



**THIRTEENTH PARLIAMENT**  
**THE SENATE**  
**OFFICIAL REPORT**



**Fourth Session**

**Tuesday, 29<sup>th</sup> July, 2025 - Afternoon Sitting**

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 29<sup>th</sup> July, 2025**

*The House met at the Senate Chamber,  
Parliament Buildings at 2.36 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)*

Hon. Senators, we do have quorum. Clerk, kindly proceed to call the first Order.

### PAPERS LAID

SPECIAL AUDIT REPORTS ON PAYROLL MANAGEMENT  
FOR VARIOUS COUNTY EXECUTIVES

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Tuesday, 29<sup>th</sup> July 2025-

Special Audit Report of the Auditor-General on Payroll Management for the Migori County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Kisii County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Nyandarua County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Nyeri County Executive.

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Special Audit Report of the Auditor-General on Payroll Management for the Kirinyaga County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Murang'a County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Uasin Gishu County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Turkana County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Kiambu County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Busia County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Nandi County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Elgeyo-Marakwet County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Nakuru County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Nairobi City County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Nyamira County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Machakos County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Baringo County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Laikipia County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Siaya County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Bomet County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Kakamega County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Vihiga County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Bungoma County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the West Pokot County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Makueni County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Mombasa County Executive.

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Special Audit Report of the Auditor-General on Payroll Management for the Kwale County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Kilifi County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Kajiado County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Narok County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Wajir County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Tana River County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Lamu County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Taita Taveta County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Garissa County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Mandera County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Marsabit County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Isiolo County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Meru County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Tharaka Nithi County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Trans Nzoia County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Samburu County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Kitui County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Embu County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Kisumu County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Homa Bay County Executive.

Special Audit Report of the Auditor-General on Payroll Management for the Kericho County Executive.

REPORT ON FINANCIAL STATEMENTS OF MACHAKOS  
MUNICIPALITY - COUNTY GOVERNMENT OF MACHAKOS  
FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 2024

Report of the Auditor-General on financial Statements of Machakos Municipality  
- County Government of Machakos for the year ended 30<sup>th</sup> June, 2024.

*(Sen. Cheruiyot laid the documents on the Table)*

**The Speaker** (Hon. Kingi): Proceed, Vice-Chairperson, Committee on Finance and Budget.

REPORT ON CONSIDERATION OF THE COUNTY WARDS (EQUITABLE  
DEVELOPMENT) BILL (SENATE BILLS No.20 OF 2024)

**Sen. Tabitha Mutinda:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 29<sup>th</sup> July 2025-

Report of the Standing Committee of Finance and Budget on the Consideration of the County Wards Equitable Development Bill.

*(Sen. Tabitha Mutinda laid the document on the Table)*

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

## QUESTIONS AND STATEMENTS

### STATEMENTS

Statements pursuant to Standing Order No.53(1).  
Proceed, Senator for Nandi County, Sen. Cherarkey.

DISQUALIFICATION OF ST. MICHAEL'S TERIGE BOYS  
AND KIMWANI SECONDARY FROM NANDI COUNTY  
SCHOOLS SPORTS COMPETITION

That Statement is dropped.

*(Statement dropped)*

Proceed, Sen. Tabitha Mutinda.

DETERIORATING HEALTHCARE  
SERVICES IN COUNTIES

**Sen. Tabitha Mutinda:** Thank you, Mr. Speaker, Sir. I rise to request a Statement on the increasing cases of county-employed medical practitioners engaging in private medical practice.

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee of Health on a matter of national concern on the deteriorating state of healthcare service delivery in counties due to public medical practitioners concurrently engaging in private medical practice.

In the Statement, the Committee should address the following-

(1) The number of licensed medical doctors, pharmacists and clinical officers in Kenya as maintained by the Kenya Medical Practitioners and Dentists Council (KMPDC), the Clinical Officers Council and the Pharmacy and Poisons Board (PPB), respectively, indicating those employed by county governments.

(2) Private pharmacies, clinics and hospitals owned by medical practitioners employed by county governments.

(3) Measures put in place by county governments and regulatory bodies to prevent public sector medical staff from engaging in private practice during official working hours.

(4) Disciplinary actions taken against public medical personnel found to be in breach of professional ethics or conflict of interest through unauthorised private practice.

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

**MOTION**

APPROVAL OF SITTINGS OF THE SENATE  
TO BE HELD IN BUSIA COUNTY

THAT, AWARE that the Senate of Kenya is established under Article 93 of the Constitution and its main role, as set out at Article 96, is to represent, serve and protect the interests of the counties and their governments;

FURTHER AWARE of the critical role that the Senate plays in the interlinkage between the national and county levels of government, and the need to enhance the interaction between the Senate and county governments, as a means of bringing the Senate closer to the counties and the general public;

ACKNOWLEDGING the successes made during the sittings of the Senate outside Nairobi held in Uasin Gishu, Kitui and Turkana counties in September, 2018, 2019 and 2023, respectively;

FURTHER ACKNOWLEDGING the recommendation of the Senate Business Committee (SBC) that a sitting of the Senate be held away from the traditional premises in Parliament Buildings, Nairobi, during the term of the 13<sup>th</sup> Parliament; and the subsequent resolution of the Senate made on 8<sup>th</sup> March, 2023, to hold plenary and committee sittings in the counties for a one-week period within

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the month of September in every Session of the 4<sup>th</sup> Senate, except during an election year with the objective to-

(1) Promote the role and work of the Senate and enhance public awareness regarding the Business of the Senate and Parliament in general.

(2) Highlight existing and new opportunities for engagement in the legislative process.

(3) Develop and strengthen partnerships at the county level of government.

(4) Provide an opportunity to members and staff of county assemblies to learn and share best practices with Senators and parliamentary officers.

NOW, THEREFORE, pursuant to Article 126 (1) of the Constitution, the Senate resolves to hold its Plenary and Committee sittings in Busia County from 6<sup>th</sup> to 10<sup>th</sup> October 2025.

*(Sen. Cheruiyot on 10.7.2025)*

*(Resumption of debate interrupted on 24.7.2025)*

**The Speaker** (Hon. Kingi): Do we have the requisite quorum? What is your intervention, Senate Majority Leader?

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I have pressed for an intervention because I hope in keeping up with traditions of the House, you will kindly allow us to make comments on the statements.

**The Speaker** (Hon. Kingi): Which Statements?

**The Senate Majority Leader** (Sen. Cheruiyot): There is one by Sen. Cherarkey, unfortunately---

**The Speaker** (Hon. Kingi): No. It has not been asked---

**The Senate Majority Leader** (Sen. Cheruiyot): That is why I was trying to catch your attention also. I want to notify you that Sen. Cherarkey is walking in. You may permit him.

**The Speaker** (Hon. Kingi): Let him make his plea.

**Sen. Cherarkey**: Mr. Speaker, Sir, with your indulgence and under Standing Order No.1, can you allow me to read my Statement?

**The Speaker** (Hon. Kingi): Proceed, Senator for Nandi County.

*(Interruption of debate on Motion)*

DISQUALIFICATION OF ST. MICHAEL'S TERIGE BOYS  
AND KIMWANI SECONDARY FROM NANDI COUNTY  
SCHOOLS SPORTS COMPETITION

**Sen. Cherarkey**: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education on a matter of countywide concern regarding the improper disqualification of St. Michael's Terige Boys

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High School and Kimwani Secondary School from 2025 Nandi County Secondary School Sports Competition.

The two schools participated in the Kenya Secondary School Sports Association (KSSSA) football competitions and emerged as champions and runners-up at the county level, having successfully qualified through ward and sub-county levels. However, they were later disqualified on grounds of non-compliance with a digital registration requirement that had not been formally communicated before the competitions. A circular making this requirement mandatory was only issued after the county-level games had concluded.

In the Statement, the Committee should address the following-

(1) The regulations that were in place regarding the registration of student-athletes before the issuance of 4<sup>th</sup> July, 2025 circular.

(2) The genesis of the digital registration system introduced after the competitions and whether prior communication was given to schools.

(3) The process followed in validating eligibility at the ward and sub-county levels, including why the issue was raised only at the county level.

(4) The steps the Ministry of Education (MoE) and KSSSA will take to prevent similar incidents and ensure clear, timely communication of rules.

(5) Whether redress will be provided to Kimwani and Terige Boys High School in Nandi County for their disqualification and whether a reinstatement of their county-level wins is under consideration.

Mr. Speaker, Sir, I thank you for your kind indulgence.

*(Resumption of debate on Motion)*

**The Speaker** (Hon. Kingi): Before we proceed to the next Order, I will now put the Question on the Motion.

*(Question put and agreed to)*

Next Order.

Yes, Senate Majority Leader.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg your indulgence. If you look at the Order Paper this afternoon - perhaps colleagues should bear and listen to what I am saying because it involves the House - we have six reports from the various committees on petitions that are before us. Ordinarily, these are reports of petitions, meaning a citizen has requested the House to look into something, the Committee has done that and they have brought reports back to this House.

If we move with the normal procedure of Motions, where people want to debate, we may not close on this yet. If you recall, every time on Thursday, I speak here about petitions that are due for reporting, it is because of such instances.

Mr. Speaker, Sir, I can see all the Committee Chairpersons in the House, save for the Chairperson of Justice, Legal Affairs and Human Rights Committee (JLAHRC), but I know the Members are in the House.

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With your permission, would I be in order if I request the Chairpersons of these Committees who are bringing reports to the House to move the reports, be seconded and we conclude on that matter? This is so that we can conclude on all the six reports on petitions. They are not Bills or matters that you would say will be protracted in a debate in any way or the other.

We have the Standing Committees on JLAHRC, Labour and Social Welfare and Devolution and Intergovernmental Relations. I can see the Chairpersons of Labour and Social Welfare and Devolution and Intergovernmental Relations in the House. I am told the Chairperson of JLAHRC is walking in--- There is a Member of the Committee here. If you permit, that will help us to expedite on this business.

**The Speaker** (Hon. Kingi): What is your request?

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, the request is that the Chairpersons to move the reports, we second and expedite generally this business without a lot of debate into it. There are six Motions and there is no way of considering all of them together. You have to move a Motion, second it and pass. We have the requisite quorum to pass the Motions. These are reports to petitions.

**The Speaker** (Hon. Kingi): Then the Motion to be moved, be seconded, then I will proceed to propose the question. You may then make that request at that particular time to limit time and also go further and limit the number of Senators to speak to that; that is if the House is in agreement.

Call the next Order.

The Chairperson Standing Committee on JLAHRC, proceed.

## MOTION

### ADOPTION OF REPORT ON PETITION ON IMPLEMENTATION OF AWARD BY ENVIRONMENT COURT FOR COMPENSATION AND RESETTLEMENT

**Sen. Chimera:** Mr. Speaker, Sir, I beg to move the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of a Petition to the Senate by Mr. Bakari Halifan Munge and three other residents of Kwale County regarding the implementation of an award by the Environment and Land Court for compensation to and resettlement of the owners of Ramisi Phase 1 Block 5056 in Kwale County, laid on the Table of the Senate on Wednesday, 28<sup>th</sup> May, 2025.

Mr. Speaker, Sir, the background of this Petition is pursuant to your directions that the Petition had been received from a certain Mr. Bakari Halifan Munge and three other residents of Kwale County, regarding the implementation of that particular court order as cited in my earlier moving remarks.

The key issues contained in this Petition were that the petitioners, being residents of Kwale County, specifically Ramisi, Phase 1, Block 5056, are legitimate owners of the property known as Ramisi, Phase 1, Block 5056 in Kwale County, but had been displaced to make way for leasing of the land by the Government of Kenya to Kwale International Sugar Company Limited (KISCOL).

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This led to the petitioners filing suits at the ELC Court and the court, which was sitting then, ruled in their favour and directed the Government to pay a compensation of Kshs170 million to the petitioners and further, facilitate their resettlement.

Mr. Speaker, Sir, as I speak today being the 29<sup>th</sup> July, 2025, it is sad to say that nothing has been done. These people from these particular villages in Ramisi are still languishing in that area in Kwale County. Therefore, the petitioners pray that the Senate intervenes to ensure that there is compliance by the Government with regards to the court award for compensation and settlement of the petitioners.

I want to thank my colleague Senators in the Committee, led by our able Chairperson, Sen. Wakili Hillary Sigei, Sen. (Prof) Tom Ojienda and Sen. Karen Nyamu. I want to sincerely thank Sen. Karen Nyamu because when we were doing the public participation and the stakeholder engagements in Kwale County, she and I were on ground to listen to the plight of the people of Nikabu, Kanana, Ramisi and Mkono wa Ndugu villages.

Mr. Speaker, Sir, I also thank stakeholders who appeared before the Committee, especially the Ministry of Lands and the National Lands Commission (NLC) for agreeing and confirming that, indeed, there was a case and that the courts had issued the directions towards compensation.

As part of the conclusion of the Committee from our observations largely informed by the interactions with the Ministry of Lands, Public Works, Housing and Urban Development, recommended that the Ministry liaises with the National Treasury and Economic Planning to ensure that funds are set aside in the budget for this financial year towards implementing the ELC judgement and also to evaluate the claims for compensation and resettlement by the residents of the other villages.

You will notice from this report that only one village; Nikabu Village, has been valued at Kshs170 million while the other villages namely, Kanana, Kidimu, Kiranze, Nguu and Mkono wa Ndugu within Pongwe Kikoneni Ward have not been evaluated yet. We hope the Ministry will move with speed to make sure that is done, so that the people of those villages can get justice.

Lastly, our recommendation as a Committee is that the Ministry also liaises with the NLC to secure suitable alternative parcels of land, so that these people can be settled.

Mr. Speaker, Sir, as I conclude, I wish to really thank the petitioners for not having sat on their rights. They went to court - and you know how belabouring it is in court. They took their time, had an advocate on the ground, fundraised for resources to pay their lawyer and ended up being victorious in court. It is sad that they are still in the same area and we are still losing lives of young children.

When you visit Nikabu Village, you will see these people living next to dangerous snakes. Just the other day, I happened to attend a funeral there where we had lost a seven-year-old child out of a snake bite.

Mr. Speaker, Sir, when such petitions come before this House, it speaks to the quality of leadership that we have here from Kwale County. I have not heard certain leaders from Kwale County speaking about this issue. I have not heard my governor coming out in force and seeking to assist this community in Nikabu, Kwale County, to be

compensated. I have not heard even the Senator who is seated here next to me, making noise about this.

They are not inputting anything on this Petition even when we went down to do this forum. It just so happens that I am a member of the JLAHRC and by sheer luck that Sen. Chimera sits in this Committee. I had a chance to listen through and walk through with them yet they have leaders elected to this House.

