



THIRTEENTH PARLIAMENT
THE SENATE
OFFICIAL REPORT



Fifth Session

Wednesday, 11th March, 2026 at 2.30 p.m.

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 11th March, 2026

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

(The Quorum Bell was rung)

Hon. Senators, we now have quorum. Clerk, you may call the first Order.

COMMUNICATION FROM THE CHAIR

VISITING TEACHERS AND STUDENTS FROM STATE HOUSE GIRLS HIGH SCHOOL

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 State House Girls High School in Nairobi City County. The delegation comprises three teachers and 56 students who are visiting the Senate for an academic exposition. On behalf of the Senate and on my own behalf, I extend a warm welcome to the delegation and wish them a fruitful learning experience.

I will call upon the Senator for Nairobi City County, the Hon. Edwin Sifuna, in under one minute, to extend a word of welcome.

You may proceed, Senator.

Sen. Sifuna: Thank you, Mr. Speaker, Sir. On behalf of my colleagues here and the entire House, I join you in welcoming the students from State House Girls to the Senate. I hope that they get an opportunity to learn whatever it is that they can learn in the short period that they will be here.

Mr. Speaker, Sir, there is a Swahili saying, *tenda wema, nenda zako*. Some people claim Sifuna has never built a single toilet in this county. If these students were to speak, they would tell you what the Senate office in Nairobi has done in their school, in appreciation of the good work that the teachers are doing there and what they have done in terms of being a stellar institution in terms of education in our county. I hope as your Senator, I do not cause any embarrassment to you, that you are proud of the work that I do on behalf of your parents who elected me.

I wish you all the best in your studies. Best believe that you can become anything you want to become in life, as long as you can take everything in its stage. Right now, you are in school; focus on that and surely God will come through for you in whatever dreams you have.

Thank you very much. I hope that we can see each other behind the tent because the Senator of Nairobi is not like the Senator from any other county, *hawa ni watoto wa Sifuna*.

The Speaker (Hon. Kingi): Next Order.

PAPERS LAID

The Speaker (Hon. Kingi): The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights (JLAHRC) or any Member of that committee.

Sen. (Dr.) Lelegwe Ltumbesi: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday 11th March, 2026---

The Speaker (Hon. Kingi): Sen. (Dr.) Lelegwe, I had called the Chairperson in charge of JLAHRC or any member of that committee. Are you a member of JLAHRC?

Sen. (Dr.) Lelegwe Ltumbesi: No, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Wait for your turn.

Sen. Karen Nyamu, are you a member of JLAHRC?

Sen. Nyamu: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed to table the report.

REPORT ON PETITION: PROPOSED AMENDMENTS TO THE COUNTY GOVERNMENTS ACT (CAP.265)

Sen. Nyamu: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the table of the Senate, today, Wednesday, 11th March, 2026-

Report of the Standing Committee on Justice, Legal Affairs and Human Rights on a petition to the Senate by Hon Isaiah Maina, a Member of the County Assembly (MCA) of Nandi County, representing Ol'lessos Ward, on proposed amendments to the County Government Act, Cap. 265.

Thank you.

(Sen. Nyamu laid the document on the Table)

The Speaker (Hon. Kingi): The Senate Majority Leader.

Sen. (Dr.) Lelegwe Ltumbesi: Mr. Speaker, Sir, I beg to lay the following Papers on the table of the Senate, today, Wednesday, 11th March, 2026-

REPORT OF THE AUDITOR-GENERAL ON SPECIAL AUDIT
OF THE AFFORDABLE HOUSING PROGRAMME PROJECT

Report of the Auditor-General on the special audit on the affordable housing programme project status as at 31st March, 2025.

REPORT OF THE AUDITOR-GENERAL ON AUDIT REPORT ON PROVISION OF
BURSARIES AND SCHOLARSHIPS BY COUNTY GOVERNMENT OF KILIFI

Report of the Auditor-General on the performance audit report on the provision of bursaries and scholarships by the County Government of Kilifi.

REPORT OF THE CONTROLLER OF BUDGET ON NATIONAL
GOVERNMENT BUDGET IMPLEMENTATION REVIEW

Report of the office of the Controller of Budget on the National Government Budget Implementation Review for the first six months of the Financial Year (FY) 2025/2026.

(Sen. (Dr.) Lelegwe Ltumbesi laid the documents on the Table)

The Speaker (Hon. Kingi): Next Order.

NOTICES OF MOTIONS

The Speaker (Hon. Kingi): The Chairperson, JLAHRC.

ADOPTION OF REPORT ON PETITION ON PROPOSED AMENDMENTS
TO THE COUNTY GOVERNMENTS ACT (CAP.265)

Sen. Nyamu: Mr. Speaker, Sir, I beg to give notice of the following Motion- THAT the Senate adopts the report of the Standing Committee of Justice, Legal Affairs and Human Rights on a petition to the Senate by Hon. Isaiah Maina, a member of the County Assembly of Nandi County, representing Ol'lessos Ward, on proposed amendments to the County Government Act laid to the table of the Senate on Tuesday, 10th March, 2026.

The Speaker (Hon. Kingi): Sen. Andrew Omtatah.

PROVISION OF COUNTY GOVERNMENTS'
IFMIS REPORTS TO THE SENATE

Sen. Okiya Omtatah: Mr. Speaker, Sir, I beg to give Notice of the Motion on the provision of Integrated Financial Management Information System (IFMIS) reports for county governments to the Senate-

THAT, AWARE THAT Article 96 of the Constitution provides that the Senate represents the counties and serves to protect their interests, determines the allocation of national revenue among counties as provided in Article 217 and exercises oversight over national revenue allocated to the county governments;

FURTHER AWARE THAT, in the case of Senate versus Council of Governors and six others, (Petition 24 and 27 of 2019 (consolidated) 2022) KESC 57 (KLR), the Supreme Court affirmed that the Senate's oversight authority extends to both nationally allocated and locally generated revenue;

CONCERNED THAT, the Senators are constrained by a lack of access to real-time data from the IFMIS system for the counties they represent, thus affecting effective oversight of county governments;

FURTHER CONCERNED THAT, in some instances, data and information presented to the Senate by the Auditor-General and the Controller of Budget are received and considered late as a result of the backlog, resulting in too much information not getting properly reviewed by Senators;

NOTING THAT, as a result of unchecked financial information and systems, county governments have continued to accumulate pending bills resulting from unplanned expenditures, unaccounted for, and inflated costs of projects;

NOW, THEREFORE, the Senate resolves that the Cabinet Secretary in charge of the National Treasury shall, on a monthly basis, forward to the Clerk of the Senate all IFMIS transactions and reports for each county government, for onward transmission to the respective Senator for information on accountability and transparency, in order to strengthen their constitutional oversight and promote good governance in the management of public finances.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Sen. Veronica Maina.

MAINSTREAMING GENDER PERSPECTIVES
IN LEGISLATIVE AND POLICY PROCESSES

THAT AWARE THAT, Article 27 of the Constitution of Kenya guarantees the right to equality and freedom from discrimination, with Article 27(3) providing that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres;

FURTHER AWARE that Article 27(8) obligates the State to take legislative and other measures to redress any disadvantage suffered by individuals or groups as a result of past discrimination, and to ensure that not more than two-thirds of members of elective or appointive bodies shall be of the same gender;

COGNIZANT THAT mainstreaming gender perspectives in all aspects of governance is essential to achieving inclusive development and safeguarding the rights and welfare of all citizens, particularly women, girls and other marginalised groups;

CONCERNED THAT the integration of gender considerations remains inconsistent across the two levels of government and that legislative processes have often resulted to policies that do not adequately address gender-specific needs and realities;

NOW THEREFORE, the Senate-

(i) Urges Parliament, County Assemblies and their respective legislative committees to incorporate a gender analysis in the scrutiny of legislation, policies, programmes and budgets before them, including through the use of gender impact assessments and consultation with gender-focused stakeholders to ensure gender-responsive governance;

(ii) Recommends that the National Gender and Equality Commission and the State Department for Gender develops clear guidelines and tools to support the integration of gender perspectives in legislative, policy and budgetary analysis, and ensures these are disseminated and adopted by relevant government and legislative bodies;

(iii) Further urges the National Gender and Equality Commission and State Department for Gender to collaborate with the Kenya Law Reform Commission, and County Assembly Service Boards to build capacity for gender analysis among technical and legislative staff;

(iv) Urges the State Department for Gender to submit to Parliament a comprehensive biannual report detailing actions taken by Ministries, Departments and Agencies to promote gender mainstreaming, key achievements, emerging challenges, and proposed interventions; and,

(v) Resolves that the Standing Committee on Labour and Social Welfare continuously monitors the implementation of these resolutions and tables biannual reports on the status of implementation.

The Speaker (Hon. Kingi): That business is deferred.

(Notice of Motion deferred)

Proceed, Sen. Karungo Thang'wa.

PROMOTION OF ARTIFICIAL INTELLIGENCE AND INNOVATION POLICY

THAT AWARE THAT, the Fourth Industrial Revolution is redefining economies globally through emerging technologies such as Artificial Intelligence (AI), blockchain, and financial technology (Fintech);

FURTHER AWARE THAT Kenya has made commendable strides in digital infrastructure and mobile innovation, positioning itself as a potential leader in Africa's tech-driven future;

NOTING THAT in a landmark decision, the African Union Executive Council endorsed the Continental AI Strategy during its 45th Ordinary Session in Accra, Ghana, on July 18-19, 2024 to underscore Africa's commitment to an Africa-centric, development-focused approach to AI, promoting ethical, responsible, and equitable practices;

COGNISANT THAT the Continental AI Strategy calls for unified national approaches among AU Member States to navigate the opportunities of AI-driven change, aiming to strengthen regional and global cooperation and position Africa as a leader in inclusive and responsible AI development;

APPRECIATING THAT the Ministry of Information, Communications and the Digital Economy recently formulated and launched the Kenya National Artificial Intelligence (AI) Strategy 2025-2030;

RECOGNISING the need to align Kenya's development with global standards in AI adoption while also safeguarding national values, inclusivity, and employment;

CONCERNED THAT the absence of a comprehensive framework may hinder innovation among local start-ups and youth-led tech enterprises and slow down Kenya's ability to harness AI for inclusive growth;

NOW THEREFORE, the Senate resolves that the Ministry of Information, Communication and Digital Economy develops a Policy to promote Artificial Intelligence and emerging technologies with particular emphasis on: -

- (i) Promoting research and development of locally relevant AI solutions;
- (ii) Facilitating ethical guidelines to ensure responsible and beneficial application of AI;
- (iii) Creating innovation-friendly 'Sandboxes' for supervised testing of AI and emerging technologies;
- (iv) Strengthening public-private partnerships to build digital skills and innovation ecosystems; and,
- (v) Integrating AI and coding into the education curriculum to prepare the next generation for the digital economy.

The Speaker (Hon. Kingi): That business is deferred.

(Notice of Motion deferred)

Proceed, Sen. Mwenda Gataya.

ESTABLISHMENT OF OPERATIONAL FRAMEWORK
FOR JUNIOR SECONDARY SCHOOLS

Sen. Gataya Mo' Fire: Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion-

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THAT, AWARE that, the Ministry of Education in Kenya, introduced Junior Secondary Schools (JSS) as part of the Competency Based Curriculum (CBC) implementation marking a major milestone for the country's education system, and a key opportunity to improve the quality of education available to students;

APPRECIATING THAT, the Junior Secondary Schools programme play a vital role in shaping the academic trajectory of learners by providing students with a strong foundation in core subjects, helping them develop essential skills and offering them opportunities to participate in extracurricular activities promoting greater social inclusion;

CONCERNED THAT, the integration of Junior Secondary Schools within primary school setups has posed major challenges for Junior Secondary teachers, including inadequate training on the new competency-based curriculum, limited opportunities for career advancement, conflict in leadership, decision-making and resource allocation leading to strained relationships with head teachers;

FURTHER CONCERNED THAT JSS face critical shortages in essential infrastructure such as laboratories, libraries, ICT hubs and science equipment necessary for the implementation of the JSS curriculum, coupled with inadequate access to approved learning materials and teaching resources, resulting in inconsistencies in curriculum delivery hindering effective teaching, learning and overall student development;

NOW THEREFORE, the Senate resolves that the Ministry of Education, the Teachers Service Commission (TSC) and the Kenya Institute of Curriculum Development (KICD) should-

(i) Provide for an independent administrative and operational framework for Junior Secondary Schools to enhance governance, streamline management, and create a more focused learning environment for the learners;

(ii) Allocate adequate funds for the construction and equipping of Junior Secondary Schools with essential facilities such as science labs, libraries and ICT rooms, and provide adequate learning materials relevant with the curriculum;

(iii) Offer professional development programmes for JSS teachers to help them specialize in specific subjects to effectively implement the JSS curriculum;

(iv) Develop a clear career progression framework for JSS teachers, including opportunities for promotions and additional responsibility allowances;

(v) Formulate clear policies and guidelines outlining the structure, curriculum and management of Junior Secondary Schools; and,

(vi) Ensure an optimal teacher-student ratio to facilitate personalized student attention and effective learning.

I beg move.

The Speaker (Hon. Kingi): Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

Statements pursuant to Standing Order No.53(1), the Senator for Machakos County, the Hon. Agnes Kavindu.

NON-PAYMENT OF GRATUITY TO 33 FORMER EMPLOYEES OF MACHAKOS COUNTY GOVERNMENT

The Statement is dropped.

(Statement dropped)

Proceed, Sen. Hamida Kibwana.

THE GROWING BURDEN OF SEPSIS IN KENYA

Sen. Kibwana: Thank you, Mr. Speaker, Sir. My Statement is regarding the rising burden of sepsis in Kenya.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health on a matter of nationwide concern regarding the growing burden of sepsis in Kenya, which continues to affect newborns, children and adults across the country.

Mr. Speaker, Sir, sepsis is a life-threatening condition that if not detected and treated promptly, leads to organ failure, septic shock and death. Despite its severity, it remains under-recognised, costly to treat and a major contributor to mortality in our hospitals.

In the statement, the committee should address the following-

(1) The current data on the prevalence and mortality rates of sepsis in Kenya disaggregated by age groups, newborns, children and adults.

(2) Measures taken by the Ministry of Health to strengthen infection prevention and control protocols in health facilities, detailing strategies to address antimicrobial resistance that complicates sepsis management.

(3) The status of neonatal and adult Intensive Care Units (ICU) across counties, including whether they are adequately equipped with infrastructure, equipment and trained personnel to manage severe sepsis and septic shock.

(4) The Government's strategies to improve early diagnosis and laboratory capacity training of healthcare workers and whether there are plans to subsidise or cover sepsis treatment under the Social Health Insurance Fund (SHIF), to protect families from catastrophic health costs.

The Speaker (Hon. Kingi): You have a second statement to request.

LEAD CONTAMINATION IN SOILS AND WATER

Sen. Kibwana: My second statement concerns lead contamination in soils and water, the silent killer.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources on a matter of countrywide concern regarding lead contamination in soils and water in Kenya.

Mr. Speaker, Sir, lead exposure, particularly among children under six years and pregnant women, poses irreversible health risks. Despite existing controls and enforcement gaps, informal industrial practises continue to expose communities to the silent danger.

In the statement, the committee should address the following-

(1) Whether the Ministry of Environment, Climate Change and Forestry in collaboration with the National Environment Management Authority (NEMA), Kenya Bureau of Standards (KEBS), the Ministry responsible for health, the Ministry responsible for water and county governments have undertaken the national or hotspot specific mapping of lead contamination. If so, disclose the findings.

(2) The existence of current surveillance guidelines and testing protocols for blood lead testing, particularly for children in high-risk communities, as well as the availability of testing capacity at county levels and measures for case management referrals and specialised care.

(3) Details of the regulatory and enforcement framework governing use lead acid battery recycling and other informal industrial operations, including the number of licensed facilities, compliance status and enforcement actions taken in the last three years.

