

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 6th March, 2024

Afternoon Sitting

*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 a quorum?

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

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

(The Quorum Bell was rung)

Hon. Senators, kindly let us take our seats.

(Loud consultations)

Order, hon. Senators! Clerk, you may proceed to call the first Order. Sen. (Dr. Khalwale), kindly take your seat.

PETITION

ALLEGED FAILURE BY ODPP IN THE CASE OF ABDUCTION
AND DISAPPEARANCE OF MR. JOSHUA GICHUKI MWANGI

Hon. Senators, I hereby report to the Senate that a Petition has been submitted through the Clerk by Ms. Christine Njoki Mweru regarding incomplete investigations and failure by Office of the Director of Public Prosecutions (ODPP) to investigate, arrest and

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prosecute suspects involved in the abduction and disappearance of her husband, Mr. Joshua Gichuki Mwangi.

Hon. Senators, kindly walk in and take your seats.

(Several Members walked into the Chamber)

Senator for Kilifi County, we are waiting for you to take your seat. Sen. Beth Syengo, you do not seem to locate your seat.

As you are aware, under Article 119 (1) of the Constitution and I quote-

“Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.”

Hon. Senators, the salient issues raised in the said Petition are as follows-

THAT, on 3rd February, 2020, Mr. Joshua Gichuki Mwangi, (Christine Njoki Mweru’s husband), left their home in the company of Mr. Dennis Ndubi Mauda, aboard their vehicle of number plate KCS 481F;

THAT, on 4th February, 2020, barely 24 hours after their departure, the vehicle of number plate KCS 481F was found abandoned in Ruaka;

THAT Ms. Christine Njoki Mweru thereafter made an official report about the disappearance of her husband on 4th February, 2020, and on 13th February, 2020, she received a call from the investigating officer that the suspect, Mr. Dennis Ndubi Mauda, had been summoned to record a statement at Kabete Police Station;

THAT, Ms. Christine Njoki Mweru on several occasions has written to the Director of Criminal Investigations to follow up on her husband’s case, but has received unsatisfactory responses;

THAT the case was afterward transferred from the original police station with jurisdiction to the Nairobi Area, Directorate of Criminal Investigations offices to be assisted by the now defunct Special Crimes Unit where the Petitioner, Ms. Christine Njoki Mweru, met uncooperative officers; and,

THAT on 5th June, 2023, the Office of the Director of Public Prosecutions directed that the Office of the Directorate of Criminal Investigations have the Petitioner and her daughters record further statements regarding the disappearance of Mr. Joshua Gichuki Mwangi;

THAT, the issues presented in this Petition have been raised with the relevant bodies, including the Commission on Administrative Justice, the Independent Policing Oversight Authority, the Inspector General of Police, the Internal Affairs Unit, the Ministry of Interior and Security and the Office of the Director of Public Prosecutions, all of which have borne no fruits.

CONSEQUENTLY, the Petitioner prays that the Senate does the following:

(1) Investigates this matter with a view of ensuring that the relevant bodies in charge of investigation and prosecution give their account on why justice has never been served; and,

(2) Ensures that justice is served on the matter to enable the family to find closure on the disappearance of Mr. Joshua Gichuki Mwangi in the hands of known suspects.

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Hon. Senators, pursuant to Standing Order No.238, this Petition is hereby committed to the Standing Committee on Justice, Legal Affairs and Human Rights for its consideration.

In terms of Standing Order No.238 (2), the Committee is required, in not more than sixty calendar days from the time of reading the Prayer, which is today, to respond to the Petitioner by way of a Report addressed to the Petitioner, and laid on the Table of the Senate.

I thank you.

(The Petition was committed to the Standing Committee on Justice, Legal Affairs and Human Rights for its consideration)

Next order.

PAPERS LAID

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday 6th March, 2024-

LEGAL NOTICES

The Land Adjudication (Amendment) Regulations, (Legal Notice No.23 of 2023).
The Physical and Land Use Planning (Planning Fees (Amendment) Regulations, (Legal Notice No.24 of 2023).
The Survey (Electronic Cadastre Transactions) (Amendment) Regulations, (Legal Notice No.25 of 2023).
The Valuers (Forms and Fees) (Amendment) Rules, (Legal Notice No.26 of 2023).
The Land Regulations (Amendment) (Legal Notice No.27 of 2023).
The Community Land Regulations (Amendment) Legal Notice No.28 of 2023).
The Survey Regulations (Amendment), (Legal Notice No.29 of 2023).
The Land Registration (Revocation) Regulations, (Legal Notice No.35 of 2023).
The Land Registration (General) Regulations (Amendment), (Legal Notice No.36 of 2023)

REPORTS OF THE AUDITOR GENERAL ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

Report of the Auditor-General on Financial Statements of the County Government of Mombasa – County Revenue Fund for the year ended 30th June, 2022.

Report of the Auditor-General on Financial Statements of the County Government of Mombasa – Receiver of Revenue for the year ended 30th June, 2022.

Report of the Auditor-General on Financial Statements of Baringo County Executive for the year ended 30th June, 2023.

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Report of the Auditor-General on the Financial Statements of Baringo County Assembly (Members) Car Loan and Mortgage Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Assembly of Baringo for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statements of the County Government of Baringo – Receiver of Revenue for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statements of Baringo County Government – County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statements of Baringo County Community Conservation Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Baringo County Emergency Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Baringo County Bursary and Scholarship Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Baringo County Micro and Small Enterprises Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Executive of Nakuru for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Assembly of Nakuru (Members) Car Loan, Grant and Mortgage Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Assembly of Nakuru for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Government of Nakuru – Receiver of Revenue for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Government of Nakuru – County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Machakos County Assembly Housing and Car Loan Scheme Fund – Staff for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Executive of Makueni for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statements of the County Assembly of Makueni for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statements of the County Government of Makueni – Receiver of Revenue for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of County Government of Makueni – County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statements of Makueni County Youth, Men, Women, Persons with Disabilities and Table Banking Groups Empowerment Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Executive of Kitui for the year ended 30th June, 2023.

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Report of the Auditor-General on Financial Statements of the County Assembly of Kitui for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Kitui County Assembly Service Board Employees' Car and Mortgage Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Kitui County Assembly Car and Mortgage (Members) Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Government of Kitui – Receiver of Revenue for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of County Government of Kitui – County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Kitui County Empowerment Fund (KCEF) for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statements of the County Government of Kajiado – Receiver of Revenue for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statements of the County Executive of Narok for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Narok County Assembly for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Government of Narok - Receiver of Revenue for the year ended 30th June, 2023.

I beg to lay.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

DELAYED PAYMENT OF SALARIES AND NON-REMITTANCE OF NHIF DEDUCTIONS BY MARSABIT COUNTY GOVERNMENT

(Statement dropped)

Sen. Cherarkey, please proceed.

IMPLEMENTATION OF REPORT ON ALLEGED FRAUD BY FIRST CHOICE RECRUITMENT AND CONSULTANCY AGENCY LTD

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding implementation of the report of the committee on the Petition by Mr. Kimutai Kirui and

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other residents of Uasin Gishu County concerning alleged fraud by First Choice Recruitment and Consultancy Agency Limited.

In the Statement, the Committee should-

(i) Provide a status update on the investigation into illegalities committed by First Choice Recruitment and Consultancy Agency Limited.

(ii) Update the Senate on the status of reimbursements to all individuals who were defrauded by the agency, providing a breakdown of how much each individual has received so far relative to their initial payment.

(iii) Outline any measures put in place by the Government to ensure that all individuals who were defrauded are reimbursed in full.

(iv) Indicate whether the Ministry of Labour and Social Protection has undertaken an audit of all recruitment agencies, and if so, provide a list of all recruitment agencies currently licensed by the Government and operating in Kenya, as well as those which have been blacklisted.

(v) Explain why despite the glaring practices, First Choice Recruitment and Consultants Agency Limited has been allowed to continue its operations.

The Speaker (Hon. Kingi): Sen. Osotsi, you may proceed.

STATE OF THE E-CITIZEN DIGITAL PAYMENT PLATFORM

Sen Osotsi: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget regarding the state of the e-Citizen digital payment platform.

In the Statement, the Committee should-

(i) Provide details on any agreement entered into by the Kenyan Government with respect to the management of the platform, disclosing the identity of the private vendor who operates the platform, as well as any monies paid to them, so far.

(ii) State why the Government opted to contract a private vendor to operate the platform, explaining measures put in place to ensure strict adherence to the applicable laws, particularly the tax laws, the Data Protection Act, and the Computer Misuse and Cybercrime Act.

(iii) Explain measures put in place by the Government to address revenue leakages and ensure accountability in the management of all monies collected via the e-citizen digital payment platform.

(iv) Explain why the National Treasury is handling payment reconciliation and settlement from the e-citizen platform manually, which can be prone to human error, clarifying whether there are any plans to automate the process.

The Speaker (Hon. Kingi): Senator for Nairobi City, how does that request for a Statement differ from the Question that was supposed to be responded to by the Cabinet Secretary for National Treasury and Economic Planning?

Sen. Sifuna: Mr. Speaker, Sir, if you look at your dashboard, I had already expressed interest in commenting slightly on Sen. Osotsi's Statement. It will be helpful if the Committee ties all the issues that have been raised.

Maybe Sen. Osotsi knows. The Cabinet Secretary himself was supposed to be here this morning, but he did not come. That is a more direct route to get answers than the Committee way. However, I will be seeking to say a few things about it.

The Speaker (Hon. Kingi): You better say now because we are not allowing---

Sen. Sifuna: Mr. Speaker, Sir, I have just asked for my notes, *wacha nijipange*.

(Laughter)

The Speaker (Hon. Kingi): Having said that, Sen. Sifuna, let us proceed to the Statement by Sen---

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): You will get your moment, Sen. (Dr.) Khalwale. The Statement by Sen. Chimera is deferred pursuant to the Senator's request.

BOUNDARY DISPUTE BETWEEN
KWALE AND KILIFI COUNTIES

(Statement deferred)

I will allow limited intervention to the extent of 10 minutes. A Senator should speak for not more than two minutes.

Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, listening to what the Senator for Nairobi City County has told you, there would be greater benefit if you allowed both the Question to be raised and be responded to by the Cabinet Secretary and the Statement to be sought, for the reason that this is a matter of grave national concern. Therefore, hearing from the Cabinet Secretary himself and getting a report from the committee will benefit this country more than us having that Question stood down.

The Speaker (Hon. Kingi): Sen. Sifuna, are you still gathering your thoughts?

Sen. Sifuna: Mr. Speaker, Sir, if you have noticed, I do not speak without my speaking notes, so that I can go systematically.

The Speaker (Hon. Kingi): Well, I have not noticed that.

(Laughter)

Sen. Sifuna: I am reminded that the Speaker is blind, but please allow other Members to talk---

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

Sen. Olekina: Mr. Speaker, Sir, I rise to support the Statement by Sen. Osotsi. What I would like to request is that when the Committee investigates that matter, they should find out what exactly is happening even with the National Transport and Safety Authority (NTSA).

We are now moving from an old NTSA system to eCitizen. Everyone has to pay Kshs50. However, the biggest problem is that the migration process is taking a very long

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time. Most drivers are being arrested because their vehicles are not in the system, then they are charged. I know of a few people who have had to pay for lack of inspection stickers. The problem is that we are migrating from the old system of NTSA to eCitizen digital platform.

