This is cancerous and the shame that people want to destroy you with the aspect of devolution. Devolution must be widened and deepened. However, the only way to ensure the devolution flourishes is to ensure service provision is never hindered by paying pending bills. We

also ask counties to raise their own source revenue. For instance, Nandi has the potential of raising Kshs630 million from own source revenue. Therefore, even as we go into the future, we must agree as a nation that payment of pending bills should be a priority in all aspects.

Mr. Deputy Speaker, Sir, even as the country goes through many challenges, this must be settled. During COVID-19 pandemic, we purchased most of the supplies out of what we call emergency or direct sourcing. With the current issue of floods, there will be many needs. The county government and the national Government will be required to supply services and goods, for instance, food and supplies, among others, to Kenyans who are suffering. While we empathise and send our condolences to many Kenyans who are suffering because of floods, we must ensure that service providers are also paid. Many service provisions are needed at the moment even as the planting season is ongoing.

Finally, let the people stick to procurement plans. Let counties not budget without the allocation of resources. How can you budget to buy water in this Chamber, for instance, when you do not have a budgetary allocation and that is what arises?

As a Member of the CPAC, I hope this matter shall be referred to us so that we can interrogate this because this is a life issue. This matter is dear to many Kenyans. Many Kenyans are on drugs for various ailments, for instance, blood pressure and diabetes. Some have even passed on because of the challenges of being owed by county governments and state departments.

There was another entity that claimed they are owed Kshs650 billion. I know there is the national public debt. However, we must agree going in the future; we must have an ultimate responsibility. I am praying for a day that a governor will be brought here to be prosecuted because of non-payment of pending bills. In my county, there is a creamery that has a stalled project worth almost Kshs1 billion and pending bills has not been paid.

Mr. Deputy Speaker, Sir, because of a fraction of expiry of my time, I beg to rest, support and bring amendments, if need be.

I thank you.

(Interruption of debate on Motion)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM BOMET UNIVERSITY

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I have a communication on the visiting lectures and students from Bomet University.

Hon. Senators, in the Public Gallery we have 58 students and two lectures from Bomet University, in Bomet County, who are undertaking a one-day education visit to the Senate.

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Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

(Applause)

On behalf of the Bomet Senator, who is not around in the Chamber, I will ask Sen. Crystal Asige to welcome these visitors. You have a fraction of one minute.

Sen. Crystal Asige: Thank you very much, Mr. Deputy Speaker, Sir, for the honour to welcome to the Senate the visiting delegation from Bomet County.

I extend my warm welcome to you here this afternoon even though it is a very rainy afternoon. We are very happy and honoured that you decided to choose the Senate as a place where you want to come, learn and experience what we do here as Senators of the Republic of Kenya.

I wish you a fruitful stay. Hopefully, we will get to greet each other in the corridors before we all go home this evening.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Osotsi.

(Resumption of debate on Motion)

Sen. Osotsi: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to also make my valid comments on this Motion by the Senator for Narok, Sen. Olekina, on the important matter of pending bills in our counties.

A few months back, the Auditor-General, Madam Nancy, was heavily quoted by various media houses trying to tell Kenyans that in accounting terms, there is nothing called pending bills. This is another invention by Kenyans. However, in accountancy, there is nothing called pending bills. It is a debt. What they are calling pending bills is a debt. She went ahead and questioned and said that every county, including the national Government, has a budget. Therefore, you budget and say these are the things I want to do for the year. How come you end up not being paid? You should pay. Even as we are discussing this Motion, I am finding it a bit awkward for us to keep on lamenting about pending bills in our counties and the national Government, yet we are doing nothing about it.

Mr. Deputy Speaker, Sir, when you talk about pending bills, it means you have no budget control and performance in your county. Why do they pass budgets? Why do the MCAs sit there and approve budgets? Why are those budgets taken to the CoB and what does the CoB do with those budgets? These are serious questions that we should be asking ourselves since there are gaps in the process which lead to people not being paid.

I believe if the MCAs who approved this budget monitor the implementation of this budget and the CoB is able to look at the budget critically and approve requisitions

that are made to her based on the budget that she has, we would not have this challenge of pending bills.

We have this problem of pending bills - Apart from corruption, we lack discipline in our system. I have sat in this House and every afternoon; I hear Members raising statements on the issue of pending bills. I have also raised a statement on pending bills in my county. They appear before the Committee on Finance and Budget and promise that they will do some things. However, when they go on the ground, the culture continues. The bad manners continue.

We have had people with historical pending bills all the way from 2014 to now. These are people who have delivered. They constructed hospitals and roads, but they are told they cannot be paid simply because one or two papers are missing.

Mr. Deputy Speaker, Sir, our county governments must be serious. I agree with the amendments proposed by the Mover of this Motion that one of the things we need to do is to insist on having a payment plan delivered to the CoB. The payment plan should give priority to historical pending bills so that you do not pay new bills when we have people who supplied since the years 2014, 2015 and 2016, yet they have not been paid to date. Some of them have died while others have closed businesses and you are paying your friends' current bills. Something has to be done.

The biggest problem we are having is the payment of historic pending bills. Some of them are not paid because maybe the governor who is there did not like them, or maybe they were competitors with the former governor, so he ends up not paying the historical pending bills. In order to do justice to our people, this Motion has to be amended to make it very clear that all historic pending bills must be paid by all the county governments.

I like the proposal in this Motion that all these pending bills, which are less than Kshs1 billion, must be paid before the end of this year, and the ones which are over Kshs1 billion must be paid before 2024/2025 financial year. This can be done. It is not something difficult to do. This House has powers. We are the ones who approve money that goes into our counties.

Why can we not exercise our power for the first time so that our county governments start doing the right thing.

Today we have passed the Division of Revenue Bill (National Assembly Bills No.14 of 2024). Very soon, we are going to do allocation to our counties. Can we be very clear? Can we put these resolutions that we have in this Motion in that Bill so that we demand that historic pending bills be cleared before the end of this year? We can demand that all the existing projects be completed before new ones are done because that is another problem we are having in our counties. I suggest that, as much as we are going to pass this Bill, we should also put these recommendations that we are putting in here, on the county allocation that we are going to work on in the few coming days.

I started by saying pending bills is a sign of failure in our system. We established an office called CoB. I want to be very clear that this office is not effective. This office is inefficient. The CoB keeps on lamenting. However, there are simple things that committees of this House have asked the CoB to do, and she is not doing.

The CoB appeared before County Public Investments and Special Funds Committee and we directed her to prioritize the automation of our office. It has not been done. I am told because she has now realized there are some monkey games that go on between governors and her officers, she has now decided to go through her files herself. This has made our counties to continue suffering. Approvals are being delayed.

We have raised an issue of diversion of funds, that there is a budget, she has a copy of the budget. Counties make requisitions to her. She looks at the requisitions and approves them. However, when counties go home, they introduce and pay new things. The CoB is unable to resolve this problem. I expect that this House must summon the CoB to appear in this House. We have a Committee of the Whole House, so that some of these issues affecting our office and counties can be addressed, particularly the problem of diversion of funds, which ends up being corruption.