(4) Whether targeted water testing has been conducted in schools, health facilities and Early Childhood Development Education (ECDE) centres, and report on enforcement of lead limits in paints and coating, including strategies for addressing legacy lead paints in older buildings and finally,

(5) The public education measures targeting parents, caregivers, schools and informal workers, and state whether Kenya has a dedicated remediation mechanism or fund for soil cleanup, relocation and rehabilitation of contaminated sites.

I thank you.

The Speaker (Hon. Kingi): The statement by Senator for Bungoma is deferred to tomorrow.

STATUS OF PENDING BILLS BY THE COUNTY
GOVERNMENT OF BUNGOMA

(Statement deferred)

Senator for Taita-Taveta County, the Hon. Johnes Mwaruma, please proceed.

PENDING PAYMENT OF STIPEND TO COMMUNITY
HEALTH PROMOTERS IN TAITA-TAVETA COUNTY

Sen. Mwaruma: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Health on a matter of countywide concern regarding the pending payment of stipend to Community Health Promoters (CHPs) in Taita-Taveta County.

Mr. Speaker, Sir, under the agreement between the national Government and the 47 county governments, CHPs are supposed to receive a monthly stipend of Kshs5,000 shared equally between the two levels of government. While the national Government has consistently honoured its obligation, the County Government of Taita-Taveta has failed to remit its share promptly, resulting in a backlog of unpaid stipends.

In the statement, the committee should address the following-

(1) Whether the CHP's stipend had been included in successive budgets of Taita-Taveta County from Financial Year 2023/2024 to date and the reasons for the delays in payments.

(2) The list of all CHPs in Taita-Taveta County, including their names, national identity numbers, phone numbers, sub-counties, wards and villages of assignment.

(3) The timeline within which all pending stipends will be paid, including payments owed to CHPs who have since passed away, but remain with arrears from the county government.

(4) The strategies the county government has put in place to prevent future delays in stipend payments outlining the actions intended against any persons found culpable for the delayed remittance of CHPs' stipends.

I thank you.

The Speaker (Hon. Kingi): Senator for Baringo County, the Hon. Kiprono Chemitei.

That statement is dropped.

PROLIFERATION OF ILLICIT ALCOHOL
IN BARINGO COUNTY

(Statement dropped)

The Senator for Marsabit County, the Hon. Mohamed Chute, please proceed.

ESCALATING SECURITY AND LAND RELATED TENSIONS
IN MOYAM AREA, MARSABIT COUNTY

Sen. Chute: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations on a matter of county-wide concern regarding escalation of security and land-

related tensions in Moyam area within Marsabit County and reports of a proposed deployment of the Rapid Deployment Unit (RDU) camp in Tittu.

Historically, land dispossession and continued encroachment by the neighboring community into traditionally recognised Borana grazing areas have generated persistent tension in the affected region. Despite clearly demarcated administrative and community boundaries, disputes persist due to continued disregard of these boundaries.

Moyam is a strategic dry season fallback grazing area for the Borana community. Concerns have intensified due to the encouragement of encroachment into the grazing land, lobbying for the deployment of the RDU camp in Tittu under justification of combating drug and human trafficking and the undertaking of unauthorised development projects in Moyam, including drilling of a borehole by the neighboring County of Wajir.

These developments risk inflaming tensions and could undermine livelihoods and regional stability through the loss of critical dry season grazing areas, displacement and issues of livestock theft.

In this statement, the committee should address three issues-

(1) Mandate and justification for the proposed RDU camp in Tittu, including legal basis, intended operational scope and whether due consultation with the local leadership and relevant county authorities has been undertaken.

(2) Measures being taken by the national Government to prevent escalation, including steps to address political incitement, organised mobilisation, forced occupation and any action that may precipitate violence or displacement.

(3) Mechanisms for early warning, rapid response and conflict prevention in the affected areas, including the coordination framework among the national security agencies, county security team and the local peace structures.

Thank you, Hon. Speaker.

The Speaker (Hon. Kingi): The Senator for West Pokot County, the Hon. Julius Murgor, proceed.

CSR PROGRAMMES UNDERTAKEN BY COMPANIES OPERATING IN WEST POKOT COUNTY

Sen. Murgor: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from Standing Committee on Trade, Industrialisation and Tourism on matters of county-wide concern regarding the corporate social responsibility programmes undertaken by companies operating in West Pokot.

In recent years, several companies have established manufacturing and mining corporations within West Pokot County. While the companies contribute to local economic activity, there are growing concerns that many of them have not adequately fulfilled their corporate social responsibility obligations. In particular, residents have raised concern regarding Chiro Fertiliser Limited, which has set up a manufacturing plant in Chepareria Town.

In the Statement, the committee should address the following-

(1) The monitoring, enforcement and evaluation mechanisms put in place by national and county governments to ensure that all companies comply with the

Environmental, Social and Governance (ESG) standards, and the measures established to ensure that such enterprises contribute sustainability to the social and economic development of the local communities.

(2) The environmental, social and public health safeguards adopted by individual and manufacturing entities operating in Chepareria Town, including but not limited to Chiromo Fertiliser Limited, to mitigate and advance impacts arising from their operations and level of compliance with applicable regulatory requirements.

(3) The corporate social responsibility initiatives undertaken by companies operating in Chepareria Town and the wider West Pokot County since the commencement of their operations, including annual investment and social programmes, priority areas of intervention, partnerships with county and community institutions and detailed employment data specifying the number and proportion of employees recruited from the local communities.

I thank you.

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

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

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Julius Murgor. Next is Sen. John Kinyua, Commissioner, Laikipia.

DETERIORATING STATE OF NYAHURURU-RUMURUTI ROAD

Sen. Kinyua: Thank you, Mr. Temporary Speaker, Sir. This is a request for a statement on deterioration of Nyahururu-Rumuruti Road A4 in Laikipia County.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Roads, Transportation and Housing on a matter of county-wide concern regarding the deterioration of the Nyahururu-Rumuruti A4 Road in Laikipia County.

The Nyahururu-Rumuruti A4 Road, a vital trunk road serving Laikipia County and the wider Mount Kenya region has deteriorated into a risky state that endangers motorists, pedestrians and the public at large. Despite repeated maintenance interventions by the Kenya National Highways Authority (KeNHA), the road remains plagued by expansive potholes, narrowing carriageways, poor markings, blind curves and unsafe surface undulations.

These defects have contributed to frequent accidents and tragic loss of lives, including the fatal incident on 25th December, 2025 in which Mr. Stephen Rufo wa Kingau and his son, Dennis Kingau, residents of Oljabet in Marmanet perished.

In the statement, the committee should address the following-

(1) The current condition of the Nyahururu-Rumuruti A4 Road, including the extent of deterioration, safety hazards and the impact on motorists, pedestrians and wider community;

(2) The scope, execution and supervision of recent maintenance works with specific reference to the performance-based contract awarded by KeNHA and whether contractual obligations were met, in terms of quality, timelines and oversight.

(3) The immediate and long-term interventions currently being undertaken to restore the road to acceptable safety standards as well as sustainable strategies to prevent further deterioration.

(4) The timelines for permanent repairs and accountability mechanisms setting out when the road will be fully rehabilitated and how compliance, value for money and public safety will be assured going forward.

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

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

The Speaker (Hon. Kingi): Thank you, Senator.

Sen. (Dr.) Lelegwe Ltumbesi.

COLLAPSE OF RENAL UNITS AT SAMBURU
TEACHING AND REFERRAL HOSPITAL

Sen. (Dr.) Lelegwe Ltumbesi: Thank you, Mr. Speaker, Sir. This is a request for a statement on the collapse of renal units at Samburu Teaching and Referral Hospital (STRH).

I rise pursuant to Standing Order No.53(1) to seek a statement from the Committee on Health on a matter of county-wide concern regarding the collapse of renal services at STRH in Maralal, the only dialysis facility in Samburu County and the measures being taken to restore the services and protect patients who depend on dialysis for survival.

Renal units at Samburu County Teaching and Referral Hospital are operating under severe strain with only five dialysis machines, one of which is reserved for isolation cases, leaving only four machines available to serve approximately 20 patients requiring dialysis twice a week. Further, the county has lacked a nephrologist since September, 2025 and as a result, patients have been referred outside the county for treatment, while shortages of supplies, delayed servicing of equipment and inadequate budgetary support continue to undermine the delivery of life-saving renal care.

In the statement, the Committee should address the following-

(1) The immediate emergency measures put in place by the County Government of Samburu to restore full dialysis services in the Maralal Renal Unit and ensure that patients are not forced to travel outside the county for life-saving treatment.

(2) The number, condition, age and functional status of dialysis machines at the facility, including why machines which have exceeded their operational lifespan have not been replaced and the plans in place to urgently procure new machines.

(3) The status of the payments owed to contractors responsible for servicing and maintaining the dialysis equipment from 2023 to date.

(4) The reason Samburu County has operated without a qualified nephrologist since September, 2025, including the steps being taken to provide a specialist renal care services in the county.

(5) The status of supply and availability of renal consumables and related supportive items at the facility, including the budgetary allocation for the renal unit and the measures being taken to ensure patients are not forced to meet costs that ought to be covered by the public health system.

(6) The measures being taken to strengthen renal health services in Samburu County on a sustainable basis, including safeguards to prevent further collapse of the unit.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Eddy Oketch.

Sen. Oketch Gicheru: Mr. Speaker, Sir, if you may allow me, I have three statements. I will try to be as fast as I can.

The Speaker (Hon. Kingi): You may proceed.

Sen. Oketch Gicheru: My first statement is a request for a statement on the state of the Migori Bridge along the Migori-Sirare Road.

STATE OF MIGORI BRIDGE ALONG
MIGORI-SIRARE ROAD

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Roads, Transportation and Housing on a matter of county-wide concern regarding the destruction by floods.

The Speaker (Hon. Kingi): Who is the chairperson of that particular Committee?

Sen. Oketch Gicheru: Mr. Speaker, Sir, I am the chairperson, but we have a committee and I am a member of that committee.

(Laughter)

The Migori-Sirare Road is a critical and heavily-trafficked national highway linking Migori Town to the Isebania-Sirare border with the United Republic of Tanzania. The road serves as a key trade and transport corridor between the two countries and facilitates access to major destinations, including the Serengeti region, while supporting cross-border commerce and travel for communities along the route, such as the Isibania border.

In the statement, the committee and not the chairperson, should address the following-

(1) The measures and timelines in place by the State Department for Roads to repair the damaged section of the Migori-Sirare Road, including the reconstruction of the Migori Bridge that was destroyed by floods.

(2) Whether the County Government of Migori has established alternative routes or traffic management measures to facilitate the movement of people and goods while repairs to the bridge and the affected section of the road are still underway.

(3) The funds allocated for the repair and construction of the bridge in the 2025/2026 Financial Year and the affected road section, including the specific vote or source of funding from which the resources will be drawn.

(4) The role the County Government of Migori is doing in supporting the repair works, including any collaboration with the national government to restore connectivity and ensure minimal disruption to cross-border trade and transport.

WAIVER OF AGRICULTURAL FINANCE CORPORATION (AFC) LOANS OWED BY FARMERS IN MIGORI COUNTY

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries on a matter of nationwide concern regarding the waiver of Agricultural Finance Corporation (AFC) loans owed by farmers in Migori County, who were affected by the 2011 to 2014 drought.

Mr. Speaker, Sir, in May 2011, the AFC, advanced loans to farmers in Migori County to support and boost agricultural production. A severe drought subsequently struck the region leading to massive crop failure and significant financial losses for the farmers. As a result, many farmers were unable to repay their loans.

In the statement, therefore, the committee should address the following-

(1) The specific mitigation measures put in place by the AFC to protect and support farmers who are unable to repay their loans due to losses arising from natural calamities. Case in example of Mr. Michael Ayeyo Ochola from Migori County, who is facing auction by the same organization, AFC.

(2) Include whether loans advanced by the Corporation are insured against risks such as drought and other natural calamities.

(3) Establish whether the AFC could waive outstanding loans issued to farmers who were affected by the 2011-2014 drought in Migori County and countrywide, such as the case for Mr. Michael Ochola Ayeyo from Amoso, Migori County.

INVESTIGATIONS INTO INCIDENTS OF POLITICAL VIOLENCE IN MIGORI COUNTY

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on a matter of countrywide concern, regarding investigations into incidents of political violence in Migori County.

Mr. Speaker, Sir, on 12th February, 2026, a violent confrontation occurred between the Member of Parliament of the Suna West Constituency and the Governor of Migori County at a funeral. The altercation, which also involved supporters of the Member of Parliament as well as the supporters of the Governor, was eventually brought under control after police intervention. The following day, similar clashes were witnessed at the main Migori Town stage at Migori bridge during which the Member of Parliament was reportedly assaulted by a section of residents. Over the two days, approximately 19

casualties of young people were reported, including two individuals who sustained gunshot injuries.

In the statement, therefore, the committee should address the following-

(1) The circumstances surrounding the violent incidents as witnessed on 12th February, 2026, involving the MP and the governor, and the 13th February, 2026, involving the MP and a section of the residents.

(2) Address the status of investigations into the use of firearms during these incidents, and whether the perpetrators of the violence have been arrested and charged in court.

(3) Address the measures in place to deal with the rising political tension and violence in Migori County, including the steps being taken to rein in political leaders who recruit youths to cause violence in political rallies, funerals and other public engagements.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Hon. Senators, I will allow comments for not more than 15 minutes, as per Standing Order No.53(3). If you have an opportunity to speak, you will do so for not more than three minutes.

Before we commence with the comments, however, please allow me to pass this Communication.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATIONS FROM DAIMA INSTITUTE FOR PEACE
AND DEVELOPMENT AND THE UNIVERSITY OF PENNSYLVANIA,
UNITED STATES OF AMERICA

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of a visiting delegation from Daima Institute for Peace and Development (DPIRD) and students from the University of Pennsylvania in the United States of America.

The delegation comprises two staff and 10 African-American law students from the University of Pennsylvania Carey Law School, who are in Kenya for a five-day visit. The visit provides the students with an opportunity to learn and share their experience and expertise on a pro bono basis to the host organisation.

Daima Initiative for Peace and Development (DPIRD) is a peace-building and development organisation based in Nairobi. It is registered as a public organisation under the Public Benefit Organization (PBO) Act and is a non-political, non-partisan with the main goal being to promote reconciliation among individuals and between communities for peaceful coexistence.

Hon. Senators, on behalf of the Senate and on my own behalf, I extend a warm welcome to the delegation and wish them a fruitful visit.

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I call upon the Senate Minority Whip together with the Senator for Kisii County to extend a word of welcome to the delegations, each under one minute.

Please proceed.

Sen. Olekina: Thank you, Mr. Speaker, Sir. On behalf of the Senate and also on my own behalf, I would also like to acknowledge the students and teachers visiting and encourage them to pay attention to the debates in this House because this is how we learn how to build and destroy economies, and how to chart the way forward.

As young people, you will find a lot of controversy worldwide. This will give you a good example of how Kenya does it. I hope that during your time here, you will get a chance to walk across the Senate, see the National Assembly on the other side, so that when you go back home, you are able to remain apolitical because the challenge of being political is that you will have to be forced to take a side. However, being apolitical guarantees you neutrality. So, welcome to Kenya and enjoy your time here.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Onyonka, please proceed.

Sen. Onyonka: Thank you, Mr. Speaker, Sir. I would like to welcome the students. They may not know that many of us in this House actually went to school in the United States of America (USA) and I lived around Pennsylvania State. I also used to cross over from New Jersey into Pennsylvania. What you see here will inform you. It will make you understand why we are the way we are.

Thank you, and welcome.

(Resumption of Statements)

The Speaker (Hon. Kingi): We will move to the comments on the statements that have been sought. Sen. Mohammed Chute, please proceed.