Mr. Speaker, Sir, having said that, and noting the two-minute limit that you put, it will also be important for us to understand how much is collected on a daily basis for Kshs50, which is paid to a third party. We should also know how much of it goes to the KRA in terms of taxes.

It is sad for us to continue engaging a private entity, yet we have people like the National Intelligence Service (NIS) who can come up with similar systems. It can be a Government-to-Government contract that supports the economy of this country.

Mr. Speaker, Sir, this Statement is timely. Since the Question raised by Sen. Sifuna is on a different Standing Order, different from Standing Order No.53(1), there is nothing bad if the two Statements run concurrently. Maybe we might benefit directly from a Question.

Remember when a witness is called by a committee, that witness is under oath. However, when a Cabinet Secretary comes here to respond, he is not under oath. So, there are a few differences that I may want to beseech even Sen. Sifuna to still consider asking the Question directly, then allowing the committee to investigate this matter.

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

Sen. Cherarkey: Mr. Speaker, Sir, I would like to comment on the Statement by Sen. Osotsi on the issue of eCitizen. While we agree that there are challenges with the usage of eCitizen digital platform, it was intended to ensure that we have a one-stop shop and that all payments are made through it.

As you are aware, payments to NTSA, National Environment Authority (NEMA) and even school fees, among others, are done using that platform. The intention of having eCitizen digital platform was to ensure that we get rid of corruption and other handling of money.

It is important that the Cabinet Secretary for the National Treasury and Economic Planning appears. Kenyans need to learn how to use eCitizen. If we learn, that will enhance efficiency because one may seek for services from Huduma Centre because people have been making use of them. It is being used for renewal of driving license and passport application. The same will apply to issuance of national identification cards.

I know an answer will be brought. The intention of the President was to create one centre.

Mr. Speaker, Sir, when you are looking for a birth or death certificate or succession documents, you are normally told that your file has disappeared.

The Senator for Nyamira County is familiar with this because he has been in the corridors of justice for some time. If you produce Kshs500 or Kshs1,000, your file just appears from nowhere. The intention of the President of ensuring everybody pays through the e-Citizen platform was to minimise the corruption issue. Although there are challenges of using that platform, it is about sensitisation and ensuring that it is used in the right and proper way.

It is very important that we put in place---

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The Speaker (Hon. Kingi): Sen. Cherarkey, the Hon. Sen. Omogeni would like to inform you. Are you amenable?

Sen. Cherarkey: Yes Mr. Speaker, Sir. He can inform me. He has been my advocate before and I have benefitted.

Sen. Omogeni: Mr. Speaker, Sir, I heard Sen. Cherarkey mention my name in a manner that can create an impression to Kenyans that I am not a man of integrity. He says that when I go to Nyamira County seeking services and a file has disappeared, I give Kshs500 for it to be produced.

Mr. Speaker, Sir, I want to go on record that I do not give bribes. I have never bribed anyone in any registry to get a file. If he has done it, he should say he has given Kshs500 to have files procured for himself, but not make reference to me.

I thank you.

(Laughter)

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

Sen. Cherarkey: Mr. Speaker, Sir, as I conclude, that was misplaced. He did not listen to me carefully. I said since he is an advocate and was the Chair of Ethics and Anti-Corruption Commission (EACC) some time back, his integrity precedes his name. I said that since he is an advocate, he has encountered challenges while filing in courts of law and the land registry, unless he is new to Jerusalem. If there is no corruption in Nyamira County, we thank God for it.

Finally, we should call upon and encourage Kenyans to use the eCitizen for the benefit of all and to eradicate corruption. As a former Chairperson of EACC, I expected the Senator to support the eCitizen digital platform because that is how we will minimize and fight corruption in this Republic. However, we shall wait for responses through Sen. Osotsi's and Sen. Sifuna's Statement.

With those many remarks I beg to support and congratulate the Senators.

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

Sen. Sifuna: Thank you, Mr. Speaker, Sir, for your indulgence. Indeed, my Statement was motivated by an incident of two elderly women paying for their National Health Insurance Fund (NHIF) contributions through this platform. The NHIF were insisting that the payments were not reflecting on their side. The problem then becomes that these persons lose the cover and also incur penalties for fake arrears. They have to make fresh payments in order for them to come back to the cover.

Secondly, there was a report of the Auditor General in December, 2023, that she had not seen the contract agreements between the State and private entities behind the eCitizen digital platform. The danger there is that the public and Government could be exposed if indeed those contracts do exist and there are private individuals running this platform. I wanted to hear from the Cabinet Secretary himself whether this platform was a Government one or contracted to private entities.

Lastly, there is the concern of the convenience fee for using this particular system. We have insisted that you should make it easy for people to access Government services. If you look at the sort of payments we are making for NHIF, the elderly together with

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other persons of lower means; to impose again a Kshs50 convenience fee is to impose a burden many people cannot bear.

I had a conversation with Sen. Osotsi. He wanted the Committee to seek answers from the Ministry itself. If they are dissatisfied, then we can summon the Cabinet Secretary to appear before the committee.

Mr. Speaker, Sir, because of what happened today, the Questions and issues, I presented have to be scheduled to next week so that in my view, the House can be better off getting answers in a quicker way. Sen. Osotsi assures me that if the Cabinet Secretary is here and is able to tackle these matters, then we can save that committee time.

I beg and plead with the House, that we still pursue this with the Cabinet Secretary. If he appears here next Wednesday, we can clear all those issues, including the ones that have been raised by Sen. Osotsi. This way, the committee will be saved time to pursue other matters.

I thank you for your indulgence.

The Speaker (Hon. Kingi): In that case, the Statement as requested by Sen. Osotsi will now proceed to commitment to the relevant committee awaiting the appearance of the Cabinet Secretary for purposes of responding to the Question posed by the Hon. Senator for Nairobi City County.

I am going to read Standing Order No.55(3)(e). It says:

“A request for Statement shall not repeat in substance any matter covered in a prior request for Statement or already responded to, either as a Statement or in the course of a debate during the same Session.”

The substance of hon. Sen. Osotsi’s Statement is well covered under the Question posed by the hon. Senator for Nairobi City County.

We will not commit this as we wait for the Cabinet Secretary to appear before us for purposes of responding to the Question by Sen. Sifuna.

Clerk, next Order.

The Chairperson of the Standing Committee on Finance and Budget, Sen. Ali Roba and Sen. Tabitha Mutinda; the Chairperson and Vice Chairperson, respectively.

MOTION

ADOPTION OF REPORT ON THE BUDGET POLICY STATEMENT, 2024

Sen. Ali Roba: Mr. Speaker, Sir, I beg to move the following Motion-

THAT, the Senate, adopts the Report of the Standing Committee on Finance and Budget on the 2024 Budget Policy Statement, laid on the Table of the Senate yesterday, Tuesday, 5th March, 2024, and pursuant to Section 25(7) of the Public Finance Management Act and Standing Order No.186(8), the Senate, approves the 2024 Budget Policy Statement (BPS).

The BPS is a Government policy document that sets out the broad strategic priorities and policy goals, which guides the national Government and county governments in the preparation of budgets.

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It entails-

(a) Assessment of the current state of the economy, including macroeconomic forecasts as well as the priorities of the Government's current pillars of growth and strategic directions that it is going to take.

(b) It also includes the financial outlook with respect to Government revenue, expenditures and borrowing opportunities within the medium term in order to make sure that the budget is appropriately financed.

(c) The proposed expenditure ceilings for the national Government, including those of Parliament and the Judiciary and indicative transfers to County Governments.

(d) The fiscal responsibility principles and financial objectives over the medium-term, including limits on total annual debt.

Mr. Speaker, Sir, the Committee held public participation with various stakeholders including-

(a) The National Treasury and Economic Planning;

(b) The Commission on Revenue Allocation (CRA);

(c) The Council of Governors (CoG);

(d) The Institute of Certified Accountants of Kenya (ICPAK);

(e) The International Budget Partnership-Kenya Chapter;

(f) The County Assemblies Forum (CAF); and,

(g) The Institute for Social Accountability (TISA).

The theme of the 2024 Budget Policy Statement (BPS) is sustaining the Bottom-Up Economic Transformation Agenda for Economic Recovery and Improved Livelihoods.

With respect to the macro-fiscal framework, the National Treasury projects that in 2024, the economic growth will be approximately 5.5 per cent. This growth is attributed to both the agriculture sector's performance owing to two successive rainy seasons that performed very well. The overall inflation is expected to remain within the target range of 5 (± 2.5) per cent in the medium term.

With respect to the exchange rate, the Kenya shilling depreciated by 19.3 per cent against the US\$ and 23.4 per cent against the Euro between June 2022 and June 2023. Thus, adversely affecting inflation levels and increasing the stock of debt by over Ksh800 billion.

However, it is worth noting that as at 20th February, 2024, the Kenya shilling's value compared to major global currencies had increased, appreciating by 10.8 per cent against the US\$, 10.9 per cent against the Sterling Pound, and 10.8 per cent against the Euro.

While mentioning this, it is worth noting that whether this appreciation is a temporary spike or a sustainable programme is yet to be seen. Regardless, it has sent a positive signal in the money market. Our shilling is performing well. Hopefully, this will be sustained.

Mr. Speaker, Sir, the ordinary revenue in the Financial Year 2022/2023 grew by approximately 6.4 per cent (in the Financial Year 2021/2022 ordinary revenue was Kshs1.917 trillion, and in the Financial Year 2022/2023 it grew to Kshs2.041 trillion).

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The 2024 BPS projections on ordinary revenue as a share of GDP indicate that revenue will increase from 14.3 per cent of GDP in the 2022/2023 FY to 17 per cent in the medium term (by Financial Year 2026/2027).

The projected ordinary revenue collection for FY 2024/2025 is Kshs2.948 trillion, while projected revenue including grants is Kshs3.484 trillion.

The proposed total expenditure and net lending for the Financial Year 2024/2025 is Kshs4.188 trillion. Compared to Kshs3.484 trillion, it creates the project fiscal deficit for the Financial Year 2024/2025 at Kshs703.9 billion which will be financed through borrowing.

The National Treasury proposes to borrow Kshs326 billion from external markets and Kshs377.9 billion from the domestic market. At this juncture, it is worthwhile noting that while it is easily accessible to the Government to borrow from the domestic market, it also poses a risk of crowding out the opportunity of lending to businesses in the country.

As such, it also hampers investment as well as revenue collection if the opportunity for financing is limited. It is attractive for lenders to lend to the Government because of the high-interest rates that the Government offers in the guarantees as opposed to individual lenders.

The Government proposes to focus on the implementation of various interventions and policies geared towards the reduction of the cost of living and improving livelihoods by identifying several sectors within the BPS that will help in the realization of the projected revenues.

Regarding the division of revenue, the National Treasury proposes an allocation of Kshs391.1 billion to county governments as an equitable share for the Financial Year 2024/2025. The increment from Kshs385.4 billion allocated in the Financial Year 2023/24 is Kshs5.7 billion (1.47 per cent growth).

This proposed allocation represents approximately 13.2 per cent of the projected ordinary revenue of Kshs2.948 trillion for Financial Year 2024/25. We have given this figure for purposes of comparison. Note that it is the base of revenue sharing because it does not represent the last audited and approved accounts. However, these are projected revenues of the Government in the coming financial year.