This is a clear abdication of their role. They do not seem to bother that these people need to be assisted even by way of voicing their concerns. We do not say that you go to court but speak for your people. I expected this to happen from my colleague, Sen. Issa Boy, but he did not. I expected the same from my governor, to, at least, come out in force and work towards making sure that this order is complied with by the Government, so that the people of Nikabu, Kanana, Kidimu, Kiranzi, Mguu, Mkono Wa Ndugu in Pongwe-Kikoneni get access to justice. It cannot be that we turn one eye to developers in the name of Kwale International Sugar Company Limited (KISCOL), yet the same KISCOL is sitting on the rights of our people.

Mr. Speaker, Sir, there is a court order. I am on record here going to court on behalf of the '19 flower girls', the 19 nominated Members of this House. When I got it, I was told that I am the court order man. It is shocking that as a House, we can respect court orders. However, someone else in the name of KISCOL, in the name of the Ministry of Lands, is not willing to respect the court order.

With those many remarks, I beg to move that the Senate adopts the report of the Standing Committee on JLAHRC on its consideration of a petition to the Senate by Mr. Bakari Halifan Munge and three others, being residents of Kwale County, regarding the implementation of an award by the NLC sitting in Kwale for compensation to and resettling of the owners of Ramisi Phase 1 Block 5056 in Kwale County.

I beg to move and call upon Senator--- you know, both of them are my in-laws, Mr. Speaker, Sir. If I do not call one of them, I will lose a wife. I call upon Sen. Cherarkey from Nandi to second.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. As I rise to second this Motion, it is an honour coming from one of our distinguished in-laws because we have few. I can confirm that he is doing a good job both at home and away.

Mr. Speaker, Sir, I am looking at the recommendations arising from this Petition. I can see the future of the distinguished nominated Senator from Kwale County, Sen. Chimera, is very bright. He has seized the matter and is ruthlessly focusing on the issues bedeviling Kwale County residents with an eye of a military marksman. I know he will not miss this time around.

This issue of the NLC is very important. The problems of land that people of Kwale and the coast region are facing is similar to what we are facing in the Rift Valley. The Akiwumi Report and the Truth, Justice and Reconciliation Commission of Kenya (TJRC) Report that was done previously, the main source of conflict that we see in most of these areas of Rift Valley and the Coast region is historical land injustices. The conflict that we see of cattle rustling in the bandit areas is on land resource. They say land is a very emotive and sensitive issue.

I thank the JLAHRC for this splendid work. I am happy they are following in the footsteps of what I did as the former chairperson of JLAHRC in the last session. I agree that court orders must be followed. Court orders are not love letters. Court orders are not given for the sake of it. They are not issued by a court of law in vain.

Mr. Speaker, Sir, I request that the necessary individuals must and should compensate these residents of Kwale who had the belief and faith that the Senate will do something. I know you are conversant with that area because you are the son of that region. These people of Kanana, Kidimu, Kiranze, Mguu and Mkono Wa Ndugu. I like that name, Mkono Wa Ndugu within Pongwe-Kikoneni Ward in Kwale County.

The leadership from that area must come out and fight for their people. The reason we were elected is so that we can fight for our people. It cannot take a nominated Member of the Senate to be at their forefront yet there are leaders who are elected. I am challenging them. We have done our part as the Senate; it is for them to do their part. I do not want to name names. I am an obedient Member of this House and you had given directions on naming names. So, I will just leave it at that. However, they know who they are.

Mr. Speaker, Sir, if it is walking and quacking and talking like a duck, you will know it is a duck. So, I do not want to elaborate. I will conclude with the issue of compensation. Let this award be respected in Pongwe-Kikoneni Ward in Kwale County. They must be paid.

My final comment is on this issue of deserving squatters. As I second and in conclusion, we have similar problems in Nandi County. Like in Emgwen, Chepkumia, Koibem Exchange Programme, all the way to Tuiyobei in Kiptuiya in Chesumei Sub-county. When you go to Tinderet, there are areas like Cherondo, Kapchanga, Kapchorwa and Ng'atipkong where when it rains, there are so many mudslides that those individuals need to be moved to safer grounds.

We must call the NLC to order. We cannot ask the Ministry of Lands, Housing and Urban Development or counties where you had the honour of serving--- They must be given title deeds. The NLC must identify the genuine squatters, so that they can be sorted out. As I speak, sub-counties like Chesumei, Emgwen and Tinderet still have a problem.

Finally, the Senate Majority Leader will agree with me. I was happy to see you praying in Kericho over the weekend. You must have flown as you overflowed, although you landed in a place called Kerenga, that has its own issues. You must have thought you were landing in a bush. That is the Kerenga Airstrip that one of our friends decided not to do it. I know the Senate Majority Leader knows him by name. I do not want to mention names.

As you overflowed Kericho, you saw green gold. You thought those people are living in Canaan; a place of honey and milk. We are suffering. The tea that you saw has been tampered with - the blood of our fathers, grandfathers, our sons and daughters. The historical land injustices, from where my brother comes from in Kericho, Bomet, Nandi and Coast, continue to be a very dangerous point gun; a wound that will not heal. Many people, as they fly over Nandi and other areas, think we are very wealthy. We are living like monkeys.

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Multinationals have taken over our land and the NLC is doing nothing about it. If you ask them, they do not care. They will tell you that they registered their title deeds in Mombasa or Nairobi Land Registry. Even as I exit on this matter, we must continue to have a conversation on the issue of historical land injustices where multinationals grow tea. This issue of land cannot be taken lightly.

Mr. Speaker, Sir, you can remember that we buried people the other day that were killed because of land clashes as stated by Akiwumi and TGRC reports. People were also killed in Angata Barikoi. They were buried in Narok, Angata Barikoi and justice has never been served. I call upon the NLC that this issue of land *grabiosis*; the appetite of grabbing public land and frustrating Kenyans must be stopped.

I encourage people who have a disease of *grabiosis* for us who are believers, the Christians, Jesus told us that there is land in Heaven. Why would you grab on Earth when there is already a land in Heaven? I want to discourage that we do not need to. Even if you have 10,000 acres of land like one of the prominent families that have been in leadership in this country--- Whenever you drive, you will see them. They own almost the entire western province. When you die, you will be buried in a - four by four, six feet under and be forgotten. You will not take anything. So, let us stop this habit of grabbing land for benefit and experience.

This report that has been brought by JLAHRC and moved by able Sen. Chimera is very important. I am happy to see the Senator of Murang'a, my good friend and brother, who came all the way to my home when things were still good those days. I saw there were demonstrations at Kakuzi. There is the issue of Del Monte in Murang'a and Kiambu counties. We must address it. I want to challenge him that as he talks about other national politics, he should assist us to address the issue of squatters, the issue of human rights in Kakuzi and Del Monte within Murang'a and Kiambu counties because I see he is a national prominent leader nowadays. As he says something about the Government, could he also say something about squatters and human rights in Kakuzi. Also issues of Del Monte, so that we can resolve this issue of historical land injustice, once and for all.

Mr. Speaker, Sir, with that honour and distinction, allow me to end by saying that as I second this report, I request colleagues that we debate and adopt it as a House. Direct necessary agencies to implement the recommendations of the Senate.

Thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, I will now proceed to propose the question.

*(Question proposed)*

Now, the Floor is open for debate. The Senate Majority Leader, what is your intervention?

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I had requested the House to allow us consider the six reports on Petitions from various committees. Ordinarily, the committees have done their bit and will be filing back the response to the petitioners on what their findings from the committees are.

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Given that these reports are time-bound by our own Standing Orders and by statutory expectation, the request is that we process them in the manner that we have done this, so far. Once moved and seconded, we put the question and hear the rest of the petition reports as well.

**The Speaker** (Hon. Kingi): Hon. Senators, there is a request made by the Majority Leader that owing to the fact that we have a number of these reports that require our consideration, after a report has been moved by way of a Motion and seconded, we proceed to put the question. Is that the mood of the House?

**Hon. Senators:** Yes

*(Applause)*

Okay. Hon. Senators, I will now proceed to put the question.

*(Question put and agreed to)*

ADOPTION OF REPORT ON PETITION ON INTRODUCTION OF  
A FRAMEWORK FOR RECALLING NOMINATED MCAS

**Sen. Wakili Sigei:** Thank you, Hon. Speaker, Sir. I beg to move the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of a Petition to the Senate by Mr. Laban Omusundi regarding the introduction of a framework for recalling nominated Members of the County Assemblies (MCAs), laid on the Table of the Senate on Wednesday, 28<sup>th</sup> May, 2025.

I beg to move.

**The Speaker** (Hon. Kingi): Who is seconding?

**Sen. Wakili Sigei:** I request Sen. Veronica Maina, who is a Member of the Committee, to second the Motion.

**Sen. Veronica Maina:** Thank you, Hon. Speaker, Sir, for giving me the opportunity to second the Report that has been presented to this House.

I second the Motion.

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order, Hon. Senators. The Motion having been seconded and aware of the resolution that we have just passed---

*(Sen. Cheruiyot stood in his place)*

The Senate Majority Leader, kindly take your seat. I will straight away proceed to put the question. However, before I do so, allow me to propose the Motion, then proceed to put the question as our procedures demand.

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*(Question proposed)*

The Floor is open for debate, but having resolved that we need no debate on these reports, I will now proceed to put the question.

*(Question put and agreed to)*

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

ADOPTION OF REPORT ON PETITION ON INCOMPLETE INVESTIGATIONS  
AND FAILURE TO ARREST AND PROSECUTE SUSPECTS OF ABDUCTION  
AND DISAPPEARANCE OF MR. JOSHUA GICHUKI MWANGI

**Sen. Wakili Sigei:** Mr. Speaker, Sir, I beg to move the following Motion-

THAT the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on a Petition to the Senate by Ms. Christine Njoki Mweru regarding incomplete investigations and failure to arrest and prosecute suspects involved in the abduction and disappearance of Mr. Joshua Gichuki Mwangi laid on the Table of the Senate on Thursday, 5<sup>th</sup> June, 2025.

I request Sen. Veronica Maina to second this Motion. I beg to move.

**Sen. Veronica Maina:** Thank you, Hon. Speaker, Sir, for the opportunity. I do hereby second the Report that has been presented to the House by the Chairperson of the Committee on Justice, Legal Affairs and Human Rights.

*(Sen. Cherarkey stood in his place)*

**The Speaker** (Hon. Kingi): Senator for Nandi County, take your seat.

*(Question proposed)*

Now, following the resolutions made earlier, I will proceed to put the question.

*(Question put and agreed to)*

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

ADOPTION OF REPORT ON PETITION ON FAILURE BY KBL, KAPLAN &  
STRATTON ADVOCATES AND HARRISON KINYANJUI ADVOCATES TO  
PAY COMPENSATION AWARDED TO PETITIONERS

**Sen. Murgor:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to give this Report. I beg to move the following Motion-

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THAT the Senate adopts the Report on the Standing Committee on Labour and Social Welfare on a Petition to the Senate by Mr. Lawrence Nduku on behalf of one hundred and twenty-five (125) other former employees of Kenya Breweries Limited concerning the failure by the Kenya Breweries Limited, Kaplan and Stratton Advocates and Harrison Kinyanjui Advocates to pay compensation awarded to the Petitioners as laid on the Table of the Senate on Wednesday, 9<sup>th</sup> July, 2025.

The Petition concerning the failure by the Kenya Breweries Limited, Kaplan and Stratton Advocates and Harrison Kinyanjui Advocates to pay court-awarded compensation was presented to the Senate on Tuesday, 18<sup>th</sup> February, 2025, in accordance with the Senate Standing Order No.236. It was referred to the Standing Committee on Labour and Social Welfare under Standing Order No. 238 (1).

The Petition was submitted by Mr. Lawrence Nduku on behalf of 125 former employees of Kenya Breweries Limited who were allegedly wrongly dismissed in breach of Memorandum of Agreement. It was reported that the Petitioners had filed a case, Lawrence Nduku and 125 others versus Kenya Breweries Limited and another HCC No. 279 of 2003 and were represented by Harrison Kinyanjui Advocates.

The court delivered judgment in their favour, awarding them a sum total of Kshs9,180,675 and ordered that each individual be compensated with one month's salary for loss of employment. In their prayers, the petitioners requested the Senate to-

(i) Investigate the matter and recommend the settlement of outstanding compensation.

(ii) Make recommendations regarding the conduct both acts of commission and omission of advocates involved, namely, J. Harrison Kinyanjui advocates and Kaplan and Stratton advocates.

Mr. Speaker, Sir, the Committee interacted with the petitioners and other shareholders who include the Advocates Complaints Commission (ACC), Kaplan and Stratton advocates and Harrison Kinyanjui advocates providing an opportunity for the parties to present evidence and respond to allegations.

The Committee observed that the matter has remained unresolved for over two decades. During this period, the petitioners consistently raised serious concerns about the conduct of their former advocates, including allegations of dishonesty and failure to account for clients' funds.

These allegations come from a dispute over the illegal fees charged and how the case was ultimately settled. The Committee noted that Kaplan and Stratton Advocates acting on behalf of Kenya Breweries Limited, that the matter had been conducted as evident by signing a discharge voucher and consent agreement, but that the amounts paid did not include the one month's salary per individual.

The Committee made the following recommendations in response to the petitioners' prayer-

(1) The petitioners actively follow up on the Certificate of Agency application filed by Harrison Kinyanjui co-advocates on 17<sup>th</sup> May, 2025 regarding enforcement of the outstanding one month's salary awarded to ensure the solution of their claim.



(2) Harrison Kinyanjui and co-advocates submit monthly written updates to the Committee on the status and progress of the pending court application until its final determination.

(3) Despite the actions of the advocates and the parties of signing the discharge vouchers and settling the matter finally being legally justifiable, it remains morally and objectionable. The Committee recommended Kaplan and Stratton to pay one month's salary awarded by court to the petitioners.

Mr. Speaker, Sir, I beg to move and ask Sen. Seki to second.

**Sen. Seki:** Mr. Speaker, Sir, I hereby second this report. The Committee had an opportunity of interrogating many stakeholders, particularly the advocates, Kaplan and Stratton and Harrison Kinyanjui.

We found that these employees from Kenya Breweries Ltd. had a right to be paid their one month's salary plus an award of Kshs9 million by the court. The Committee recommended that this money be paid within the shortest time possible and without unnecessary delay.

I second.

**The Speaker** (Hon. Kingi): Senator for Nandi, take a seat.

*(Question proposed)*

*(Question put and agreed to)*

*(Interruption of debate on Motions)*

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM TABAKA GIRLS  
PRIMARY AND JUNIOR SCHOOL, KISII COUNTY

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the public gallery this afternoon, of visiting teachers and students from Tabaka Girls Primary and Junior School in Kisii County. The delegation comprises 33 teachers and 168 students who are in the Senate for a one-day academic exposition.