Sen. Hamida, you can only seek a clarification on a matter you are not clear. Otherwise, you cannot stand on a point of order. You may proceed.

Sen. Kibwana: Mr. Speaker, Sir, I have a point of clarification under Standing Order No.258 on delayed response to statements which are under the responsibility of committees.

Mr. Speaker, Sir, I have had statements since 2023 and 2024. However, so far, they have not been moved yet. For example, there was one in 2022 on mental health. The Senate adopted those resolutions, but three years later, the Senate is yet to receive a structured report on the implementation status of the same.

Mr. Speaker, Sir, I have an issue on this. Perhaps I can just make a recommendation, if you allow me.

The Speaker (Hon. Kingi): First, we need to confirm that the position you are giving is the right one. Having raised the matter, I advise you to let the Senate Business Committee (SBC) look into it and make a proper direction on it because it may not be just one of your statements since it cuts across. Therefore, I advise you to allow the SBC to consider this and other matters that seem to be stuck and thereafter I will make a communication on the way forward.

Sen. Kibwana: I am obliged, Mr. Speaker, Sir.

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

Sen. Chute: Mr. Speaker, Sir, I would like to comment quickly on two statements by two distinguished Senators. Sen. Kinyua talked about Nyahururu-Rumuruti Road. I have travelled on that road and it really needs a lot of attention. They need to repair that road as soon as possible.

The problem we have is that today county governments have 76 per cent of the roads in this country under them, but they do not have any funds. You can see they have zero allocation, but county roads are 76 per cent in this Republic. That is our number one problem. The committee should look into that issue. We discussed that matter last week because I am also a Member of the committee. The issue of roads should be taken care of. The committee should visit places such as Nyahururu-Rumuruti Road.

On the issue of AFC loans, I would like the committee to look at a case study and establish how traders or farmers of tea, coffee, pyrethrum and sugarcane are being exempted from interests and in some instances everything such as compensation is paid for by the Government. I do not know how they do that. I would like the committee to establish how they managed to help farmers of pyrethrum and other crops.

Mr. Speaker, Sir, as you are aware, I come from Marsabit County where we have issues with AFC loans. I would like the committee to also visit Marsabit and see how our people are suffering. It appears that the Government does not consider livestock trade as business. That is also agriculture. We have many traders and livestock keepers from Marsabit who come to my office occasionally and talk about AFC issues. If we want to help our farmers, let us not only help those involved in farming business. Livestock keeping is also farming.

Mr. Speaker, Sir, I would like to commend Sen. Eddy Oketch for this statement. Thank you very much my chairperson.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Senator for Nairobi City County, Sen. Edwin Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, I did not have time to confirm with the Senator for Taita-Taveta whether his governor was in Nairobi yesterday. I cannot believe that we are still discussing pending payments of stipend of only Kshs2,500 to Community Health Promoters (CHPs).

Yesterday, I was embarrassed beyond words that we had a whole Council of Governors (CoG) sitting in a room where they were being told that as far as the national Government is concerned, disbursements to county governments never delay, they arrive on time and that there are no arrears. The same governors come to our committees and before this House and tell us that we pass disbursement schedules that the National Treasury never obeys or follows and therefore they need our help.

I saw them yesterday clapping and ululating at obvious lies. When you are a governor seated somewhere and you are told that this financial year, the allocation of equitable share is Kshs450 billion, this House---

I was embarrassed to see some colleagues of mine from this House who processed together with me the Budget Policy Statement (BPS) saying that they are going to give us Kshs420 billion in this financial year. It is our Committee on Finance and Budget that

said that as a Senate, that is not acceptable. I saw my colleagues and governors who know the truth clapping and ululating at obvious misinformation.

An hon. Senator: Name them!

Sen. Sifuna: I do not want to name them because they know themselves. They were so embarrassed. In fact, I saw a spectacle I have never seen, where a governor stood up to challenge the Head of State. For all her bravery and all the problems that I have with Governor Mbarire, well done for the women of Kenya because you did well. That is exactly what courage requires in the face of open misinformation and disinformation. You need to stand up for your people and say; Hon. Chairperson, the amount of money that we know you sent to Parliament is Kshs420 billion, where has this figure of Kshs450 billion disappeared to?

Mr. Speaker, Sir, it is deeply embarrassing that we are still discussing Kshs2,500 owed to---

The Speaker (Hon. Kingi): Hold on, Senator for Nairobi City County. Yes, Sen. Mungatana.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I was in that meeting. Sometimes it is good---

The Speaker (Hon. Kingi): Sen. Mungatana, are you rising on a point of order or point of information?

Sen. Mungatana, MGH: I am rising on a point of order under Standing Order No.105 of our Standing Orders.

Mr. Speaker, Sir, I would like to tell this to my friend, the hon. Senator for Nairobi City. Even if you want to score political points, is it in order to misinform this House that we were clapping at misinformation? He knows that the correct statement was that there was Kshs387 billion before it became Kshs415 billion and now we are expecting that we will push the figure to Kshs450 billion.

Mr. Speaker, Sir, even if someone wants to be famous to get *TikTok* likes, is it in order to misinform this House when we were there and heard it with our two ears? Is it right or correct to cast aspersions on colleagues? It is not right!

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators. Order, Sen. Onyonka.

Sen. Mungatana, that sounds to me more of information than a point of order. Therefore, it is up to the Senator for Nairobi City County to use that information as he concludes his remarks.

Sen. Sifuna: Mr. Speaker, Sir, as we say in Nairobi, there is no information there.

I want to confirm to this House and to Sen. Mungatana that I am already famous. I do not need to be more famous than I am right now. The things I am saying on this Floor are not to earn me fame because I am already famous. I am saying that we saw you on television clapping at obvious misinformation.

Mr. Speaker, Sir, I do not know if Sen. Mungatana was in when the report of the Committee on Finance and Budget was presented to this House. It is the report of the

committee that we passed that talked about the BPS that told us that the proposal from the National Treasury is to give counties Kshs420 billion.

The least I would have expected from a Member of this House who was present there - some of them called themselves *mila mamba* - would have been to stand up the way Governor Cecily Mbarire stood up and said Hon. President, the figure that Hon. Mbadi sent to the House was Kshs420 billion. If he sent the wrong figure, you should correct it there, the way Governor Cecily Mbarire did. She is the only person--- I do not want to use the word that is in my head.

Sen. Olekina: On a point of order, Mr. Speaker, Sir. I rise under Standing Order No.105 on responsibility for statement of fact.

It is factual that this House is the one that determines the sharable revenue. It is also this House that passes the Division of Revenue Bill and not the Executive. Is it in order for the distinguished Senator for Nairobi to take his time here first of all to chest-thump and say that he is famous and to be populist and lie to the public that we take the figures given to us by the National Treasury?

In the last Parliament, we sat here and voted for 11 times on the shareable revenue. Is it in order for him to say that the final figure will be determined by the National Treasury? I was in that meeting and I heard the President say that, the figure that was brought by the National Treasury last year was supposed to be Kshs385 billion, but this House moved it to Kshs415 billion; that was factual. Now, the proposed figure for this year is Kshs450 billion. That is what the statement read yesterday by the President suggested.

It is wrong and premature---

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators.

Sen. Olekina: It is wrong and premature for the distinguished Senator to anticipate---

The Speaker (Hon. Kingi): Sen. Olekina, give me a minute; you will proceed to prosecute your case.

Now, hon. Senators, Sen. Olekina is on a point of order. How then do you seek a point of order or seek to inform him when he is on the Floor? Allow Sen. Ledama to conclude his point of order. Thereafter, I will give directions. If you still have any points of orders to make, you will only do so to a Member who is contributing, not a Member who is on their feet trying to prosecute a point of order.

Conclude, Sen. Olekina.

Sen. Olekina: Mr. Speaker, Sir, we may seek to be populist and misinform the public, but facts are stubborn. That is why I am seeking your direction on this matter. Is it in order for the distinguished Senator for Nairobi City County to lie to the public that the statement read by the President yesterday suggested that Kshs420 billion is what was sent to the county governments? If we can limit our debate; have a sense of occasion and deal with matters brought to this House, we will be doing this country a service.

The question raised had to do with the issue of those County Health Promoters (CHPs). It is factual that they are a shared responsibility between the county governments and the national Government. Can we be factual and remain focused?

Mr. Speaker, Sir, I know that today, the distinguished Senator had a forum where he purported that whatever was said yesterday were lies. Can we be factual and say this is water and it remains as water? It cannot have wine inside. We should not make this place a populist gathering ground; facts are very stubborn.

I would like the distinguished Senator to table the evidence that what was said yesterday was that county governments received Kshs420 billion. We cannot be sitting here and entertaining a charade of populism. Let us be leaders and remain as leaders.

Thank you, Mr. Speaker, sir.

The Speaker (Hon. Kingi): Now, hon. Senators; Senator for Nairobi City County, your colleagues who attended that meeting have put the record straight. You are now fully informed of the figures that were discussed and what transpired in that meeting. Kindly proceed now to use that information to conclude your remarks.

Sen. Sifuna: Mr. Speaker, Sir, that is some of the most useless information that has ever been tabled on the Floor of this House. I have no use for that information because it is a fact that it is not the Senate that originates the Budget Policy Statement (BPS); it comes from the National Treasury.

It is the Head of the Executive who was speaking yesterday and by the way, the report that was expected to be read yesterday was not to tell us the things that you want to do because you only have one more budget to present as an Executive. Where is this money coming from? Yesterday's report should have told us what you have done. We expected Kshs450 billion in the FY2025/2026; you cannot come and tell us your stories.

Number two; it is a fact that there is a report of a committee of this House, that has already been adopted by this House that says that we need to push it from the Kshs420 billion proposed by the National Treasury to Kshs450 billion. So when the Head of State was speaking yesterday, he was giving us falsehoods, dreams and other things and yet, our colleagues who sit in this House, did not have the guts to---

(Loud consultations)

The Speaker (Hon. Kingi): Senator for Nairobi City County, your time is expended.

(Sen. Sifuna spoke off record)

No, I took care of the time when Sen. Olekina intervened; you have had your three minutes.

Sen. Mundigi, proceed.

Sen. Munyi Mundigi: Asante Bw. Spika kwa kunipa nafasi ili niweze kuchangia kwa Kauli iliyoletwa na Seneta wa Kaunti ya Tharaka-Nithi, Sen. Mwenda Gataya ya Junior Secondary Schools (JSS). Ningeomba mambo ya elimu yaangaliwe kwa njia inayofaa ili yawe mazuri; mambo kama vile barabara ili wanafunzi wa JSS waende shule

vyema; stima, ili shule zetu ziwe na mwangaza; maji, ili shule zetu ziwe na maji na mambo ya kompyuta katika shule zote katika kaunti zote 47 za nchi yetu ya Kenya.

Nimehuzunika sana na yale mambo ambayo Seneta wa Kaunti ya Jiji la Nairobi anaongea hapa kuhusu Rais wa Kenya. Nilifikiri ataongea kuhusu vile tunaweza kumsaidia Gavana wa Nairobi kutengeneza *drainage* na vile kamati itaundwa ili familia ambazo vitu zao na wapendwa wao walibebwa na mafuriko watasaidiwa na Serikali. Mambo ambayo Seneta anaongea hapa ni mambo ambayo hayana mwelekeo. Anapinga tu Serikali kwa sababu hayuko kwa Broadbased Government.

Bw. Spika, Seneta wa Nairobi anafa awe na akili timamu ili aweze kuendelea kwa njia inayofaa; mambo ya *term* moja haitatusaidia.

Asante, Bw. Spika.

The Speaker (Hon. Kingi): Sen. Olekina, proceed.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to make some brief comments on two very important statements. One is on a statement by Sen. Chute on cultural rites and land use policies. I am a firm believer that if this Senate takes its time diligently and looks at the proposals that are brought here, we can save our communities.

The Rendille and Borana communities need the Culture Bill because, most of their land that has been set aside for either grazing during drought or preserved for cultural activities is normally encroached by our own Defence. This is where they go in and propose to build the Kenya Defence Force (KDF). I really plead with my colleagues to expedite and bring amendments to the Culture Bill that set up transhumance routes or cultural corridors where culture can have veto powers to say "Mr. Government, you cannot come here and build a Rapid Deployment Unit (RDU) centre because this is a special zone for us". It is important.

I was in Marsabit a few years ago where I attended a cultural ceremony for the Rendille. They could not hold that cultural rite in the intended place because the military were already in that area. The statement sought by Sen. Chute is very important.

Secondly, is on the statement sought by the distinguished Senator for Migori County, Sen. Eddy Oketch on the issue of Agricultural Finance Corporation (AFC) loans. It is a very good statement, however, it can also lead to misuse of public funds. It is imperative that now we are seeing a lot of farmers complaining.

I am a farmer and in most cases we complain that there is a drought; the drought comes and it wipes out all our crops or livestock. I think it is imperative that when Agricultural Finance Corporation (AFC) is giving out loans, as a prerequisite for being given a loan, you must have an insurance policy for that loan. That is the only way we will be able to solve this problem, but standing here and asking AFC to waive the loans will put us into a deeper hole financially.

Lastly, I want to clarify one point which is very important. This is because the distinguished Senator for Nairobi stood here---

The Speaker (Hon. Kingi): What is your point of order, Sen. Eddy?

Sen. Oketch Gicheru: Mr. Speaker, Sir, it is just a point of order, but I also hope that it will inform the Senator. The AFC waive loans for other crops.

The Speaker (Hon. Kingi): What is so disorderly?

Sen. Oketch Gicheru: It is disorderly for the Senator for Narok to insinuate that AFC is not - like for the case of Migori farmers who have been affected, a waiver would be wrong for them when there are other crops, including coffee, that AFC loans are waived for, where there is calamity or where there is any value of nature that affects those other crops.

Why is it that those other crops can be waived, and yet a member of this House wants to say that it is wrong for a Senator to ask where there has been a clear element of variation of nature, like the drought that happened in Migori County between 2011 and 2014? Why is it that the Senator for Narok is misleading the entire country that it will be a financial burden to AFC when it comes to the issue of Migori, yet some farmers from Migori also come from Narok because we are in the same border places?

Why is it that it is wrong for farmers in Narok and Migori not to get waived for when AFC is waiving for coffee? The AFC is waiving for tea in other places. What is this burden that Migori people give the Government of Kenya when they get waived for natural calamities? Is it in order? Is it not discriminatory?

The Speaker (Hon. Kingi): Now, Sen. Eddy, you totally misunderstood your colleague.

Sen. Oketch Gicheru: Yes.

The Speaker (Hon. Kingi): Proceed to conclude, Sen. Olekina.

(Laughter)

Sen. Olekina: Thank you, Mr. Speaker, Sir. Let me speak briefly on this, so that I can conclude on this issue, to clarify the matter to my colleague, Sen. Eddy. All I was saying is that we need discipline and to plan. When we make legislations here, we do not make them for today; we make them for perpetuity. So, in this case, when we are giving out loans, which are subsidised at a lower interest rate, as a prerequisite for getting that loan, I am only proposing that an insurance policy should be attached. This is so that if that farmer loses their crops or their livestock, there is a shock absorber that can allow that farmer to proceed. I am not saying that the farmers from Migori should not be compensated. I am just saying that for uniformity, but we have to be sure that what we are doing is saving this country and not digging the financial hole deeper.

Finally, Mr. Speaker, Sir, it is imperative that I clarify one issue. Just give me 30 seconds. The distinguished Senator for Nairobi City, when he was now giving his last sentence and walking away, continued misleading ---

The Speaker (Hon. Kingi): One minute.

Sen. Olekina: He continued misleading the nation. It is true that this House does not originate the Budget Policy Statement (BPS). The BPS is only a document, which is a policy direction for a government, but this House and the National Assembly are the ones that determine the amount of money that remains in the national Government and the amount of money that goes to the county governments.