If we compare this to the audited and approved accounts of the Government, it comes to Kshs1.570 trillion, which is 24.91 per cent being the most recent audited and approved revenues raised nationally in Financial Year 2020/21. The National Treasury attributed this marginal growth as sufficient in their view.

Our engagement with the CS of National Treasury has indicated that a lot of reality has not gone into the scientific determination of what the bare minimum revenue growth for the county governments should have been.

County governments are projected to receive additional allocations amounting to Kshs54.7 billion comprising the following allocations-

(a) Road Maintenance Levy Fund - Kshs10,522,211,853.

(b) Aggregated Industrial Parks programme for 18 counties -Kshs4,500,000,000.

(c) Supplement for Construction of County HQs- Ksh445 million – it is worthwhile to note that the committee has received a request for five county governments

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that were supposed to be supported by the national Government in the construction of the county headquarters.

Since this project has been delayed tremendously, the committee in consultation with every stakeholder--- Finally, the committee sat in this Chamber, and were able to direct that the public works should release those projects to the affected county governments.

The national Government through the National Treasury should release the funds, which in the current approved County Additional Allocation, we have about Kshs454 billion. With the addition of Kshs454 billion, there is only a balance of about Kshs97 million that needs to be released.

Thereafter, whatever gap there is as many county governments have constructed their county headquarters, these five-county governments should construct their county governments rather than blaming the national Government for failure to provide funds because of the changes in the market resulting from global challenges of economic performance.

We have Transferred Museum Function allocated - Kshs30,184,835 Community Health Promoters (CHPs), which is a Government programme allocated - Kshs3,234,930,000

We also have Mineral Royalties allocated - Kshs1,055,205,814, Court Fines- Kshs7,431,745 and Allocation from Development Partners in the form of loans and grants and that share to country governments, amounting to about Kshs35,658,768,530.

Having considered the 2024 BPS analysis and analysed stakeholder submissions, the committee made several observations. Among these observations are continued accumulation of pending bills at both levels of Government, estimated at 5 per cent of the Gross Domestic Product (GDP), which is a huge figure.

As at February 2024, the national Government has employed 20,000 new healthcare workers under the Afya Nyumbani Programme. However, the framework within which the two levels of Government should have collaborated has not been accomplished as contemplated in Article 189(1) and (2) of the Constitution.

Mr. Speaker, Sir, the Committee also observed the proposed county equitable share amounting of Kshs 391.1 billion has increased the allocations to county governments by slightly short of 1.5 per cent, from the Financial Year 2023/2024 allocation, which was Kshs385.425 billion, compared to a 13.9 per cent projected increase in ordinary revenue collection of the Government.

The proposed growth of the county equitable share is disproportionate compared to the projected growth in revenue, denoting inequity in resource distribution.

It is worthwhile to note, even if we use just the absolute revenue growth of the Government in the previous financial year, which stood at 6.4 per cent, that falls way short of that allocation. We also note that there is no additional allocation to counties for the transfer of library services that funds should follow functions.

Mr. Speaker, Sir, the National Treasury has allocated to equalization fund a partial payment of arrears amounting to Kshs3.533 billion for Financial Year 2024/2025. At this juncture, I would like to also share that through the Committee of Finance and

Budget, we have had extensive engagement with the National Treasury on how it intends to regularize the arrears to equalization fund that has not been released.

The National Treasury made commitment in writing to the committee that it intends to comply over the next four years. However, the arrears allocation even though it is positive and it is an excellent gesture, because this has not happened before, falls short of what they wrote to us in terms of commitment. Therefore, that brings the equalization fund allocation to Kshs9.98 billion, including that Kshs3.2 billion for allocation.

Mr. Speaker, Sir, additional expenditure pressures emanating to county government in terms of statutory deductions, including the proposed housing levy and increased National Social Security Fund (NSSF) contributions, which reduces resources for county government, also exert more pressure on the county government resources.

In view of the foregoing, the committee made both policy and financial recommendations. Among others, the policy recommendations include-

(a) That, the National Treasury prioritizes disbursement of equitable share to counties in line with the cash disbursement schedule approved by this House;

(b) That, the National Treasury in collaboration with the Council of Governors (CoG), should fast-track development of the Integrated County Revenue Management System (ICRMS) and submit to the Senate, the status report of the progress of that system, in order to enhance county governments own source revenue collection;

(c) That, the National Treasury should expedite the approval of payment plan of outstanding Contribution in Lieu of Rates (CILOR), to county governments.

This is for Government facilities on whose behalf revenues are supposed to be paid to county governments from the defunct local authorities before the advent of devolution that has remained pending, including those that are also accumulating up to now.

Mr. Speaker, Sir, also, the committee recommends:

That, the National Treasury expedites finalisation of the proposed framework for sharing of mineral royalties' revenue among the national Government and county governments.

Our recommendation is that the proposed allocation of shareable revenue to county governments for Financial Year 2024/2025, in the considered opinion of the Committee, should not be less than Kshs415.9522 billion based on the following factors:

(a) The baseline of Kshs385.425 billion, being the approved allocation in the last Division of Revenue Act (DORA);

(b) Adjustment for absolute revenue growth of 6.4 per cent which is based on the actual ordinary revenue growth realised in the Financial Year 2022/2023;

(c) Further, adjustment by repurposing of the scrapped MES programme, that is shared medical equipment that the counties still need to have for Kshs5.86 billion;

(d) The total additional allocations to counties should stand at Kshs55.453 billion; and,

(e) That, the allocation to the equalization fund for Financial Year 2024/2025 be set at Kshs7.852 billion in line with the most recent audited and approved accounts by the National Assembly of Kshs1.570 trillion.

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Furthermore, with reference to National Treasury's commitment to the Senate vide a letter Ref.TNT/ZZ/81/014/E974 dated 19th May, 2023, an additional amount of Kshs9.98 billion be allocated to the fund as partial payment for outstanding arrears.

The cumulative allocation to the fund should, therefore, be Kshs17.832,814,725.

Mr. Speaker, Sir, as I conclude, I wish to thank the stakeholders who submitted written memoranda as well as physically appearing before the committee.

I also take this opportunity to commend the Members of the committee for their devotion and commitment to course of delivering this in time.

I also thank hon. Colleagues and the Chairpersons of various committees who have undertaken their time in order to make sure that they give their input to the committee.

I also wish to thank the office of the Speaker and the office of the Clerk for facilitating all that we require to be able to execute this mandate.

Mr. Speaker, Sir, I beg to move and request Sen. Oketch Gicheru to second.

Sen. Oketch Gicheru: Mr. Speaker, Sir, I wish to thank our able Chairperson for the Committee on Finance and Budget for presenting this.

The Chairperson of Finance and Budget Committee, Sen. Ali Roba, has actually captured most of the deliberations that we had in the Committee with regard to the BPS. My work even as I second will be a very easy one. I invite colleague Senators to be keen in some areas that we did deliberate on. I hope as you interact with this particular report, be keen, so that your contribution can help us make better comments in the future.

Mr. Speaker, Sir, more importantly, there are areas that will also be important as we look forward to the DORA that is coming in a few weeks. That will be very important.

The first area that I wanted to stress on is that, as a House, we are in this particular Parliament to protect the interests of counties. Therefore, what we should never lose sight of is that at any given point when we are doing a BPS, we should look at what is in the BPS that is there for counties.

I know that under Article 216 and 217, the best body that can help us dissect what parameters we should be able to use to know what is the sharable bid that we want to go to the counties, would be Commission for Revenue Allocation (CRA).

Nonetheless, I think that this year, the committee will attest that we did not get a good report from CRA, particularly because we did not get a serious scientific quest from CRA because CRA did propose that we get to counties Kshs398 billion.

As the Chairman has highlighted, the base that was used was wrong. Apart from that, there are other parameters that the committee is dedicated to, that this House must support.

For instance, inflation has been a major factor in our economy. It has affected the price of goods and services for counties, the same way it does the national Government.

We should look at these kinds of parameters in future to ensure that we give counties a shareable revenue that can help them solve their emerging complexities in the prevailing economic circumstance that we are in.

I appreciate the committee for coming up with a scientific formula, based on an absolute value of the revenue that we realized in the previous year. That is something that we need to stamp our feet down on.

Mr. Speaker, Sir, if you look at all the submissions that were done here, the calculation that was done by the committee would be the best number to stick to. Let us try to push for it, so that we, as a House, stand by counties to get that amount of money, should we get to the DORA.

Alongside that, my Chairperson has appreciated the stakeholders that have given their input on this. I also want to invite the House, because we work very closely with our Members of County Assemblies (MCAs). There are some key stakeholders that as a committee, we would want to get more of their voices during the budget making process. This is because a stakeholder such as CAF is key during this process. Their oversight role and assembly working roles are hugely affected by such kind of reports.

As we were advancing in this entire budget making process, we have seen a number of places, where members of CAF from different aspects coming to the committee seeking for an enlargement of their ceiling.

This happens because sometimes they do not engage much during such a budget making process. Therefore, it will be very important, as the Senate, that we encourage some of these key stakeholders to be giving us input on this particular process.

The third area I want to focus on is the fact that the Ministry had adventurously showed us a roadmap, which they are sure of stimulating the economy in some particular areas. I know that the Chair glazed over them. There are nine key sectors to be specific that the National Treasury pointed to. Injection of capital in this BPS will help the economy grow and, therefore, increase revenue in totality.

As we look at those areas, I appreciate Sen. (Dr.) Khalwale for bringing to the attention of the committee, which has come up in this report. That while the National Treasury is looking at the nine sectors, there are some sectors in the economy that we have today that are doing well and cannot be ignored in terms of proper budgeting and making sure that the money goes there.

One of those sectors is sugarcane industry. While we have seen a lot of focus on the rice industry, which we are supporting, the sugarcane industry affects many counties.

We hope that we, as a House, can stress the need to ensure that area of sugarcane can have a bigger bite of the cherry, even as we pass this report, on the monies that have been put in the agricultural budget, which has got one of the biggest allocations that is projected here.

I appreciate that the Government of the day has tried in a number of ways. Some of them are a little bit experimental. However, some have worked to the extent that the injection of capital in that industry is needed.

If you look at the Western Kenya where Sen. (Dr.) Khalwale and I come from, that includes the Nyanza Area, the entire economy of the people of Migori almost depends on Sony Sugar Company. It is very important that as we look at the injection in the agricultural sector, the sugarcane industry does not lag behind in terms of proper consideration.

Another issue that I want to highlight is the recognition that in the last one year, the exchange rate in the country has led to a serious economic beating. During the time that we considered this report, we had a good bump with the response to the Eurobond that was floated in the last one month. We have been seeing a good number of appreciations of our currency going forward.

If you look at how this BPS is structured, even when our Chairman of the Committee will be tabling the report on the Mid-term Debt Management Strategy, you will realize that there is excitement around the rebound of the Kenya shilling. As a House, we must interrogate whether this is a sustainable rebound of the Kenyan shilling or there are some cautionary elements we can put to ensure that, in the next three to five months, we do not face the next shocks after passing the BPS.

In other words, we must interrogate what has led to the appreciation of the Kenyan shilling in the last one month. Going forward into the next six months, we should put any caution that can make sure that our projections are not based on a spike, but an absolute economic strategy that will ensure that we do not get into trouble with the BPS.