In our usual tradition of receiving and welcoming guests 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 will call upon the Senator for Kisii County and Sen. Okenyuri each under one minute to extend a warm welcome.

**Sen. Onyonka:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to recognize the presence of Tabaka Girls Boarding School. It is a Catholic school which comes from South Mogirango Constituency.

Historically, Tabaka has been a school of excellence in Kisii. They also do have a very big hospital in the same Tabaka place basically within the family of the Catholic Church.

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Girls, I wish you well. I am happy that you are here. Where I am standing, I am unable to lift my head, so that they can see me. However, I am sure they can hear my voice. I welcome you to the Senate. It is a place where you come and learn everything. Once you are done, I will buy you a cup of tea.

I will welcome another leader in our delegation from Kisii County, a lady called Okenyuri. You know her. A very highly talented and gifted lady. Essy, please, say a few words.

**Sen. Okenyuri:** Thank you, my senior, Sen. Onyonka. I also wish to take this opportunity to welcome the girls to Senate under the stewardship of Sister Lillian. I also saw one of my colleagues in campus that is Mr. Arthur Bells, a teacher in that school.

Mr. Speaker, Sir, Tabaka, where this school is situated, has one of Kenya's strategic minerals, soapstone. So apart from that, they are also bringing up girls who are engaging in quality education. Before they came in here, I had an opportunity to engage them through the Essy Okenyuri Nyaituga Foundation and I gifted them.

I wish you the very best, girls. As you go back, you can dream and go beyond what we are now.

Thank you.

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

*(Resumption of debate on Motions)*

## MOTION

### ADOPTION OF REPORT ON CONSIDERATION OF THE KENYA POLICY ON PUBLIC PARTICIPATION (SESSIONAL PAPER NO.3 OF 2023)

**The Speaker** (Hon. Kingi): The Chairperson, the Senate Standing Committee on Justice, Legal Affairs and Human Rights (JLAHRC), please, proceed.

**Sen. Wakili Sigei:** Mr. Speaker, Sir, I beg to move the following Motion-

THAT, the Senate adopts the report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of Sessional Paper No.3 of 2023 on the Kenya Policy on Public Participation laid on the Table of the Senate on Wednesday, 14<sup>th</sup> May, 2025, and approves Sessional Paper No.3 of 2023 on the Kenya Policy on Public Participation.

Mr. Speaker, Sir, briefly, this is a policy that was published in the year 2023 and tabled in the House on 25<sup>th</sup> April, 2024. It was thereafter committed to the Committee on Justice, Legal Affairs and Human Rights for its consideration which, upon various engagements with stakeholders, efforts have been made by the Government, through the Executive, and also to formulate suitable frameworks for purposes of ensuring that public participation is done.

Mr. Speaker, Sir, in the course of this particular engagement by the Committee, there are several areas which were identified as specific. One, policy areas, which included particular concerns that were raised by members of the public as well as pronouncements that have come from various courts. There was case from Kiambu

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County that sort of directed most of the public participation engagements. That particular matter is one of the cases that the Committee engaged with in coming up with these various areas.

The areas which we picked for purposes of consideration that fed into our resolution are gaps identified by the matters litigated in various court sessions. These were challenges which requires various improvements to ensure that we entrench directions and options available to make sure that there is meaningful public participation by the public in areas of interest.

Mr. Speaker, Sir, this policy was also brought about by various Bills that have previously been tabled before this House. I recall in the course of our participation in dealing with the policy, there were three Bills which have been tabled before this House. I believe one of the Bills was tabled by the Attorney General Emeritus.

Unfortunately, those Bills have never garnered the requisite numbers for purposes of passage in the two Houses. However, with this particular report, we have engaged both the Executive as well as other major stakeholders. We believe that this meaningful engagement will give a guide on how to draft a relevant involving Bill by the Office of the Attorney General for purposes of tabling it before the House to ensure that it meets the standards that the courts have pronounced themselves in the matters litigated before it.

Mr. Speaker, Sir, the report by the Committee will definitely inform the Bill that will be drafted because the recommendation that the Committee has made is to direct the Office of the Attorney General to come up with a draft Bill for purposes of engaging the public as well as the legislature on ultimately enacting that Bill.

Mr. Speaker, Sir, as I move, I would like to request Sen. Veronica Maina to second this report and urge Members to support it. The moment the draft Bill gets to the Floor of the House for engagement and ultimate passage, I urge all the members to support it.

Mr. Speaker, Sir, I thank you.

**Sen. Veronica Maina:** Thank you, Mr. Speaker, Sir, for this opportunity.

I beg to second the report that has been moved on the Floor of this House. It has been brought to the House is an approval by JLAHRC that the Kenya policy on public participation should be allowed to proceed through the lawmaking process to make a legal framework for public participation.

The policy reaffirms the Government's commitment to exercise effective public participation strengthened by national legal framework. It bestows upon the state and mandates the State to give the public access to information. It also provide a civic education framework for coordination and for enabling all actors to give quality civic education and to also give capacity building and undertake coordinated and integrated capacity building towards empowering responsible citizens and public institutions.

It also promotes effective public participation in planning, budgeting and implementation of approved plans and budgets and inclusion of marginalized groups including children, women and minorities at all levels of governance.

Mr. Speaker, Sir, this policy will finally show us what is the right way of conducting public participation. If you notice, a lot of laws that have been enacted in this

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Parliament have been negated or rendered null because of poor public participation. With this framework, it will settle a few issues that have moved against the enactment of Bills or caused Bills to be rendered nugatory. It will now make it clear that when quality public participation is conducted before any Bill is passed, then it will pass the test of being acceptable even to the citizens upon which such law will be applied.

Only yesterday, I was put to task by a certain group of people who live in Lavington. They wanted us to explain how they participated in a public participation and yet there were certain things that happened that they did not anticipate. They said all the residents that sat in a certain public participation had rejected the zoning of petrol stations within the residential areas in Lavington.

I believe after the passing of this framework and this policy being approved, it will settle the parameters within which the contribution from the public on issues that affect them will be determined. Therefore, if residents reject a certain project or something that has been done within their vicinity, we will now have proper parameters that will govern the threshold that, that rejection should be accepted. Therefore, the project cannot be applied when citizens have said they do not want to have that project in their area or if their area is being rezoned. For instance, if factories are being set within a residential area, the residents can indicate to the public entity conducting public participation that they are not interested in that project.

Hopefully, it will also indicate who should participate in that public participation. For instance, is it right for a public officer or a political leader to call in workers who are working within their offices, family, friends or relatives, fill a room and purport to have conducted public participation on a specific aspect? All these issues will now be settled. It will be easier to determine whether what has been conducted as public participation can be acceptable and would pass the constitutional test or threshold of being able to determine the issues that are being determined by the public or by the public entity. It puts the duty on both the public entity and also the citizens.

No longer will citizens purport also not to be aware that certain projects are being carried out or decisions made which will affect their socio-economic-political rights. If this policy had been passed before the 25<sup>th</sup> of June, maybe we would not have riots or demonstrations on the streets because citizens would have participated in decisions that are informing legislation and policy within the public sector.

Mr. Speaker, Sir, with those many remarks, I affirm and support the report that has been brought to this House. I beg to second.

Thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, we will now proceed to propose the question.

*(Question proposed)*

Again, bound by our earlier resolution, I will proceed to put the question.

*(Question put and agreed to)*

Sen. Mwaruma, what is your intervention?

**Sen. Mwaruma:** Sorry, Mr. Speaker, Sir, I have been informed that you had passed some resolution, but you know public participation is an extremely important agenda in this House and for Kenya.

I thought that maybe, you could have one or two comments because when I heard the Chairperson of the JLAHRC saying we should throw this agenda of coming up with a law on public participation to the Attorney General. Why can we not do it because this is a House of making laws and having a policy this will be the best time to do a law on public participation?

I wonder what the challenge is because the Committee on JLAHRC can pick up that issue---

**The Speaker** (Hon. Kingi): Hon. Senator, our resolution has been passed by this House that immediately a report by way of a Motion is moved and seconded, we straightaway go to putting of the question. So, we are bound by the resolution of the House.

Next Order.

The Chairperson Standing Committee on Devolution and Intergovernmental Relations, please, proceed.

### MOTION

#### ADOPTION OF REPORT ON INQUIRY INTO THE STATE OF GOVERNANCE IN GARISSA COUNTY GOVERNMENT

**Sen. Abass:** Mr. Speaker, Sir, I beg to move the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on its inquiry into the state of governance in the County Government of Garissa arising from a Statement sought by Sen. Abdul Haji, MP, laid on the Table of the Senate on Wednesday, 28<sup>th</sup> May, 2025.

Sen. Abdul Haji sought to have the list of individuals or liaison committee members, chief officers who have not been appointed since 2022. The County Government of Garissa was operating with only one chief officer out of the 30 who they have now appointed. Sen. Abdul Haji wanted to have the list and to know why the chief officers have not been appointed since 2022 up to July 2024 when the committee intervened.

The county had appointed directors who have been doing the duties of chief officers, which is illegal. The same officers acting as chief officers were not approved by the county assembly. On 16<sup>th</sup> May, the Governor of Garissa County appeared and was interrogated by the County Assembly.

Also, there was an issue whereby about 200 members of staff of the previous county government had been laid off from their jobs. Those members who had been laid off went to court. As a result, there was Garissa Petition No.8205 of 2022 that asked the

Public Service Commission to at least undertake and apprise the committee and the court on why due process has not been followed.

The Committee also invited the Garissa County Public Service Board (CPSB) who appeared before it. Upon deliberation and inconclusive submissions made by the Board, the Committee directed the Board to provide a comprehensive report on all matters relating to human resource management in Garissa County within three months. However, up to now, it has not been submitted and a reminder has been written to the Board. We also invited the Head of the State Department on Devolution and they are yet to appear. I think also a reminder has been sent to the Principal Secretary (PS).

The Committee did an in-depth analysis and found that the Garissa County Government had infringed on Section 45(1) of the County Governments Act, 2012 that provides that whenever vacancies arise in the office of the county chief officers, the respective governor shall, within 14 days, nominate qualified and experienced county chief officers. The governor disregarded this advice and contravened Section 45(1) of the Act. The exercise of recruitment of the county chief officers began only after the committee commenced inquiry into the matter.

The Board received a request on 2<sup>nd</sup> January, 2024 from the County Secretary to commence recruitment. The Board approved the request. Subsequently, the chief officers assumed office in July 2024 after recruitment.

We found that the county recruited 30 chief officers against 10 CECMs. That was on the higher side. This kind of employment has really cost the county. As of today, they have spent almost 56 per cent of their money on staff emoluments. Since the appointment of the huge number of chief officers, this has caused the county government to have an unsustainable wage bill. The Committee felt that we need to review those kinds of appointments in future.

Based on the findings and observations the Committee made the following recommendations-

(i) That the Garissa County Public Service Board should review the schemes of service and organizational structures within the County Public Service Board.

(ii) The Auditor-General should conduct a special audit within six months upon the evaluation of this report of all financial transactions made by the Garissa County Executive from the assumption of office in August 2022 to July 2024, being the period in which the county had no chief officers in place to address any irregularities or unauthorized expenditures incurred by the County Executive.

(iii) The County Government of Garissa should expedite the transition to fully digitized payroll systems of fully integrated county employees into integrated payrolls.

(iv) In line with the constitutional role of capacity building and technical assistance to the counties, the national Government should undertake the Fourth Schedule, the State Department for Public Service and Human Capital should provide capacity building training programmes to Garissa County.

(v) The Garissa County Public Service Board should submit to the Senate the report of the human resource audit exercise requested by the Committee within 14 days upon the adoption of this report.

Additionally, the Board should submit a list of all current employees, their qualifications, terms of employment, interviews done and the reports of the county public service.

(vi) The Auditor-General should undertake a comprehensive audit of Garissa County human resource management and the staff establishment within six months upon the adoption of this report.

The audit should include, but not limited to, the roles of the county public service board and whether all requirements of the employees are carried out, the existing human resource policy, the approval of staff establishment, the management of the county wage bill, especially personnel emoluments, the rationale behind appointing 30 chief officers against the 10 CEC Members.

(vii) Garissa County Government should, within three months upon the adoption of this report, submit to the Senate a report on the current status of the wage bill and any other measures taken since 2024 to ensure compliance with the limit of 35 per cent.

(viii) Schedule Four of the Constitution under paragraph 32, allocates the role of capacity building and technical assistance of the counties to the national Government. In this regard, the Senate should, within three months upon adoption of this report, build the capacity of the county assemblies due to the significant under-capacity in that area.

(ix) Amendment of the County Governments Act, 2012 to clearly establish timelines for the remuneration and appointment of CECMs and County Chief Officers (COs) whenever a vacancy arises.

(x) Amendment of the County Governments Act, 2012, to clearly provide the maximum and minimum number of county Chief Officers to be appointed in any county government. In this regard, the Committee proposes the number of chief officers in a county government should be a minimum of 14 and a maximum of 20.

(xi) Amendment of the Controller of Budget Act, 2016, by enhancing the role of the Controller of Budget (CoB) to include reviewing of the requisitions by the county departments and county treasuries before approval of withdrawal of funds.

(xii) Amendment of the County Governments Act, 2012, to clearly segregate the roles of the County Public Service Board (CSPB), the County Secretary and the CECM in charge of matters relating to county public service.

(xiii) Amendment of the County Governments Act, 2012, to provide clarity, situations and limits upon which the CECM Finance can designate accounting officers to be responsible for managing the finances of the county government entities.

In addition, to further provide for clarity on the limitations of the powers and functions of officers designated as accounting officers in acting capacity as well as durations in which a person may serve in such role.

Hon. Speaker, Sir, with those many remarks, I beg to move the Motion and request the House to adopt the Report of the Standing Committee on Devolution and Intergovernmental Relations on its consideration of the State of Governance in Garissa County.

I ask Sen. Cherarkey to second.

Thank you.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. As I rise to second, I wish to thank the Committee Chairperson, Sen. Abass, and the distinguished Members of the Devolution and Intergovernmental Relations Committee. The intention and aim of devolution was to promote efficiency, development and commitment in the utilisation of resources.

Secondly, is to ensure that the law is upheld. What happened in Garissa is very unfortunate. When the governor and county government took office in August, 2022, when all of us were being sworn-in, the Garissa CPSB advised the governor to initiate a competitive recruitment process for chief officers. This advice was disregarded; thereby violating Section 45(1) of the County Government Act, 2012.

Such disregard for the law constitutes a clear violation and forms a basis for impeachment under Article 181 of the Constitution, which addresses the removal of a governor. The offence committed is impeachable.