So, it is wrong to take this podium, while you are speaking on policy issues because of populism, to say that we, Senators, who are experienced Senators, who understand legislation process, were sitting down and were being misled. Contrary to

that, the information which was being provided by the President was factual. If that information was wrong, I would have been the first one to say it is wrong. So, let us separate issues. When you want populism and claim that you are popular, go to the streets and do it, but when you are here, remain serious and deal with matters that reveal the situation.

Sen. Abass: Thank you, Hon. Speaker. I want to contribute to Sen. Chute's Statement. As you are aware, currently, the country actually is facing a serious drought. As things are, pastoralists normally move across borders, trans-county and even international borders in search of pasture, so that they can save their animals.

As mentioned, the Bayam is actually right at the border of Wajir and Marsabit. The borehole, as the Senator for Marsabit is saying, is within Wajir boundary. The Rapid Deployment Unit (RDU) are rapid response officers who normally move from place to place to secure the country. They do not stay in one place most of the time. The area where he is talking about, the Bayam, part of it and part of Wajir has now become a transit for drugs. They came all the way from the outside of our neighbouring countries. Most of these times, a lot of drugs have been moved now to Kenya. These officers are stationed and they move from place to place, to at least do surveillance and control the drug movement to our country.

It is not that Wajir County has stationed those officers there. I thank the people of Marsabit for their hospitality and their kindness, for accommodating Wajir pastoralists because at times of drought, we turn to their place because they have a better and bigger land for grazing. Therefore, I have talked to my counterpart that we will visit the area and at least sort out this problem.

Thank you, Mr. Speaker, Sir.

(Applause)

Sen. Mwaruma: Thank you, Hon. Speaker, for this opportunity to comment on the statement by Sen. Eddy Oketch Gicheru of Migori on the Agricultural Finance Corporation (AFC), which gives loans to farmers who undertake agricultural activities. When the crops or the livestock fail, the AFC should develop, if the policy is not there, to give insurance for the crops or animals. This is so that in case the crops fail due to vagaries of climate, then it is the insurance that should compensate or waive the loans. If the policy is not there, that policy should be developed. On the side of the Government, there should also be a policy to give at least minimum guaranteed returns to the farmers, so that they do not suffer losses.

The other statement I would like to comment on is by Sen. Kinyua, on the state of deterioration of Nyahururu-Rumuruti A4 road in Laikipia County. Sometimes the Government earmarks roads are for improvement or upgrading, whether to buy to meet standards or otherwise, but then, at times the budgets are not forthcoming and those roads are not upgraded in good time. These roads cause a lot of accidents.

We want the Committee on Roads and Transport to follow up on the Nyahururu-Rumuruti road, so that it is upgraded to avoid loss of lives due to accidents. What we are seeing in Nyahururu-Rumuruti Road in Laikipia County is not unique to Laikipia. There

is a road in my county that was earmarked to be upgraded to bitumen standards. That is the road from Bura, Mgangi, Werugha, Wundanyi to Twamogoti. It was supposed to be upgraded to bitumen standards in 2024, but the budgets have been very slim and because of that, that road is not motorable, especially on the area from Bura to Mgangi to Wundanyi.

What I would request the Committee on Roads and Transport, *suo moto*, is to follow up on that road, so that at least that it is made motorable. There should be some first aid given to that road, so that the people who are using the road, especially from the side of Wundanyi, Mgangi and Bura can use that road.

I thank you, Mr. Speaker, Sir.

Sen. Kinyua: Asante Bw. Spika kwa kunipa fursa hii. Ninataka kuchangia kauli iliyoletwa na Sen. Chute kuhusu mgogoro wa mipaka. Mipaka imekuwa donda sugu kule Wajir kwa sababu ni mambo ya nyasi na maji, Kamati inayoongozwa na Sen. Chute inaweza kushughulikia jambo hilo. Kwa kuwa nimesikia Sen. Abass ameliongelea kwa undani, pengine wataketi na kukubaliana vile watakavyolijadili na kuleta suluhu. Si sehemu hiyo pekee kwa sababu kuna matatizo katika sehemu nyingi. Kamati inayoshughulikia Jambo hili inapaswa ilishughulikie kwa undani ikiongozwa na Sen. Chute.

Bw. Spika, kuna taarifa ambayo imeletwa na Seneta wa Taita-Taveta, Sen. Mwaruma. Hawa wahudumu wa afya nyanjani wanafanya mambo yanayosaidia sana katika afya. Kwa kutolipwa sisi hatuwapei motisha. Wanaohusika ama ni gatu au Serikali kuu wanapaswa kuwashughulikia kwa sababu afya ni muhimu sana kwa mambo yote. Nina hakika kuwa kamati inayoongozwa na Sen. Mandago italivalia suala hilo njuga na kulitatua.

Nimemzikiza Sen. Mundigi akisema mambo yasiyofaa. Sijui ni kwa nini nilisimama kwa hoja ya nidhamu lakini hukunipa nafasi. Ni kinaya kwa Sen. Mundigi kusema kuwa kichwa cha Seneta wa Kaunti ya Jiji la Nairobi si kizuri. Nikimwalia Sen. Mundigi na kisha Sen. Sifuna, si vizuri kutumia maneno hayo Bungeni.

Sen. Osotsi: Thank you, Mr. Speaker, Sir. Allow me to comment on the statement by the Senator of Taita-Taveta regarding the delayed payment of stipend to CHPs.

This is a problem not just for Taita-Taveta, but I think almost every county, including my own county, Vihiga, where CHPs have stayed for five months without being paid. This is very disheartening, considering that these people work very hard. They are the ones who have been moving around the villages, registering people to the Social Health Authority (SHA) and dealing with patients.

I wonder why county governments do not prioritise the payment of stipend to these hard-working Kenyans, yet, every year, we pass money in the additional allocation Bill. For example, in my county, every year, we pass Kshs43.8 million that goes to the county as counterpart funding for payment of stipend to CHPs. The component of the county governments is delayed, and they end up also delaying the national Government component. As a result, Community Health Promoters (CHPs) are going for months without stipend.

I think this is a matter that Sen. Mandago, the Chairperson of the Committee on Health, needs to investigate and see what happens in these counties because these

individuals are suffering. The most ironical thing is that they are the same people that county governments use for politics. They are the ones who go to rallies to cheer county governments and the leaders there, but they are not able to get their money in time.

Mr. Speaker, Sir, also allow me to comment on the statement by Senator of Laikipia, Sen. John Kinyua, on the state of Nyahururu-Rumuruti Road. This is a serious matter because even in my own county, there is a road from Chavakali to Kapsabet, which has killed many people. Last week, we buried three students and a *boda boda* person who were killed along the road. The Kenya National Highways Authority (KeNHA) has dug very deep trenches along the road that is very narrow. People have nowhere to escape from oncoming vehicles.

Sen. Sifuna talked about misinformation and I have something to talk about that as well. This is a road which was listed among the 1,000-kilometer tarmac roads that Kenya Kwanza Government was supposed to construct in western Kenya. In the Memorandum of Understanding (MoU) between Ford Kenya, Amani National Congress (ANC)---

Sen. Kisang: Thank you, Hon. Speaker. I want to comment on the statement by the Senator of Migori regarding the Agricultural Finance Corporation (AFC). From 1963, AFC has assisted so many farmers both to buy land and do farming.

In the past, I know it has been struggling, but we are happy that it has been waiving loans for farmers. Our colleagues are saying that livestock farmers have not been assisted. Maybe the best way to do is what colleagues have said, that we need insurance for both crops and livestock.

Before insuring, we need proper registration of the livestock because if a farmer takes a loan because of the livestock they have, how do you know how many have died or how many are surviving? So, it is important that they do proper registration of all livestock, so that for the insurance cover that will be taken either by the farmer or together with the AFC, it will be easy to account for whatever that has been lost. I think this is what has been missing for a while.

Hon. Speaker, on CHPs, I thought it was only in my county because, recently, CHPs have been complaining that they have not been paid for the last three months. This is something that is across the country. Sen. Mandago, please, your committee needs to invite the Council of Governors (CoG) and the Ministry of Health, because we believe the component that is coming from national Government reaches the counties, but they do not release it regularly. You can imagine a stipend of Kshs5,000 and you are not paid for three months, yet that is supposed to help them even to pay for a rider to move around to check on basics and assist our mothers.

In fact, I was surprised by what Sen. Sifuna, who is my member of the Energy Committee said. He was the one who signed the 10-point agenda and we expected him yesterday to come for the meeting and get a report. He shies away from coming and comes here to misinform the nation. He should have been there to check one, two, three and four. Why was he checking remotely? He should have been there.

I think he has gotten used to the habit of coming to the House, making a false statement of misinformation and runs away because of *TikTok*. I think he has got to that habit.

The Deputy Speaker (Sen. Kathuri): Sen. Kisang, there is a point of order from Sen. Osotsi.

Sen. Osotsi: Mr. Deputy Speaker, Sir, this is a House of record. I rise on a point of order under Standing Order No.105 to inform my good friend, Sen. Kisang---

The Deputy Speaker (Sen. Kathuri): Standing Order No.105 is not about informing.

Sen. Osotsi: Yes, to inform him that the 10-point agenda was not signed by Sen. Sifuna. It was signed between President William Ruto and the late party leader Rt. Hon. Raila Amolo Odinga. Sen. Sifuna only drafted the 10-point agenda, but the signatures were for the two principals. That clarity has to come out very clearly.

The Deputy Speaker (Sen. Kathuri): Just a minute, Sen. Osotsi. Are you giving Sen. Kisang information or is it a point of order? I want to confirm whether he needs to be informed by you.

Sen. Osotsi: I was rising on Standing Order No.105 on statement of fact, which of course informs him as well; that the 10-point agenda was a document signed between the two principals of ODM and UDA. It was not signed by Sen. Sifuna. That is a lie that has been published by the other side.

The Deputy Speaker (Sen. Kathuri): Sen. Kisang' proceed.

Sen. Kisang: Mr. Deputy Speaker, Sir, what my chairperson, Sen. Osotsi, has clearly said is that Sen. Sifuna drafted. Anything that you draft, even if your principal signed, you should have been there on behalf because the principal passed on, to confirm that the report we are getting is correct.

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir, for this opportunity. I guarantee you that the statement by my friend and committee member, Senator for Laikipia, who works very hard for his people, is very good.

As the chairperson of the Committee on Roads, Transportation and Housing, despite the fact that you have misgiving on the broad-based government, I will prioritise that road and make sure that it is dealt with. I will come with the committee in Laikipia before I go for mine in Migori. That is what leadership requires.

On the statement by Sen. Mungatana, from Taita-Taveta, I think this House should take the issue of CHPs as a crisis. Every single time I have seen Sen. (Dr.) Boni Khalwale, Sen. Tabitha, Sen. Ali Roba and yours truly go as Members of the Committee on Finance and Budget to negotiate for proper additional revenue allocation to counties. What they have always fought for is monies that are non-discretionary to governors. Money that is already committed that must be paid.

One of the non-discretionary amount of money that we always send to counties is committed to CHPs. We have fought for this. Governors have got no excuse whatsoever not to pay CHPs because it is money that we fight for during mediation. That is the basis for which money was added to governors to Kshs415 billion in the last financial year. I can tell you for a fact that the national Government has met its obligation, but county governments are not prioritising paying these CHPs.

I was in Migori County last week, in Kegonga, Kuria East to be specific. I met CHPs claiming that for the last three years, they have not been paid their money by the County Government of Migori. These are people who suffer. For example, right now it is

raining and they do not have gumboots and equipment to go through the rain to be able to support people who are sick in their homes. So, this is something that, as a House and Sen. Mandago, who is the chairperson, must take seriously as a crisis and confront the Council of Governors (CoGs) to pay CHPs in Migori, Taita-Taveta and all over the country where they have not been paid.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Mandago. This is the last---

Sen. Mandago: Thank you, Mr. Deputy Speaker, Sir. I would like to comment on the three statements. One, on the statement by Sen. Kinyua of Laikipia County on the state of the road from Nakuru to Rumuruti. I agree with him that the road needs to be properly maintained and expanded. This is because that is also the other major trunk link road that links Nakuru, Nyahururu, Rumuruti, Maralal all the way to Isiolo, to the Eastern part of this country.

I want the Senator for Laikipia to also be consistent. In the quest for having good infrastructure, he must also continue to support the Government in the establishment of the National Infrastructure Fund (NIF). You cannot be opposing the establishment of the NIF and at the same time, expect the Government to raise resources from nowhere to maintain those roads. So, Sen. Kinyua, you know I have interests in that region. There is a need to maintain that road.

The matter of CHPs is of national concern. County governments are receiving the stipends from the national Government, yet they are not putting in the matching funds. The challenge we are facing is getting information from the Controller of Budget (CoB). How come this money is budgeted for and is not being released on time? This is just a stipend.

If we are to do the state of health and the rollout of Universal Health Coverage (UHC) in this country, the weakest link is not in the national Government, it is actually in the county governments. They are failing in their responsibility of ensuring that CHPs perform a very important function of prevention. We know the cost of health can be reduced through prevention. We, therefore, expect governors to make sure that the stipends are paid on time, so that our CHPs are able to work. However, of course, as a committee, we should be able to make a follow-up on that.

I support the statement by Sen. Eddy. The loans for farmers in Migori and other parts of this country that have suffered because of vagaries of weather and other natural calamities should be waived, so that they can continue their farming. They should not just be waived, they should also be given a small stipend to be able to restart the farming process. Farmers in this country are the most resilient people. Farming is the only industry that creates---

The Deputy Speaker (Sen. Kathuri): That should be the end of the Statements Hour.

Next Order.

BILL*Second Reading*THE AGRICULTURE PRODUCE (MINIMUM GUARANTEE
RETURNS) BILL, SENATE BILLS NO. 17 OF 2025)

The Mover, Sen. Veronica Maina is not around. So, we defer that order.

(Bill deferred)

Next Order.

BILL*Second Reading*THE CULTURE BILL (NATIONAL ASSEMBLY
BILL NO.12 OF 2024)

We will defer this business because we do not have numbers for the Division.

(Bill deferred)

Next Order.

BILL*Second Reading*THE PUBLIC AUDIT (AMENDMENT) BILL,
(NATIONAL ASSEMBLY BILL NO. 4 OF 2024)

(Sen. Cheruiyot on 10.03.2026)

(Resumption of debate interrupted on 10.03.2026)

The Deputy Speaker (Sen. Kathuri): I am not sure whether there was a Member on the Floor. Sen. Olekina had a balance of 14 minutes. If he is around, he can utilise those 14 minutes. If he is not, then we open the Floor to other Senators. I want to follow my list religiously.

First on the list is Sen. Karen Nyamu. Who is ready for this? We have opened debate on Order No.10. So, I am following this list on my screen.

Sen. Oketch-Gicheru, I will give you the microphone.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, you did not protect me. You gave me the microphone, but I do not control the House. So, you need to protect me against Members when they take the microphone away from me. For example, Sen. Tabitha has taken the microphone away from me. I am grateful because I think she saw the fearfulness of your face and then dashed away. So, I am safe.

This is a very important Bill. Apart from just contributing on the significance of this Bill, including the far-reaching effect it has in restructuring and reorganising the office of the Auditor-General and giving it some leverage to have some teeth in terms of action that they can take, some of the valuable experiences that we have had in the course of audit in the committees in the Senate, we should look at how we can do some amendments to increase the general audit issues that we have seen in this House.

It is important that this Bill comes at the backdrop of the contention between the Senate and the Council of Governors (CoG). Of course, recognising that the CoG is a corporate body that has got no considerable basis. So that if the governors want to insist that they will not come and answer audit queries to the House, because this is the House that makes laws. I want first of all to invite you, as a Senate, to look at Article 229 of the Constitution.