We should also ask ourselves one important question. Why are our counties not able to meet targets on own source revenue? Counties were established, not just to be avenues for sharing the national cake, but also as economic units to generate their own money.

When the national Government delays to send money, the counties are paralysed because they are over dependent on the money from the national Government. They have many sources of own source revenue, which either deliberately they have refused to maximize on that, or they are sleeping on the job. It saddens that the defunct local authorities were making more money than the county government now. Then you ask yourself, why? We are in an era of technology. They have more resources than the defunct local authorities, but they are not able to raise money to support their own source revenue.

The issue of own source revenue in our counties is another conversation that this House must have because counties have now turned into employment bureaus and corruption scenes when we have avenues for own source revenue.

Mr. Deputy Speaker, Sir, there is the issue of delayed disbursement of funds. Next week, I will be bringing a Motion on that. I do not understand why we pass the disbursement schedule every year in this House, indicating that monies will be sent to counties on the 15th day of every month. Then, someone junior in the National Treasury decides to disregard all that and sends money to the counties when he feels, like three months later or four months later. Then, why do we sit here to pass the disbursement schedule?

(Applause)

This is another conversation that we must discuss in this House because I do not want to go home, and then I am confronted by county employees asking me why they have not been paid their salaries, and yet I have passed the disbursement schedule. The executive should stick to that.

The Motion I am bringing here next week is to say that the schedule has to be respected. If there is any variation delaying disbursement, we do not want to hear

rumours outside there. The Cabinet Secretary for the National Treasury and Economic Planning must appear in this House to tell us why he has delayed to send money to the counties. That is the only way we will get these people to send money to the counties in time.

One of the pending bills in counties is pension and statutory deduction like NSSF. We have done a report that counties owe pensioners in excess of Kshs80 billion and it has been adopted in this House, yet someone is playing monkey games with it. We said that we want the Cabinet Secretary for the National Treasury and Economic Planning to gazette the Committee that is going to implement that report in 30 days.

The Cabinet Secretary has not done that because the Attorney-General, who was the Speaker of this House, is sitting on that report. The resolutions of this House must be respected so that we move our counties forward.

Mr. Deputy Speaker, Sir, I have quite a lot to say on this matter of pending bills. My county appeared before the Senate Committee on Finance and Budget and made promises. I would like to see them implementing those promises and paying all the historical and any other pending bills they have within the next two years as proposed in this Motion.

With those remarks, I fully support this Motion and request Members to also support it. There are outstanding issues that the Senate needs to deal with, such as matters of own source revenue, diversion of funds, performance of the---

The Deputy Speaker (Sen. Kathuri): Sen. Munyi Mundigi proceed.

Sen. Munyi Mundigi: Bw. Naibu Spika, naunga mkono Seneta wa Kaunti ya Narok. Kuna mambo ambayo yanafaa kuangaliwa. Kenya ina kaunti 47 na kila mojawapo ina shida zake. Katika ulimwengu huu, miti haitoshani.

Magavana walipochaguliwa katika kipindi cha kwanza na cha pili, walijiri wafanyikazi waliokuwa na uhusiano nao. Wengine walikuwa wezi na walaghai. Magavana waliochaguliwa 2022 wanajaribu kusaidia ugatuzi. Watu wanafaa kulipwa madeni. Tunajua kaunti nyingi zina madeni. Kwa mfano, Kaunti ya Embu ina madeni ya bilioni Kshs2.2. Kitu kingine in *wage bill*.

Naomba Maseneta wenzangu tusaide kuendeleza ugatuzi kwa kuangalia usimamizi wa kazi katika kaunti zetu. Kuna kaunti ambazo zimepewa mabilioni ya pesa. Kaunti kama vile Turkana imepewa pesa nyingi kuliko Kaunti ya Embu ilhali tunasema magavana wanafaa kufanya kazi.

Tunapozungumza kuhusu magavana kulipa *pending bills* na *wage bill*, hatuangalii pesa ambazo wanapewa au mishahara ambayo wanalipa. Kule vijijini, watu waliowachagua wanasema kuwa hakuna kazi ambayo wanafanya. Ni muhimu tujue ili tusionekane kuwa hatuelewi kama Maseneta.

Tulikuwa tunapigia upato mfumo wa kura moja, mtu mmoja, shilingi moja. Tulipoingia katika Bunge hili, magavana walitaka pesa za kaunti ziwe bilioni Kshs425 lakini tukawapa bilioni Kshs415. Kwa sababu ya shida ya ukosefu wa pesa iliyokuwa wakati Serikali ya Kenya Kwanza ilipoingia mamlakani, tuliwapa bilioni Kshs385. Hapo

ndipo makosa yalifanyika. Hatukufikiria sababu ambazo magavana ambao ni wasomi walikuwa nazo wakati walipoitisha pesa hizo.

Ni lazima tuangazie mambo ya *pending bills* na *wage bill*. Sio lazima iwe vita kila wakati. Ndio maana tumepitisha kuwa wapewe Kshs415 billion. The Salaries and Remuneration Commission (SRC) imependekeza wapewe Kshs405 billion. Tunataka kuona kama watafanya hiyo kazi yote tukiwaongezea pesa.

Kwa hivyo, Bw. Naibu Spika, naunga mkono lakini kuna mambo ambayo lazima tuangalie hata kama pesa inakuliwa. Tunafaa kujiuliza kwa nini magavana wanaitisha pesa nyingi. Ni kwa sababu kuna shida katika kaunti zetu. Kuna mambo wanayofaa kutekeleza lakini pesa haitoshi. Watu wanaendelea kufanya miradi ya maji na mambo mengine.

Juzi madaktari walipogoma, watu walianza kusema kuwa kuna ubadhirifu wa pesa. Walisahau kuwa mambo ya afya yamegatuliwa. Shida kama hizo zinatokea kwa wingi. Magavana wana ujuzi ya kufanya kazi lakini bajeti zao hazilingani na pesa tunazowapa.

Naomba sisi Maseneta tuangalie jinsi mambo yalivyo bila kusisitiza kuwa kuna ubadhirifu wa pesa ilhali tunataka walipe madeni. Kwa mfano, Kaunti ya Embu ina madeni ya bilioni Kshs2.2. Gavana atalipaje madeni ikiwa hana pesa ya kulipa mishahara? Kuna watu waliokuwa wanapata mishahara lakini hawapokei. Watalipa mishahara na nini? Wakati umefika wa magavana kulainisha kaunti zao.

Bw. Naibu Spika, naunga mkono Hoja hii. Tunafaa kuzingatia mfumo wa mtu mmoja, kura moja, shilingi moja.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Kisang’.