Alongside that is the question of fiscal consolidation. This is an important area that we must focus on, as a House. Most of the propositions that are being done here, for instance, last year when we were amending the Public Finance Management Act, 2012, we gave the National Treasury a leeway to use the ratio formula in terms of managing our debt strategy. We are not using the numerical value, but instead looking at the debt to Gross Domestic Product (GDP) ratio.

Mr. Speaker, Sir, there are different thoughts that we had in the committee and other economists will have in different avenues. However, the middle ground perhaps is not to look at whether it is right to use the numerical value in terms of our debt management strategy or the ratio formula.

The quest I would put before the House is that we be keen on inviting the National Treasury led by our committee, to give us a serious quarterly updates on how they are progressing in the BPS that they have forwarded to this House. They should also attach to the Mid-Term Debt Management Strategy

Lastly, I want to address the issue of Own Source Revenue (OSR). I know it was not spoken well. However, given that we want to fight so strongly, at least, the proposed figure by this particular committee stands. If it will be referred to a mediation Committee, we look at where we can come to with the National Assembly. A strong sense of focus on OSR by counties is something that we need to articulate better.

I say this because I have realized that the issue of pending bills that has been put here is something that counties will struggle with. It is not coming out clearly as a first charge to them in the moneys that we give them in the equitable sharable revenue.

More importantly, it will be better if that is integrated with the issue of the OSR. This is so that the massive pending bills that we are seeing here can be addressed, at least, at a current budget cycle formula.

It becomes very difficult to pursue the idea that the National Treasury has projected some sectors that are going to activate and stimulate the economy when most of the pending bills in counties end up affecting the private sector. This is because they are the suppliers that are actively involved in the day-to-day running of these economies.

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Mr. Speaker, Sir, there is no need to project serious revenue growth based on those nine sectors. There are going to be 10 if we include the sugarcane sector. I hope that will benefit the people of Migori and Malinya, where the Senate Majority Whip comes from.

Mr. Speaker, Sir, if we do not deal with the issue of pending bills so that suppliers can participate in our economy on a day-to-day basis, pay for their bills and continue these small and medium enterprising economies, then, the projected revenues that we have here can never be attained. This is because there is no economic activity that will happen in our counties. That economic activity that is supposed to happen in Turkana, Migori, Kakamega, Vihiga and all our counties, is what on aggregate, will eventually lead to proper revenue increase in terms of ordinary revenue raised for the national Government, therefore, affecting the sharable revenue for the counties.

Mr. Speaker, Sir, I laud my committee, even though there is a mantra that says, you should not praise yourself. However, I give it to colleague Senators in the Committee on Finance and Budget for their dedication. They say that a lizard that fell from an iroko tree and nobody praised said, at least it fell, but it did not break its back. I know that the committee has done a very good job and I stand by this report.

I hope that the Senate will also look at those adventurous areas in terms of our role of oversight and accountability on the National Treasury and the Cabinet Secretary. This is to make sure that this House is updated on a quarterly basis on how we are doing on this proposal.

I second with much gratitude.

The Speaker (Hon. Kingi): Hon. Senators, before I propose the question, I have the following Communication to make.

(Interruption of debate on Motion)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KORU
GIRLS HIGH SCHOOL, KISUMU COUNTY

Hon. Senators, in the Public Gallery, we have 163 students from Koru Girls High School in Kisumu County who are undertaking an education visit in the Senate.

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

(Applause)

VISING DELEGATION FROM THE UNIVERSITY OF NAIROBI

Also, in the Speaker's Gallery this afternoon, we have 38 students from the University of Nairobi, in Nairobi County, who are undertaking an education visit in the Senate.

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

(Applause)

I will allow the Senator for Nairobi City County, Sen. Sifuna, to extend a warm welcome to both delegations.

Sen. Sifuna: Mr. Speaker, Sir, for the record, for the avoidance of doubt and to shame the devil, I did, in fact, attend the University of Nairobi for four years.

(Loud consultations)

Mr. Speaker, Sir, you must protect me from the hecklers from lesser institutions, so that I can undertake the mandate you have given me of welcoming the students from the University of Nairobi.

(Laughter)

The Speaker (Hon. Kingi): Order, Hon. Senators! Proceed to welcome the delegation.

Sen. Sifuna: Mr. Speaker, Sir, you can clearly see those who went to school properly and those who did not.

(Laughter)

In the manner in which they are---

The Speaker (Hon. Kingi): Sen. Sifuna, proceed to welcome the delegation.

Sen. Sifuna: Thank you, Mr. Speaker, Sir.

This is quite a coincidence because, about 20 years ago, I was standing at the Graduation Square at the University of Nairobi receiving my degree as a lawyer. I went back to those grounds for the first time in those 20 years, just today. This is because there is a festival organised by the Centre of Multiparty Democracy called the People's Dialogue Festival. I was quite emotional to go back to my Alma Mater.

Mr. Speaker, Sir, I take this opportunity to welcome the students from the University of Nairobi who have paid us a courtesy call this afternoon, and the other students who are with us this afternoon. This indeed is a House of debate with respectable men and women. From time to time, you will encounter them. I wish them a fruitful visit to the Senate.

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I wish that they will learn something and pick up whatever good they will see from the Senate this afternoon. We are hoping that we will grow generations of leaders. In fact, at the University of Nairobi today, I said that our responsibility as the current leadership in this country is to create a country that the young ones will be proud of. They will not be lamenting the way that I hear Prof. Ouma lamenting about the loss of nationhood and the proliferation of tribalism and other ills in our society.

I thank you, Mr. Speaker, for the opportunity. I wish them a fruitful visit.

(Resumption of debate on Motion)

(Sen. Wafula walked into the Chamber)

The Speaker (Hon. Kingi): Sen. Wafula, kindly take your seat. Hon. Senators, I will now proceed to propose the question.

(Question proposed)

What is your point of order, the Senate Majority Leader?

PROCEDURAL MOTION

LIMITATION OF DEBATE ON MOTION

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I rise pursuant to Standing Order No.111(1), that debate on the question of the Report of the Standing Committee on Finance and Budget on the 2024 Budget Policy Statement be limited to four minutes for each Senator while contributing.

The reason is that this report has a statutory deadline. Members, you will recall that we had to move an extension of one week. We must vote on it today. Given that many Senators will want to speak on the same, I think the fair thing to do is to allow all of us to speak, but at a limited time.

I propose four minutes.

I request the Senator for Lamu County to Second.

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

(Sen. Sifuna spoke off record)

The Speaker (Hon. Kingi): Hon. Sifuna, you are out of order!

Hon. Senators, we need not debate that Motion, but if you wish to debate, then I will proceed to propose the question. However, if you allow, I may proceed to put the question, so that we conclude this matter and go to the substance of the Motion before us.

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

(Question put and agreed to)

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Sen. Faki, you may have the Floor.

Sen. Faki: Asante, Bw. Spika, kwa kunifa fursa hii kuchangia Ripoti ya Kamati ya Fedha na Bajeti ya Seneti kuhusu Taarifa ya Sera ya Bajeti ya Mwaka wa Fedha 2024/2025.

Kabla sijachangia, Bw. Spika, najiunga nawe pamoja na Sen. Sifuna kuwakaribisha wanafunzi wa Chuo Kikuu cha Nairobi. Nilikuwa mwanafunzi katika chuo hicho miaka 34 iliyopita. Kwa hivyo, hata nami najivunia kuwa mmoja wa waliosoma katika chuo hicho.

Ripoti hii ni muhimu sana kwa sababu inatoa mwongozo wa Serikali kuhusiana na masuala ya bajeti ya mwaka utakaoanza Julai mwaka huu na kuisha Juni mwaka ujao. Napongeza wanakamati kwa kuchambua sera hii na kuona kwamba mambo kadha wa kadha yanayoathiri zaidi kaunti zetu yameangaziwa hapa.

Bw. Spika, kumekuwa na malimbikizi ya *pending bills*; yani madeni yanayodaiwa Serikali kuu na serikali za kaunti. Madeni haya yanaathiri sana wawekezaji wa kibinafsi ambao wanafanya biashara na kaunti zetu na Serikali kuu. Ikiwa Serikali kuu na kaunti zetu hazilipi kwa wakati, ina maana kwamba wawekezaji wale wataingia kwa madeni na kupoteza rasilmali zao na mtaji ambao ni muhimu kwa kuendesha uchumi wa nchi hii.

Jambo la pili ni kuwa kuna suala la kuajiri wafanyikazi wa afya 20,000. Tunajua kwamba afya ni mojawapo ya huduma ambazo zimegatuliwa. Kwa nini Serikali inajiri wafanyikazi 20,000 wakati kila kaunti ina nafasi ya kuajiri watu hawa ilhali pesa zinazobaki kwa Serikali kuu ambazo zingepaswa kupungua katika kaunti zetu hazipungui?

Bw. Spika, jambo la tatu ni kwamba Serikali ilikuwa imependekeza shilingi bilioni 391 ziende kwa kaunti zetu. Hiyo ingekuwa asilimia ndogo sana ya pesa ambazo zitapelekwa katika kaunti zetu. Gharama za huduma zinazotolewa katika kaunti zetu zimepanda. Mishahara peke yake imeongezeka kwa sababu kodi kadhaa ambazo zimeathiri mishahara zimeongezeka.

Ukizingatia shilingi bilioni 385.425, ongezeko la mwaka jana lilikuwa asilimia 1.5. Kwa hivyo, nakubaliana na Kamati hiyo kwamba fedha ziongezwe kufikia shilingi bilioni 415.

Bw. Spika, suala lingine ambalo ningependa kuchangia ni kuhusu *contribution in lieu of rates*. Kuna baadhi ya miji katika kaunti kama vile Nairobi, Kisumu na Mombasa ambayo ilikuwa inakusanya kodi ya viwanja kabla ya ugatuzi. Kaunti hizi zilikuwa zinalipwa *contribution*---

(Sen. Faki's microphone was switched off)

The Speaker (Hon. Kingi): Senator, your time is up. Let us listen to Sen. Cheruiyot.

(Sen. Faki spoke off record)

Sen. Faki, you have just passed a Motion to limit debate.

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The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I am surprised because Sen. Faki was loud in passing the four minutes. I am now wondering why---

I will be brief because the BPS is a straight-forward matter. There is a history as to why I want the House to pass this report. On many occasions over the years, the National Treasury has continually returned to us months later saying they received our reports late after the statutory timeline. Therefore, it was impossible for them to consider the recommendations we had prepared for them.

Today being the last day, I request that upon completion of this debate, Members stick in the House, so that we vote and send our recommendations to the National Treasury.

There are important policy recommendations in this report. However, there is only one that is of extreme interest to me and the House must reason together. This is on the issue of fiscal deficit. If you read recommendation (c) on financial implications, there is a proposal from the committee that fiscal deficit for 2024/2025 be binding at Kshs703.9 billion, which is 3.9 per cent of the Gross Domestic Product (GDP).

It has been described elsewhere that insanity is trying to do the same things over and over, while expecting different results each time. We have done this many times before. We have considered BPS and set a fiscal deficit at a certain percentage, yet we know that these figures are continually breached by our colleagues in the National Assembly who pass further Supplementary Budgets and the National Treasury.