Article 229 of the Constitution says that there shall be the office of the Auditor-General, which is what this Bill seeks to give some serious teeth. However, if you read this Article of the Constitution, it actually indicates that audit queries do not die. They never perish. Once a certificate has been issued by the Auditor-General, whether it is an adverse opinion certificate, a disclaimer of opinion or a simple qualified opinion by the Auditor-General, once those audit queries have been brought, they do not die.

We are in a dilemma where we need to give life to this Article of the Constitution, where we are seeing impunity, especially by governors. Where there is something that, as the CoG, they can sit somewhere and decide, as a Jamboree, that they can appear or not appear to committees of Parliament to answer audit query questions.

Mr. Deputy Speaker, Sir, what does this House do in terms of such instances that we are seeing? If we can propose an amendment that can give life to this particular Article in this particular Bill, so that we can compel governors, even after leaving their offices. This is because if you look at Article 125 of the Constitution, it says that this House and its committees have got the power, equal to the Supreme Court, to invite anybody, anytime, to bring evidence, information and answer any queries, such as audit queries that we see in this country.

Where the governors cannot come and answer questions because they have chosen not to, can we amend part of this Bill to insist that audit queries will just be as alive as possible, even at a time when the audit cycle has passed? What I have seen in the Committee on County Public Investments and Special Funds (CPISFC) is that a Governor chooses---

Like today, we had the Governor of Samburu County. We almost had a banter among ourselves as Senators. The Governor of Samburu appears before me today on a disclaimer of opinion where there is water service provider in Samburu County, that is the Samburu Water Company, and there is disclaimer of opinion. Almost Kshs68 million cannot be accounted for. A number of variances cannot be accounted for because the

officers in Samburu County did not submit their documents to the Auditor-General. They just refused to submit their documents.

Then Governor then appears before our committee today and when I asked him if we can go through the audit report, he says he came with his officers who are in charge of that WSP, but they have disappeared in Nairobi City County. He even has the courage of speaking before the committee of the Senate saying that even the documents he was supposed to give us were still being printed in Ngara. They had printed some five, they were printing 19 more.

I then asked the governor if these were his officers and if they left with the money of the people of Samburu to come all the way to this place and account for the money of the people. How did they get here? Then he says he qualified those monies; he gave them the money to leave Samburu, to come all the way to Nairobi City County, and then he tells me all the phones of the officers are off. Do you know why he is doing this?

The Deputy Speaker (Sen. Kathuri): Sen. Eddy Oketch, Vice-Chairperson of the CPISFC, if you look at Standing Order No.100, the matter you are discussing on the Floor is very active in your committee, and your committee has not brought in a report to this House. Since the matter is active in your committee, Standing Order No.100 prohibits you from discussing that matter now, until you bring the report to the Senate, move it and then we discuss. You can proceed with your contribution, but stop discussing that matter you are handling with your committee.

Sen. Oketch Gicheru: I am well guided, Mr. Deputy Speaker. I was just giving you an example, where a governor can choose not to come, so that the audit cycle passes. For instance, you have guided us that there is a ruling of the court that said we must finish looking at all these audited reports three months after they have been brought to this House.

I was just giving an example, where a governor can be mischievous, so that the three-month cycle passes without them appearing before the House, so that that audit query might never be asked. I was giving just an example of adversity that I am seeing in Samburu, of that kind of classical case. So then, in that case, what do we do in this Public Audit Act, dear Senators? The audit cycle has passed, the governor has used some machinations to make sure that they do not appear, and now that cycle has passed.

That is why I am saying that Article 229 of the Constitution gives breath that audit matters are live matters that never die. So, we need to put in this Bill one of the clauses that we must put in. I will draft the amendment that even when we have considered the audit report and submitted them in this House, those books are not closed if we do not deal with some of these substantive issues, so that we give justice to the people of Kenya.

The second issue that we have seen categorically in the committees that I am in, Section 62 of the mother Act talks about the issue around offences that are dealing with audit issues. The offence there is when any public officer does not issue or give information to auditors or even give late documentation to auditors, because the auditors have got seven audit meetings that they have with the clients when they go to these public institutions.

Despite having those audit meetings, our experience, particularly with governors is that they do not give documents that are required, they do not give financial statements or documentation that supports financial statements, and therefore the auditors cannot make sense of some of these audited documents.

I suggest that we give more life to Section 62 of the Public Audit Act because the only thing that is there is a prescription of, first of all, what offences they are and what penalties must be given. It says that those who do not submit their documents on time, and those who do not sometimes even submit documents at all, are subject to about three years' jail term and Kshs5 million worth of fine, or both. It does not prescribe what a committee of Parliament should do when you have found somebody liable. What should be the immediate action as a committee of Parliament?

What happens commonly in my committee, and my Chairperson, Sen. Osotsi is here, I hope he will be able to contribute to this particular issue, and I also think it is not dissimilar to the County Public Accounts Committee, is that once we have found somebody as that breach of law; they did not submit their documents, or did not give sufficient information, or they just refused to appear during audit cycle, we recommend to the Senate there was a breach of law. That is not enough.

The governors are getting used to that qualification because you have said that there was a breach of the law, so what if there was a breach of the law? There has to be an amendment of that section in the Public Audit Act that prescriptively gives the audit and watchdog committees of Parliament the power to take action. This is because, sometimes just by giving that declaration in the committee, our major partners who come in those committees being the EACC, the CoB and the National Treasury, the only action they can take is relying on that report of the committee once it has been adopted by the House to maybe deny a county access to funds.

Mr. Deputy Speaker, Sir, sometimes, EACC takes them to go and investigate them, but they never get back to the House of Parliament, where these things began in the first place. If the EACC gets compromised along the way, we cannot tell. I am not imputing any improper motive on the side of EACC. However, there is potential exploitation of this section of the law that is supposed to be enforced and hold people accountable.

These are the two critical elements of this Bill that I hope that this Senate will take a critical look into, so that when audit queries have been looked into, there can be action taken against those people who have violated the law. There can be action taken against money that has been lost. There can be action taken against breach of law because otherwise then, it becomes just banter or a doctrine of report and then we cannot be able to make sense of how we will be able to cover funds.

Another element of this Bill that was very important is that it is the first Bill that tends to actually hold individuals to account, particular officers who might have violated the laws of the Public Audit Act, the mother Act. However, the problem that we have here is that, in some cases in our experience in CPISFC, you end up having a certificate that has been issued by the Auditor-General, but in the course of interrogating those audit queries, you immediately realise - wait a minute - we need special audit. This is because, the problems that are in that institution are so many that you cannot bring.

I could have given an example in my committee, Mr. Deputy Speaker, Sir, but as you had guided, those issues are still with the committee. However, there are glaring issues which I will not mention by name, but for instance, one county that recently we were looking at - I will not mention its name because it is still active in my committee - where a whole year, the governor spent Kshs32 million on a monthly basis; one or two million on something they called a feasibility study. If the budget of an entire WSP has been spent, Kshs32 million of public funds, on feasibility studies, withdrawn by individuals of that county--- What is this research that wants to take the governor the entire budget of that Water Service Provider (WSP) and the county entity to keep on doing feasibility studies on for the whole financial year?

Mr. Deputy Speaker, Sir, I had another case of one WSP in one of the counties, which I will not mention again because it is still active in our report, where an entire company operated for two years and the employees of that company were not paid for those two years; no salary whatsoever. There was no payroll whatsoever in these companies. Number one, the officers of that company never complained. There was Kshs25 million in question. They did not complain, they still worked, but when we looked at the commercial losses of the water company, they are almost at 53 per cent non-revenue water; water that is not accounted for.

So, you can start seeing that there is indeed a correlation between non-reception of their salaries and the high non-revenue water in those counties because most likely, there is water that has been given to people, but they are taking that money away. Most likely, that money is more than what they should be earning as employees of that company. Therefore, when you get to that kind of situation and yet, the Auditor-General had closed the certificate, how do you deal with it? It will need a special audit, so that you can audit that kind of firm.

Our laws currently do not have proper architecture for special audits and the reason is simple; out of the 12,000 entities that the Auditor-General is considering, they have a limited budget. Once they close the certificate, financing a special audit or a forensic audit on some of these issues becomes a very difficult issue. I believe that this is the opportunity to look at this Bill, introduce an amendment that will give the Auditor-General capacity to go and do forensic audits, where the committees of Parliament have got no doubt whatsoever that there could be a malicious thing that is happening on corruption.

Lastly, Mr. Deputy Speaker, Sir, what I believe is important for this Bill because most of the clauses that are here are self-explanatory, and I am only looking at opportunities that we can add on, which will make Parliament more effective. We must have an audit function that can allow this House of Parliament to have a bird's-eye view position on the issue of debt in this country. I know this one is controversial because there is a broad-based arrangement.

We cannot have a country where three institutions that are critical to debt management in our country and the Auditor-General cannot have clarity on what is our debt stock. If you look at what the Auditor-General has been telling us about our debt stock, it is difficult to harmonise what the National Treasury is saying, what the CBK is saying about our national debt and what Auditor-General is saying about our national

debt. It means that there is a small audit function that is critical that should be put exclusively on the national debt management in this country.

Every time that the Auditor-General is asked the debt stock oscillates a number lower than the physical manager who is the Treasury of this country and who gives us the debt stock according to the National Treasury. Still, the National Treasury has got a different debt stock with the CBK. For instance, the Budget Policy Statement (BPS) that my brother, Ole Kina was discussing together with my brother, Sen. Sifuna of Nairobi.

That BPS that was brought to us here puts our national debt stock at around Kshs12 trillion, yet if you look at the data from the National Treasury when they appeared before us in the Committee on Finance and Budget, my sister, Sen. Tabitha, will tell you they are putting it at almost a trillion less than the CBK. Then the Auditor-General wants to put that debt at Kshs10.58 trillion, almost Kshs1.5 trillion less than the two institutions that we have. How then do you manage the debt that is soaring in this country?

There has to be an autonomous section of the law in this Public Audit Act that is solely looking at our debt architecture in order to make sure that it is not skyrocketing in a way that is not sustainable. If we can improve on those four areas, then we can improve on the issue of public finance, wastage of resources as well as the overarching issue that we see, especially in our counties that make it totally impossible to hold stakeholders within counties accountable.

Those stakeholders start with the governors, they go to accounting officers, the CECMs, to approvers in the county treasuries and more importantly, they even end up going to the accountants in counties. Some of these accountants, when we look at as CPISFC, we find invariable issues of simple lack of professionalism. I know the PFM tends to hold people accountable on issues as simple as financial misconduct, where there is no proper documentation or record keeping by these officers. However, there is an opportunity in this Bill to correct the lot of accountants who do not work with the auditors to harmonise simple variances and inaccuracies in financial statements, to the extent that some of these accountants are not even in good standing with the Institute of Certified Public Accountants of Kenya (ICPAK). This Bill will be able to hold them accountable as individuals, even before you think about the governor. Once this Bill passes, all those people will be held accountable.

I do not want to talk much because I can see my brother, Sen. Olekina, whose time probably was cut and maybe he had gone to take tea or some notes. He is back in the House and I want to be fair, so that anybody else is able to also contribute to this Bill.

I support this Bill and hope that I can work with the drafters to make sure that the amendments that I have talked to can be brought to the House, so that they can add meat to the Bill.

The Deputy Speaker (Sen. Kathuri): Unfortunately, you have over utilised your time, and the system did not even realise. So, you have not done any favour to the Members who are waiting.

Sen. Olekina, Standing Order No.36 is very explicit on what happens on your case. However, with the reasons that you have given to the Chair, I have to use Standing Order No.1, blindly, to allow you to spend 15 minutes.

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. This is a Bill that I really hold with a lot of regards, in regards to accountability in this country. As I continue with my submissions on my reservations on the amendments being proposed on this Bill, allow me to demystify the challenges ahead that will follow if we amend this Bill the way it is being proposed.

If you look at Article 229 of the Constitution, it is very clear. It sets the rules or the powers of the Auditor-General. When we introduce Audit Advisory Board and give it the powers that the Auditor-General has, the naysayers and critics and others who are tasked with the fiducial responsibility of ensuring accountability in this country will conclude that it is political interference.

Mr. Deputy Speaker, Sir, I am concerned about this Bill and I want to go on record to clearly state why I am concerned about the amendments being proposed. I wish that my colleagues would listen to me, because I have come of age in terms of legislation in this country and I understand the importance of making laws that will protect me today when I am in power and tomorrow when I am not. The issue of accountability in this country should not be carried out on a term basis. It should be dealt with in perpetuity.

This Bill is proposing to transfer key audit functions and decisions from the Auditor-General to the Audit Advisory Board. The areas that it is seeking to transfer is on the scope of audit. The current Public Audit Act in Section 31 clearly stipulates on the definition of the scope of audit, where it is a process which is outlined. It starts with an entry meeting, then the manager and the auditors define the scope of audit, following that, when the audit has been carried out, there is an exit interview. The only thing that I would support there is ensuring that key officers in the accounting department take responsibility for failure to adhere to the audit recommendation. However, I completely detest saying, investigations and the scope of audit shall be determined by the Advisory Board. That is retrogressive, in my view. We should not limit the powers of the Auditor-General.

If you look at Clause 9 of this Bill, and those are the sections that I would be seeking to further amend and retain the powers with the Auditor-General. Why are we so quick to make decisions that will bite us tomorrow? Why do we keep changing laws to suit our position? Clause 9 takes the power away from the Auditor-General and gives it to an Advisory Board. It is wrong.

So, I would like to seek support from both sides of the aisle in ensuring fiduciary responsibility and allowing us to be checked, and allowing the Auditor-General to be the one to check the Government. There is nothing wrong with that. We are all talking about fighting corruption in the country. If we mean to fight corruption, then let us leave the powers that the Constitution has given to the Auditor-General with the Auditor-General. In fact, the only powers that we should give the Audit Advisory Board is the power on policy direction, things that do not take the power away from the Auditor-General. Issues to do with scope and investigation must be left with the Auditor-General.

The only thing that I support in this Bill is the decision to now introduce so more to approach, where the Auditor-General can engage directly with Ethics and Anti-Corruption Commission (EACC) and the Office of the Director of Public Prosecutions (ODPP) in terms of carrying out an investigation. However, even then, the Auditor-

General will have to be left to rely on the decision of the Audit Advisory Board. Let us do away with this retrogressive policy direction. Let us focus on policies that will change this country into the fast world country that we are all craving to get.

Mr. Deputy Speaker, Sir, the way the amendments to this Bill have been proposed is to give the veto powers of decisions made. Hypothetically, and I will try to demystify this, the Auditor-General renders her opinion and then the Advisory Board comes and vetos and says this is not the right way. Let us do away with that. I read through this Bill overnight and I have been going through it over and over. If you read the amendments, which I am going to read-

“This is amendment to Section 11 of--”

Mr. Deputy Speaker, Sir, my eyes are not seeing very well, so let me try--- My eyes are getting old. I am still very young.

“Section 9 of the Principal Act is amended by deleting (i) and substituting thereof the following new subsection-

The position of the Auditor-General shall become vacant upon expiry of the Auditor-General terms, if the Auditor-General dies, where notice and writing addressed to the President, the Auditor-General resigns, if the Auditor-General is removed from office under any of the---”

That is not the part I wanted to read. Let me go back to the section that I wanted.

Mr. Deputy Speaker, Sir, give me one second. I think I have been reading too much. I know my time is moving, but I have just misplaced my notes. Nonetheless, I would like to summarise by stating the fact that I am not for the amendments which are being proposed because I see danger ahead. I will list them down. Number one, we need to retain the power that the Auditor-General has. We need to limit the role of the advisory board and allow the Auditor-General to define the scope of audit and terms of investigation.

I support the idea that the Auditor-General should move ahead. Before it comes to Parliament, the Auditor-General can proceed and engage the Ethics and Anti-Corruption Commission (EACC) and the Director of Public Prosecutions (DPP) to carry out investigations where the Auditor-General feels there has been misappropriation of funds.