Sen. Kisang’: Mr. Deputy Speaker, Sir, I rise to support this Motion by the Senator for Narok. The issue of pending bills has been there for a long time since the inception of devolution.

If you do the maths, the amount we have right now as pending bills is Kshs156 billion. Majority of these are recurrent expenditure. You wonder why there are pending bills on recurrent costs. Most of these could be salaries or statutory deductions such as the PAYE, pensions and National Health Insurance Fund (NHIF).

One of the key reasons why some of these arise is because of mismanagement. It means that governors are not managing the counties properly. The County Public Investments and Special Funds Committee (CPIC) has had several meetings. I heard my colleague Sen. Cherarkey talk about CPAC too. When you go through the reports of the Auditor-General, you will realise that county governments over-budget their own source revenue, instead of being realistic and budgeting amounts they are able to collect.

We urge Members of County Assembly (MCAs) to be finding out how much their county government collected as own source revenue in the previous years before they approve their budget. They should not accept anything more than 10 per cent in positive variation.

The reason they over-budget, leading to this mess, is because our MCAs are not keen to ensure that county executives are put to check. They should be told to be realistic when budgeting. You cannot tell us that you collected Kshs300 million last year and this

year you want to collect Kshs700 million. What would have happened? What is the miracle that would have made the county to double or even triple revenue? This is something that we need to monitor because our people have suffered.

Most contractors have closed business and some auctioned by banks. Some are depressed and others have died because of non-payment after providing goods and services to the county.

This Motion is timely. We need to push and ensure that before the close of the financial year, county Governments pay the pending bills that are below Kshs1 billion and those above Kshs1 billion be paid in the next financial year. We should not use the excuse that there are delays in Exchequer releases.

You remember, before the end of the last financial year, the Kenya Kwanza Government fully disbursed funds. There was no delay maybe in this financial year, but even though, they should get the allocations by September. They need to give priority to paying the contractors and not salaries or other unnecessary things.

[The Deputy Speaker (Sen. Kathuri) left the Chair]

[The Temporary Speaker (Sen. Veronica Maina) in the Chair]

In fact, Madam Temporary Speaker--- I can see there is change of guard.

The Temporary Speaker (Sen. Veronica Maina): There is change of guard. We proceed.

Sen. Kisang’: It is now Madam Temporary Speaker. I was insisting to say Mr. Speaker, I did not know that you have changed your sex.

The Temporary Speaker (Sen. Veronica Maina): Point of correction; it is the change of the Speaker.

Sen. Kisang’: Sorry, it is the change of the Speaker. People have suffered because of this own source revenue. As I have said, let our Members of County Assemblies (MCAs) help the counties by ensuring that the Executive is accountable. They should not budget for unrealistic own source revenue.

Secondly, I ask that as they pay the pending bills, we want them to do an aging analysis. They should pay according to the age. The bills that have been there since 2013 and 2014 be paid first, so that our people may continue to trade and employ.

If you do not pay, it basically means that when business close, there are people who will be rendered jobless and go home. So, they should do an age analysis and give priority to the older debts.

The Controller of Budget (CoB) also has a role to play here. She is the one who approves payments, if a county does not give priority to pending bills, she should not approve its payments. After approving, she should also have a mechanism of following up to ensure that the county Governments do not divert. They can cheat and give pending bills as a payment to be made but on the ground, things are different. They make other payments not as per the list that had been approved by the CoB.

Madam Temporary Speaker, these counties should not resist. I know, the Commission on Revenue Allocation (CRA) and the National Treasury have a conversation to assist all the counties come up with a revenue Integrated Management System. However, people are saying that we are clawing back on devolution. When you give out a system, it is not clawing back on devolution, you are actually helping them.

They are using the IFMIS on expenditure. So, if they are assisted to procure a revenue collection system and they are not paying for it, then we are helping them because, counties across have different systems. We do not even know if some of them get the money or it goes to private persons accounts.

We need to push and ensure that the National Treasury helps them have that Integrated Revenue Management Systems so that it is easy and real time. The Central Bank of Kenya (CBK) will be able to see what they will have collected. Otherwise, when we say that the own source revenue is not enough, we could be losing about 50 per cent of the revenue through other dubious means.

Some could even be collecting cash and if you collect cash, that is basically an avenue for leakage. So, it is important that they embrace the system that has been proposed to serve all the counties because, if they are not resisting IFMIS, why should they resist the Integrated Revenue Management System? It will help them ensure there are no leakages.

Madam Temporary Speaker, I have checked and seen that my county is among those that receive the least allocation. I have seen the pending bills for Elgeyo Marakwet County is just Kshs2.7 million. It is not bad. However, the Kshs2 million needs to be paid because, maybe *kuna mama mboga* who is owed Kshs50,000 or Kshs100,000. The Governor should pay our people so that they can continue to trade.

Most of our pensioners are suffering. Some have even died because the county governments have not remitted pension deductions to the County Pensions Fund (CPF), Laptrust, Lapfund and the National Social Security Fund (NSSF). This is very serious. We should not entertain any pending bill on recurrent because, these are deductions from an employee's payroll. So, why should they not pay what belongs to the employee?

Madam Temporary Speaker, with those few remarks, I wish to support and ask Members to also support. If there are any amendments, we can bring them so that this Motion can be passed next week and ensure that, within the next one and half months or so, the county governments do a supplementary budget to pay these particular pending bills.

I support.

The Temporary Speaker (Sen. Veronica Maina): Thank you, hon. Senator.

I stand advised that the time that was allocated to this Motion has now expired and we have exceeded with a few minutes. It was allocated three hours under Standing Order No.111(1). It was now time for the Mover to reply and he is not here. So, I will defer the reply to this Motion.

However, we note that it generated a lot of interest from many Senators. Sen. Faki, what is your point of order?

Sen. Faki: Madam Temporary Speaker, my position is that, since the Mover is not present to reply, maybe you allow us a few minutes to also contribute to the Motion. We will appreciate if you allow us three minutes each. We have been sitting here since 2.30 p.m. waiting for an opportunity to speak. I know it is at your discretion.

(The Clerk-at-the-Table consulted with the Temporary Speaker)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, Standing Order No.1 is usually applicable when we do not have a specific Standing Order that is providing for the action that is being taken by the House. Now, the challenge we have today with this Motion is that hon. Sen. M. Kajwang' filed an amendment to the Motion and pending the completion of those three hours, we are only remaining with 15 minutes, if I am not wrong.

Clerk, is it 15 minutes? If those minutes are utilized now, it means that firstly, the Motion will not have a chance to be amended and secondly, we will prejudice the reply to this Motion and it is a very important Motion. This is because once the three hours lapse, we will be in a dilemma considering it has to close at the end of those three hours.

In view of these challenges and because once the amendment is moved, the Mover will have about 15 minutes which he can share with the Senators at the point when he moves the amendments. I therefore hold that we conclude the debate at this point and retain the 15 minutes so that the Motion does not abate for lapse of time and considering Standing Order No.1 is not available right now for my use because of the provisions that are specifically stated in Standing Order No. 111(1) of the Senate Standing Orders.