I strongly feel that it is only the Senate that can rescue the people of Kenya from this continuous mismanagement of our economy. The Committee on Finance and Budget should propose amendments to the Public Finance Management (PFM) Regulations, so that we limit the powers of both the National Assembly and the National Treasury.

Unfortunately, this practice has permeated our counties. Many governors continue to budget with revenues that are high up in the sky with the sole interest of issuing tenders and eventually end up with huge pending bills that cannot be paid. The same is being witnessed in our National Treasury.

Mr. Speaker, Sir, we need to do an amendment so that we know the revenues being projected. It is known to all and sundry that it is nearly impossible in the next financial year that the Government of Kenya (GoK) will collect Kshs3.4 trillion as projected. That means that even that calculation of 3.9 per cent is on projected revenue, something we know is unattainable.

We need to move an amendment and propose to the nation that in doing our revenue projections, we should not over-budget beyond the projected revenue growth by the percentage of the GDP such that if you calculate the fiscal deficit, then you will maintain it within realms of reality. Otherwise, it will be business as usual and we are going to continue wallowing in this dismal performance situation with our debt problems.

Mr. Speaker, Sir, I encourage the Committee on Finance and Budget to move an amendment, so that we guide the country in the proper direction with regard to this sticky issue of fiscal deficit.

I thank you.

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

Sen. Sifuna: Mr. Speaker, Sir, when I was reading this report, I was curious to hear from the Commission on Revenue Allocation (CRA), a constitutional commission that is supposed to make recommendations to this House under Article 216 on the basis of the sharing of revenue between the two levels of Government.

You will recall that in the last financial year, the CRA recommended that counties should receive Kshs407 billion. As captured in this report, we have seen 6 per cent growth and everything has changed, including the rise of the total figure of the budget. What is the rationale then for the CRA to recommend a lower amount than what they recommended last year?

Secondly, there are some telling observations by the committee in this report. I will start with the observations at page 27 of the Committee's Report. In paragraph 54, the National Treasury told our Committee that ordinary revenue collection has experienced shortfalls since July, 2023. You have to ask yourself what is so special about July, 2023. That is when the Finance Act of 2023 kicked in.

I have here with me a report from the Central Bank of Kenya (CBK). I have learned from the past two Sessions. There is a song that says; *huu ni mwaka wa ku-force*. The point of order gang is going to have a problem because we are going to come to this Floor armed.

This is a market perception survey of January, 2023, by the CBK. If you go through it, some of the most damning findings are all sighting. This is a survey of industry players, employers and so on and so forth. I will begin on page 7 of the report.

It states that out of this survey by the CBK, 46 per cent of employers in this country said that they cannot, definitely, will not or probably will not retain the workforce that they have at the moment.

Mr. Speaker, Sir, again, I cite this report on concerns on the high cost of living and the weaker shilling. The question of the high cost of living is replicated throughout this report. That is why we are having conversations about taxation. I am hoping that my colleagues will accept that, in fact, it has a negative effect on the overall performance of the economy.

Lastly, I have seen a recommendation or observation on page 10 of the report regarding pending bills. That they are now so high at 5 per cent of Gross Domestic Product (GDP). If we do not do something as a House in line with the recommendation that was brought by Sen. Osotsi and his committee on making sure that if there is any money that is sent to the counties, a portion of it has to be ringfenced for payment of pending bills. In Nairobi, we have had over Kshs1 billion shillings owed by the county government to suppliers across the county.

Mr. Speaker, Sir, I conclude by saying that I support this proposal by our committee, that, in fact, the sharable revenue to the county this year should be Kshs415 billion.

Sen. Orwoba, I am hoping that this time round your committee will not run away from your own recommendations the way you did last year.

I thank you.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I am a member of this committee and, therefore, the Chairman has spoken for all of us. However, there are two salient points that I would like to speak to. The first one is that the advice we are giving the House arise from our industry which has been thorough, that we should adopt the figure of Kshs415.9522 billion.

This figure has been informed by wide consultations and we are aware that the figure deviates from the wish of the National Treasury which preferred a figure of Kshs391.1 billion. It moves away from the proposal by the CoG of Kshs439 billion.

Mr. Speaker, Sir, the reason I would like this House to move and adopt the proposal by the committee is that this committee is very critical. The number of hours, the honesty and science we have put in, I would like the House to stand behind us, if not for anything else, but for the fact that I suspect the National Assembly will agree to the figure of Kshs391.1 billion by the National Treasury.

I foresee going forward that we will differ as two Houses on this figure. As we differ, let us defend our figure. We are not supporting the National Treasury like we did last time.

(Applause)

At that time, there was the issue of public debt which fortunately the Government through our party leader and His Excellency the President has said that they are now managing the issue of public debt.

My second and last point is the issue of OSR. Colleagues, we should go back to our counties. The real centre of abuse of office through corruption is how this OSR is managed by governors.

Let me give you an example. The economy of Kakamega is very close to the economy of Bungoma. However, Bungoma tells us on OSR, they collected Kshs379 million last year. Kakamega which is very close in more or less everything, collected Kshs1.3 billion. Something is wrong.

You know Meru. It is cheating us that they collected Kshs418 million only. Really Meru? That Meru is close to Bungoma which is not true. Meru is very rich if you factor in miraa and all the good things you know about Meru. There is a lot of theft going on.

The worst theft is from Nairobi. They collected Kshs10 billion only----

(Sen. (Dr.) Khalwale's microphone went off)

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

Sen. Osotsi: Mr. Speaker, Sir, allow me to say from the onset that I support this report by the Committee on Finance and Budget on the BPS.

I will point out a few things. On the issue of county allocation, I agree with the committee that the figure proposed by CRA of Kshs391.1 billion is too low. It does not take into account the growth in the economy. Therefore, asking for Kshs415.9 billion is not asking for much. It is just 6.4 per cent of the revenue growth. We look forward to the

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Members of the National Assembly supporting this proposal when we get to the point of division of revenue.

Mr. Speaker, Sir, the only institution that has the powers to make the final decision on the division of revenue is the Senate. I sat in some function this weekend and heard a commissioner of CRA telling people that they will give counties Kshs391 billion. I wondered when did the CRA have powers to give money to the counties. They only recommend and the Senate is there to decide. Therefore, we will decide and be guided by this proposal by the Committee on Finance and Budget of Kshs415 billion.

Mr. Speaker, Sir, while talking about the allocation to the counties, we know that the allocation of these monies is based on the latest approved audited reports. The report that is being considered is the report for the Financial Year 2020/2021. This is a problem because the amount of money being considered is Kshs1.57 trillion yet the latest income is Kshs2.9 trillion, which means there is a loss there. That means the National Assembly is sleeping on the job.

We need to change the law so that us who deal with counties go by the audited reports for the counties. Counties are losing out on revenue allocation because of unnecessary delays by the National Assembly to approve the audited report.

I have also seen a recommendation on mineral royalties of about Kshs1 billion. In the last report, I was disappointed that the counties in the western region, including Kakamega, my own county where people mine gold, did not get even a single cent of the mineral royalties. We would like to know the criteria being used to allocate mineral royalties to counties.

Mr. Speaker, Sir, on the issue of industrial park, I am glad they have put Kshs4.5 billion for the 18 counties that did not get. I hope this time will be possible---

(Sen. Osotsi's microphone went off)

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

Sen. Kathuri: Mr. Speaker, Sir, thank you for giving me this opportunity to also give my input on this budget proposal. I will talk on one area of pending bills. According to this report, the pending bills contribute to up to 5 per cent of GDP.

When we have pending bills, it means that there is no liquidity in the private sector. For those also who have done that business, there is no profitability at all. So, if you walk around this country nowadays, businesses are completely down. This is caused by these types of pending bills.

In other counties like Meru County, during the last financial year, the budget that was set there for loans was almost Kshs531 million. The County Government of Meru decided to take that back to a programme called the Mechanical Transport Fund (MTF). So, all that money was given back to the Ministry of Transport so that they could use their machines to make the roads in Meru.

It tells you that in Meru, anyone with a grader, tipper, or a shovel is not doing business. All the people employed by these business people are not doing any business. If you walk right away from a place called Kieru in Meru, trucks are packed beside the road

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up to Meru town and Maua simply because there is no business for these contractors doing business in this county.

Another point that is so interesting is the OSR. Hon. Senators, courts have agreed with us that we need to also oversight the OSR that is generated by the counties. So, from this financial year, let us go down to these counties and know.

Let us get these facts and comparable figures. Sometimes in Meru County, the revenue was almost Kshs800 million. Nowadays, they hardly ever get Kshs400 million. Even I do not know where Sen. (Dr) Khalwale got the Kshs400 million from Meru. Last year, it was Kshs380 million.

During their budget, they had proposed Kshs860 million. So, I am happy today that Sen. (Dr.) Khalwale has agreed with me that Meru has a problem. For almost two years, he did not see that problem.

(Laughter)

Today I am happy that he has agreed with me that Meru has a problem, it is not generating any income and people are cheating with these figures. So, hon. (Dr.) Khalwale, today, I will see you in the evening. I think I will take you out today because now we are on the same wavelength.

Hon. (Dr.) Khalwale, let us protect devolution. I am happy that moving forward now, almost all the Senators agree with the facts that we have problems in our counties, including the passionate contribution by the Senator of Nakuru last week that Nakuru has problems. We agreed with her.

So, thank you, very much for this opportunity.

The Speaker (Hon. Kingi): Sen. Ledama.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I will go straight to supporting this report by the Committee on Finance and Budget. I have been in this Senate now for almost seven years. I am very impressed with the work that Captain Ali Roba, Sen. Eddie Gicheru and Sen. Tabitha are doing, among others.

Sen. Tabitha Keroche: Me too

Sen. Olekina: Oh, yes! I do not know whether you are on the committee, among all the other Members of the Finance and Budget Committee are doing. It is a crisis in this country. I will bring a Motion to ensure that all county governments pay their pending bills before the end of this financial year.

(Applause)

Five per cent of our GDP is pending bills. That is an indication of a failed economy. That is the reason it becomes difficult for even the National Treasury to propose any increment. You know the law requires that pending bills become the first charge on the account. However, these county governors have been ignoring them.

When reading the report, it is very sad that the proposed increment will not even support the payroll of county governments. I hope that we can bring in an amendment to increase it to 6.4 per cent which is the bare minimum to allow these counties to function.

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The challenge we have is that we know where people are breaking the law. We know where the county governments are diverting the money, but we do not have the guts to say enough is enough.

I beseech you because of time that as we support this, can we at least increase the money to the proposal of the committee to around Kshs415 billion? If we increase it by 1.5 per cent, what exactly are you doing? We are stagnating the economic growth.

The first thing that will help us to make some progress is if we are allowed to move a resolution of this House that all pending bills must be paid before the end of the financial year.

You know when you have pending bills and that is what I am going to focus on, you have a stalled economy. Look at what is happening across the country. There are a lot of mushrooming white elephant projects.

It is about time that we became diligent. The National Treasury has recommended nine value chains. Why leave out sugarcane sector? I beseech the Committee on Finance and Budget to bring an amendment so that we add sugarcane as the tenth value so that we grow with everybody in this economy.