Furthermore, the absence of chief officers from September, 2023 to July, 2024 raises serious governance concerns. It must be noted that without chief officers, no departmental requisitions were made. According to the structure of county governments, chief officers serve as accounting officers.

Mr. Speaker, Sir, having served the great people of Kilifi for 10 years, you understand the critical role these officers play. The violations of the law in Garissa County Government are inexcusable. Investigative bodies, including the Ethics and Anti-Corruption Commission (EACC), should have commenced investigations. In addition, the Garissa County Assembly ought to have cited the governor for violation of the law and the Constitution, an offence warranting impeachment under Article 181.

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

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

Mr. Deputy Speaker, Sir, we must be careful as a country. This is bad manners, as my brother Sen. Onyonka would call it. When you have 10 CECMs against 30 chief officers--- One, it is not sustainable. Two, it is violation of the law. The wage bill which has been put at a threshold of 35 per cent is being violated. Why would you have 10 CECMs and 30 COs? It is not sustainable. It is not even reasonable. It is not morally right. It is legally wrong. It violates the spirit and substance of the Constitution. So, it does not make sense that the Garissa County Governor, Hon. Nathif Jama and his government, can hire 30 chief officers against 10 CECMs. Even if he wanted to fulfil the clan politics that exists there, it is not the right thing. I know he is playing for political expediency and gallery. Having 10 CECMs against 30 chief officers does not make sense.

I will skim through, with your indulgence, by giving my colleagues the conspectus of the Committee Report. I request the Committee and I do not know whether we will amend that apart from the Auditor General--- We must include the EACC to investigate and do a special audit, with the possibility of investigation and prosecution of senior county officials of Garissa County Government within six months.

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From August, 2022 to July, 2024, there were no chief officers in office. Who was doing requisitions? The CoB? Who was making financial requisitions for the spending of Garissa County Government? There was a possibility of mischief and mystery in utilisation of resources within the period of August, 2022 to July, 2024, where there were no chief officers. Who was doing the spending? Who were the accounting officers?

Does it mean that the governor was the one doing requisition and accounting at the same time? This is a clear violation of the Public Finance Management Act, 2012, the Constitution of Kenya, 2010 and the County Governments Act, 2012. Therefore, I agree that within six months, the Office of the Auditor-General must do a special audit.

Number four is the Committee's concerns on the Integrated Personnel Payroll Database (IPPD). We must be told why there are so many casual workers. I have the benefit of being a Member of the County Public Accounts Committee (CPAC). Garissa County has a very unfortunate misnomer of having many casual labourers. This brings the wage bill beyond 35 per cent as provided by the law. We must be told why many workers in Garissa County are being paid through the IPPD.

On the issue of technical assistance, the Chairperson has captured it very well. I agree that the CPSB of Garissa must provide the human resource audit within the next few 14 days.

As we adopt the Report, I know we are going for the Devolution Conference, 2025 in the next 14 days. I hope the Devolution and Intergovernmental Relations Committee led by the able Chairperson, Sen. Abbas, will get this report on human resource audit. We are tired of counties having excess casual workers. For example, in Nandi County, the investigations into ghost workers within the payroll scandal by EACC are yet to be concluded. However, in the counties, you will find that one person has to be hired to make and serve tea, one to distribute letters and another one to do cleaning. That job can be done by one person. That is what is killing these counties. I remember, that even in Kisii County, the wage bill is approaching 70 per cent. That means the wage bill in Kisii County is not sustainable. As members of the CPAC - and Sen. Onyonka is aware - we called to order the Governor of Kisii County, Hon. Simba Arati, on that issue.

Number five, we need an organogram. That is a very big English word. That is *Kiingereza kubwa*. I say that with your indulgence. We need an organogram or the organisational structure of the county human resource. We want to see the human resource policy of Garissa County.

Mr. Deputy Speaker, Sir, number six is on the issue of wage bill. The Chairperson has captured it well. I do not need to belabour that point.

The last two points are on the chief officers. As a House, the other day we were fighting. The Senate Majority Leader was leading us to push for more resources to counties. We want Kshs465 billion to go to counties, but we agreed on Kshs415 billion. We are fighting so hard.

Nandi has received an increment of almost Kshs1billion, but we are not seeing feeder roads being done or drugs in Kapsabet County Referral Hospital. Our roads in Songor Ward, Chepterwai Ward and all other wards in Nandi are in bad state. We are not seeing that value for money, yet we fight here. We fight very hard to ensure that money go to our counties.

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Garissa County Government led by Governor Nathif Jama must be called to order. How can they have 10 CECMs and 30 Chief Officers? It is not even justifiable. We need to see the justification why you need 30 chief officers against 10 CECMs. This is bad manners that we discourage counties from.

In conclusion, I was chit-chatting with a number of Members of the National Assembly who are my protégées in the legislative arena. They were asking me, “why do you not pass legislation like the one for National Government Constituencies Development Fund (NG-CDF)?” This is because the impact of NG-CDF on society can be seen. They say in Kiswahili, with your indulgence Mr. Deputy Speaker, Sir, *mambo ya NG-CDF yanaonekana kwa ground*. However, why do we not see the impact of the money that has been sent counties? It is because of such bad manners. You are hiring 10 CECMs and 30 chief officers. This must be stopped.

Mr. Deputy Speaker, Sir, another important question is: who was withdrawing and making financial requisitions in Garissa County for those many months? We need to be told. I want to conclude.

**The Deputy Speaker** (Sen. Kathuri): Just a minute, Sen. Cherarkey.

What is your point of order, Sen. Wakili Sigei?

**Sen. Wakili Sigei:** Mr. Speaker, I rise pursuant to Standing Order No.92. I do not know whether you heard Sen. Cherarkey speaking in a language that does not belong to this House.

**The Deputy Speaker** (Sen. Kathuri): What did he say?

**Sen. Wakili Sigei:** Mr. Deputy Speaker, he said, *atare*. That is not a language of this House.

**The Deputy Speaker** (Sen. Kathuri): I thought that is Nandi English. You know, sometimes it is the way he pronounces some English words.

**Sen. Cherarkey:** Mr. Deputy Speaker, Sir, with your indulgence, I ---

**The Deputy Speaker** (Sen. Kathuri): Any time you use any other language, then you must explain what you have said.

**Sen. Cherarkey:** Mr. Deputy Speaker, Sir, I did not, unless it escaped my mind. With your indulgence, I think Sen. Wakili Hillary Sigei thinks in Kipsigis or Kalenjin first, before translating it to English. So, I allow him to do so.

In conclusion, I was making very pregnant point on the issue of requisition. We want to know who is doing financial requisition. There is a possibility of financial misappropriation in Garissa County Government between 2023 and July 2024 when the accounting officers were in office. I want to tie it with another comment. The CECM argued that they had power to designate accounting officers.

Mr. Deputy Speaker, Sir, you and I know that when you are an acting officer, your power should be limited. We need to amend the Public Finance Management (PFM) Act; that the CECM do not have power to appoint acting accounting officers because those people are prone to violating and abusing the Constitution. You cannot hold them accountable because they were just acting. We need to limit the powers of acting in offices.

For the convenience of the House and due respect to it, with your indulgence, allow me to pen off by saying that this is a good Motion. This is a learning curve for most

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of the counties. Garissa County Government must be called to order. They must follow the law, so that they do not risk the impeachable offences under Article 181 of the Constitution of Kenya, 2010.

With those many remarks, I beg to second.

*(Question proposed)*

Hon. Senators, we made a resolution this afternoon on how we are moving this business. However, I first want to confirm---

*(Sen. Methu consulted loudly)*

I want to confirm whether we have quorum, so that I can put the Question. Serjeant-at-Arms, ring the Quorum Bell for five minutes. Once they come, then you can stop it.

*(The Quorum Bell was rung)*

Hon. Senators, let me now put the question.

*(Question put and agreed to)*

## **BILL**

### *Second Reading*

#### THE TECHNOLIS BILL (NATIONAL ASSEMBLY BILLS NO.6 OF 2024)

*(Sen. Cheruiyot on 22.07.2025)*

*(Resumption of Debate interrupted on 23.07.2025 - Afternoon Sitting)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Cherarkey has a balance of 15 minutes. Therefore, if you wish to spend them, you have the Floor.

**Sen. Cherarkey:** Thank you, Mr. Deputy Speaker, Sir. I know you might not be aware, but I am a Member of Committee on Information, Communication and Technology (ICT), having served for some time. This is a Technopolis Bill of 2024 (National Assembly Bills No.6 of 2024). In the principle of reciprocity, I wish in future, the way we fast track the National Assembly Bills, with a lot of indulgence, they must also show the same energy and passion. We need to have a *passionometer*, because the *passionometer* of the Senate for National Assembly Bills is very good.

Sen. Beatrice Ogola and I serve in the ICT Committee. I know there are many delegations of students in the Chamber. Technopolis is like a Silicon Valley in the United

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States of America where there is technology, innovation and many others. We focus solely on the issue of technology.

I know these generations, including some of your visitors and a number of Clerks-at-the-Table, of course apart from senior Mohamed, were born in the technology era. We had a big push and pull. I remember Sen. Karen Nyamu at some point wanted to propose a Bill on Artificial Intelligence.

*(Sen. Cherarkey spoke off record)*

When I mentioned Sen. Karen Nyamu, the microphone went off. She wanted to bring a Bill on Artificial Intelligence. At that point, we were of the opinion that you cannot regulate AI. AI is a moving target. The technology of today will be obsolete by tomorrow.

On this Technopolis Bill, we must be in a place to ensure that we focus. I have seen a number of problems. It does not make sense to allocate land to investors in a Technopolis. What business does a Technopolis have to do with allocating land? This should be struck off, then establish and manage science paths, information, communication and technology innovation centres. I agree.

I had the opportunity over the weekend to partake a visitation ceremony of world champion parents of Amos Kipruto in Tulon, a place near Kona in Emgwen Sub-County. I met a number of artists led by Mr. Israel, Jose, Jan Tex, MC Masir and others. Their concern was on how to access the revenue. Also, they were happy that President William Ruto's Government has monetised digital content. I know that they are able to sell, so we need to expand the technology aspect.

Mr. Deputy Speaker, Sir, that is why even as we rule out the issue of allocation of land, under the Constitution of Kenya, 2010, that is the work of NLC. When we, as a Senate, go to the Committee of the Whole, we will do the necessary. The Technopolis Development Authority (TDA) does not have business to do with land. Land is managed on behalf of the county and national Government, as you are aware on the chapter of land, it is NLC.

Seek out on the management of many science paths. I have told you most of your visitors in the public gallery are students. Most of them are using innovation science paths, technology paths and innovation centres. I am happy, as we talk, President William Ruto's Government has ensured that at least every of the 290 constituencies have digital hubs. Those digital hubs are being used to apply for *kazi majuu* and also for the innovation agenda within. These digital hubs will cover 290 constituencies across the nation. This will give an opportunity to young people, including opportunity to Meru County youth, in those digital hubs to work online and do the innovation and many others.

We must be careful with this issue of patents. There are many innovations that are happening day in and day out through the Kenya Medical Research Institute (KEMRI), the Kenya Agricultural and Livestock Research Organization (KALRO) and many other aspects. They must be given patents.

With the current era of Artificial Intelligence (AI), last year, I had an opportunity to attend the World Internet Governance Forum in Saudi Arabia. Our conversation was on how we protect issues of patency against AI. So, I know there are many young people who are innovators and who have done innovations. I am happy the Minority Leader is in the House, the retired justice Stewart Madzayo. He is conversant in this aspect of putting it in place.

I am happy with the issue of the Science Museum. Let us know what we have innovated as a country. We have been so into the past on issues of Zinjanthropus and Anthropus, the issue of mankind. We have been arguing that we have the first mankind in Turkana. We have the Museum Society of Kenya.

I am happy to see Sen. Sifuna in the House. I was in Kanduyi Constituency, where he comes from. I want to confirm to him that courtesy of subsidized fertilizer, the maize in Kanduyi Constituency, Bungoma County, is doing very well. I can assure him of food security and availability of ugali going into the future, of course, with your indulgence, the use of word ‘ugali.’

Mr. Deputy Speaker, Sir, I know we have travelled, we have gone to Turkana. We have a museum. I know the students who are your visitors in the gallery will now visit museums, but we want to create a science museum. They are no longer excited. These visitors of yours up there, our students, do not care about Zinjanthropus and Anthropus or mankind. They do not want to care about the original mankind. They want to know what technology is doing for them because this is a digital era generation. We want to build a digital economy, even through M-Pesa and many other aspects.

I agree that we need to get more investors like *Meta* and *TikTok*. I remember we had a slight problem with *TikTok*. I thank the Communications Authority of Kenya (CAK) led by Director General David Mugonyi for coming with the proposal that all the international media that come to Kenya must establish physical offices. We have *X*, *Meta*, *Facebook*, *TikTok* and even *Snapchat*. We need them to establish physical offices in Nairobi for an easy following. This is because some of these forums are being used wrongly to mislead the young people through banned contents and also to incite and breach national peace.

On the issue of technology, we agree. I have seen the Chairperson of Independent Electoral and Boundaries Commission (IEBC) and members proposing a raft of legislative issues around elections. In my own assessment and I have been in this Parliament for some time, we have enough laws. I know Sen. Mumma who is one of the accomplished lawyers, have enough laws to manage and run elections. I think what IEBC should be doing at the moment is to lay the groundwork in terms of delimitation of boundaries, ensuring continuous registration of voters and ensure that by elections are done in more than many constituencies and counties that do not have representation in this country.

The work of IEBC is well cut out. They do not need to bother the country with legislative or policy interventions at this point in time. We, as a Parliament, want to assure them that we have done proper legislative and policy framework. Therefore, the IEBC commissioners needs to settle down and plan for elections.

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On the issue of technology, we have amended the law to ensure that we put in place the aspect of technology in terms of running elections. The IEBC should rest easy and focus on the hardware of ensuring that we have credible, proper and verifiable elections in 2027. I am happy that IEBC now is in place.

Mr. Deputy Speaker, Sir, on a light note, as I finalize on my final point, since the IEBC commissioners came into place, opponents of President William Ruto have gone silent because they have realized the real game has begun. They have now become confused than ever.

Number six is on the role of the county governments, which needs to be enhanced in this Bill. Let us establish a special purpose vehicle as may be necessary for the discharge of its functions. The work of KRA is cut out. What the Technopolis Development Authority is doing is not right. They do not have a role. Let us leave KRA to do their job of exemption of fees, levies and other charges imposed under this Bill.

It is proposing two things; KRA should be left to do its role. Secondly, we usually pass the Finance Bill every financial year. These Finance Bills do not have the power to exempt. Article 210 of the Constitution says that imposing of taxation is an exclusive domain that is provided through legislative intervention. Let us allow the Finance Bill to take care of exemptions of taxes or levies imposed under this Bill.