With that I will ask the Clerk to read out the next Order.

(Motion deferred)

Sen. Beatrice Ogola. You have a balance of 35 minutes.

BILL

Second Reading

THE MATERNAL, NEWBORN AND CHILD HEALTH
BILL (SENATE BILLS NO.17 OF 2023)

(Sen. Ogola on 16.04.2024)

(Resumption of debate interrupted on 16.4.2024)

Sen. Ogola: Thank you, Madam Temporary Speaker. I had moved that the Maternal, Newborn and Child Health Bill (Senate Bills No.17 of 2023) be read a Second Time.

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It is worth noticing that I move this Bill against the ongoing medics strike who are the custodians of healthcare. This Bill seeks to put in place a framework for the wellbeing of pregnant mothers, new-born babies and children as well. In this Bill, the age of children goes up to 12 years.

Madam Temporary Speaker, mothers continue to die while trying to secure the continuity of our future generations. As I speak here, last evening, we lost a mother in the Homa Bay Referral Hospital. She was a young woman from Magunga, Suba South and she left two children. If you were to go every other region, you would see that we continue to lose mothers as they give birth.

That is why this Bill wants to address the wellbeing and the services that the pregnant women and new-born babies are entitled to.

Sometimes last year, a declaration was made by the World President of Gynaecologists. The declaration talks about the fact that the measure of a country's state of health is predicted by its maternal mortality ratio; if we can guarantee the safety of our mothers in their pregnancies, as they deliver and the safety of babies in their first years. As we lose mothers when they are delivering, a commentary goes ahead to say that worse is that we cannot assure that every baby born stands a fighting chance to celebrate their first month of life.

Madam Temporary Speaker, in all our communities, averagely people were able to applaud the standards of that community by the well-being of the women and children that are in those communities. In my village and not for any reason, men are judged by how well the women around them are kept and how the children they raise are kept. On the same note, whatever kind of man you are, if the women around you are not kept well and the children around you are languishing, you are not a considerable person to be notified.

Madam Temporary Speaker, we must be intentional in reducing preventable maternal deaths. I know this story is everywhere. In December, in my local sub-district hospital, we lost two young women from college when they were giving birth. We lost the wife of a young teacher, Mrs. Opiyo. She was a promising young mother who left behind three children. She walked into a health center called Ongako in Ndhiwa sub-county, having prepared herself. In less than an hour, Mrs. Opiyo Milton was pronounced dead.

Just the previous weeks, we had lost two students, Caroline Urowe and another young student. That is why we must be intentional on how to improve our services. How do we improve the services that are given by both levels of government to ensure that we reduce maternal death?

Madam Temporary Speaker, even as we celebrate, it is worth noting that the impressive records of increased antenatal care visits and attendance in our hospitals, the skilled birth attendants and the indices that are recorded in our hospitals, have not translated to reduced maternal deaths in our country in the 21st century. This Bill will ensure that the status of maternal healthcare goes to the required international standards.

I would also like to give a brief of a demographic health survey that was done in 2022. If I am not wrong, it could be the latest. It has percentages in our counties. If I read

them out, you will see that other than Nyeri and Nyandarua which are at their lowest, a number of our counties are not doing well.

This brings me to a statement that an economist gave out. If we have invested so much in bringing our mothers and girls to hospitals and dispensaries, then why are our girls and women still dying from a natural activity such as childbirth? There are concerns that we must address as a country. It is time we worked on the quality of our service provision. Some of the concerns and critical questions that we must ask ourselves as a country are; do the services that we provide meet the minimum quality standards?

I bring up these concerns because as a country, we must address the issue of mothers and girls that we continue to lose. Other concerns are; do the facilities that we have in our healthcare facilities such as dispensaries, health centres and referral hospitals ensure the highest attainable standards of care? Do we have shortfalls in health systems financing models? What are our models of financing health? Do we have an adequate workforce that is available for patient care? The workforce must be looked into in terms of numbers and skills that they have. We must also address the issue of an unresponsive health information system. We should not expect different results, yet we continue to do things in the same old manner. It is about learning and unlearning what we have.

As I indicated when I began to move the Maternal, Newborn and Child Health Bill (Senate Bills No.17 of 2023), Part I talks about the preliminaries. These are just interpretations in the Bill. The Bill has a short Title that may be cited as the Maternal, Newborn and Child Health Act, 2023.

We also have interpretations and objects of the Bill. The objects of the Bills are to—

(a) Provide a framework for the delivery of comprehensive quality health services to meet health needs of mothers, newborns and children.

(b) Establish a coordinated and structured system for provision of quality maternal, newborn and child healthcare services.

Madam Temporary Speaker, we go to Clause 4 and you see the principles for service delivery. What are the major principles of service delivery? I am talking about access and equity. How do our mothers, the maternal the newborn, and the children up to 12 years, do they have access and are these services equitable to these cohorts?

The principles include access to services. Are the services timely? When I refer to the laws we had in the Homa Bay District yesterday, you probably think about a mother who did not have timely services. Probably somebody did not ensure the kind of service this woman needed. So, the principles talk about access, equity and timeliness.

Another principle is the collaboration between the national and county governments and the relevant stakeholders. Health is a function of the county governments. It is a shared function. This Bill spells out the services that the county government must give to our mothers, our newborns, and children up to 12 years.

We are talking about inclusivity in the delivery of health services. We are here spelling out in the Bill the recognition and the sensitivity of the cultures of various communities. This Bill talks about targeted empowerment and capacity-building initiatives for people both at risk and persons with special needs. It is worth noticing

when you talk about people with special needs that these are individuals with additional health needs and require assistance above the regular health needs at the general population.

We are here referring to the people with mental illness, which are additional needs. We are talking about people who are psychologically challenged, marginalized and the disabled. There is a whole clarification of people with needs. When these people with special needs are pregnant, other than the fact that they could visit the health center, who follows them to ensure that they are getting the services that are required of them?

Often in our urban centers, even small markets, you see even those who have mental challenges. By local standards, people call them mad for example, a mad woman but they are human. They get pregnant. Who ensures that this woman attends all her clinics? Who follows up on these special needs groups to ensure they visit the hospital for the entire period?

This Bill talks refers to this group of people with special needs. In Clause five, Part Two, we are talking about the right to health services. I emphasize that this right, intimates that the services must be timely and appropriate to the person in need. The person must be treated in our health centers and health facilities with dignity, respect and privacy.

Some of the rights to health services in this Bill include emergency treatment and essential medicine. They must be entitled to an attainable state of mental and physical health. This right to health services includes promotive, preventative, rehabilitative, and curative care. All these are spelled out in Clause Five.