This challenge we have or even reducing it to four minutes is a crisis. Lastly, because I know my time will end, the time for MES has lapsed. Why do we not bring an amendment so that we can increase or introduce another Kshs5.86 billion to bring an alternative to the MES? So, the only way we are going to grow this economy is if we include all sectors.

The work that has been done by this committee is important. However, as my colleague has said before, I hope that by the time when we will be voting for the Division of the Revenue Bill, people will not run away from their recommendations

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

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

The Deputy Speaker (Sen. Kathuri): Let us have Sen. Wamatinga.

Sen. Wamatinga: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this chance. I also rise to support this report. At the onset, let me start by commending the committee for the good work that they have done.

A lot has been said about increasing revenue to the county governments. I agree with that. However, we must go beyond increasing revenues to the counties. We must also ensure that we put in place sound monitoring and financial systems that ensure prudent utilization of the resources by the governors.

Living at an age when we have intelligent financial applications, it is unfortunate that pending bills have crippled some of the economies. I am happy to come from a county that has zero pending bills. We must realize as Senators that all business that county governments do is done by Kenyans.

Unfortunately, some of the pending bills have been put in by people so that they can arm-twist the traders and make money from them. We are living at an age where we

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should not allow blackmail of people who sincerely do business in this country. It is time we called it the way it is supposed to be called.

We know most of the counties that have changed governors over time. They arm-twist the traders from the previous regime, they refuse to pay them and require them to give a lot of money that the traders are not able to. As a House, we must protect the traders.

The only way to do that is to insist that pending bills must be as is and anchored in the law as the first charge. Failure to do so, we are not only killing a lot of businesses, but also ruining many families and killing the morale of many would-be investors. This is especially so for youth, women and People Living with Disabilities (PWD) who have traded with the county governments and are not able to access money.

As I wind up, let us also look at the implementation of the projects being done by the national Government and county governments. In some places, there is a lot of duplication, which leads to theft of public funds. I am calling it the way it is.

It is high time this Senate used the tools that have been given to them, as limited as they are, to ensure that we enhance oversight and that devolution works.

Mr. Deputy Speaker, Sir, I support.

Sen. Onyonka: Thank you, Mr. Deputy Speaker, Sir. I am happy to stand here and discuss this issue. First of all, I would like to thank my Chair, Sen. Ali Roba, who has been behaving like our father in our committee. His experience has helped because he has served as a Governor before. So, there were certain issues that he would bring forth to us.

I know there is not a lot of time for me to say many things. So, I will be brief. One, I agree with my colleagues regarding the amount of money that we are asking for as Members of the National Assembly and the Senate, who have been in this committee. I support that we should stick to the figure of Kshs415 billion. That is not too much to ask and is what our responsibility is. I believe that is expected of us.

Two, the key officers and the Government team that we engaged; I thank my teacher, Prof. Ndung'u, who has been coming to our committee constantly. Even when we tried to push him, he tried to explain. I hope he will change his heart and talk to the President that sometimes some of these things are a win-win. If we get the Kshs415 billion, I would see it as a bipartisan agreement on how we can move forward.

My colleagues have discussed various issues. I am just going to pick about one or two. One, the National Assembly is using the audited reports for the Financial Year 2020/2021 for us to have this figure that is being given. Since then, if you realise, collectable revenue has increased.

The expectation is that our revenue will be at about Kshs3.9 trillion. That is quite a substantive amount of money. Why can we not just increase the amount of money that we are giving the counties by 10 per cent? Simple logic. It makes sense and it will make sure that our counties operate fully for the reason that this amount of money will handle the issues of wage bill and take care of the factor of inflation and many other issues that are bedevilling the counties.

Finally, my colleagues and I have raised it severally that let us sort out the issue of pending bills in our county governments. Some of our counties have money in the

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County Revenue Fund (CRF) account which can be cascaded down to people who have been working for our counties and have not been paid.

I believe the Government should take care of the ones who had increased the amounts fraudulently or otherwise. However, let the people who genuinely worked and delivered be paid, so that our country can move forward.

Mr. Deputy Speaker, Sir, since we do not have time, I want to say thank you. I want to recommend to my colleagues to read this report because it has substantial material and information that will help the country move forward.

I thank you.

Sen. Korir: Mr. Deputy Speaker, Sir, allow me to commend the wonderful job that has been done by the Committee on Finance and Budget led by the Chair, Sen. Ali Roba and our lady, Sen. Tabitha Mutinda.

Indeed, the report has captured a number of issues. The ceiling that has been proposed for the county governments, that is Kshs391 billion which translates to about 13 per cent, is far much below the actual ceiling that is within the Constitution of 15 per cent.

It is upon this House to make sure that things go the right way. Despite the fact that the Senate is in charge of making sure that devolution works, it is also keep the governors on their toes in terms of oversight. There are a number of issues that are being witnessed, especially the issues of the pending bills which is affecting a number of counties.

The Senate Majority Leader talked about the amendments that are supposed to be made to the Public Finance Management (PFM) Act. I want to emphasize that this House should up the game on this amendment to an extent that the county governments should be able to observe the PFM Act in terms of operations.

Nowadays, you find a number of counties do not observe the percentage that is given to development and recurrent to an extent that despite the fact that the Senators are fighting for the resources to be sent to the counties, they do not prudently use the resources.

Lastly is the transfer of functions. For example, the 33 libraries which are supposed to be constructed in the 33 counties. Once we transfer this function, the money should follow the function. In that sense, I urge that as we fight for this, let us also make sure that we give them the resources to operate.

I support the Report.

Sen. Kavindu Muthama: Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to support and congratulate the Chairperson of the Committee and his Vice-Chairperson, Sen. Tabitha Mutinda.

I agree with them that the counties should get the Kshs415 billion without being deducted a penny. If this was done with the current money that is there in the national Government, the 15 per cent could have been more than Kshs415 billion. So, this should not be reduced. We plead with the National Assembly to agree with us and know that we are the defenders of devolution. They should not tamper with this again like they did last time.

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I also request the Senate, especially the Majority side, to support fully this recommendation. If we keep reducing this money from the counties, then our counties will not develop the way they are supposed to.

Another thing is that the pending bills are too much in most of the counties. In Machakos County, we are talking of pending bills of almost Kshs3 billion. The former Governor left pending bills of Kshs2.8 billion with many stalled projects.

I support that the pending bills should be dealt with and cleared immediately, so that the counties move forward and the people who did the work and have not been paid, be paid. Majority of these people died because they took bank loans. Their properties were auctioned because the counties did not pay them.

I hope Sen. Ali Roba can listen so that he can pick what I am saying. If you can do something about the pending bills, we will make sure that the counties pay the pending bills immediately they receive their money.

Another challenge that the counties are facing is the exchequer. We are suffering in counties because monies are not released in time. So, I ask the National Treasury to make sure that they release the monies to counties in good time so that governors will be able to work and do what they are supposed to do in good time.

I congratulate this committee. They have done a good job. They should continue with it and keep it up.

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

Sen Methu, I am confused because you have pressed both the request to speak and the intervention. Do you need some tutorials on how to use those two buttons? Before I give you a chance, Sen. Cherarkey, let us have Sen. Tabitha Keroche.

Sen. Tabitha Keroche: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support the report by the Standing Committee on Finance and Budget, which I am also a Member.

I take this opportunity to congratulate our Chairperson, the Vice-Chairperson who is my namesake, and all the Members who have done a very nice job.

I echo the Senators who have spoken before me, especially when it comes to collection OSR. Senators should ensure that counties automate systems for collecting of OSR. This will ensure that we control the theft and the corruption that is being witnessed on a day-to-day basis in our counties.

Nakuru County broke the record. It dropped from Kshs3.6 billion to Kshs1.6 billion. How would you explain that? That is pure corruption. I am sure people put that money in their pockets.

Our MCAs had no shame in going around the county saying that the Controller of Budget (CoB) had made the mistake. The other day, I saw them calling for public participation because they had to cut the projects or the development that they had already projected.

It is time all of us pushed for installation of automated systems in all the counties to ensure proper collection of money. If they are put, the money will be enough to support the national Government.

We keep on talking about taxes. Business people feel they are left out. So, it is time for the Government to ensure that there is ease of doing business in our country.

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It is not about the taxation. It is the ease of doing business. That is what people are suffering from. Every day, industries are being closed. Yesterday, you saw the headline that in Nakuru County, for the last 10 years, we have been closing industries.

I am worried if we continue this way, we will continue to close more industries. So, the collection of taxes is neither here nor there. Are we able to sustain the businesses in this country? Are we going to ensure that there is ease of doing business in this country to attract both local and foreign investors?

So, the problem is not taxation. It is to ensure that doing business in this country is favourable, affordable, easy and attractive rather than, making it harder. That is why people keep on talking about taxation. It is not about the taxation; it is about the ease of doing business.

I have just looked at my phone and saw that to fight the illicit brews, I have to remove the 250 ml and put 750 ml. What science is that? Which science are we applying?

Then I saw that they have closed the second generation and have remained with the first generation. When you see the explanation of first generation and second generation, that you can extract ethanol from the non-crop. That is science. I know Senators may not understand. Ethanol comes from the food crops, for example, sugarcane and fruits. So, I do not understand where we can get ethanol that is not coming from a crop.

The illicit non-compliant companies operating on a day-to-day basis are affecting the compliant ones. We need to ensure compliance is done, rather than now talking of the packaging, the second generation, or the first generation. We confuse the whole business.

So, it is how do we ease---

(Sen. Tabitha Keroche's microphone went off)

The Deputy Speaker (Sen. Kathuri): Next is Sen. Methu.

Sen. Methu: Thank you, Mr. Deputy Speaker, Sir, for allowing me an opportunity to come and support this report. From the onset, I laud Sen. Ali Roba led committee for a job well done.

For the longest time since he became Chairperson of this Committee, he has been a dedicated Chairperson. I usually meet him at the Liaison Committee. Based on what they have given us in the report, it tells you that they have done some commendable work.

Article 96 of the Constitution of the Republic of Kenya, one of our very major roles, and this is what we have been speaking about since morning, is to ensure that we protect counties and push as much resources as we can to the devolved units.

So, I am in support of the proposal of the Committee to send the Kshs415 billion up from the current Kshs384 billion. This will be a significant addition, which is also commensurate to transfer of services that we have been speaking about. It is in the proposals and recommendations that have been made by the Committee.

It puzzles me that the CRA, this time proposed a lower allocation to the county governments than they had the previous financial year. I do not understand the logic and the science.

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I do not understand the basis under which they used to calculate and see that with a bigger budget now, counties deserve Kshs394 billion as their share of the allocation yet, in the last financial year, they had recommended Kshs407 billion for the county governments.

If you read the Constitution of the Republic of Kenya, Article 216, on the functions of the CRA, their recommendations look like the umpire between the national Government and the county government. So, it beats logic that we can propose in a smaller budget of Kshs407 billion and in a bigger budget Kshs394 billion. So, I support the committee in pushing for Kshs415 billion.

Going to the policy recommendation by the Committee, there is something that I have liked and is very commendable, which is that the National Treasury, in cooperation with the CoG, should fast-track development of the Integrated County Revenue Management System.

As a Member of the County Public Accounts Committee (CPAC), and from the report that has been given by the CoB, it puzzles most of us who are Members of that Committee, that some counties are doing so well in OSR collection. Some counties have grown their revenue up to two times from where they found it. However, the OSR for other counties is shrinking. It is out of this that the Integrated County Revenue Management System should bring some uniformity in terms of growth and ensure we have the right systems to support our county governments.