Mr. Deputy Speaker, Sir, I am happy with technology because as I speak, across the country in Kenya as well as South Africa, we access technology. Under President William Ruto's Government, 24,000 fibre optic cables have been laid across the country. This will ensure accessibility of internet. However, the only problem I have is that the cost of internet charges in this country is still high.

For Safaricom, Airtel and other telecoms, the cost of internet is high. When you buy internet bundles from Safaricom for Kshs999, you will get 10 GB. Why does it have to expire after seven days and yet, this is something you have bought? We must reform the issue of internet cost. This is because, when I buy 10 GB for almost Kshs1,000, why should it expire and they are my bundles?

Mr. Deputy Speaker, Sir, Safaricom and other companies must be called to order. There should be no expiry on something you have bought. I am happy that the Deputy Party Leader of the Orange Democratic Movement (ODM) is here as he is passionate on ICT issues; Sen. Osotsi and my good neighbour from Vihiga County. We should be told why data expires and yet, you bought and it is yours. Whenever you buy maize because we grow maize, if I give you 10 bags, it should not expire. The goods and contents should remain as they are. With the laying of the 24,000 fibre optic cables across the country, access to internet should be easy and cheap.

I would also like to report that under President William Ruto, we have 1,494 Wi-Fi hotspots for the *mama mboga* and *boda* riders to access Wi-Fi wherever they are. Since President William Ruto came to power, e-citizen, which is part of ICT, more than 22,500 services have been shifted from 353 services that were there. This is through on-line because we are discussing about technology.

More than 300,000 have been taken through the Ajira Digital Programme alongside 290 digital hubs. I would like to confirm to the House, out of 404 proposed

digital hubs, 316 operational digital hubs have been put in place under President William Ruto's Government.

Mr. Deputy Speaker, Sir, the point I want to prove is that the Kenya Kwanza administration and the broad-based Government is keen and is supportive of technology in this country. We want young people to get access to technology and affordable internet.

In the 2022 elections, there were constituencies that did not have network coverage. Mandera, Wajir, Turkana, Lamu and Garissa counties still have a problem with network coverage. Why? Due to terrorism. Terrorists nowadays target masts. There is a police unit called Critical Infrastructure Police Unit (CIPU). They must protect these masts for network coverage so that the people of Mandera, Wajir, Garissa, Marsabit, all the way to Turkana and some parts of West Pokot access internet. For us to eradicate cattle rustling and banditry in Kerio Valley, there must be proper network coverage. This includes also Baringo, Samburu and other counties suffering from insecurity. This will ensure there is accessibility of technology.

Mr. Deputy Speaker, Sir, remember I did bring the Cancer Prevention Act. One of my proposals was the use of tele-medicine. It does not make sense to have a cancer patient or our patients travelling all the way to India to get medical care. Firstly, we lose resources and taxes. Secondly, we cannot hire enough doctors. Why not use tele-medicine courtesy of this technology? You will be somewhere in Vihiga, Kisumu, Homa Bay, Lamu, Nairobi, Kilifi, Nyamira or Makutano in Meru and not Kathwana, which is in Tharaka Nithi. There is Anti Baiju where we went with you. Why not go to a hospital in Meru or Kapsabet and use tele-medicine?

I can see my time has been spent. I was getting hotter, but I support this Bill. There are few amendments we need to do.

With those remarks, Mr. Deputy Speaker, Sir, thank you.

**The Deputy Speaker** (Sen. Kathuri): Sen. Cherarkey, I can see in my notes that you are supposed to second. Pronounce yourself. I was misdirected by Mr. Mogere who is in charge.

Let us have Sen. Karen Nyamu to contribute and I open the Motion for debate. It seems Sen. Osotsi seconded.

**Sen. Nyamu:** Mr. Deputy Speaker, Sir, I rise to support the Technopolis Bill (National Assembly Bills No.6 of 2024). Kenya is not short of tech talent. Our young people have done exploits in this field, including the young man who innovated mobile banking. He comes from our country. There are many other things our young people have done.

We only lacked an ecosystem to enhance it and have our young people do their talent in an organized and in a profitable manner. This Bill is a good step and a bold one towards remedying that. It also creates other technopolises far from Konza because Konza city was seen as the breakthrough of tech in this country.

For long, Nairobi was thought as the tech hub, but this Bill proposes to democratize or devolve tech by proposing other technopolises around the country; from Kisii to Wajir. We have to ask ourselves how these sites will be identified, so that we are

Careful to not introduce tokenism when we pick the sites. For instance, if you come from a marginalized area, then you are not lucky.

Mr. Deputy Speaker, Sir, this Bill also proposes to streamline bureaucracy, so that our young people do not have to go from one office to another carrying brown envelopes with many documents. It proposes having one permit under one system. That will tackle the issue of bureaucracy.

The Bill also aligns with President Ruto's Bottom-Up Economic Transformation Agenda (BETA). What is bottom-up if it is not giving a *mama mboga's* son an opportunity to be supported in technology and their talents?

We also have to ask some questions because this Bill has been done in such a way that is hostile to the counties. How do you ask a county government to support you with land, infrastructure and all that then you deny them a seat on the table? For example, Nairobi City County has had 100 tech-hubs registered without the proposed centralised body. That shows that, that is not what we need. We need a devolved innovations framework for the country so that county governments are involved. That is something we can come up with. We can have amendments as we move, but most importantly, let us pass this Bill.

Mr. Deputy Speaker, Sir, as a mother and a leader, I have witnessed what technology can do to pull families out of poverty. We need to pass this Bill to give our young people an opportunity to turn their dreams into reality and create job opportunities for them.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Let us have Sen. Catherine Mumma.

**Sen. Mumma:** Thank you, Mr. Deputy Speaker, Sir, for the opportunity to speak to this Bill. I wonder whether this is a necessary Bill. Sometimes I get frustrated by Bills that come from the National Assembly because many tend not to align to the constitutional framework that we have. That is the devolved governance system.

Reading through this Bill, I went straight to Clause 5, which lays out the functions of the Technopolis Development Authority (TDA) that will be established. The first question I asked myself is whether the TDA is necessary. We need to grow the digital and technological economy in Kenya. However, does that require an TDA in order for that to happen? The answer is no.

When you look at the Fourth Schedule of the Constitution, we do not have digital technology as an assignment or a function of the national Government and neither do we have it as a function of county governments simply because digital technology is an enabler of functions. That means that both national Government and county governments need digital infrastructure and technology to carry out their functions.

If you talk about businesses and establishing industrial parks, which the national Government is facilitating in terms of additional allocations and conditional grants to the counties, counties are setting up spaces and nothing in law stops a county from establishing a technopolis if it elects to do so. Therefore, a law like this one is misleading because it makes it look that for you to establish a technopolis in Kisumu County, you need some TDA to tell you how that operates. I beg to differ. This is another unnecessary parastatal that will gobble public funds and not assist us.

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I am of the opinion that the Senate should be bold enough to say that we need the Ministry of ICT and the Digital Economy to put in place the digital public infrastructure and lay fibre cables throughout the country to enable every county and every space to develop the necessary digital technological capacities.

Innovation is not a function of the national Government or county governments; it can be done by anyone, whether in private or public sector. If we start creating institutions and give them mandates to be in charge of innovations, we will be creating bureaucracies that are going to inhibit those who want to move.

My view is that we need to fund our public universities better. We should give our Science, Technology, Engineering and Mathematics (STEM) Departments more resources and state-of-the-art equipment to carry out innovations because learning institutions are the best spaces to nurture innovations. If we remove that from the universities and set up a parastatal to be in charge of innovations and research, we will be moving in the wrong direction.

Mr. Deputy Speaker, Sir, in Clause 5(1)(b), the TDA will have powers to allocate land to investors in technopolis. I have not seen any cross-referencing to the NLC or county governments which hold county land. I have also not seen any reference to municipalities and cities that also have mandates around matters planning. If we pass this Bill without having a proper conversation among the stakeholders around this issue, we will cause more confusion.

I have not seen cross-referencing around what the CAK does. Neither have I seen any cross-referencing to the Data Protection Commissioner. However, I can see this Technopolis Development Authority (TDA) being given the mandate to be the custodian of business data, whatever that means. If we pass this Bill, we will be adding problems and creating confusion instead of enabling kickoff of the digital economy in this country.

Clause 5 (1)(j) gives the TDA a function to undertake investment in a technopolis either by itself or through partnership. This is the TDA that is supposed to give guidance on innovations, but it is also supposed to do business in competition with those who will be doing businesses there. That is conflict of interest. Is it a regulatory, standards or investments body? I think we are getting it wrong.

Having said that digital technology is an enabler of anybody; be it private, county or national Government. I have looked at the constitution of the board which is full of national Government Principal Secretaries (PSs) and people elected. It is basically being formed as a national Government parastatal that will be given functions that will be done across the counties.

Whoever drafted this Bill did not bear in mind provisions in the Constitution, particularly Article Six that states that ours is a devolved governance system that must recognise both the national Government and county governments. So, we are establishing a national Government parastatal, giving it functions that are crosscutting to counties yet counties do not have any role in this.

My view is if we need to set up a body like this, we need to go back to the drawing table and ensure that the institution is intergovernmental and not national. We also need to give it extremely narrow mandates, which will be to lay out the public digital infrastructure and leave the rest to the markets for it to grow. If you enable access to

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internet in the villages, the markets will grow. They do not need any Technopolis Development Authority (TDA) to tell them how to do digital development. If we give resources to our universities and Technical and Vocational Education and Training (TVETS), we will build capacities around technology that will enable our businesses to grow around technology.

If one looks at the functions of this TDA and the composition of its board, they will realise that this law offends the Constitution. I suggest that the Senators relook at it and be bold enough to tell the National Assembly that we need to go back to the drawing table to ensure that this law aligns to the Constitution.

I do not support it in the manner it is. Thank you.

**Sen. Wakili Sigei:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to comment on this Bill. From the very onset, I support the enactment of a law that will help us to grow, develop and manage the governance of our technopolis.

I support this Bill with reservations on a number of provisions. I will propose that those provisions be subjected to amendments for this Bill to align with the Constitution and ultimately achieve the objectives that it seeks which is to create and advance technology in our country.

One of the projects or programmes of the Kenya Kwanza Government was the development of ICT hubs across the country. I largely support this Bill because the development of these hubs will ensure growth and development of ICT. Our young generation and Kenyans who are tech-savvy can then use technology to create employment, earn a living, develop their business ideas and go beyond the region in ensuring that they get jobs as they utilise their expertise.

Kenya is one of the first growing ICT hubs in the region. This law, once amended and with various propositions that I believe Hon. Members will give here, will support that idea to make sure that we position this country beyond the region. It will help us to place our country globally in matters ICT. That way, we will expand the scope of employment to the people of Kenya.

I come from Bomet County. There is a region in Bomet called Mulot where we have high-tech boys and girls. My neighbour, Sen. Omogeni knows that when crossing over Mulot, you either switch off your phone or you place it on flight mode because of the technology that is available there. This Bill will ensure that we facilitate, tap and ring-fence such kind of knowledge to support young Kenyans. We will formalise their expertise in ICT and use it appropriately instead of them using it in a manner that the law does not deem appropriate. I will comment about the Mulot ICT hub. Once this Bill is passed, I together with thousands of techno-savvy young men and women who are residents of Bomet County will directly benefit from it.

I want to look at some of the provisions in this Bill. I will start with Clause 5(b), which Sen. Mumma commented about. In this clause, the proposed law seeks to mandate the Technopolis Development Authority (TDA) to allocate land to investors in a technopolis. Technopolis has been defined in Section Two to mean a zone area which has been ring-fenced for purposes of ensuring that we have businesses and transactions within the ICT zone.

The TDA has got no role in law or in the Constitution, to allocate land to investors without making reference to the county government and the NLC whose mandate in the Constitution is land allocation. Therefore, it means that if this law passes as is an individual can go to court and challenge the provisions of Clause 5(1)(b) as unconstitutional. If that happens, we will lose the important provisions which are compliant with the Constitution. I propose that particular clause be amended to ensure that it aligns with the Constitution. We have to make appropriate references to other institutions mandated in the Constitution and law for land allocation.

Secondly, under Clause 5(1)(f), the TDA has been given role or mandate of facilitating realisation of Kenya's digital economy by use of emerging technologies to support business within our technopolis. As I said earlier, the Kenya Kwanza plan was to establish over 290 ICT hubs. This means that each constituency or ward is to have an ICT hub. This will ensure that we cascade the provision of ICT technology and open opportunities in almost each and every ward.

With that, we will facilitate the realisation of Kenya's digital economy, which is one of the major sources of business opportunities. The economy is built on job creation and marketplace due to emergence of ICT in the world. This is a very good provision. I support it because it feeds into what people were promised when this Government was seeking an opportunity to serve for this period.

These technopolis will translate to a one-stop shop. The mandate of this TDA is to open up business opportunities which are supported by ICT. This will limit abuse or rather misuse of opportunities because one will have to transact within one area because all businesses will be operating within that technopolis.

Clause Six talks of the powers that the TDA is supposed to have. As I said, some of the proposed powers are unconstitutional. The creation of a Board to manage the TDA, particularly under Clause 7(e) is unconstitutional. The chairperson will be appointed by the President. There is that requirement. As has been said by Sen. Mumma, this is an intergovernmental function. We are creating technopolies not only at the national level. Therefore, there should be some relationship between the national Government and the county Government.

Among the nine members of the proposed Technopolis Development Authority (TDA), four of them represent the national Government and 7(e) represents five persons who the clause seeks to be appointed competitively by the Cabinet Secretary.

Mr. Deputy Speaker, Sir, unfortunately, there is no reference at all to any representation of either the Council of Governors (CoG) or the county governments, where such technopolies are to be domiciled. That is a very critical provision. It will not be possible for an authority to be representing certain functions which are devolved in law and yet, there is no representation in the Board of the county governments or the CoG. I propose that there should be further amendment to clause 7(e), so that among the five people who will form members to the Board who are supposed to be competitively recruited, they must be ring-fenced to represent the county governments.

If not all of them, at least three of the members who will be competitively recruited must be members nominated by either the CoG or the respective county governments where such a technopolis will be domiciled. That way, we will be protecting

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the interests of the counties as well as ensuring that certain functions devolved are not only performed exclusive by the national Government, but with the involvement of the county governments.

The rest of the requirements on the qualifications, experience of these individuals to be nominated is provided for under 3 (b). This ensures that there will be a diverse character of personnel that will be represented in the Board.