For the enjoyment of this right to maternal newborn and child health, some responsibilities are spelt out for the national and county governments. Health is a shared function; county governments have their role, and the national Government has theirs. These roles are spelt out in Clause 5(3)(a). It states that-

“For the enjoyment of the right to maternal, newborn, and child health, the national and county governments shall-

(a)respect, protect, and fulfill the right to maternal, newborn, and child health and guarantee mechanisms for its enforcement.”

Madam Temporary Speaker, Clause 6 spells out the services that must be given to non-pregnant women. Pregnancy is a noble occurrence, but there must be an environment that is conducive for that pregnancy.

Clause 6 spells out some mandatory services that a non-pregnant woman is entitled to. They include but are not limited to preconception care services as may be prescribed from time to time and appropriate counseling services. If a woman needs those services, they must be counselled and be prepared for pregnancy. They are entitled to health information and education as they make the decision to be pregnant. They are also entitled to referral for certain services that are not limited to services like adoption. The Cabinet Secretary may prescribe standards for the effective delivery of services regarding the safe occurrence of future pregnancy.

This Bill spells out the services that a non-pregnant woman is entitled to. Then it goes ahead to prescribe services that a pregnant woman is entitled to.

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The Cabinet Secretary shall put in place measures to ensure access, by every pregnant woman, to health services. The health services include early detection of pregnancy. Women, while pregnant, have a right to know as early as possible that they are pregnant. Then, they will get the special care they require.

They are entitled to free prenatal care and referral to childbirth preparation classes. If you talk to most young women, you will realize that nobody prepared them for childbirth. There are some who, when they give birth, do not know how to handle a child. These women require this kind of preparation because those children are entitled to quality care.

Madam Temporary Speaker, they are also entitled to referral and adoption services, to health care services in the intrapartum period and during the post-partum and post-natal period. There must be a training of even feeding and care of infants, including breastfeeding support practices. As I talk about this, some people might assume that those are skills that people just get to know naturally.

We are in an era where our young girls, because of school and other current activities, do not even live with their grandparents. Long time ago, women lived with their grandmothers, and they would train them on some of that care. Therefore, we do not want to assume that they have those skills and that is why this Bill spells out those services. It is on this note that we even applaud the Linda Mama Initiative. We encourage that it goes on because it has been a relief to our women in the past.

On this, we go to the neonatal services, the period and services that children under 12 years are entitled to. This Bill spells out that every health care provider shall provide to a child from the time of birth to the age of 12 years.

Madam Temporary Speaker, some of these services are spelt out; that is a comprehensive newborn care, including post-natal follow-up as may be prescribed. Additionally, it provides for health services that ensure child survival growth, because that also has been a challenge that we cannot ensure.

As I said, every baby born stands a fighting chance to celebrate their first month or first year of life. Therefore, this Bill ensures that there are services that are spelt out for children from when they are born up to when they are 12 years old.

As I have said, it spells out that the health services will ensure child survival growth and development including, optimum child nutrition, childhood vaccination, growth promotion and monitoring, developmental promotion and monitoring and child protection service. In some parts of this country, we cannot be sure that children are getting the right food for their growth. A progressive country must ensure that children have access to basic food that ensures that their growth is optimal.

I have often seen certain services like food being given to early childhood pupils in some schools. However, there is nothing that compels the schools and Government to provide this kind of nutrition. There are other areas in this country that I have said where children survive on the very basic. However, we are looking forward to a community that grows well and children that will grow into responsible Members of this country and service this country. That is why some of those services are prescribed in this Bill. This

Bill prescribes a comprehensive assessment, a diagnosis, a treatment, rehabilitation, referral and follow-up as may be prescribed.

Madam Temporary Speaker, as a country we should not have a problem with follow-ups because just recently, we provided community health workers in our counties that are paid. These are some of the services that they will be providing to our populations.

Clause 9 talks about services for women with special needs. I already referred to these cohorts of special needs, that we have women who have mental and psychological problems and we must cater for them when they are pregnant. They must receive appropriate pregnancy-related services as may be prescribed even at their state of mental needs. It basically means that there must be extra care that is taken on these special needs cohorts above the normal health needs that we deal with on an everyday basis.

Maternal health services that are responsive to the needs of pregnant women with special needs must be provided. There must be diagnosis, treatment and follow-ups of mental health problems, both acute and chronic, including emotional and learning disorders.

In the case of pregnant adolescents, we must speak them out because we know they are younger people who might not be privy to certain knowledge. This Bill spells out the services that are entitled to them. We must provide adolescent friendly health services, counselling and anticipatory guidance because we anticipate that being adolescents, they also have peculiar needs that will need peculiar care.

In the case of women with disability, we must provide disability-friendly services. This Bill spells out the role of two levels of Government; that is the national Government and county governments in their functions in contributing to the health care of maternal, newborn and child health.

The county governments have the major functions in health. The national Government remains with the standards, the guidelines, collaboration, public participation, monitoring and education. This is because people need to know some of these services that are provided in this Bill.

We have a monitoring and evaluation unit in Part IV because it would be important that as a country, we are able to pick where these people are. We should ensure that these services are given and where they are not given, then we should be able to make corrections in time.

This Bill talks about quality assurance. That, the Cabinet Secretary shall ensure the implementation and adherence to standards and guidelines in quality in maternal, newborn and child service in our hostels, institutions and referrals hospitals. That is what will make a difference from what we have been doing in the past.

This Bill spells out certain punitive measures in the general provisions. For example, in Clause 24 2A, it spells out that a person offering these services, who knowingly contributes or commits an offence is entitled to some fine not exceeding Kshs500,000. They are talking of a hospital or a health facility offering these services. There is a punitive Clause that spells out a fine not exceeding Kshs1 million or imprisonment if some of the services that are spelt out are not offered.

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Madam Temporary Speaker, this Bill concerns counties because health is devolved. County health services are devolved under Part 2 of the Fourth Schedule of the Constitution. County health facilities offer maternal, newborn and child health services. Therefore, the Bill affects county governments.

This is not a money Bill according to Article 114 of the Constitution. The Bill deals with matters other than those listed within the definition of a Money Bill under Article 114(3) of the Constitution.

(The red light was turned on)

Madam Temporary Speaker, as I wind up, kindly allow me one minute more to call the Seconder.

The Temporary Speaker (Sen. Veronica Maina): Senator, you can proceed to invite the Seconder.

Sen. Ogola: We should not allow our mothers to continue dying while in the process of securing continuity of our future generations.

Madam Temporary, Speaker, I request Sen. Crystal Asige to second this Bill. I thank you.

Sen. Crystal Asige: Thank you, Madam Temporary Speaker, for this opportunity to second this Bill; the Maternal, Newborn and Child Health Bill, 2023.

I feel privileged to stand here to second this Bill because I am a person who will be assisted when a time comes for me to make a decision to have a child and build a family. I am not a mother yet. The Mover of this Bill is one of my biggest encouragers to start a family. She keeps asking when I will start a family.