Even as we push for Kshs415 billion from the National Treasury, the CRA and the CoB, counties can make much more by ensuring they seal all the loopholes and leakages to grow their OSR.

With that, I support this report.

The Deputy Speaker (Sen. Kathuri): Proceed Sen. Orwoba.

Sen. Orwoba: Thank you, Mr. Deputy Speaker, Sir. I support this report. As we sit here, we must fiercely defend devolution by fighting for more resources to go to counties. In that manner, we should also demand accountability for those resources.

From time immemorial, some counties have been getting resources. They also get funds dedicated to marginalised counties. However, they cannot account for them.

(Sen. Methu spoke off record)

Mr. Deputy Speaker, Sir, kindly, protect me from Sen. Methu.

The Deputy Speaker (Sen. Kathuri): Order, Senator.

(Laughter)

Sen. Orwoba: Mr. Deputy Speaker, Sir, we must fight and continue to do so. This should move from Kshs391 billion to Kshs500 billion. However, to whom much is given, a lot more is expected. The OSR from some of these counties like Wajir, Tana River, Mandera and Marsabit; which are getting a lot of resources for development, is supposed to have improved their economic activities. However, over the years, we are not auditing what is being done. We are fighting for resources to go to counties and we

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are the same people overlooking them. We should also go down, interrogate and find out why Wajir County, for instance, is only collecting Kshs46 million in OSR.

Year-in, year-out, we are pumping in money for a lot of things yet we do not know whether it is leading to development in terms of economic activities. I also want to congratulate the Kenya Kwanza Government. We have themed this budgeting to sustain the bottom-up economic agenda. This is an intentional Government from the time we made promises in the campaign period down to our BPS. That is something to congratulate this Government for.

Finally, on the issue of pending bills, we need to fiercely legislate on this issue. There are counties-and my deskmate from Embu County can attest to this, that they do not have all the resources coming in. If they have to deal with pending bills, then they are not going to do any kind of development.

In Kisii County where I come from, audited reports of the pending bills are insane. At one point whether we like it or not, we must legislate on the issue of pending bills. We have to get a law that controls it such that the Governor in office cannot be putting out tenders knowing that there is going to be a huge amount of pending bills.

I congratulate the committee for a job well done. As Senators, we should also go out there and sensitize Kenyans on this BPS so that they understand why we pay taxes.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed Sen. Lemaletian.

Sen. Lemaletian: Thank you, Mr. Deputy Speaker, Sir. I rise to also commend the committee chaired by “Sen. Capt. His Excellency Dr. Ali Roba.”

(An Hon. Member spoke off record)

Yes, soon. Mr. Deputy Speaker, Sir, I will come up with a few recommendations in conjunction with the Kenyan youth. I met about four groups of young people in this country from different organisations two days ago. Alongside my proposals on the BPS, I would like to note that in the Health Sector, mental health has been completely ignored.

The amount that ought to be spent on mental health in Kenya is Kshs250 per capita according to the World Health Organization (WHO). Unfortunately, and shamefully, we are only spending about Kshs15 cents. The National Health Insurance Fund (NHIF) is not comprehensive as an insurance cover. The private insurance policies are also discriminatory.

In that regard, I would recommend that we increase funding for mental health care professionals to reach psychologists patient ratio of 1: 15,000 against the current ratio of 1:4.6 million and incorporate mental health modules in the Competency-Based Curriculum (CBC) to address the alarming rates of suicidal behaviour among adolescents.

Secondly, I would wish to see the establishment of a functional referral county and mental health unit in all 47 counties and across the country and integrate mental health services into primary health services with the provision of comprehensive coverage of outpatient and inpatient care packages by the Social Health Insurance Fund (SHIF).

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Thirdly, we need to set up a mental health fund for key vulnerable groups that are exposed to the burden of mental health with a focus on the security and disciplined forces, veterans, new mothers, Gender Based Violence (GBV) recoveries, Post Traumatic Stress Disorder (PTSD) survivors, youth, elderly and prisoners.

These recommendations will incorporate the Kenya Mental Health Act Plan 2021-2025 and give a roadmap for securing reforms and building strong mental health systems with the ultimate goal of attaining the highest standard of mental health in Kenya.

I take particular note as the youth representative in this House that we have about 65 cases of murder and 67 cases of suicide recovered in 2021 within the police service alone according to the National Police Service (NPS). I can only imagine what the number will be in other sectors and across the country.

Mr. Deputy Speaker, Sir, I also have a few recommendations on the environment and climate change. First, I am happy that we have a tree-planting initiative by the Executive, which I undertook during the Christmas holidays.

(Sen. Lemaletians' Microphone switched off)

The Deputy Speaker (Sen. Kathuri): Your time is up, Senator. Proceed, Sen. Munyi Mundigi.

Sen. Munyi Mundigi: Asante, Bw. Naibu Spika, kwa kunipa fursa ya kuchangia Hoja hii. Ninaunga mkono Kamati ya Fedha na Bajeti katika Seneti kwa kazi nzuri waliyofanya ya kuangazia kazi ambayo kaunti zote 47 zitakuwa zinafanya.

Ni vizuri kwa sababu mwaka uliopita pesa ambazo walipatiwa hazikutumika kufanya kazi kule mashinani. Pia naunga mkono kwa sababu pesa ambazo imeongezewa na zikawa shilingi bilioni 415. Hata hivyo, pesa hizi hazitoshi. Wangeongeza shilingi bilioni 50 ili zifike shilingi bilioni 465 kama walivyoagizia magavana mwaka jana.

Kama Maseneta, kazi yetu ni kupigania *devolution* kama vile magavana wanavyohitaji ili wafanye kazi.

Wabunge wa Bunge la Taifa hawaonyeshi kazi wanayofanya kutumia pesa wanazopewa na Serikali. Kazi yao ni kupigana na kuteta kuhusu utendakazi wa magavana.

Mwaka jana, *pesa* ambazo Kaunti ya Embu ilipewa hazikutosha kwa sababu ya *pending bills*. Gavana wa Embu ni Mhe. Cecily Mbarire. Kuna *wage bill* kubwa na kila mwezi analipa shilingi milioni 250. Kwa muda wa miezi minne, anatumia shilingi bilioni moja kulipa mishahara. Kaunti inabakia na kama shilingi bilioni moja na *pending bills* ni shilingi bilioni 2.2 bilioni. Vile vile, kaunti ilikuwa na deni la milioni 500.

Gavana ameng'ang'ana na kulipa shilingi milioni 600. Baada ya miezi minne, alikuwa amebakisha kama shilingi 400. Pia kuna kazi zingine za ofisi zinazohitaji pesa. Raia wa Embu Kaunti wanateta kuwa hakuna kazi ambayo gavana amefanya. Hii ni kwa sababu asilima 30 ya pesa ambazo Seneti inampa inafaa zitumike kwa maendeleo.

Magavana wengi wanajaribu kufanya kazi lakini haionekani. Naunga mkono kuwa magavana waongezewe pesa. Ni muhimu sisi Maseneta kuungana na kwenda kwenye kaunti tofauti ili kuona vile kazi inafanywa.

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Mimi ni Naibu wa Mwenyekiti wa Kamati ya Kilimo, Mifugo na Uvuvi. Kilimo ni kazi ya kaunti. Hata hivyo, pesa ambazo zinatengewa sekta ya kilimo zimepunguzwa. Wakulima wanafaa wasaidiwe ili kuuza mazao yao kwa bei nafuu na vile vile wawe na maji kwenye mashamba yao.

Katika Hoja hii, hakuna pendekezo la kuongeza pesa za watu ambao wanafunza wakulima kuhusu kilimo bora. Kama Seneta wa Kaunti ya Embu, naunga mkono Hoja hii lakini *pending bills na wage bill* za kaunti hiyo zinafaa kuangaliwa.

Kuna kaunti ambazo zimepewa pesa lakini hakuna kazi wanayofanya. Naunga mkono Hoja hii kwamba kaunti zipewe shilingi bilioni 415.

Asante, Bw. Naibu wa Spika.

The Deputy Speaker (Sen. Kathuri): Asante, Sen. Munyi Mundigi. Inaonekana Sen. Munyi Mundigi ana *bank statement* ya Kaunti ya Embu kwa sababu amemulika hesabu hata kwenye benki.

Next is Sen. Cheptumo.

(Sen. Kisang stood in his place and spoke off record)

The Deputy Speaker (Sen. Kathuri): Sen. Kisang, I said Sen. Cheptumo has the Floor. To distinguish the names, I mention Sen. Cheptumo Kipkorir.

Sen. Cheptumo: Mr. Deputy Speaker, Sir, it is now clear that I should contribute.

I rise to support this Motion. I appreciate the work done by the committee led by Sen. Ali Roba and the Vice Chairperson, Sen. Tabitha Mutinda.

I want to raise three issues. One is the proposed increment of the shareable revenue from Kshs385 billion to Kshs415 billion in the Financial Year 2024/2025. I come from Baringo County. Currently, Baringo County receives about Kshs6.7 billion. When you apply this amount to recurrent expenditure, the county remains with a minimal amount. I look forward to increasing this figure in the future for us to succeed in devolution.

There has been some nominal increment in these figures. However, certain disadvantaged counties receive smaller amounts. Counties like Baringo and Elgeyo-Marakwet receive amounts that cannot have an impact on their development. We have a lot of issues in those counties like security and roads that still need to be done.

I support the recommendation that the amount should be increased to Kshs415 billion. However, this figure is not sufficient because some counties face serious challenges.

The other issue is pending bills. Every Senator who has spoken here has addressed this issue. The figure Kshs74 billion is money owed to Kenyan businessmen and women who have taken loans. It is their investment. This is an area that this House and the National Assembly should look into.

We should move to a level where we ensure pending bills are sorted out, so that businessmen and women and young people who have invested in areas of construction and others, get their money. This has a direct impact on our economy.

What will happen to the country today if we released Kshs74 billion worth of pending bills? There will be a circulation of money in the economy---

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(Sen Cheptumo's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Next is Sen. Seki.

Sen. Seki: Mr. Deputy Speaker, Sir, I support this report by the Committee on Finance and Budget chaired by Sen. Ali Roba. I congratulate the committee for the good work they have done.

I support the idea that money should go to the counties. We are elected to protect counties at all times. I will touch on two or three areas. It is not enough for us to have money going to the counties. However much we try to support counties to get money, we want to have the funds utilized accordingly.

Every county's own source revenue is under-budgeted. They exaggerate revenue collections. Counties put in their budgets approximations or targets of the amounts they intend to collect. The estimation of the amount to be collected is quite high. Unfortunately, they put this amount in their budgets, which results to pending bills.

We need to see how counties collect money and put it into their budgets. We should look at areas where counties give unrealistic percentages, particularly on personnel emoluments. When personnel emoluments are budgeted for, it is hard for counties to underpay or fail to pay their staff. We wonder why county governments have pending bills on salaries, even to an extent of having pending bills on statutory deductions. These are issues that the County Public Accounts Committee (CPAC) should look at seriously.

Development is also an area that the county should look at to make sure that at least whatever has been budgeted for is actualised. Otherwise, we have a lot of issues. We will have a lot of problems on development in every county as they put budgets that are not realistic. They say they will need to do several projects yet they are not being done. That is why we have many pending bills at the end of it all.