That way, we will be having everyone from among engineers, architects, physical planners, ICT experts, law, social sciences and other relevant fields. We will have diverse representation within the Board and tap those experiences to make sure that we optimise the people who will be dealing with the management of the Board.

Lastly, on this one, the appointment at different dates provided for under Clause 7(5) is to ensure that not all the nine members who will be sitting in this Board are appointed at the same time. There is a proposal to stagger the appointments.

This is aimed at ensuring that the serving period does not expire at the same time for all members. That way, we will ensure that there is continuity. When one member's time expires, the remaining members in the office are able to run. We will not have a lapse of history and perpetuity of the office.

The staggering of appointment and nomination of members is welcome. It will ensure that we achieve what we have across the Board made reference to continuity of office.

Clause 18 provides that this TDA is expected to collaborate with relevant county government or any other government entity. It will be impossible for the TDA to propose to coordinate and liaise with relevant county governments for purposes of collaboration on development of these technopolies or in any other manner that requires that collaboration when there is no representation in the Board of either the CoG or any other person representing county governments. This Clause 18 will prove to be extremely hard to implement. Therefore, it calls upon this Bill to be amended to ensure that we give them that room to have representation.

As I earlier on referred to, the ICT hub that is to be developed in the County of Bomet, Mulot, it is the County Government of Bomet that is required to provide for the land and that has been made available.

It will not be possible for the national Government, whether it is Konza Technopolis or any technopolis for that matter, that will be created if this Bill were to be passed, to go down to Bomet, develop infrastructure, get certain approvals and the county government is not involved.

Mr. Deputy Speaker, Sir, the provisions of Clauses 18 all the way to 21, are very critical to make sure that any expected collaboration achieves the objectives of this Bill. Without such amendment, it will not be possible because it will not be easy for the national Government to run without having the support of the county government.

Part V of this Bill is under Technopolies Development Control. This is the same challenge that will come to the development of the control mechanism of the technopolies in the absence of county governments. There is no clarity under Clause 23 on how this control will be achieved because you cannot expect the TDA to regulate zoning, especially where the county government is not involved.

There is need to ensure that by the time we are giving the mandate to the technopolis to control zoning, the county government have a role to play so that whatever zoning that will be expected to be done, it is done in full collaboration with the relevant county governments or representatives of the county government who will also support such zoning.

The provisions of Clause 25 make specific reference to application and approval of development permits. Under this clause, there is no reference at all to any role that any county government were to play. Remember our county governments have got the mandate in law to issue certain permits. It will not then be possible for the TDA to grant licenses where there is no reference to any role to be played by the county governments in approvals or in cancellation of those licenses.

It is one of the major source of revenue for the county governments. It is their role to issue licenses to businesses and related roles. So, we will need to still relook at the provisions of Clause 23 with regards to licensing.

Under Part V on Licensing Procedure, Clauses 29 and 30 speak not at cross-reference, but contradict each other. These two clauses need to be relooked at so that there is compliance in how one is required to apply. Whether we are classifying the licenses or giving a certain fee to certain licenses, Clauses 29 and 30 should be able to speak to one another, so that the law can flow.

Specifically, under 29(c), where it gives a very blanket authority to exempt certain applications from getting licenses before they operate. I propose that the TDA should only be allowed to grant exemption on two of the three proposals made. One, if you are a startup business enterprise within the technology and you are on your initial operation stage, you can be exempted if you meet the qualifications that shall be established in the regulations. Secondly, if you are undertaking a collaborative or research partnership with an already licensed and existing entity within the technopolis.

The provision that is proposed to grant another condition of any other person as may be provided by the regulations is a possible abuse of this provision in law. We do not need to provide for this in the Act. If necessary, if it must be there, it can only be placed in the regulations which the Cabinet Secretary is mandated to process and prepare for purposes of application. If we leave this as is, it is prone to a lot of abuse.

Mr. Deputy Speaker, Sir, lastly, the Bill, as I said, is good. It is a Bill whose time has come. It will open up the country to the regions as well as facilitate what we are all aware of because we are now in an Information and Technology (IT) world. Everything else is on the platform of technology.

This Bill will ensure that it gives us the support that we require to transition. As we transition, if the objective of the provisions of Part XI on the transition and the saving clauses to maintain and protect the former authority, in this case, the Konza Technopolis Development Authority. Therefore, a number of provisions in the proposed law needs to be relooked at so that we transition appropriately from Konza Technopolis to other technopolis across the country without necessarily hampering the rights of a county to establish its own technopolis.

As it is, it will mean that a county government is not in a position to develop its own without referring to the TDA and getting the approval from it. As I have said, there

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is no representation of county governments through either the CoG or any other representation in the authority.

Mr. Deputy Speaker, Sir, unfortunately, I have not seen the Chairperson of this Committee in the House. I hope the Members of that Committee have followed up the proposals by Members on possible necessary amendments to be made on this Bill, so that it be passed and serves the purpose that was aimed at. As it is, there is still a lot to be done to make sure that it is representation of the desires of the Technopolis and those who have come up with this particular Bill.

Mr. Deputy Speaker, Sir, I support. I thank you.

**The Deputy Speaker** (Sen. Kathuri): Sen. Veronica Nduati, please proceed.

**Sen. Veronica Maina:** Thank you, Mr. Deputy Speaker, Sir, for the opportunity to contribute to this important Bill.

From the very onset, the intention of the proposal of this Bill coming from the National Assembly was intended to regulate the field of technology, which is emerging and developing at a very fast pace. The intention is good, but the Bill needs a lot of panel-beating in many respects because there are certain provisions that seem to usurp the powers of other entities that have certain responsibilities towards the public or sector.

Let me from the onset indicate that with the enactment of this technopolis law, ideally, I would expect that whatever Bill is presented to Parliament, that first it encourages innovation in technology and emerging expertise to be utilized in cyber security because of the emerging issues that we are having with technology. The Bill must also meet the objective of incentivizing investment into the field of technology. If that Bill is not meeting that objective, then it will be falling behind what is expected for this it to meet.

In my opinion, this Bill must also offer a framework that attracts a lot of investments while taking into account a deliberate utilization of Kenyan human resource. We know that our young generation in Kenya are savvy in technology matters. They have advanced to a very good extent. Therefore, it will defeat purpose for us to create a law, which does not take into account deliberate utilization of the Kenyan youthful human resource that is well versed in technology.

I have looked at the provisions that are in this Bill and would like to join my colleagues, Sen. Cathy, Sen. Osotsi and Sen. Wakili Sigei who also talked about the definition of a controlled geographical area. I am looking at the definition or interpretation section, preliminarily and asking myself why Konza Technopolis was defined with specific reference, specific parcel of land and with a specific geographical zone, with specific hectares, 2023.6.

Mr. Deputy Speaker, Sir, supposing tomorrow, Konza Technopolis needed double this space or did not need this much land and needed to utilize a quarter of this land, would it be smart to define that specific parcel of land, Land Reference No.9918/6? What is the purpose of introducing a specific? This is a legislation, not a contract. You define acreage and area based on a specific contract between contracting parties, so that it locks the subject matter of that contract.

When I look at definition of Konza Technopolis, it is something that anybody would put in a schedule, regulation or document. Ideally in law, you must create a

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principle which gives the parameters around which an issue is being enacted for a regulation or a rule. So, in my opinion, it is a bad idea and that must be amended.

I have also looked at the reference to the buffer zone, meaning a defined area surrounding a Technopolis that is subject to controlled land use. When we talk of a buffer zone, it is not even defined whether it is within the Konza Technopolis or whether it will be taken beyond the 2023 hectares. It is not defined whether the TDA will wake up one morning and define the buffer zone as one, a radius of, for instance 1,000 hectares around the Konza Technopolis. That leaves it vague and subject to abuse. I would say first, when the buffer zone is introduced within this legislation, what is the purpose and size of that buffer zone? What does it intend to fulfil? Is it helping the Technopolis? Is it radiation? Is it subject to certain things that could be affecting the neighbourhood? What is the buffer zone for?

If you just throw words here, we know how our nation operates and how our people sometimes think. Some of them are not well intentioned. They will misuse that reference to buffer zone, to bring in demands on maybe the people who live around the Konza Technopolis, and it could be used wrongly by people who are not well intentioned. So, I would say, let the buffer zone be taken out. If it is not taken out, define the purpose and size of that buffer zone, whether it is within the Technopolis area or not. I give this submission while respecting the fact that ideally, this Konza Technopolis should not be defined the way it is. This does not look like good draftsmanship.

Although I am not an expert in IT, I wonder, should a Technopolis, dealing with technology and virtual spaces, be defined in a physical manner, or do we define even virtual spaces where this technology will be utilized? Is this act applicable to virtual spaces? So, I think there is something not correct about that definition and experts must be able to tell us, for instance, when you have a virtual space, do you own that virtual space? Are there rights that could help one to own that? If you leave those virtual spaces here, can you raise a claim against a competitor who comes in to use your virtual space?

Mr. Deputy Speaker, Sir, many times when companies like Safaricom host masts, they have satellites. I see them in a joint cooperation with other companies in the same communication sector. They utilize that space because of certain policies that regulate how aerial spaces can be used by companies. This is to ensure that you are not spreading out certain parameters on uses of land that could be co-shared between competitors.

When we see the definition of Konza Technopolis as actual land, is the mindset still in investment on physical property, physical tangible assets, physical immovable assets or do we have spaces that are not seen with bare eyes? I see as though that is not very progressive. It does not take into account the utility of virtual spaces. I believe this should be revised and dropped. Based on whether virtual spaces should be included, then the definition must change.

I have looked at Clause 5(1)(b) and the functions that are given to the Authority to allocate land to investors in a Technopolis. From the plain reading of this provision, this clause does not indicate whether there are any terms for allocating that land. Indeed, as pointed out by legal experts who are also doubling in as Senators, land allocation is something that is not within the purview of the Technopolis, unless they own it and want to lease it, in which event, they would say leasing the land or using different terms and

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concepts. Allocation of land is a function that is left to either the Government, the Ministry of Lands and Physical Planning or county governments. They could allocate, but I am not sure whether allocating land is the concept that should be used here. Maybe other definitions of how land could be leased out or other ways or licensing of that land by the holder of the title. Again, the provision leaves it very open. For instance, if this is enacted into law and it says that this Authority shall allocate land to investors in a Technopolis, it means that all I would need to do is to just walk into the offices of the Technopolis Authority and then demand that land be allocated to me.

Since they have not put it subject to any conditions that may be developed by the Authority, I would even say it is a free allocation. If you try to put a premium on it or demand a consideration for that land as the Authority, a person interested in that land or an entity interested in that land could easily challenge this in court and say it was an open allocation. If they must allocate or lease out this land, that must be amended to read that this be based on the conditions that will be laid out by the Authority. It has to be closed, so that anybody transacting with that Authority will understand that there are conditions that are developed.

Then there is the concept within which this law has been made. If you read it, it is pointing at the Konza Technopolis. How about the concept of this Technopolis being open to 47 other counties, so that we have a clause introduced in the Bill foreseeing a situation where the 47 counties could have the freedom to also develop their own Technopolis?

Supposing in one of the counties, say Nairobi, they already have an area where they have developed a concept close to the technopolis, can a clause not be introduced in this Bill that says those Technopolis which are already meeting the conditions under this Bill will be recognized to be within the purview of this Bill and will become subject to the Authority?

The land use in the technopolis there is defined in Clause 6 of this Bill, that the Authority shall have all powers necessary for the proper performance of its functions under this Act, including the power to regulate land use in a technopolis. So how far do you give this power to a technopolis and why is the land use being regulated by the technopolis when in actual fact the zoning of land and land use is defined elsewhere, especially because there is an intention for that land to be allocated?

I think this is an overreach and it needs to be redefined. That function could be resting elsewhere, not within the technopolis. If they must do it or give an advisory, they can only do so to the organs or the entities that are legally mandated to deal with land use planning. My submission is that function rests elsewhere and should be left to the public entity that is supposed to deal with it.

When I look at Clause 6(d), it talks about approve development applications, issue construction permits and license users within a technopolis. Of course not, they cannot issue construction permits. That once again is a function of the county governments because they issue construction permits unless they need a very technical construction permit whose expertise rests within the technopolis. There is no suggestion within this Bill that they will have a team of experts in construction of premises suitable for matters



that are required to be developed or technology that requires to be developed within the technopolis.

They have not brought in the element of very special expertise that cannot be handled by the county governments. If they have not brought in the concept of experts who can come into these construction permits, that is not within their mandate. So it will be void even on the plain reading of it and they do not reference to any regulations that will be applied in licensing.

Then I want to look at Clause 6(f). The Authority has been given powers to enter, inspect and search any premises to enforce the Act. Is that not going against the standard policing Act? How will they enter? Do they have a policing unit? Is there a creation of a policing unit? It is food for thought to the proposer of this Bill.

Let me go to the qualifications of the chairperson under Clause 7. A person qualified for appointment as the chair, if the person is a citizen of Kenya, should hold an undergraduate degree from a university recognized in Kenya, has at least 10 years' experience in leadership and management and meets the requirements of Chapter Six of the Constitution.

I do not think those qualifications are adequate for a chair of such an Authority. We must add another qualification and an amendment must be done to this section to state that he must be a graduate qualified in a matter of technology, so that he is versed with what the Authority is doing. For instance, if you gave that authority to Sen. (Prof.) Tom Ojienda and we know what his expertise is in, would he be the best suited Kenyan to lead that Authority? My proposal is it should be a person who is versed with IT or technology or communication matters.

In my view, a lot of work needs to be done to amend and revise the clauses. This looks like an ordinary Bill, one that does not go into the specializations that it is supposed to be addressing. While the intention is good, it does not go into the specific technology area and bring out the salient unique issues that need to be addressed within the technopolis and once again, that concept of the buffer zone of the technopolis needs to be addressed.

Hon. Deputy Speaker, I have also seen a section requiring that processing of expatriate working permits be done by the Authority. That also needs to be rethought. Processing of such permits would normally be done by immigration and entities that come to trade and invest must have the local content.

They must have Kenyans within the purview of their human resource so that, if we have local skills that can serve within those companies, they must be included. They must have a Kenyan local content included in any investments that come into the technopolis concept.

With those many remarks, I support this, subject to heavy revision. The Bill needs to be cleaned up and tidied to address outstanding issues. More importantly, to embed the concept of technology within its framework. It should not come across as an ordinary Bill addressing ordinary matters in Kenya. Rather, it must stand out as a Bill that deals with Artificial Intelligence (AI), if AI is to be incorporated and other emerging technological issues. We must consider how these technologies will be managed, especially if they are housed within or operate under the jurisdiction of the technopolis.

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Thank you, Mr. Deputy Speaker, Sir, for the opportunity. I support.