I want to tell her today, in front of all Kenyans as I second this Bill, that the reason I have not started a family of my own is because of personal fears and doubts of readiness to be a mother of a child or children with my visual disability. Moreover, my own fears are relayed by examples that I have seen with women and girls who are pregnant with disabilities and giving birth in our healthcare systems.

The atrocious treatment that they sometimes get has scared me out of making this decision of starting my own family as a young woman with visual impairment. However, I am glad to stand and support this Bill because I know when enacted, it will help people like me allay some of these fears.

The principal objective of the Bill is to propose a legal framework through which delivery of high quality maternal, newborn and child health services can be enhanced, addressing the morbidity and mortality among mothers with children and ensuring access to health rights for us, as well as any other matters related to maternal newborn and health.

It also seeks to provide a platform for raising the profile for maternal health services. Provide a framework for formal engagement, cooperation and promotion of coordinated approaches to service delivery between the National and the county Governments. Enhance accountability and social funding for these health services.

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A salient feature of this Bill is that it highlights the importance of access to quality health care and education by the public. Paying special attention to minorities, at risk people, marginalised communities and people with special needs. This demographic has historically had extenuating challenges in accessing quality and non-discriminatory maternal health care.

Madam Temporary Speaker, additionally, the inclusion of Community Based Organisations (CBOs) in interventions will go a long way in making sure that provisions for the maternal, new born and child health services are delivered with due sensitivity towards cultures of various communities, to ensure adaptability, acceptability and other reasons that we always see across the country. According to the latest Kenya Demographic and Health Survey (KDHS), as a Nation, we currently enjoy decreased mortality rates for children compared to the last three decades. This trend shows tremendous progress. Yet, there are still so many things to be done. Kenya's current mortality rate amongst children is 41 deaths per 1000 live births for under five-year olds and 21 deaths per 1000 live births for neonates most of which are preventable causes.

With the world average at 38 deaths per 1,000 alive births for under five-year olds and 18 deaths per 1,000 for neonates, there is clearly still a need for targeted interventions for the Ministry of Health (MoH) to adhere to as well as relevant State Departments to solve.

Upon analysis of this Bill, it is clear that the focus is on interventions meant to bring us closer to the world average in line with our commitment to Goal 3 of the Sustainable Development Goals (SDGS) of 21 per 1000 under-fives and 12 per 1000 neonates.

Of course, we have a long way to go and wish for even less than that in future. Hopefully, that will happen through the enactment and implementation of this Bill.

Madam Temporary Speaker, Sir, I bring to your attention some specific provisions that will benefit from clearer definitions or additional information in this Bill. I hope that my sponsor is behind me taking notes.

In Section 2, the definition of person with special needs could benefit from the additional of physical and neo-diverse, as one of the categories of people with special needs. They are of course, a particular category of people with disabilities that are not often understood and therefore, not often catered for in our legislation.

Further, on this note, I also request the sponsor to refrain from using the terms "persons with special needs" and instead use "Persons with Disabilities". That is in line with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), as well as the African Charter on Disability that, we are now signatories to since Constitution 2010. Of course, we need to be in line with more palatable definitions of person with disabilities.

I also call upon the Sponsor to consider adding a section that gives provisions to create a separate mental health wing in all maternal health facilities especially, for women and girls with disabilities to access and use. This is because, women and girls with disabilities require a specialised support in the area of prenatal care, postpartum depression, anxiety and so on.

That as you can imagine, require a very different health service delivery approach along side other specially trained medical workers who understand the needs of women and girls with disabilities. This is in addition to ensuring well trained medical workers in the care of women and girls with disabilities.

I also wish to see the Sponsor add to the Bill, a strict requirement that, these maternity health facilities provide mobility aids and assistive devices. These includes but are not limited to - walking sticks, crutches, walking frames, wheelchairs, hearing aids, screen readers, talking devices and healthcare literature in accessible formats so that, all women and girls with disabilities who are using these services understand and be assisted by them.

Madam Temporary Speaker, in addition, these facilities across the board must reduce barriers to adequate healthcare by also providing accessible hospital beds as well as disabled toilets, showers and hot baths for women and girls with disabilities, specifically to maintain their dignity. To the sponsor of this Bill, these provisions must be made in black and white and not assumed because we know what happens when you assume. I cannot say it here because it is not parliamentary language, but we know what happens when you assume.

I also want the sponsor to think about what happens to these women and girls with disabilities once they are discharged from the labour ward and are sent home with their child, twins, triplets or quadruplets. I want the Bill to provide for trained disability social workers or community health promoters to be making frequent visits to the homes of these women and girls.

This is to ensure quality home-based care and needs assessment, especially, in the formative weeks of the children's lives. It is important to keep supporting these women as the sponsor has said but women and girls with disabilities need specific and nuanced support when they go home with their children.

Madam Temporary Speaker, recognizing our extenuating mobility and movement challenges in public service vehicles as a barrier to seek out services physically after being discharged is also another reason why. Creating for the social workers to leave hospitals and visit us directly at home will exponentially improve our response services that could avoid or completely arrest fast deteriorating conditions of the new-borns that we have taken home. Early intervention services are desperately lacking in our country, and we need to have this provision added into the Bill through the sponsor.

Section 20(2)(d) provides for priority groups but there is no definition of who these groups are in the interpretation of the Bill. This leaves room for ambiguity as it is open to many interpretations. I therefore request the sponsor to clear this up before the Bill comes back to the Floor for the next Reading, with the express definition provided therein.

Section 9 of the marginal notes addresses services for women with special needs specifically, Section 9(1)(d) which addresses at-risk persons. The note should therefore in my view read, "services for women with disabilities and at-risk persons."

The Temporary Speaker (Sen. Veronica Maina): Sen. Asige, you have five minutes.

Sen. Crystal Asige: Thank you, Madam Temporary Speaker. Next in the proposed provisions in the Maternal, Newborn and Child Health Bill is on birth attendants, and I note the focus on healthcare providers and trained birth attendants.

Unfortunately, this for me excludes the traditional birth attendants in our homes and villages in Kenya who operate without medical licenses, but whose expertise and experiences are needed to advance the access of safe maternal care in order to reach marginalized communities. I also hope the sponsor takes this into account.

Another section in this Bill that provides a clear frame work should be created that will include the traditional birth attendants to cater to sensitization of their role as healthcare workers; include them in both the national and county governments and provide an avenue through which these traditional health workers can be registered.

Madam Temporary Speaker, we can see the doctors' strike and the sponsor has mentioned it. We have seen over 50 children with disabilities die since the strike started because as parents and caregivers of children with disabilities, we cannot access healthcare services, hospital beds, our service providers and our therapists, so on and so forth. It is a shame when we see mothers, parents, caregivers, or families losing their small children with disabilities because of lack of healthcare.

Madam Temporary Speaker, as I finish, a pertinent issue that we need to address is on matters of service delivery and access to health services.