Most importantly, Mr. Deputy Speaker, Sir, let us not weaken oversight. When we weaken oversight by introducing the advisory board, corrupt governors or officials could sit with the advisory board and decide that instead of spending money everywhere, they put it in few people to ensure that when they go to audit use of funds in a certain county, State Department or wherever, they can only be limited to a certain scope. That way, we will not be doing future generations any service. In fact, we will be retrogressing and widening the gap between the rich and the poor by doing it legally.

One of the biggest problems that we have in this world today is that a lot of things which are being done by big people follow the rule of law because a weak Parliament sits and Members clap without reading through legislation. Just because we support different policies, we do not ask ourselves hard questions about tomorrow.

When we are not in power tomorrow, what will happen to those pieces of legislation? It will come to haunt us. We may clap for it now and we might be happy that it is going to happen, but when the people of my County of Narok are not getting services

because the governor or somebody else sat down with an advisory committee and told them what to audit, the tears that those people have will haunt me even in my grave.

Mr. Deputy Speaker, Sir, with my clear conscience, I would like to reserve my position of not supporting this Bill. I suggest that we look at amending the amendments that were brought by the National Assembly and put some sense into this.

If I were to be asked, what is the point of having an Audit Advisory Board? Instead of finding a way that the Controller of Budget (CoB), the Auditor-General, investigating agencies, the Senate and other oversight bodies can work together and entrench that into these new amendments, we are now bringing in another layer. Remember that members of that advisory board will also have to be paid. Any piece of legislation that we come up with should be one that saves the country money, not one that continues to burden taxpayers.

I welcome everyone to go and read through these amendments. These amendments will overburden taxpayers, make oversight very weak, introduce political interference in the audit process and literally make the Auditor-General just like another civil servant because they will not have any power.

It is good for us to align the amendments that we made in the Public Finance Management (PFM) Act with the Public Audit Act and retain the powers of the Auditor-General as per Article 229 of the Constitution. That is the only way we are going to be progressive as a nation, ensure fiduciary responsibility and support our institutions. Let us support our institutions by giving them powers that they need.

Finally, Mr. Deputy Speaker, Sir, there is the issue where everyone was clapping and saying that this is fantastic. That is about the Public Audit Fund. It is good, but leaving it at the mercy of Members of the National Assembly is going to be very difficult. What we should do is to enhance the percentage that will be drawn from the Consolidated Fund to fund the Public Audit Fund. From 0.2 per cent, let us increase it to about three per cent. In fact, it will save this country a lot of money. However, we should not leave everything to have layers of approvals.

Mr. Deputy Speaker, Sir, you know what happened recently, but I do not want to mention. When it comes to the issue of the National Government Constituencies Development Fund (NG-CDF), you know what happened in Mombasa. Of course I do not want to mention that.

When your pocket is lined, you will be inclined to support a particular position. If we have an Audit Advisory Board that defines the scope of audit, if tomorrow money is misappropriated and we just clap and say thank you because we have taken away the independence of the Auditor-General, it is our children who will cry.

Mr. Deputy Speaker, Sir, I want to stop there, but I would like to remind us of our duty as legislators. We are here to ensure that we promote legislations for future generations but not to have legislations to support the time when we are in office.

I thank you.

The Deputy Speaker (Sen. Kathuri): Fair enough. Let us listen to Sen. Osotsi Godfrey.

Sen. Osotsi: Mr. Deputy Speaker, Sir, first of all, I would like to start by saying that this is an important piece of legislation. This is one of the legislations that I want to

request colleagues to pay a lot of attention to because many of the problems we experience in this House to a large extent are going to be sorted out by this legislation. The matter of public audit is important in this country, especially at this moment of time when Kenyans expect that their money will be used well, for the intended purposes and that they will see value for money. I have looked at these amendments. There are some which I support, but there are also some that I think will need to be amended, so that we give strength and independence to the OAG.

About three months ago, together with Members of my committee, we visited the equivalent of the Auditor-General in Morocco and we were amazed by the system of audit in that country that is based on the French Model, which basically has a judicial component to it.

They call it Court of Accounts. Entities appear before a judge to present their reports and a decision is made there and there. If you have misappropriated money, a decision to take action on you is made there and there. Later on, the Court of Accounts does a report to Parliament. If there is any issue that needs to be followed up, their Parliament will do so. That is the French Model.

The Kenyan audit process is based on the Westminster Model, where the Auditor-General conducts audit then presents a report to Parliament. Parliament does examination and witnesses appear before it. The trouble with the Westminster system is that once Parliament prepares a report, someone else is supposed to implement, but usually they do not implement those recommendations.

Mr. Deputy Speaker, Sir, an example are the recommendations made by oversight committees of this House; the County Public Accounts Committee (CPAC) and the County Public Investments and Special Funds Committee (CPISFC) on matters of misuse of office and public funds. Many times, they have recommended that these individuals be investigated and prosecuted, but the Ethics and Anti-Corruption Committee (EACC) and Office of the Director of Public Prosecutions (ODPP) have not been taking any action.

Whereas the Senate is doing its job by making recommendations, the independent offices that are supposed to act have been sleeping on the job for many reasons. That is why you find that this system of audit is not yielding fruits. Maybe, we need to consider the South African model that has both the French and the Westminster models, so that we are able to deal with the audit challenges that we have.

The Office of the Auditor-General (OAG) is an important office in this country, but it has been undermined through budgetary allocations. On many instances, they do not get the money that they deserve. The staff in the OAG are not properly enumerated and their welfare is not looked into. The office itself has capacity challenges, yet this is an office that processes 12,000 reports every year. If you were to do it daily, it means that you will be doing between 40 to 50 reports a day; reports that are supposed to be signed by one person called the Auditor-General. She is supposed to go through all the 40 to 50 reports in a day and sign them. This is impossible.

Mr. Deputy Speaker, Sir, I am happy that one of the recommendations proposed in this Bill is for the budget making process to be improved. That is Clause 17 where they are saying that in the event that the Auditor-General finds out that the budget proposed to her office is insufficient, she can do a special report to both Houses, the National

Assembly and the Senate. The trouble with this amendment, which I think I will be seeking to improve is; what happens after submission of the special report? That is the one thing that we need to see how to amend, so that we can help that office. In the event the National Assembly does not appropriate enough money to the OAG, what do we do? The amendment has been proposed, but the action is not very clear.

The other thing is the implementation of Article 249 of the Constitution, which requires the Senate and the National Assembly to jointly process budgets for Constitutional offices. I know Sen. Omtatah has a case on this matter in court. Now, these amendments have been brought in here; that means that this Senate will play a big role in ensuring that the budgets of Constitutional offices, starting with this OAG will now be processed by the Senate. In a way, this will enhance the capacity of the OAG and consequently, its independence.

Mr. Deputy Speaker, Sir, allow me to commend the Auditor-General, Dr. Nancy. This lady has done a wonderful job under the circumstances of budget constraints. The other day, I was surprised when a senior person in this country was calling her names. Women of this country who are given a chance such as Dr. Nancy are doing a good job. It is very unfair that a senior leader in this country is talking ill about them. I encourage Dr. Nancy to continue doing the good job she is doing.

What is wrong when Dr. Nancy says that Kshs50 billion of the Social Health Authority (SHA) money has been stolen and she has evidence? I have looked at this Bill and I think it is going to strengthen that OAG. However, there are some provisions that need to be strengthened to make it better.

The other very fundamental amendment in this Bill is the establishment of the Public Service Human Resource (HR) Audit Directory. You will agree with me that the wage bill is a chronic problem in all our counties and even, the national Government. We have ghost workers. Now with this directorate, the Auditor-General will be able to audit the staff establishment in our institutions and counties where, the bulk of the money is taken away. This is a very fundamental amendment that will go a long way in strengthening the audit process in this country and also, in ensuring there is no more wastage of public funds through HR fraud.

This Bill also proposes to remove Section 12 of the current Act that provides for an acting OAG. You know the mischief around acting positions. The acting OAG in the current Act is the principal assistant to the Auditor-General. We do not want to have a scenario where for mischief purposes, the Auditor-General is removed from office and the acting OAG who comes in, is not able to make some decisions.

This Bill, therefore, proposes to repeal Section 12 of the current Act to remove the provision of having an acting OAG and instead, have the Senior Deputy Auditor-General who will be the substantive principal assistant. I know that in the current structure of the OAG. We have several senior deputies to the OAG. I do not know what is going to happen to the current status. It is one of the areas that I would propose we look at keenly and possibly, have amendments so that this Bill does not distort the current structure of having multiple deputies to the Auditor-General.

I will also propose that to help the Auditor-General, who in the current Act is supposed to sign all the audit reports, we give powers to the Senior Deputy Auditor-

General to help the Auditor-General in signing some of these reports but under the direction of OAG.

Mr. Deputy Speaker, Sir, the other very fundamental amendment which I think will improve the independence of the OAG, is repealing of Section 18 of the current Act, which provides for secondment of staff. Secondment of staff to an independent office is something that we should not encourage. The current Act provides for the secondment of staff. This provision is now being removed, so that the Auditor-General will have powers to hire.

In fact, there is also a provision in this Bill that says the Public Service Commission (PSC) will be involved in the recruitment of staff. That section is being removed so that the Office of the Auditor-General will conduct competitive recruitment without having to go through the PSC.

I know Sen. Ledama has talked about the Audit Advisory Board. The Audit Advisory Board is not a new thing. It has been there in the current Act and I think it is important for the Audit Advisory Board to be there because if you look at the individuals who are there, they are all qualified. We have representatives from the accounting body, ICPAK. We also have the Auditor-General herself. The idea around this is that this is just an advisory body to help the Auditor-General perform her duties and she is a member of that board and two other members. It is not meant to weaken the powers of the Auditor-General.

I am also excited about the power for the Auditor-General to access information from private entities, particularly those entities that have done business with public entities and they have been involved in some fraud. Now, the Auditor-General will have the powers to access that information.

Let me also talk about Article 229, which says that upon gazettelement, publication or tabling of documents before the House, the oversight committees have three months to examine and take appropriate action on those reports. Regarding this section, the High Court issued a ruling and said that we must adhere to it. We appealed and lost the appeal. Now, our committees are struggling to adhere to that rule, but our governors are letting us down by not appearing before CPAC and CPIC. This is designed to ensure that the 31st March deadline approaches and then they eventually do not turn up. There is a ruling of the court, I think in 2019 that said that audit queries do not die. They remain there forever. I think somewhere in this Bill, we need to amend and say the audit queries should not die. Article 229 is there, yes, but audit queries cannot be allowed to die because if we allow it to go that way, we will have a situation where some of these rogue governors will completely refuse to come before the House.

I am also pleading with this House to amend this Public Audit Act and deal with the major problem we have been having in the audit process; the issue of late submission of documents. We have a scenario where, during the audit process the entities do not submit the documents required to the auditor and then they do exit meetings. The Auditor-General does his report, issues a certificate for the report, and then just before they appear before the Senate, volumes of documents surface. Some of those documents are fake and then they come before us, they tell us now, we have documents here. Senators are not auditors. They are not document examiners.

I want to propose, and I wish the members of this House will support my amendment, that we amend the Public Audit Act to say that any late submission of documents will not be considered by parliamentary oversight committees because they should have been considered during the audit process. Why bring them when you come to the Senate? That has always been a major problem, and I think that is where we have challenges in as far as examination of audit reports by this House is concerned.

The Deputy Speaker (Sen. Kathuri): That is why you should really keep keen on the lights, because you see the other members are still waiting.

(Sen. Osotsi spoke off record)

No, no, just one minute. One minute is enough, as you conclude. Just one minute, as you requested.

Sen. Osotsi: Mr. Deputy Speaker, Sir, another very fundamental amendment is the functions of the Auditor-General. You know, in the current Act, under Section 7, it provides that the auditor will certify himself or herself that the public resources have been applied or used for the intended purpose. The resources can be used for the intended purpose, but they can be misrepresented, misappropriated or they can be expensive. This Bill amends that section to say that there should be economic value, efficiency, effectiveness, transparency and sustainability in the use of public resources. I think that is a very important amendment.

The Deputy Speaker (Sen. Kathuri): Okay, very well. Sen. Okoiti Andrew.

Sen. Okiya Omtatah: Mr. Deputy Speaker, Sir, thank you for the opportunity to contribute to this Bill. My reading of Article 109(1) of the Constitution is one I would like to read out, because it is the only time that we have. It says-

“Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President.”

In fact, from the time I have spent sitting in this House, I have come to the conclusion that the only power Parliament has that really matters is the power to make laws. All these other things we do, reports, statements, and motions seem to have no life, because they end up nowhere. There is no mechanism for enforcing them, but when we enact a law, it is a self-enforcing mechanism and so an opportunity like this for me is very important and I thank you for having given me a chance. I hope my fellow Senators will also realise that the only time we have teeth to bite is when we legislate, not only when we pass all these other things.

So, this Bill is very important and for me it addresses a number of issues that are critical for us. I begin by congratulating the drafters for having thought of amending the Public Audit Act after having tested the Constitution for so long. However, I would like to remind you that Article 229 of the Constitution cannot be amended through ordinary legislation and, therefore, the attempt to claw away the power of the Auditor-General with an independent office is one that we should resist.

I begin with definitions, and one of the things that caught my eye, under Clause 2(c), is the provision where the Principal Act is amended. It states as follows-

“By deleting the definition of the word “effectiveness” and substituting, therefor, the following new definition –

“effectiveness” means the extent to which a programme attained, or is expected to attain, its objectives, efficiency, in a sustainable manner.”

Mr. Deputy Speaker, Sir, if you look at the importance of the word ‘effectiveness,’ you need to go to Article 229(6) of the Constitution of Kenya, 2010, which I may read out. It states-

“An audit report shall confirm whether, or not, public money has been applied lawfully and in an effective way.”

Basically, ‘lawfully’ is to say it is in accordance with the Constitution. “In an effective way “should be value for money.

When we come up with a definition that is vague, that moves away from the understanding of value for money, we would like to see audit reports telling us whether there was value for money or not, so that we come to a definition that says the extent to which a programme attained or is expected to attain its objectives and efficiency in a sustainable manner.

We are trying to mischaracterise the word ‘effective’ that is used in the Constitution, and to make it possible for the Auditor-General to engage as if she is dealing with plasticine that you can just mold in any other way. Let us keep these words exact. Effectiveness or effective manner, when we are dealing with money, is value for money. I would like that definition to reflect that meaning more than what is being done here.

I have also looked at another definition, which is very good. The definition of public money is very good. Better for me is a definition of public resources that are expanded to include state-compensated time. That is an area that we lose a lot of public resources. You go to hospitals and find doctors who are on a salary are not at their desks. They are in their clinics during office hours. In very many offices, public officers are doing their private business and are not at their places of work.

If we are now defining state-compensated time as a state resource, we should go further and make sure that we create mechanisms of the Auditor-General being able to audit the use of this resource in the counties and the national Government.

Mr. Deputy Speaker, Sir, I have also seen another good thing in Clause 9 of the Bill, which is Section 11 of the old Act. We are providing a mechanism for initiating the recruitment of a new Auditor-General before the exit of the presiding Auditor-General. We remember the quagmire we got into when Dr. Ouko left office. We did not have an Auditor-General for a long time. Audit reports could not be signed and all that backlog that came with that.

I think this is a good development that we are requiring by law that a new Auditor-General, except in the circumstances where an Auditor-General maybe dies abruptly or resigns--- If the term of Auditor-General is coming to an end, it only makes sense that we should be able to initiate a recruitment process in good time.

The Bill seeks to retain the office of the deputy Auditor-General. When I look at Article 229, we do not see the office of the deputy Auditor-General created. I would have expected the amendment to do away with that office, because where the Constitution

anticipates a deputy office holder, it creates that deputy. I do not think Parliament has the capacity to create deputies where the Constitution does not anticipate or create one. We have got the two deputy inspector generals for the police clearly created. You have got a deputy chief justice, deputy president and deputy governor. These extra deputies that are being created in legislation to me have got no feet to stand on.