**The Deputy Speaker** (Sen. Kathuri): Okay. Let us have Sen. Peris Tobiko.

**Sen. Tobiko:** Thank you Mr. Deputy Speaker, Sir. I rise to support this Bill. It has come at an appropriate time, when Kenya is embracing technology. We definitely need this Bill to start regulating the virtual infrastructure, space and businesses and initiate the issue of technopolis in this country.

It has been a long coming because the idea was mooted during the time of the late H.E. President Kibaki. To the extent that today we have the Konza City, we are moving in the right direction albeit slowly, but there is hope. This is the direction to go.

I have listened very carefully to Sen. Veronica. Whereas many things she has mentioned make sense such as clean-up of the Bill, definitely this Bill has come at the right time. Many Kenyans are going to depend on the virtual space for businesses, particularly the young people. At the moment, the world is going the technological way. So, this Bill will start regulating the virtual and physical space, particularly of the Konza City.

Kenya will be known as a global pace setter in technology. Besides regulating the virtual space and online businesses, this Bill is referring to the Authority. This is because, even the physical space needs to be regulated. The infrastructure needs to be put in place for a proper takeoff.

At the Konza City, a lot of horizontal infrastructure has already been done. Every time, many Kenyans have been worried that the Konza City is going to be a white elephant project. However, subsequent governments, including the Uhuru Kenyatta government, embraced the issue of the technopolis. Right now, President Ruto has embraced the same. The Konza Technopolis is going to be a reality and many Kenyans are going to benefit.

We have already seen settlement of a number of universities at the Technopolis. We have the Open University of Kenya already settled at the Konza Technopolis. There is another technological university also starting. There are a lot of infrastructural developments at the Konza City right now.

I know of a nation data centre already in place at the Konza Technopolis. There is also a high security system being established. So, the Konza Technopolis is definitely a good startup to prepare Kenya for the future.

There are a many opportunities at the Konza Technopolis. The Authority that is going to be established will not only concentrate on the virtual space, but the physical space of the technopolis. The developments around that area will benefit many Kenyans. Those of us who come from around the Technopolis, because I am a neighbour to it, our hope of having infrastructural development is now pegged on the reality of the Konza City.

Many people from Machakos, Makueni, Kajiado and other parts of Kenya are looking to the Konza Technopolis as an alternative to Nairobi. It is not just as another city, but as a well-planned city of the future. Unlike many urban centers in the country that have sprung up without proper development or planning, Konza is a modern city designed with foresight and intention. It represents Kenya's first real attempt at building a city that integrates both physical infrastructure and virtual innovation. A tremendous

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amount of planning has gone into the Technopolis. It is important that the Authority is established to regulate development, create opportunities and attract foreign investments and international businesses.

Mr. Deputy Speaker, Sir, I support the establishment of the Authority and the realisation of the Konza City. We have waited for a long time for this Technopolis to become a reality. The Authority will also serve as a one-stop shop. Based on the current layout, Konza Technopolis is shaping up to be a fully self-sustaining city with every aspect carefully planned. I believe that once the Technopolis is fully developed and operational, it will be a place that many Kenyans will be proud to associate with.

There is the proposed establishment of the Science Museum within the Technopolis. This idea is welcome. It is very important that a lot of things will be documented and preserved for learning and future purposes. I believe the Authority will be able to do that. Definitely, there will be a lot of amendments to this Bill, as there has been for other laws. Our worry should not be that this Bill is not necessarily in its perfect form, but that it can be improved. It will be made better at this level. However, this is not a Bill to oppose. This is because it is taking Kenya to the right direction.

Talking about the buffer zone that will be created by this Bill, the kind of acreage that will be around the Technopolis--- I remember when President Kibaki had proposed that some small structures that were around the Technopolis should be removed, so that the Technopolis gets the global stature that was intended. I am sure that has been taken into account. This will protect the Technopolis from structures mushrooming around the place. That might lower the standards of this very beautiful city.

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

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

Many of us look forward to the realisation of this city in the Technopolis and the virtual systems that will be established. When you see many young people in our homes today, they are comfortable working and learning virtually. They do a lot of things online. It saves time. They do not have to get stuck in traffic or in physical offices. They will be contributing to the economy of the country once this Authority is fully functional.

I support totally the passing of this Bill, the establishment of the Technopolis and the continuous improvement and placement of Kenya as a pace-setting nation in terms of technology.

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, there is no other Senator keen on contributing to this Bill. Since the Mover of the Bill is not present in the House, I shall defer putting of the question to the next sitting.

*(Putting of the Question on the Bill deferred)*

Therefore, Clerk, I direct that you call the next order.

**BILL***Second Reading***THE TOBACCO CONTROL (AMENDMENT BILL)  
(SENATE BILLS NO. 35 OF 2024)**

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Catherine Mumma, proceed.

**Sen. Mumma:** Hon. Temporary Speaker, I beg to move that the Tobacco Control (Amendment Bill) (Senate Bills No.35 of 2024) be read a Second Time. The Tobacco Control (Amendment Bill) 2024 had its First Reading in the Senate on 6<sup>th</sup> August, 2024. It was then assigned to the Committee on Health, which had 30 days to process the report as per Standing Order No.148. It should have been tabled on or about 7<sup>th</sup> September, 2024. We are now in 2025, just about to do August, but the Committee has not been able to process, even though, I participated in the public participation process of this Bill.

This Bill is extremely important for all families in Kenya. It seeks to amend The Tobacco Control Act to provide for the regulation of electronic nicotine delivery systems, including electronic cigarettes and related products in Kenya. The Bill, in brief, has amendment proposals that seek to appropriately update the definition section to ensure that new terms that relate to the electronic cigarettes and related products are defined and included in the law that guides on tobacco. It is intended to address the issue of prohibition of additives that are deceptively marketed as having implied health benefits or reduced health risks.

It is intended to engage with issues connected to suitable packaging requirements, health warnings and labelling, as well as advertising and promotion. It is intended to tackle the problem of appropriate penalties for non-compliance. It is also intended to respond to the concerns surrounding regulation of sale to minors and public place restrictions.

It is also intended to deal with the matters connected to licensing requirements, regulation of importation, regulation of pricing, and commensurate taxation. It is intended to appropriately designate the regulatory oversight authority, as well as enhance the role played by the Cabinet Secretary for Health in this matter. It is also supposed to provide for monitoring and reporting, as well as research, consumer education and the role that civil society can play in matters monitoring of these products.

Electronic cigarettes or e-cigarettes have emerged as a popular alternative to traditional tobacco cigarettes, often erroneously promoted as a safer option or as a route to stopping smoking. These are claims that are not scientifically proven. These devices simulate smoking and deliver nicotine through the vapour of liquid nicotine, rather than the combustion of tobacco leaves.

There are different types and selections of e-cigarettes, including vape pens, bars, e-hookahs, mods, tanks, and so on, all of which are classified as Electronic Nicotine Delivery Systems (ENDS).

E-cigarettes work by heating an e-liquid containing nicotine, propylene, glycol, glycerin, and flavours, which then produce an aerosol that is inhaled. Studies have

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detected volatile organic compounds, heavy metals and other toxicants in the emissions of e-cigarettes.

Additionally, in products sold in Kenya, the labelling is done only on the outer packets and is extremely minimal when it comes to the actual documents. I have actually bought some of these documents. If you look at this, there is labelling on the packet. There is no labelling on this. What is happening is that people are buying this and then throwing away the packets and selling them at will to even minors. As I will demonstrate shortly, this is the easiest thing to buy in Kenya online and it is also accessible to the minors.

What are the health risks? There are a wide range of health risks associated with e-cigarettes use and vaping. For instance, on the short-term health outcomes for first-time smokers who have never used combustion tobacco products, numerous studies suggest that vaping may increase the risk of developing chronic lung disease. In the long term, it also worsens bronchitis, asthma, it can also raise blood pressure and it can also suppress the immune system. In the long run, apart from being highly addictive, early exposure to nicotine can affect learning attention, memory and it poses social problems among young people. Protecting the young people and minors in this country is a constitutional requirement. It is a requirement because we have also signed the Convention on the Rights of the Child. One of the four pillars in this Convention is protection of children.

E-cigarettes were introduced in Kenya in the years 2017 to 2018. If you read Section 53 of the Tobacco Control Act, it contemplates that the Tobacco Control Board, working together with the Ministries of Health, Agriculture, Trade and Industry, Finance, Education, Information and Communication, Foreign Affairs and Internal Security will actually come up with regulations that protect.

In my view, eight years down the line, with the introduction of e-cigarettes in Kenya, the Ministry of Health has done nothing to put in place regulations to guide trade in these e-cigarettes, the labelling and regulating on how this operates. It is for that reason that we, as Parliament, where the Ministry of Health has failed to actually carry out its job, need to bring back that mandate and put it in the parent law to ensure that they are compelled to do this. When the Committee on Health did public participation, you will be shocked to hear that the Ministry of Health representative suggested that we do not need this law because they can regulate.

I ask the question, eight years down the road, why have we not done these regulations? Why have we allowed these products to be in the market willy-nilly? They did not have any answer to these questions. When we were preparing for me to present this, I sent my team to the market to try and find out how to buy these e-cigarettes. These products are easily available online. We were able to go to more than 15 websites and buying this product is very easy. There is no age restriction. They only ask you to click whether you are 18 and above. Anybody can click. A seven-year-old can click and say they are 18 and above.

There is no one of those websites that asks for age verification for one to be able to know what happens. Once you buy online, some of them offer to deliver them within one hour. We asked for delivery and one of my staff who looks small and looks like a child stood somewhere near KICC to receive that delivery. When they delivered, there

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was no age verification on delivery. Nobody asks you, 'Can you show me your identification to know whether you are 18 or not?' They just deliver it. Which means that these products are actually being sold to our children.

As many schools will tell you and I had a chat with one of the principals in a school in Nairobi who told me she regularly confiscates the e-cigarettes and vapes in her school. She said the Government needs to do something in terms of regulating these products.

We also did homework. We tried to find out whether these products are sold in other jurisdictions and what kind of regulation applies. You will be shocked to know that most of the products in Kenya are manufactured in China, but in China, the restrictions around these issues or these products are so high that you will be shocked or I am disturbed that they will do a manufacturing that does not align to their own standards.

Of course, they are doing this because the laws in China do not apply to Kenya and it is not their responsibility anyway to put these laws and regulations in place. It is our responsibility as Parliament to put these laws and regulations in place. I want to just tell you some of the standards that are provided for by these teams. You find, for instance, the nicotine strength that is required for any aerosol, the pod that they sell, in the UK, EU, China and in Russia, must be equal to or less than 20 mg per milliliter.

In Kenya, because it is unregulated, we have most of the ones that are selling, the three that I picked, they actually have 150 per cent more than what is required in these other jurisdictions. When it comes to the e-liquid volume that is required per pod, in the UK, Russia and even in China, it must be an equivalent to 10 ml or less than 10 ml. In Kenya, it is unregulated, so most of the ones on the market are way above that.

In the UK, China and Russia, the pod cannot have more than 600 puffs, but in Kenya, the ones we have here, the least has 2,500 puff. We have one with 9,000 puffs and another one with 12,000 puffs. This is significant because the more puffs there are, the more or the quicker the addiction comes. So, they are selling these e-vapes in quantities that are so large that if a child picks them, they will be driving them into addiction.

When it comes to warning labels, in the United Kingdom (UK), 30 per cent of the pack must give a warning or a health warning. Thirty-five percent in China. I have just shown you that the inside pack has no label in it. In Kenya, since there is no regulation, you have a pack that is confusing. The packaging standards in the EU and UK, require that the packaging must be child-resistant and must be tamper-proof in China. In Kenya, the packaging is made sleek; with flashy flavours that are supposed to target the young people

Mr. Temporary Speaker, Sir, when it comes to sales and licensing, all nicotine-containing products must be reported to the medical and health products regulatory authorities in the UK and in the EU. In China, they only have a state-driven authority, which is the only one that can license and sell these products online. In Kenya, as I have just said, you can buy these things as easily as you want.

When it comes to online sales; in China, they are prohibited. You can only buy online if you are buying from the government authority, which regulates who sells that. In the UK and in the EU, it is illegal to buy online, but it is now being regulated. In Kenya, as I have said, you can buy it as you wish. In the UK and in the EU, they enforce

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age verification. In China, they also have age verification. In Kenya, we managed to buy just by clicking on a website and when they deliver, they do not even verify whether you have an ID. No one asks for it.

Mr. Temporary Speaker, Sir, what does this mean? It means that companies that produce these products take advantage of Kenyans and maybe, not just Kenya, but in Africa, where we are slow to put laws and regulations in place to guide this issue. Kenya has no enforcement caps on nicotine concentration. Kenya sells pods that are way above the number of puffs. Kenya has no age protection and access protection. The sales are free for all in Kenya.

This law is intended to bring sanity in the operation of these products. It is the responsibility of every person in this country, including the ones who are selling. I do not think anyone who manufactures this would like their eight-year-old to go puffing away on these products. Those in the Ministry of Health cannot look us in the face and say that it is okay to leave these products to be accessible willy-nilly.

I urge colleagues to support this law as provided, to contribute, to suggest any amendments that can strengthen it and to collectively resolve that if we care about our children in this country, then it is important to put in place regulations to save our children.

Mr. Temporary Speaker, Sir, as you are aware, I like to speak for adolescents and for the children; for the reason that the legalities around their age, referenced to them as minors, means that their protection is in the hands of others.

As we represent in this House, we need to understand that the people we most need to represent are people like the students who are sitting in the Gallery today; to be protected from being targeted by those who do drugs and from those who are targeting them to get them hooked on these e-cigarettes through the cosy flavours they are providing. By the way, I forgot to say that in China, the only flavour you must have in vapes is the tobacco flavour. You cannot come up with strawberries or the melons that we have here; the ones that are intended to hook our learners and our young people into taking on this habit.

Mr. Temporary Speaker, Sir, as I speak, I hope that our learners can know that, much as it looks like it is cool to vape, to engage or to smoke e-cigarettes, these are harmful to your health and they are likely to cause a lot of disruption, including diminishing your intellectual capacities over the years.

As I sit, I urge my colleagues to support this Bill, look at it, scrutinize it and to resist being targeted by industry to kill it because I know that is one of the things that is happening. The industries of these products like to dump the highest addictive products in Africa. It means that they do not care about our children.

There is one product here that is being sold and it has a label which says; not to be sold in America or in China. Where is it made? It is made in China. However, they are saying it cannot be sold in China or America. What does that mean? What do they think about your children? Do we just embrace them and decide there is a business here? Should we be in the business of killing our children? Should we be making money over killing our children?