Clause 11(h), states that-

“The National Government and county governments shall, in respect of maternal, neonatal and child health care, put in place measures to facilitate the provision of- the infrastructure necessary to support the delivery of basic and comprehensive emergency obstetric and neonatal care services”.

Clause 25(2), the same governments are obligated to make regulations that prescribe minimum standards for a number of services of which the above is not included.

I propose that such regulations prescribing minimum standards necessary for carrying out functions of this proposed Bill should also include the provision of the infrastructure necessary to support the delivery of basic and comprehensive emergency obstetrics and neonatal services.

Madam Temporary Speaker, I want to close there because of time. However, I hope that some of these suggestions and proposals I have made as I stand to support and second this Bill, will be taken into account. This will ensure both non-disabled and disabled women and girls have the appropriate maternal healthcare that they deserve so that we can continue also contributing to the growth of this country.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Can you second?

Sen. Crystal Asige: Oh yes, I thank you and I second.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Asige.

The Bill is now ready to be debated. I will invite Sen. Danson Mungatana. Before we do that, I will need to propose the question.

(Question proposed)

I invite Senator Danson Mungatana.

Sen. Mungatana: Bi. Spika wa Muda, asante sana kwa kunipa nafasi nitoe maoni yangu kuhusu Mswada huu ambao ni sheria mpya inayoletwa na Seneta Beatrice Ogola.

Namshukuru sana kwa sababu katika sheria hii, ataweka jina lake katika maktaba ya Seneti, Bunge na Kenya mzima miaka itakayokuja kwamba alipitisha sheria ambayo ilipatia kinga ya kutosha kwa akina mama na watoto wanaokuja katika inchi hii ya Kenya.

Ningependa sana kumpatia motisha kwamba kazi nyingi tunazofanya hapa Seneti zitasahaulika, ila, sheria inayopitishwa hapa Bungeni katika nakala za Seneti na wakenya wazima, watakumbuka miaka yote. Kwa hivyo, najua amefanya kazi nyingi ila nampa moyo aendelee vivyo hivyo, na ikiwezekana alete sheria zingine ambazo zitasaidia.

Kwanza Bi Spika wa Muda, nasema pole sana kwa wale waliopoteza maisha yao katika mkasa tuliopata Tana River. Wengi wa waliokufa katika mashua ile ni kina mama na watoto. Walikuwa wanavuka kutoka Madogo kuelekea Garissa kwa kazi zao za kawaida.

Bi. Spika wa Muda, majanga au shida zikitokea, wanaoumia zaidi ni kina mama na watoto. Mswada huu una vipengele ambavyo vitatoa nafasi ya kutunza watoto wanaozaliwa pamoja na kina mama wajawazito. Huu ni Mswada muhimu hapa Kenya.

Wiki hii tulikuwa kule Tana River pamoja na viongozi wa Serikali kuangalia hali ya mafuriko. Tuliona shida kubwa ambayo wananchi wanapata. Wananchi hawana chakula cha kutosha, wanaumia, kuna mbu usiku na hali ya usalama ya imeharibika.

Watu wametoka kwa nyumba zao ambazo zimesombwa na maji na sasa wako barabarani. Shughuli za kutafuta riziki ya kila siku zimeharibika. Kwa hivyo, watu wanaumia. Usalama vile vile umezorota kwa sababu watu wanafanya uhalifu kupata jinsi ya kujikimu. Kina mama wajawazito wanapata shida zaidi.

Tulipokwenda kule, kulikuwa na watoto wadogo ambao mimi nilishindwa tutafanya namna gani licha ya kuwa tulikuwa tumewapelekea chakula. Sisi kama wazazi ambao tumepita hiyo *stage* tunajua kuwa watoto lazima wawe na nguo za kutosha na mahali pazuri pa kulala. Watoto kama hao hawafai kulala nje kwa sababu usiku baridi huwa kali kule Tana River. Ni watoto wanaotaka lishe bora na chanjo.

Utapata kuna mama ameshika mtoto ilhali hali yake si sawa kwa sababu anatarajia mtoto mwingine. Watoto nao pia wana shida. Nina furaha kwa sababu Mswada huu ukiwa sheria utashurutisha Serikali za kaunti na Serekali ya kitaifa kuhakikisha kwamba kina mama wanapewa nafasi ya kuwatunza watoto wao.

Ukienda katika hospitali nyingi, utakuta kuwa hazijawapa kina mama nafasi ya malezi bora ya watoto wao. Mswada huu unapendekeza kwamba waziri wa kaunti ashurutishwe kuweka mikakati ya kuhakikisha kuwa kina mama na watoto wanapata huduma za kiafya nzuri katika hospitali zetu.

Kule kwetu Tana River, mbali na zile shida tulizonazo kwa sababu ya mafuriko, kwa kawaida, kina mama wetu wanapata shida sana wakati wanapokwenda kujifungua. Wengi wao hawapati nafasi ya kutembelea kliniki vile inavyotakikana. Wengi wao pia

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hawapati lische bora inayotakikana wakiwa wajawazito kwa sababu ya ukosefu wa pesa. Vituo vingi vya afya havina vifaa vya kutosha kusaidia kina mama kule Tana River wakati wa kujifungua.

Nimefurahi kuona Mswada huu unaopendekeza kuwa mawaziri wa kaunti za Kenya nzima lazima wahakikishe kwamba watoto wetu na kina mama wajawazito wanatunzwa vilivyo. Najua kuwa Mswada huu ukipitishwa na Seneti, tutapata manufaa zaidi kwa kina mama na watoto wanaoletwa duniani.

Wengi wetu tulinufaika sana na chanjo za bure za Serikali tulipokuwa watoto wadogo. Miaka hii imekuwa shida kupata chanjo katika hospitali zetu za kaunti---

The Temporary Speaker (Sen. Veronica Maina): Sen. Mungatana, when we resume, you will have a balance of 13 minutes.

I want to read out Orders that have been deferred, but they will be rescheduled by the SBC. They are Order Nos. 9, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26 and 27.

COMMITTEE OF THE WHOLE

THE CONFLICT OF INTEREST BILL (NATIONAL
ASSEMBLY BILLS NO.12 OF 2023)

(Committee of the Whole deferred)

BILLS

Second Reading

THE HERITAGE AND MUSEUMS BILL
(SENATE BILLS NO.8 OF 2023)

(Bill deferred)

Second Reading

THE AGRICULTURE AND FOOD AUTHORITY (AMENDMENT)
BILL (SENATE BILLS NO.13 OF 2023)

(Bill deferred)

Second Reading

THE COUNTY HALL OF FAME BILL
(SENATE BILLS NO.18 OF 2023)

(Bill deferred)

Second Reading

THE RICE BILL (SENATE BILLS NO.19 OF 2023)

(Bill deferred)

Second Reading

THE PUBLIC HOLIDAYS (AMENDMENT) BILL
(SENATE BILLS NO.31 OF 2023)

(Bill deferred)

Second Reading

THE COUNTY ASSEMBLY SERVICES (AMENDMENT)
BILL (SENATE BILLS NO.34 OF 2023)

(Bill deferred)

Second Reading

THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION)
BILL (SENATE BILLS NO.38 OF 2023)

(Bill deferred)

MOTION

REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL
STATEMENTS OF VARIOUS COUNTY ASSEMBLIES

THAT, the Senate adopts the Report of the Select Committee on County Public Accounts on its consideration of the Report of the Auditor General on the financial statements of West Pokot County Assembly for the financial year 2018/2019 and Reports of the Auditor General on the financial statements of Isiolo,

Kiambu, Kitui, Marsabit, Narok, Nyamira, Trans Nzoia, West Pokot and Murang'a County Assemblies for the financial year 2019/2020 laid on the table of the Senate on Thursday, 7th March, 2024.