The Auditor-General is an independent office. How can it be deputised? Maybe an assistant, but to have a deputy Auditor-General, to me, is something I cannot understand how it comes about. I would have expected the Bill to cure that anomaly, but instead, it is just reforming the office.

I am happy about the amendment by Clause 14 of this Bill to Section 20 of the Principal Act in terms of the budget of the office of the Auditor-General. There is a nominal recognition of the import of Article 249(3), which I may, with your permission, read to the House and which, as the gentleman from Vihiga clearly noted, I am litigating in court.

Article 249 (3) states-

“Parliament shall allocate adequate funds to enable each commission and independent office to perform its functions, and the budget of each commission and independent office shall be a separate vote.”

Usually, the idea of the budget being handled by the National Assembly alone violates that provision, especially when we understand that we have got a single budget making process under Article 221 of the Constitution, where the budget of the Executive, which brings along the budgets of the independent offices and commissions, the budget of the Judiciary through the Judicial Service Commission (JSC) and the budget of Parliament through the Parliamentary Service Commission (PSC), are considered, requires the involvement of the Senate, if we are to be faithful to the bicameral nature of Article 249(3).

Article 93 establishes a bicameral parliament. Where this Constitution anticipates a single House to handle an issue, for example, the impeachment of the President in Article 145 and the Deputy President in Article 150, it expressly states that the Senate shall do A, B, C, D. Where it anticipates the National Assembly alone to carry out a function, such as a vote of no confidence on a Cabinet Secretary, it gives the National Assembly the authority to pass that vote of no confidence to remove a Cabinet Secretary. We do not impeach them. So, Article 249(3) is very important in terms of the budgetary powers of this House. We are supposed to ensure that constitutional commissions and independent offices have adequate budgetary allocations. We cannot do that by being excluded from the budget making process under Article 221 of the Constitution.

I like Clause 17(4) which says-

“If the expenditure provided under the sub-section (3) of this section are, in the opinion of the Auditor-General, insufficient to allow the office of the Auditor-General to properly carry out its mandate, the Auditor-General shall submit to the Speaker of the National Assembly and the Senate a special report to be presented to the committee responsible for matters related to budget and appropriation”.

There is an error in that construction. This is because each House has a Speaker. We have the Speaker of the Senate and the Speaker of the National Assembly. There is

no Speaker of the National Assembly and the Senate. So, we expect that the phraseology will be edited, so that we can clearly have it read, 'the Speaker of the National Assembly and the Speaker of the Senate'. Otherwise, the National Assembly might misinterpret that and say their Speaker is the one who receives the report and, therefore, the Senate has no role to play. So, it would be good to clearly state that the grievance by the Auditor-General is presented to the Speakers of the two Houses independently. I request that to be considered.

There is a question of submission of documents. The gentlemen from Migori and Vihiga have talked of late submission of documents. Where I come from and my reading of the Constitution, Article 229 (4) which says-

“Within six months after the end of each financial year, the Auditor-General shall audit and report in respect of the financial year”.

So, the Auditor-General has only six months within which to report. The question of missing documents and unanswered queries should not be entertained. That is the room through which we lose track of what has been lost. That is why I am yet to see an audit report that meets the threshold in Article 229(6) that says-

“An audit report shall confirm whether or not public money has been applied lawfully and in an effective way”.

We are unable to get to that conclusive report because we allow all this opening and reopening. If you look at Article 229(8), Parliament cannot change a comma, add a full stop, dot an “e” or “i” in an audit report. Parliament is only required to act on an audit report. That should also inform the position of this House on the question of which audit report should be used for sharing revenue between the national Government and the county governments.

Upon a report being signed by the Auditor-General, that report is complete and that is what we should be using. This idea that the report has to be cleared by the National Assembly has no feet to stand on. The Auditor-General is an independent office. This House or the National Assembly cannot change that report. It can only act on it. So, to say that a report of the Auditor-General has to be cleared or validated by the National Assembly or the Senate is to misrepresent the law. This has affected counties to the point that we are using budgets that are way outdated to fund counties. That is why you find that most counties are struggling with funding.

This House should insist that the audit report to be used for sharing revenue between the national Government and the county governments is as signed by the Auditor-General, not as whatever the National Assembly or the Senate does with these reports. It is basically to look at the reports and see if there is anything they can act on. It does not change nor validate the report. So, it cannot be used to deny county governments the funding they require.

Finally, there is a big problem I am seeing in Clause 37, which introduces Section 41A into the Bill. The Clause says-

“There is established a fund to be known as the Public Audit Fund”

When you look at Article 206 of the Constitution, it says-

“There is established a consolidated fund into which shall be paid all money raised or received by or on behalf of the national government, except money that-

(a) is reasonably excluded from the fund by an Act of Parliament and payable into another public fund established for a specific purpose”.

We have seen a habit in this country where they establish funds, then they say that Parliament will appropriate money to that fund. Money going to the fund must be excluded by Parliament from the consolidated fund. The import of that is that you cannot create a fund without a mechanism for funding it. So, where will the money that will go into this Public Audit Fund come from? We should look at this particular clause and say if we are creating this fund, then where will the money to fund it come from?

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

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

The Auditor-General does not generate funds. So, we cannot say that the funds will be Appropriations-in-Aid (A-in-A). The Auditor-General depends on money appropriated by the National Assembly.

This is a good Bill, but it requires a lot of work to bring it up to speed and to make it meet the thresholds that are clearly spelt out.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Omtatah has not requested the Chair for any additional time.

Take your seat, Sen. Omtatah. You had concluded your submission.

(Sen. Osotsi spoke off record)

Sen. Osotsi, you are aware that the Chair has very high regard for Sen. Omtatah, especially being a presidential candidate and a serious Member of the Committee on Justice, Legal Affairs and Human Rights. If he had done that, I would have given him more time.

Proceed, Sen. Nyamu.

Sen. Nyamu: Thank you, Mr. Temporary Speaker, Sir. Public audit forms the backbone of accountability in Government. Every shilling collected from Kenyans must be traced and accounted for. So, the Office of the Auditor-General plays a very critical role in safeguarding public resources. Any amendments to the Public Audit Act must be able to strengthen this office and not weaken it.

This House is tasked with protecting counties and funds that find their way to the county governments. We must be very careful as Parliament on the kind of amendments that we are allowing to pass through this House.

I have gone through the proposed amendments. I have noticed that some of them either weaken the role of the Office of the Auditor-General by way of allowing Cabinet Secretaries or other public officers to interfere. Also, causing delays and introducing provisions that introduce other layers in the audit process.

Mr. Temporary Speaker, Sir, Kenyans expect this House to hold public institutions accountable and not be able to introduce amendments that will weaken this process. I call upon this House to ensure that we do not pass some of these amendments.

My colleagues have spoken at length about the provisions. I do not need to go over them again, but I need to go on record as having cautioned this House to make sure that we are strengthening the audit process and not weakening it.

With those few remarks, I do not support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Maanzo Daniel, please proceed.

Sen. Maanzo: Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to comment on this important Bill. The Auditor-General comes under a specific enactment of Article 229 of the Constitution, and is much recognised by law as an independent office. It is a very important office and since the new Constitution, other than the Kibaki Government, the other governments did not like the Auditor-General very much. It is normal for the Auditor-General not to be liked by governments.

When you come up with a law at a time now even the Auditor-General is not liked most, and this law originates from the National Assembly, the independence of the Auditor-General is compromised by these amendments. In fact, it gives and at the same time, removes. You can see from Article 229, which says-

“(1) There shall be an Auditor-General who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.

(2) To be qualified to be the Auditor-General, a person shall have extensive knowledge of public finance or at least ten years’ experience in auditing or public finance management.”

It goes on to explain, within six months after the end of each financial year, the Auditor-General shall audit and report in respect of that financial year on. So, the work of the Auditor-General is highly cut. Sub-section 8 of that says-

“(8) Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.”

This touches very heavily on devolution and national Government. All government institutions are audited; ministries, counties and county assemblies. A lot of times, many government organisations do not like the Auditor's report. In fact, the Auditor's report, while this law was being set, has complained of insufficient funding, not being given information in time by government, and it is one of the biggest organisations which will help the country fight corruption.

The biggest problem in this country is corruption. Up to now, we have not managed to fight corruption properly. Although the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) are doing their best, they are getting frustrated at times from the Office of the Director of Public Prosecutions (ODPP), because the Constitution gives the DPP the power to enter *nolle prosequi* proceedings. Even when the DPP is presented with evidence, sometimes they say this evidence is not sufficient to warrant a prosecution, and therefore, they send it back to the investigators. During that back and forth, a lot of time goes, and many people get away with serious crimes. That is how we have ended up with the people being suspected of corruption before.

People being ministers and governors are still serving in government, while they have got a lot of pending issues, which has already been pointed out by the Auditor-General. Therefore, the Auditor-General is very integral in terms of the fight against corruption. If you weaken the Auditor-General, you already weakened the DPP, the EACC and the DCI in terms of investigations, then you are clearly opening a floodgate of corrupt people. So, it does not matter the good intention of the country or of the government in power, which sets up all manner of funds, infrastructure funds, without being properly audited.

Most of the infrastructure fund will go to cartels who will have projects going on, which are not being completed. A good example of this is a country where a lot of corruption is done through projects. In that country, they suffer a lot of floods, just like here in Kenya. So, they wanted to build dykes and even dams to control flooding. However, that money could not be explained. Both Parliament and the Auditor could not explain it well. There was a lot of collusion. So the people went on strike.

When the people went on *maandamano* on that particular issue, when the floods came and went through people's homes - floods are very annoying - just like it has happened in Kenya, it triggered a very serious revolution in that particular country. Therefore, we do not want Kenya to be like many other bad examples in the world. We want, if it is an infrastructure fund, not a coin should be lost. We want the Auditor-General to advise before you auction or sell public assets, like the Kenya Pipeline Company (KPC). We want proper independent advice, other than the advice of some people.

You get very much worried when the country goes to trade at the stock exchange. Suppose then, out of the ongoing situation in the world, the stocks perform badly. It means the new owners of KPC and any other institution which has been sold will have a problem and are going to make losses. Therefore, the Auditor-General's office is extremely critical. It cannot afford to be weakened. This law is making it a little bit strong. Then you have another amendment making it weaker.

For example, in Clause 27, you say that functions of the advisory board, subject to Section 10 of this Act and upon approval by the Auditor-General, the Audit Advisory Board shall generally be responsible for providing advice on budget plans and estimates, human resource management, strategic planning and development, and any other matter that might be referred to the board by the Auditor-General.

The Auditor-General's office is actually audited by the Auditor-General-

“Section 38 of the Principal Act is amended by inserting the words “economically efficient” immediately after the word “lawful”. Now, one of the key persons under Clause 27 is the Auditor-General. The Auditor-General is audited.

When Sen. Omtatah or any Kenyan who does a public petition in a matter related to finance goes to court, it is the Auditor-General who will come and defend the government yet, the Attorney-General is one of the people who have to sit in the Advisory Board. Therefore, it compromises the position of the country such that as much as you want to fight corruption, save the country's money and have proper accountability--

My very honest opinion and submission is that this law dilutes accountability in the country. It is very suspect and with the Senate being the senior House, we want a committee stage to do thorough amendments to strengthen and achieve the purpose of a strong Auditor-General, and to make sure that the office is well funded. However, you cannot be well funded, and at the same time, you have no power to deal with those who do not comply, especially when counties do not comply.

Mr. Temporary Speaker, Sir, at the same time and this needs to be one part of the information and the performance of the Auditor-General, you have a situation whereby there is nothing happening in the counties. Why? Monies have not gone to the counties to do the relevant things or they arrive too late when the financial year is closing. How is that county likely to perform in its duties and yet, the Executive announces that we have funded the counties? You give misleading information to the public and the public expectation goes high, and you put politicians into a lot of trouble. You put the Senate and the governors in trouble and you have the people questioning and doubting.

I believe we should make it clear that county monies should arrive in good time because the audits have timelines. How do you get audited when the timelines have not been met? How do you deal with the former governors who now want to become Senators and yet we are still auditing and dealing with their accounts, and what they did when they were there? Therefore, we cannot compromise the current Constitution. It is very strong and clear on the independence of the Auditor-General. We should not weaken it. We should make sure that the Auditor-General is strong.

The other thing and Sen. Omtatah has alluded to it is that there are too many definitions and even when we want to benchmark with the best practices in the world, we want where countries are properly fighting corruption and look at similar provisions. Just as I was saying, bearing in mind that we are a commonwealth country, there is no perfect government anywhere in the world, but a government must be checked properly.

If you look at the introduction of this Act of Parliament; an Act of Parliament to amend the Public Audit Act, 2015 for connected purposes, enacted by Parliament of Kenya, meaning both Senate and National Assembly. This Act may be cited as the Public Audit (Amendment) Act 2025. Then it goes on to do the definitions.

In paragraph (a) of the definition of the words “accounting officer” by deleting the expression in 16(1)(b) and substituting thereof the expression of 42(a). Then by deleting the definition of “Auditor-General” and substituting therefore the following new definition-

Auditor-General means the Auditor-General appointed in accordance with Article 229 of the Constitution.

The point I am trying to make with these amendments is that we want to give and take away at the same time. The whole idea is to demean the Constitution. You cannot amend the Constitution through the backdoor. You cannot amend the Constitution through an Act of Parliament. It is an exercise in futility. It is a wastage of the House’s time. As a country, we have a lot of money. We raise a lot of taxes and we want this money to be used properly for the benefit of the people of Kenya, but not for the benefit of a few highly connected individuals especially in the infrastructure sector, where the biggest corruption takes place.

Mr. Temporary Speaker, Sir, we want an auditor who can tell us how much it costs to do one kilometre of tarmac in Kenya, Uganda, Tanzania, Rwanda and in countries where corruption is not high. If the prices differ, the audit should be able to show that. We also want this office strengthened, so that it has enough professionals who can deal with the situation. There is no way auditors should not work without lawyers and engineers, because of the construction of infrastructure, dams, roads and the like. We have to strengthen all this.

These amendments are a conspiracy. They are calculated towards weakening a very important constitutional office. They are calculated to frustrate it in a mild way, so that by the time the country notices, we will be on our knees in terms of inability to fight corruption. We want a law which will properly audit all the monies we have and make sure that every coin has been good to put to use and for those who have stolen it, then they must face the law squarely. They must be prosecuted properly. We must strengthen the office of the Auditor-General and Parliament has also to do its part with a lot of zeal by deciding to take the bull by the horns.

Mr. Temporary Speaker, Sir, if we just rubber stamp everything which comes from the Leader of the Majority in the National Assembly, then we are likely to do a disservice to Kenyans. We are likely to frustrate Kenyans and Kenyans are watching us. The young people of this country are thinking different from us. They want a fair country. They want a better-run country. They want a law which is strong to fight corruption, so that they may get opportunities. They want a country which people are not overtaxed and where everybody feels free to be in and to participate.

We do not want a situation where we have a poor economy because of looting and weak oversight systems, where our people end up working in Arabia who we should be doing business with. If we invest properly in infrastructure in the Northern Kenya, Eastern Kenya and in Ukambani where we should be doing the Thwake Dam to do massive irrigation, which comes with high food production and with keeping animals in an organised way, where we can breed cows, which will give us a lot of milk, then we will be able to sell to the region and have enough to eat as a country.

Mr. Temporary Speaker, Sir, but we have weak systems and poverty crops in the country. There are countries where they have allowed a big difference between the rich and the poor and we have visited some of these countries. Today, I am not naming countries because of international relations. Kenya needs other countries and we have Kenyans living in those countries. I do not want them to get into trouble. However, there are countries in Africa and even outside Africa, where the gap between the rich and the poor is huge. The rich who have stolen money find it very difficult to invest. You invest, you have beautiful hotels with beautiful buildings, but you have idlers, criminals and young people walking around those buildings 24 hours and the hotels, because of insecurity fail to have business. So, what do you have? You end up with an insecure country where tourism does not favour, and it makes bigger losses.