Mr. Temporary Speaker, Sir, I request colleagues to kindly read this, to give us objective comments on this and allow this law to pass. I will be urging colleagues in the National Assembly to allow it to pass, so that as soon as possible, we can remove the shame on Parliament. Eight years since these products came to the market, Parliament has failed to ensure regulation. Parliament has failed to protect children from these products.

With all those remarks, I move and request Sen. Veronica Maina to second.

I thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Veronica Maina.

**Sen. Veronica Maina:** Thank you, Mr. Temporary Speaker, Sir. At the onset, I take this opportunity to congratulate my colleague and friend, Sen. Cathy Mumma, for bringing such an important Bill which goes into improving the welfare and the health of our nation. Why do I say that? We know the harmful effects of nicotine can only lead one to an early grave.

The Bill that has been proposed to this House is one day too late. It should have been done before because Kenya has been made a playing field by what Sen. Cathy has called “merchants of killing our population”. It is unfortunate that this Bill comes at a time when it is supposed to respond to the concerns surrounding the regulation of sale of nicotine to minors, control what is happening in the public space and restrict the use of nicotine, e-cigarettes and all products that are in this range.

It is also unfortunate that even as the nation speaks about impunity, people tend to define impunity as something that is being done in the political arena. It is unfortunate that even the businesses that are being traded here within the Republic of Kenya have displayed, shown or demonstrated a lot of impunity. If a tobacco product has been banned elsewhere, how does it find access to our nation? I think that is one of the aspects that needs to be regulated and one of the institutions that needs to be called to account is the Kenya Bureau of Standards (KEBS).

We have had this challenge not only in this area. We also have a challenge of products like pesticides, which are banned in other countries being sold in Kenya on open shelves and counters without anybody saying no to the sale of anything that is harmful to the public health of our nation and to our children. That is why this Bill is timely. One day too late. Since I am sure many people know what my stand is on matters alcohol and tobacco---

Sen. Cathy, before we came back this afternoon, this Bill should not have read the Tobacco Control (Amendment) Bill. I would have been comfortable to second you on a Bill titled; the Tobacco Ban (Amendment) Bill, whatever that would stand for or the Tobacco Ban Bill, 2024.

I do not know the reason why people smoke. I have been next to people who smoke, especially chain smokers. Do not ask me where I was because I live in a normal community where I have friends, relatives and colleagues who sometimes smoke. When they smoke, sometimes I listen to how they cough. You can tell that their lungs are almost out because of the harmful effects to the health of a smoker and more harmful effects to people who consume the smoke that comes from what is being smoked.



Now we have e-cigars in the market being sold online undeterred and uncontrolled. They are purchased by anybody from 10 years. How shameful can that ever get? I am happy that this Tobacco Control (Amendment) Bill is going to ensure that those products are not sold online, especially the ones that have nicotine. Nicotine has cancer-causing elements such as ammonia, chromium, formaldehyde, nickel, PH adjustors and nicotine salt. They are all cancer-causing elements that should not even be consumed by a person who truly understands what is contained in a cigarette.

As I stand to second this Bill, my plea is to all the smokers. Consider how you can withdraw from smoking because it is very harmful to your lungs and health and it reduces your life expectancy. First, it is not worth smoking. Secondly, it is criminal for any trader to purport to sell those products to underage children unprotected.

Mr. Temporary Speaker, Sir, can you imagine that as we are seated here today in this Senate, your 14 or 15-year old could be ordering a nicotine product online in your absence without anybody controlling them? Some of our children are in boarding schools and sometimes they go out. Can you imagine the delivery that was made to Sen. Cathy's young worker? It was being delivered at Kenyatta International Convention Centre (KICC) without anybody monitoring. The parent was not there, but the person was keen to sell that product. They happily took the order to that young person. You cannot tell where a young person consumes that product. What is being sold online to underage children in this Republic is shocking.

One time when we were in Canada, we saw shops across streets when we were in the course of some conferences that we were attending. We saw many shops where they even sell cannabis sativa. They sell marijuana and anything. There is freedom for them to purchase that. Is that the direction we want our nation to go? Of course not.

We need to have control of what is being sold. We need an informed and intelligent way of determining how harmful a product is, so that if it is not accepted in another jurisdiction, definitely it should not land in the Republic of Kenya. We truly want to call upon the KEBS to ensure that they control products that come from outside.

I am happy to note that on 31<sup>st</sup> May, 2025 the Cabinet Secretary for Health, Hon. Duale, suspended existing nicotine products import and distribution licenses. I wish they could stay suspended. They were asked to reapply for assessment to determine whether they should be allowed to sell those products here.

The controls that have been proposed in this Bill are good because even the premises will be licensed and subjected to inspections. County governments will have powers to ensure that licensing is done. There will be full disclosure of the person manufacturing a product. The importer of the product will also be disclosed. There will also be warning notices on health risks attendant to use of those products, so that if somebody consumes them, they can tell whether cancer is knocking or it is a few months away from giving them a visitation.

I have also seen a clear definition of areas where smoking will not be allowed. Clause 15 states as follows-

“Section 33 of the principal Act is amended by deleting subsection (2) and substituting therefor the following the following new subsection (2) —

(2) Without prejudice to the generality of subsection (1)—

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- (a) smoking is permanently prohibited in the following areas—
  - (i) institutions of basic education and training;
  - (ii) places of worship;
  - (iii) hospitals, clinics and other health institutions;
  - (iv) children's homes, child care facilities, children playgrounds;
  - (v) residential houses and such other premises where children are cared for;
  - (vi) public service vehicles, passenger vehicles, school buses and vans, commercial passenger aircrafts, commuter boats, ferries; and
  - (vii) police cells; and
- (b) smoking is prohibited in the following areas except in designated smoking areas—
  - (i) offices and workplaces, including corridors, lounges, eating areas, reception areas, lifts, escalators, foyers, stairwells, toilets, laundries, amenity areas of such places;
  - (ii) court buildings;
  - (iii) factories;
  - (iv) cinema halls, theatres, video houses, such other halls or places of performance, disco halls or any other entertainment facilities at any time during which it is open to the public;
  - (v) restaurants, hotels, bars or other eating place;
  - (vi) prisons;
  - (vii) police stations;
  - (viii) aircrafts, passenger ships, or any other public conveyance;
  - (ix) education facilities other than institutions of basic education and training;
  - (x) railway stations, airports, air fields, ports, and other public transport terminals;
  - (xi) markets, shopping malls and retail and wholesale establishments;
  - (xii) stadia, sports and recreational facilities; and
  - (xiii) public buildings.”

Mr. Temporary Speaker, Sir, let me point out this. It is wrong and bad manners for anybody, including a guest who is visiting, to ask for a place where they can smoke. If the rest of the people in a home do not smoke and there are children in the residential area, then do not push your host by asking whether you could smoke inside the house because some may not tell a smoker that they do not like that because they respect you as a guest. However, it is wrong to smoke in somebody's home.

I would also like to raise the issue of how other products like marijuana or bhang are being packaged in sweets and cookies. They are being packaged in different ways such that even the children are exposed. Your child could be given a chewing gum or something else that does not look like a drug. However, what is packaged in that sweet, gum ball or whatever it is could be harmful product.

This is what I would like to tell our children because I can see that we have some from my school in the Senate. Do not take any chewing gum or anything you receive at a party. ~~Only eat what your parents and people you are familiar with give you. Suddenly,~~  
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we no longer have the traditional conservative packaging of a candy. It has turned into something else. Some drugs that could take one out have now been packaged as a candies. So, do not be eager to eat anything from people you do not understand.

I hope that all the Senators in the House today, those who will hear us online and those who will hear the recording of the submissions today, will support this Bill. I hope that we will unanimously send a statement to the merchants of death who are trading with wrong products on our young generation. Time has come for all of us to turn around, say no to this nicotine products, accept the control and the regulation and ask the Ministry of Health, Department of Public Health and the Ministry of Trade and Industry to be firm on the products that are being brought to this country.

It is wrong for us to allow importation of products that have heavy metals, which end up causing cancers to our kidneys and lungs. Those metals cause health damage to organs of the body. We saw a notice on one of the products that was being sold in Canada. It stated that there was the risk of one's lungs being frozen after consuming that product for three months. If a product is that bad, why should anybody be eager to buy or consume it?

I submit that e-cigarettes, vape pens, bars, e-hookahs and any other product, by whichever name brought to our market, must be controlled. We must be strong enough to say what we need, what we do not need, what is beneficial to us and what is not beneficial to our system.

Finally, it is important to note that anybody consuming these combustible tobacco products, including those who vape, will worsen their situation if they have bronchitis and asthma. Those products raise blood pressure, suppresses the immune system and increase the risk of developing a chronic lung disease. Recovering from such ailments is a tall order. Research in the medical field has not given a cure for some of those ailments. It is, therefore, not good to gamble.

These products are highly addictive. Once somebody gets hooked to them in very early exposure, it affects everything. If it is a student, their learning stops, their attention becomes difficult and their memory is also affected. The young people also end up having social problems. The best thing is to ban them.

That is why I proposed to Sen. Mumma that she should have brought the Tobacco Ban Bill. At the moment, we have the Tobacco Control (Amendment) Bill (Senate Bills No.35 of 2024) and I hope the control will ease off and reduce the risk. However, on a bare minimum, we must accept that these products must be controlled.

I am told that people do not smoke or drink in Kijabe, which is a town in this country. I am not very young yet I have not heard of anybody who has died because they did not smoke or drink alcohol. Kijabe is doing so well. I appreciate the residents of Kijabe for keeping their town free of such drugs. In fact, the Government should incentivise the residents of Kijabe. All their roads should look good. They should be a model town of a place where people have survived without smoking. The town has no single bar and everything has gone on very well.

If research is to be done, one might actually find that without alcohol addiction, smoking and drugs, there will be fewer accidents and happier families. They will be

healthier and it will be an attractive place to look at for social economic and political development.

Mr. Temporary Speaker, Sir, with those very many remarks, I beg to second.

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, I will now propose the question.

*(Question proposed)*

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. I rise to put in my two cents too on the amendment brought by Sen. Muma.

Earlier on today, we spent about three hours in the Committee on Health. I feel bad that this Bill has been moved before my colleagues in the House had an opportunity to understand what the industry stakeholders, who this very Parliament carried out public participation, to seek views on what Sen. Muma is undertaking to do.

I am going to try and summarise the areas which I think Sen. Muma is trying to deal with in the tobacco control amendments. One, Sen. Muma is asking that we look at the public health impact on smoking particularly for the younger generation.

Secondly, she is asking us to amend the levels of nicotine, which are put in any delivery system of nicotine. She is suggesting that currently having high levels of nicotine in cigarettes or even in any nicotine delivery system of 20 milligrams, which is what the industry is pushing for, is creating a lot of addiction particularly to the younger generation.

One of the recommendations that Sen. Muma is coming up with in her Bill is that we reduce the levels of nicotine from 20 milligrams to 10 milligrams. The industry on the other hand is objecting. They are saying they have presented various submissions and arguing that international standards require 20 milligrams. We have looked at other jurisdictions and seen that in other countries such as the United Kingdom and the United States of America, it is around 15 milligrams.

Sen. Muma has also introduced issues of taxation in terms of the levies on who should benefit from levies on cigarettes. She has also alluded to the issues of approvals testing of the cigarettes. We looked at all those avenues. Some of them have very strong opinions on and because of time, I will try to summarise my submissions. I hope they can help my colleagues who either listen because they are not here--- Some are here, to be able to understand the areas. This is because sometimes I think we lose focus because of our prejudices on the issues being discussed.

I think I will be jumping the gun here by discussing some of the areas we are talking about considered and agreed with Sen. Muma that are imperative to reduce the amount of nicotine in any delivery system or even in cigarettes from 20 milligrams to 10 milligrams. That is a big argument, of course, that we will be having.

I heard Sen. Mumma saying the industry has been lobbying to make sure that Parliament does not pass these kinds of amendments. That is one of the biggest tugs of war that we are going to be having and it is imperative that people understand why reducing the levels of nicotine is important to safeguard future generations.

Mr. Temporary Speaker, Sir, the second point, which we deliberated on earlier today is the issue of flavours. You will allow me to use the right Swahili word in this matter. Sen. Mumma has said that in China there are no flavours. That, in China the regulations are stricter, but here they are not strict. It is like when you do away with the flavours it is like smoking what we used to call *kiraiko* where, when you enter a space, from a distance of about 20 metres, people will know that you are a smoker. However, the moment you add a flavour of strawberry or vanilla you dupe people that you have just been enjoying a good vanilla or strawberry milkshake.

For me I looked at it in two ways. Whether you are a smoker or not, whether we can tell from 20 metres that you are a smoker, I did not see any problem with having flavours because you would still smoke. The Ministry was proposing that in this Bill, we extend the definition of this amendment not only to deal with nicotine substance, but even other products that do not contain nicotine. I am sure those in the Ministry were thinking of marijuana because there is no nicotine in marijuana, but there are other chemicals in it. So, the issue here that we all must consider, sit down and deliberate on is whether or not to allow this issue of flavours.

There was also another issue on the use of reusable or disposable pods. That is the biggest issue. The biggest debate, which is important for us to understand in this Bill and what Sen. Mumma is looking for, is that the industry is saying no we do not want to use reusable pods because of health issues. They want to use disposable ones. That is an issue of profit versus public health. Those are the two main arguments that all of us must be reduced to and contemplate, to be able to come up with a good legislation that will guarantee the future of the cigarette industry in the country and also the future of our youth.

Mr. Temporary Speaker, Sir, there is no doubt that we must develop stricter regulations to be able to control the industry. Some of us were actually of the idea that whatever amount of money that is paid either for approval, because we saw it fit to divide the approval process and the testing process--- In the Bill, Sen. Mumma, I would suggest that you come up with this amendment, we have to separate and put a two level where the testing is strictly done by Kenya Bureau of Standards (KEBS) to be able to test the levels of the nicotine if, for instance, we say that we are going to reduce from 20 milligrams to 10 milligrams.

Secondly, I hate the fact that we are ending this sitting because I really wanted to articulate this, but I only have 30 seconds. However, in those 30 seconds let me put it this way, hopefully I will have more time. We are going to separate between the testing and the approval. The Ministry does not have the capacity to test, but the KEBS does. Our colleagues were even of the opinion, which I subscribe to their school of thought, that the money which is paid by either the importers or manufacturers should be put in the kitty of the Social Health Authority (SHA) to be able to focus on a preventive fund. There is a fund and this Bill talks about the preventive fund.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Olekina, I would love to have you conclude your comments on this particular Bill tomorrow when we resume. You still have 11 minutes to dissect and align with the Bill from Sen. Mumma.

**ADJOURNMENT**

Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Wednesday 30<sup>th</sup> July, 2025 at 9.30 a.m.

The Senate rose at 6.30 p.m.