(Motion deferred)

HOJA

KUIDHINISHWA KWA RUZUKU YA MASHARTI KWA
UJENZI WA UWANJA WA MANISPAA YA MOMBASA

KUFAHAMU KWAMBA Sehemu ya 2 ya Ratiba ya Nne ya Katiba ya Kenya inazipa Serikali za Kaunti jukumu la kuendeleza, kuanzisha, kusimamia na kudumisha vifaa vya michezo na kitamaduni ambavyo ni pamoja na viwanja, viwanja vya michezo, vituo vya kitamaduni, na miundombinu mingine inayohusiana;

IKIKUMBUKWA KUWA ukanda mzima wa Pwani Nchini hauna uwanja wa kisasa uliojengwa kwa viwango vya kimataifa, hivyo kuwanyima wananchi manufaa yanayotokana na viwanja na vifaa vya michezo;

WASIWASI kwamba ujenzi wa uwanja wa michezo wa Manispaa ya Mombasa umekumbwa na ucheleweshaji na vikwazo tangu kuanzishwa kwa mradi huo mwaka wa 2019 kutokana na matatizo ya kifedha, ambayo yameathiri utekelezaji wa mradi na kunyima jamii eneo hilo uwanja unohitajika sana;

KWA HIVYO SASA Bunge la Seneti linaazimia kwamba Hazina ya Kitaifa na Wizara ya Masuala ya Vijana, Uchumi Ubunifu na Michezo itengee Serikali ya Kaunti ya Mombasa ruzuku ya masharti ya Shilingi bilioni 1.7 kwa ajili ya kukamilisha ujenzi wa Uwanja wa Manispaa ya Mombasa.

(Motion deferred)

MOTION

DECLARATION OF CATTLE RUSTLING AND BANDITRY
AS A NATIONAL DISASTER AND ESTABLISHMENT
OF A SPECIAL FUND FOR VICTIMS

THAT AWARE THAT, cattle rustling/banditry is a major menace and security threat in the South and North Rift regions and some other regions of the country;

CONCERNED THAT, the menace has since left irreparable and negative socioeconomic impact which include but are not limited to increased number of widows, widowers, orphaned children, poverty, displacement of people leading to Internally Displaced Persons (IDPS), disruption of educational health programs and

other economic activities owing to the destruction and/or closure of educational, health and other institutions;

FURTHER CONCERNED THAT, the people living in the affected regions have been denied the enjoyment of their social, economic and political rights as guaranteed to them under the Bill of Rights as enshrined in Chapter Four of the Constitution;

NOW THEREFORE, the Senate resolves that the National Government through the Ministry of Interior and National Administration and in collaboration with the Council of Governors:

1. Declares cattle rustling a National Disaster.
2. Establish a National Task force on cattle rustling/banditry to:
 - (i) Investigate the causes of the rampant cattle rustling and banditry in the said region and the Country at large.
 - (ii) Establishes the extent of suffering, loss and damage the cattle rustling/banditry has occasioned to the communities in all the affected Counties.
3. Create a Special Fund for mitigating the losses suffered by and in compensating all victims of cattle rustling/banditry and settle all internally displaced persons occasioned by the menace.

(Motion deferred)

MOTION

ADOPTION OF REPORT ON STATUS OF IMPLEMENTATION OF PROJECTS FUNDED BY THE CONDITIONAL GRANT FOR CONSTRUCTION OF COUNTY HEADQUARTERS

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the status of implementation of projects funded by the Conditional Grant for the construction of County Headquarters laid on the Table of the Senate on Thursday, 28th March, 2024.

(Motion deferred)

MOTION

ADOPTION OF REPORT ON CONSIDERATION OF AUDIT REPORTS OF VARIOUS WATER SERVICE PROVIDERS

THAT, the Senate adopts the Reports of the Select Committee on County Public Investments and Special Funds on its consideration of the Audit Reports for the year ended, 30th June, 2019, 30th June, 2020 and 30th June, 2021 of the following Water Service Providers-

- (i) Amatsi Water Services Company Limited - Vihiga County.
- (ii) Bomet Water Company Limited – Bomet County.
- (iii) Gusii Water and Sanitation Company Limited
Kisii/Nyamira Counties.
- (iv) Kisumu Water and Sanitation Company Limited –Kisumu County.
- (v) Kwale Water and Sewerage Company Limited - Kwale County.
- (vi) Nyeri Water and Sanitation Company Limited - Nyeri County and the
Audit Report of the Wajir Water and Sewerage Company Limited for the year
ended 30th June, 2021, laid on the Table of the Senate on Thursday, 23rd November,
2023.

(Motion deferred)

MOTION

NOTING OF REPORT OF SENATE DELEGATION TO 66TH
COMMONWEALTH PARLIAMENTARY CONFERENCE
HELD IN ACCRA, GHANA

THAT, the Senate notes the Report of the 66th Commonwealth
Parliamentary Conference held in Accra, Ghana from 30th September - 6th October,
2023 laid on the Table of the Senate on 15th February, 2024.

(Motion deferred)

MOTION

NOTING OF REPORT ON THE 63RD SESSION OF OACPS
PARLIAMENTARY ASSEMBLY AND 43RD SESSION OF
ACP-EU JOINT PARLIAMENTARY ASSEMBLY

THAT, the Senate notes the Report of the 63rd Session of the OACPS
Parliamentary Assembly and 43rd Session of the ACP-EU Joint Parliamentary
Assembly Meetings in Brussels, Belgium laid on the table of Senate on Wednesday,
6th December, 2023.

(Motion deferred)

MOTIONNOTING OF REPORT ON THE 13TH ASSEMBLY
OF FP-ICGLR HELD IN JUBA

THAT, the Senate notes Report of the Parliament of Kenya Delegation to the 13th Plenary Assembly of the Forum of Parliaments of the Member States of the International Conference on the Great Lakes Region (FP-ICGLR), held in Juba, South Sudan, laid on the table of Senate on Thursday, 7th December, 2023.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until Tuesday, 7th May, 2024, at 2.30 p.m.

The Senate rose at 6:30 p.m.