It all begins with a weak Auditor-General's office, which should be strong and then give strong recommendations and compromised positions to the Houses and Parliament. Then once you audit and present, you are able to catch the thieves and prevent corruption. You are then able to prevent monies from being stolen, but we cannot

make a law which is going to aid a few people. It does not matter which government is in power.

Mr. Temporary Speaker, Sir, we must protect Kenya first before we protect ourselves. We must protect the integrity of the country first. We must protect the taxpayers' money. I am sure currently that despite the high taxes, if people could see action, you see devolution working, roads in the village, water in every household, irrigation and big towns, abattoirs in Marsabit, you see new airports in Northern Kenya and Eastern, flying food produce and slaughtered cows to the Middle East, the halal meat, then we would have huge markets. Our competition is very far. We are the nearest.

If we do it that way, then we will be serving Kenyans properly and better. Otherwise, we have no business being in this House to make a weaker law, which will allow corruption in the country and eventually finish the country. I would like to challenge the Senate to arise and not be part of this, and, therefore, reject this Bill and send it back, so that it can be made better and stronger for the benefit of Kenya as well as get the best practices in the world adopted by ourselves.

I thank you and want to state that it is important that other Members get an opportunity to contribute, so that we do not just have a few people who have debated on this important Bill, just like the Culture Bill (National Assembly Bills No.12 of 2024). This is even more important. We wish that many more Members could have an opportunity to debate on it.

I oppose.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Omogeni Eric Okong'o, Senior Counsel, Commissioner, please proceed.

(Sen. Maanzo remained upstanding)

Sen. Maanzo, you may take your seat now.

Sen. Omogeni: Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to also make my contributions to The Public Audit (Amendment) Bill (National Assembly Bills No.4 of 2024), that has been forwarded to us from the National Assembly.

Mr. Temporary Speaker, Sir, let me begin by stating very firmly that we should never, as a Senate, or even as a Parliament, pass amendments that are meant to reduce the independence and effectiveness of the Office of the Auditor-General. The way our Constitution was crafted, the Office of the Auditor-General is supposed to be independent to enable it to audit how public funds are expended. If we send a signal to the country that we intend to weaken that office, then we will be telling the country that we want corruption to reign in this country.

Let me be on record as one of those Kenyans who stand out to compliment Nancy Gathungu, our current Auditor-General, for her courage and the independence she has displayed and for making us proud of our girl child. There are many men, who perhaps, if they occupied that office, they would not have exhibited the kind of courage and independence that we have seen from Nancy Gathungu. So, if for anything, in defense of

the girl child, I will oppose some of the retrogressive proposed amendments in this Bill that is before us.

I would like to congratulate Nancy Gathungu, who is often the last line of defense for Kenyans in many things. Many scandals have come to the fore because of what Nancy Gathungu does.

Mr. Temporary Speaker, Sir, in my opinion, if we do not have a strong independent auditor, we will not have work to do as Parliament. Many of the scandals that come to our attention as Members of Parliament is because of what is highlighted by the Auditor-General. The Senate County Public Accounts Committee (CPAC) will never have any work to do, if that office is weakened. I am sure of the same thing for our colleagues who sit in the National Assembly.

So, let me be on record by stating clearly that there are some sections in this proposed Public Audit (Amendment) Bill (National Assembly Bills No.4 of 2024) that are very retrogressive, especially, Clause 21 that is proposing to amend Section 25, and introduce what they are calling Audit Advisory Board.

Mr. Temporary Speaker, Sir, you are a lawyer, and hence know the history of our Constitution. You know that when I served as the Chairperson of Ethics and Anti-Corruption Commission, we had an Advisory Board. Advisory Boards used to exist under the previous Constitution. So, I think the person who drafted this Bill has not internalised the provisions of the current Constitution that introduced commissioners. There is no independent office in our current Constitution that is backed by an Advisory Board.

All offices that have something resembling a board are backed by commissioners who are independent and enjoy security of tenure. So then, how can we try to introduce the so-called Audit Advisory Board that has no room in all the provisions of the Auditor-General in the current Constitution? Without mincing words, I am of the opinion that if these amendments were to see the light of the day, they will be unconstitutional. I will be pleading with my colleagues to go through this Bill with a fine toothcomb and very keenly.

Mr. Temporary Speaker, Sir, we exist as an 'Upper House' so that Bills that may sneak through the National Assembly can capture the attention of our Senate because we are fewer. We are often given an opportunity to relook at Bills afresh. This is one of those Bills.

I heard my friend, Sen. Maanzo, speak about some of the most vibrant and strong audit offices in the world, like in the United States of America (USA). Yes, indeed, in the USA, the Government Accountability Office is a very independent office. The occupant of that office is picked by the President. However, it is one of those very rare offices where the occupant must get the approval of the Senate. Their tenure in office is 15 years. Why 15 years? This is so that she serves long tenure, gains good experience on government functions and gets an independent mind when she is auditing government offices. This is so that one does not have fear that if they do something against the government, they will be removed.

I cannot imagine how we can propose that the Attorney-General should be a member of the Audit Advisory Board. That should never happen. I pray that when this Bill will be debated, God will give me an opportunity to be in this House. I will oppose

this particular clause. We must move an amendment to delete this particular amendment in Section 21, which says that there is established an incorporated board to be known as the Audit Advisory Board, whose membership includes the Attorney-General. We have gone back to what we used to have before. The section says that there will be a nominee of the Institute of Certified Public Accountants of Kenya (ICPAK).

Mr. Temporary Speaker, Sir, we have made a shift and said that there must be a merit-based process on how you pick anybody to be appointed to serve in the public office. It must also be competitive. We cannot go back to what we used to have before this new Constitution when you are telling us that bodies should nominate people. Look at many of the statutes where we have given these slots to boards like the Central Organization of Trade Unions-Kenya (COTU-K). When a request is sent to those boards, they nominate themselves. They do not give an opportunity to the members of those boards.

So, we cannot allow this idea of saying that the Institute of Certified Public Accountants, Institute of Human Resource Management and the Institute of Internal Auditors of Kenya should nominate a person. That will be unconstitutional.

The same applies to judges. As we speak today, there are a number of Kenyans who are going through a competitive process of picking judges who will serve the country. They are doing so through a process where the job is advertised, you apply and are interviewed, and then they pick the best to occupy those positions. Even worse is the idea of saying that some other members can be co-opted to sit in that advisory board. Even more alarming is the powers that that board has been given.

How can we take away the power of doing budget plans and estimates? The Constitution does not know anybody other than the Auditor-General. It is the Auditor-General who should present estimates to the Budget and Appropriations Committee of the National Assembly. If you transfer this power to the advisory board, you will be weakening the Office of the Auditor-General (OAG).

There is another risk that we must warn ourselves. I will say this even if Dr. Fred Matiang'i is my president. I will also say it even now when President William Ruto is our President. We must always be cautious not to allow advisory bodies that may be susceptible to political influence. Let us allow the OAG to be independent. Nobody is an angel. Today you have Hon. William Ruto in office, but you do not know who you are going to get tomorrow. Therefore, when we pass a law, we are doing it for posterity.

We should not allow these proposed amendments that introduce Clause 27 where the powers of the Auditor-General are being taken away and given to a body that is not known in our constitutional framework. That is an advisory board to the Auditor-General.

Just imagine that advisory board is given powers of human resource management. That is so vague. What does that mean? Does it mean that it is the advisory board that can sack or it will be transferring auditors across the country? How can you take away even the power of strategic planning from the Auditor-General? If there is a Bill that we should show Kenyans that the Senate has people like the good Senator for Narok who understand our Constitution and have committed to protect independent offices, we should demonstrate that ability by rejecting some of the clauses in this Bill.

We should never be seen as people who fear the kind of scandals that are coming to the fore because of the good work of the OAG. If you limit or remove the powers of the Auditor-General, the resultant effect is that we will be weakening the authority of the OAG then we will be susceptible to control by an external body called an advisory board.

Mr. Temporary Speaker, Sir, you know the fights we have witnessed in this country between occupants of certain offices and advisory boards. I have not seen any issue that can point to any scandal around Nancy Githungu. She has run the OAG very professionally. If we introduce this new animal called an advisory board, we will introduce some friction in the OAG, but that should not happen.

Secondly, if you place the human resource function under the advisory board, will you not be taking away the investigative autonomy of the OAG? Should we, as the Senate of the Republic of Kenya, be the ones sanctioning such a move?

Mr. Temporary Speaker, Sir, as I make my contribution to this Bill, my humble submission is that we should never do that. Anything that has the potential of weakening the effectiveness of the OAG should not get the sanction of the Senate of the Republic of Kenya.

Having said that, there are few clauses that are very progressive. If we sit down and reject some clauses like 21 and 27, I will be happy, but there are some clauses that are progressive. I can see that there is an attempt to introduce what we call citizens accountability audit. I have stated here how sad I and many residents of the County of Nyamira are because we are standing at a risk of losing Financing Locally-Led Climate Action (FLLoCA) money due to poor management of those funds by the Executive of the County Government of Nyamira.

I am a bit impressed by this attempt in Clause 32 that points towards giving the people of Kenya some window of pushing for audit on some of the areas where it is evident that public money has been misused. Can you imagine that the Cabinet Secretary for the National Treasury and Economic Planning wrote a letter to the EACC in October last year asking them to go and conduct some investigations on usage of FLLoCA money in the County Government of Nyamira?

You saw the embarrassment I went through when we had a retreat in Naivasha. Peter, who is in charge of FLLoCA money, pointed at me and said they have closed the accounts of Nyamira. I do not manage resources in Nyamira. If anything, after that, I went to plead with Peter and urged him to push the EACC to go after the people who have stolen that money, but have sympathy on the people of Nyamira by allowing funds to go there. They should go after the criminals. When you have a blanket suspension of disbursement of money to Nyamira, the governor is smiling.

I told Peter to go and knock on the doors of the EACC or the Directorate of Criminal Investigations (DCI), so that they go for that one human being who has stolen that money from the people of Nyamira. The poor women who need to be supported by FLLoCA should get the money.

I had a sitting with Peter and he assured me that by end of this month or early April, if the governor can open his ears and listen to some of the reforms they want him to undertake, maybe the people of Nyamira will get their money. That is the same problem the people of Kajiado are facing. If we do a cleanup on this particular Bill to

allow what we call periodic citizens accountability audits to happen, that will be good enhancement of the powers of the OAG.

I am also happy with what is in Clause 38B that states as follows-

“The Auditor-General may conduct compliance audits to examine whether a public entity has complied with relevant laws, regulations and policies in the management of public resources.”

You have seen what we have been witnessing in terms of abuse of human resources in our counties. Many governors have turned counties to be employment bureaus. How I wish that instead of just focusing on human resource audit by the national Government, this is a task that should extend not just to the national Government, but generally all public entities, be it parastatals, county governments and the likes. This is because people want development, medicine in hospitals and water flowing to their homes.

I was reading a report on water accessibility in the country. The report states that since inception of the County Government of Nyamira, not even one household has had connection to piped water. Just imagine that, yet when we were enacting the Constitution 2010, the people of Kenya had a lot of hope that if water is devolved, then we will have piped water in our homes. That is something that is yet to happen.

In conclusion, Mr. Temporary Speaker, Sir, my take is that there are two clauses I have identified that are clearly unconstitutional that send a wrong message that Parliament is not happy with scandals that are being unearthed by the OAG. Those clauses send a message that we want to weaken the independence of the OAG and they should not see the light of day.

The few clauses that are meant to enhance the powers of the Auditor-General should be supported. I hope when we do public participation, the Attorney-General of the Republic of Kenya, who is a lawyer, a Senior Counsel, will appear before us and say that it is a conflict to allow the Office of Attorney-General to sit in an advisory board under the OAG and yet, our own office is subject to the jurisdiction of the Auditor-General in terms of audits.

Mr. Temporary Speaker, Sir, this is the other irony; if this Bill becomes an Act of Parliament and we challenge it in court saying that it is unconstitutional, one of the respondents will be the Office of the Attorney General. She will be conflicted; coming to court defending a position that has been created for her office through this Bill. I am also appealing to Madam Dorcas, who is a Senior Counsel herself, to come forth and make a presentation.

The Temporary Speaker (Sen. Wakili Sigei): Do you want to conclude on that statement?

Sen. Omogeni: Yes.

The Temporary Speaker (Sen. Wakili Sigei): Clerk, please give him one minute.

Sen. Omogeni: Mr. Temporary Speaker, Sir, let her make life easier for us. She should appear before us and makes a presentation disowning the inclusion of her office in that Audit Advisory Board by pointing out that if this law is enacted, she will be extremely conflicted as an Attorney-General of the Republic of Kenya.

With those remarks, I oppose.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senior Counsel Omogeni.

Now, Sen. Allan Chesang, proceed.

Sen. Chesang: Thank you, Mr. Temporary Speaker, Sir. First, I have been looking at this Bill and the few amendments for the few minutes I have been sitting here. I am looking at Clause 27 on the functions of the Audit Advisory Board and it says-

“Subject to Section 10 of this Act and upon approval by the Auditor-General, the Audit Advisory Board shall generally be responsible for providing advisory on;

- (a) budget plans and estimates;
- (b) human resource management, strategic planning and development; and,
- (c) any other matter that might be referred to the Board by the Auditor-General”.

Looking at this Bill on the functions of the Auditor-General, I believe that even we, as the Senate, depend mostly on the OAG to oversight our county governments. So far, we have had so many challenges with the OAG. I believe that instead of taking these functions from them to this Advisory Board, we ought to strengthen them. We have had several meetings with the Auditor-General and seen them complaining about their budgets and other things. The one thing that we should do as a Senate is strengthen them instead of taking these functions from them.

Mr. Temporary Speaker, Sir, Section 229(6) of the Constitution says that-

“(6) An audit report shall confirm whether or not public money has been applied lawfully and in an effective way.”

I think this Bill is taking these functions from them. Whenever we get reports from the Auditor-General, we see that its office sends their agents to our counties to do audits. We have seen whatever happens when the report comes to the Senate from the Auditor-General and the challenges that they have had with their budget allocations. If you ask me, as a Senate, we should strengthen this office instead of taking functions from them. When we put budget plans and estimates to this Advisory Board, it means that the Auditor-General will be the chairperson of this Committee, but the Board will be determined by the Advisory Board, where it is very easy for the Board to be corrupted.

Mr. Temporary Speaker, Sir, the person to make the decision should be the Auditor-General. Therefore, I do not support this Bill because actually, we are just amending these laws for the current situation, not for the future of this country.

Clause 31(iii) says that-

“(iii) where an accounting officer fails to address issues raised by the Auditor-General to the satisfaction of the Auditor-General, the accounting officer is liable to disciplinary action in accordance with;

- (a) the terms and conditions of that accounting officer appointment or employment; and,
- (b) any provisions prescribed by this Act and any other Act or regulations made there under for the purposes of this section.”

This provision does not state what penalty is given. If there is any penalty that should be given to anyone who breaks this law, it has to be clearly stated instead of just

telling us that it is by any provisions prescribed by this Act and any other Act or regulations made thereunder for the purposes of this section. It does not state any penalty or what amount should be paid.

I think we should look at this Bill very keenly because, we are just taking functions from the Auditor-General, while we should be looking at strengthening it. We should be looking at making laws around forensic audit or merging it with other government agencies, so that they can achieve their mandate as auditors. When we take these functions from them, we are weakening oversight of our institutions. I do not support these few amendments of this Bill.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, hon. Members. Sen. Allan Chesang, when the House resumes, you will have 12 minutes to conclude your contribution to the Bill.

ADJOURNMENT

Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Thursday, 12th March, 2026, at 2.30 p.m.

The Senate rose at 6.30 p.m.