Nonetheless, more importantly, I look at the areas that sometimes are being observed quite well on operations. It is hard to get counties budgeting money on operations. Even when they budget money on operations, it becomes very difficult for them to utilise that money.

They put them on different allocations, or even just bring them on issues of---

(Sen. Seki's microphone went off)

The Deputy Speaker (Sen. Kathuri): I request my support team to also indicate when the Member is on a danger line, so that they can time themselves.

The next person is Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. On the onset, I support this Motion on the BPS brought by the Committee on Finance and Budget.

Mr. Deputy Speaker, Sir, we must call out the National Assembly because this Financial Year of 2024 /2025, the national budget will be Kshs3.7 trillion. If we do at least 15 per cent, we should be allocating more to the counties.

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I challenge the National Assembly to expedite this and to stop sleeping on the job because we are looking at the Financial Year 2020/ 2021, which is almost three to four years ago. When we are allocating funds through the latest audited account, counties should get more money.

Notwithstanding that, on the issue of counties; last year, some of us were being crucified in public when we allowed the counties to get Kshs385 billion, and now we are moving to Kshs415 billion.

Mr. Deputy Speaker, Sir, this is a significant improvement. I want to challenge governors and county governments to use these resources prudently. Consequently, there is an addition of funds. Therefore, this should be clear that we are increasing money to counties from Kshs385 billion to Kshs415 billion.

I agree that we need an Integrated County Revenue Management System (ICRMS) by counties because there are a lot of leakages through OSR, which continues to be a big challenge. This has been used to a disadvantage.

I am the Vice Chairperson of the CPAC and it has been a challenge to address the OSR. The counties set very high targets, but when it comes to delivering on OSR, it becomes a problem.

Mr. Deputy Speaker, Sir, on the issue of last-mile distribution of fertiliser, I challenge counties. I know there is a problem of fertiliser across the country, especially, in Nandi County as we are in the planting season.

I ask the Ministry of Agriculture, Livestock and Fisheries to fast-track provision of the fertiliser because we are in planting season in the Nandi County.

My only challenge to the County Government of Nandi and other counties is to do last-mile distribution of fertiliser so that we save transport costs for farmers. For instance, in Nandi, we have five depots against a million people.

Mr. Deputy Speaker, Sir, on the issue of mining royalties; we have gold in Nandi at a place called Chemase yet the people of Nandi and Chemase are yet to see the fruits of the gold mine that they have in Karebe.

In these mining royalties, I expect people to get more in Chemase and Nandi County through these mineral royalties. The law is very clear. The Mining Act of 2015 talks about community development agreement. There should be at least 70 per cent to the national Government, 20 per cent to the county and 10 per cent to the local community.

With those remarks, I beg to support.

The Deputy Speaker (Sen. Kathuri): Thank you. Next is Sen. Mariam Omar.

Sen. Mariam Omar: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I rise to support this report and thank Members of the Committee on Finance and Budget for this elaborate report.

As the Vice Chairperson of the Committee on Health, we have a bigger issue which is about the health workers. What is going on there is that in all our health facilities, we have a shortage of staff. We have shortages of doctors and nurses in our health facilities.

Mr. Deputy Speaker, Sir, the first thing that the Ministry of Health needs to look at is the budget and how they can increase our health workers and make sure their needs

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are catered for. However, this is not the case because all our facilities do not have adequate staff.

Additionally, the Government should not open ways for the doctors and nurses to go out of the country to go and work. Why are we allowing this yet we do not have adequate staff?

The best thing is to budget for the staff, so that we absorb our people as we need their services on the ground; at the counties.

Mr. Deputy Speaker, Sir, there is medical equipment that has been provided, but the health workers are understaffed.

The other issue is on pending bills. As an accountant, if you put a budget for the work done and in the real sense, there is pending bills at the end of the year, I do not understand this reasoning since the budget has been approved and paid.

Currently, we are using accrued basis to solve this. If the Government goes for cash basis which we recognise a pending bill in our financial statements, that change of accounting system from accrued basis to cash basis can solve this pending bill issue.

The other issue is under the budget of recurrent expenditure to the health sector. We, as a committee, recommend that we classify the expenditure as a critical and non-critical expenditure, so that we can absorb our health workers who are currently working on a contract basis to be on a permanent and pensionable system.

(Applause)

I thank you.

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

Sen. Boy: Asante sana, Bw. Naibu wa Spika, kwa kunipa fursa hii niweze kuchangia Hoja hii na kuunga mkono ripoti hii.

Kwanza, ninatoa kongole kwa Mwenyekiti wa Kamati hii, Sen. Ali Roba na Mwenyekiti wake mdogo, Sen. Tabitha Mutinda, kwa kazi nzuri ambayo wamefanya.

Kama unavyojua, Bw. Naibu wa Spika, sisi Maseneta kazi yetu kubwa ni kuhakikisha kwamba kaunti zetu zinapata pesa za kutosha. Kazi yetu nyingine ni kufanya *oversight* na kuangalia kwamba hizi pesa zinatumiwa namna gani katika kaunti zetu. Sitachukua muda mrefu kwa sababu mengi ambayo Maseneta wenzangu wamechangia ni ya ukweli.

Kama Seneta wa Kaunti ya Kwale, naunga mkono hii ripoti. Hivi karibuni, kulitokea ripoti kwamba gavana wangu wa Kaunti ya Kwale, Mhe. Fatuma Achani, amekuwa *ranked* nambari mbili kwa kazi nzuri aliyofanya.

Mwenyezi Mungu aijalie ili Maseneta wote tuichangie. Tutoe kauli yetu kwa umoja kwamba hii ripoti iko sawa. Hii Kamati izidi kuendelea ili mwaka ujao itutengenezee ripoti kama hii.

Asante sana. Mwenyezi Mungu awabariki.

The Deputy Speaker (Sen. Kathuri): Asante.

Sen. Kisang', proceed.

Sen. Kisang': Thank you, Mr. Deputy Speaker, Sir. I also echo what my colleagues have said in support of this Motion. It is important to note that despite the

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economic challenges that we have had for the last one year - it continues to be there - there is some improvement.

There is a proposed increase of 7 per cent from Kshs385 billion to Kshs415 billion, which is more than the growth rate. The growth rate was around 5.7 per cent. We are proposing to add counties Kshs415 billion, which is over 7 per cent.

We would have liked, as champions and protectors of devolution to give more resources to the counties. However, because of the economic situation, we should live this at Kshs415 billion. If the economy improves in the next Financial Year 2024/ 2025, we will propose to give more to the counties.

The main reason I am saying this is because even if we increase and give the counties more money, the biggest problem they have is recurrent expenditure. The month of July, every financial year, there is an increase of salaries and wages across the board, both at the national and county governments.

When we add resources that are not meaningful, it means, what we add to the counties goes to salaries. We now have the Social Health Insurance Fund (SHIF), which we will be contributing 2.75 per cent and the employers will also contribute the same.

Mr. Deputy Speaker, Sir, more of these resources will go to SHIF and the Affordable Housing Levy at 2.75 and 1.5 per cent, respectively. It means the counties will be contributing what we are giving them as additional resources to fund these levies.

It is also important to challenge the governors. They are not doing enough. When we were in Turkana for Senate *Mashinani*, you saw children along the streets begging for water because we were there. Why can the governors not use these resources to do boreholes for the people, especially the semi-arid and arid counties?

Turkana County gets over Kshs12 billion. With that, they should have close to around Kshs7 billion going to development. We need to do more oversight as Senators so that this money does not go to waste, but to the right work that is intended.

The reason for devolution was because people perceived that if you are not part of the Government of the day, you do not get development. That is why there was agitation for devolution. We want to see that the resources going to the counties benefit our people and not a few governors who are looting.

My colleague has talked about pending bills. There are many businesses that are closed because of pending bills. Many people have also passed on. This is because when there is a change of regime in the counties, the new governors have the tendency of not paying for services that were delivered to their colleagues who were there before them.

We want to tell the governors to audit those pending bills and pay them so long as services were delivered.

The Deputy Speaker (Sen. Kathuri): Sen. Murgor, proceed.

Sen. Murgor: Thank you, Mr. Speaker, Sir. I join my colleagues in supporting this Motion or report that has been brought by the Chairman of Finance and Budget Committee together with the Deputy Chairperson and the team.

Our job as Senators is to protect devolution. Therefore, it is part of our job to make sure that counties have enough or adequate money. However, the county governments should stick to priorities when identifying activities that are to be

undertaken. The guidelines should be public participation. What people have suggested on the ground is what the governments should follow.

I just came from my county yesterday. Over the weekend, I was with many people who are blaming the county government of doing the opposite of what they suggested during public participation.

There is a lot of wastage and disappearance of finances just because the priorities are not followed according to the public participation and suggestions that people have made.

Secondly, there are a lot of loopholes that need to be tightened so that money is not siphoned to directions that do not count to be a benefit to *mwananchi*, just because it went to the wrong pockets, activities or projects.

Finally, this should be a priority or something that the Government pays attention to. This is because it is money that, for some of the counties such as Turkana and West Pokot is coming directly and should be prioritized so that it enhances development. There will be no wastage of time and money, but used on those things that lagged behind in the past time.

I support.

The Deputy Speaker (Sen. Kathuri): Next is Sen. Okiya Omtatah.

Sen. Okiya Omtatah: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to address the House. I rise to confer because a BPS is a very important document in the Republic budget making process.

It provides the broad guidelines under which the National Treasury will make the Budget that will be submitted to Parliament. Parliament is giving the National Treasury, the broad guidelines for enacting the Budget.

I have looked at the Chairperson's forward. It is very saddening when you look at paragraph (c) that shows that the County Equitable Share has grown disproportionately to that of the projected growth in revenue. It has grown by a paltry 1.5 per cent against a growth of 13.9 per cent, which means the BPS 2024 is anti-devolution in one way.

I am also looking at additional allocation for transfer of library services. The undertaking by the National Treasury was never honoured. The same applies to many other undertakings that were made. I would love to see, and I I urge the National Treasury to honour its commitments so that devolution can function.

Mr. Deputy Speaker, Sir, coming to the question of debt, there is provision to borrow internationally and domestically in the BPS. I hope that when the Treasury puts together the Budget for the coming financial year, it will indicate what domestic borrowing will be used for. This is because, most of the time, money borrowed domestically is not tied to anything.

I also urge that this time round, the Budget proposal should also come to the Senate because, Article 249(3) of the Constitution is very clear that Parliament shall ensure proper allocation of funds to independent offices and constitutional commissions. When the Budget does not come to this House, it means a major violation of the Constitution is undertaken.

Finally, I hope that when the Treasury makes the Budget this time, it will contain both the revenue and expenditure estimates so that we avoid going to court again to challenge it, until it complies with the Constitution.

With those few remarks, I support. Thank you.

Sen. Gataya Mo Fire: Thank you, Mr. Deputy Speaker, Sir, for catching my attention. I stand here to support this Bill which has been brought by my very good friend, the Chairperson of the Committee on Finance and Budget.

As much as we are trying to take money to counties because that is our responsibility as a House, we also have a duty to strengthen oversight. In some instances, we have been confined into being morticians. We devolve money. It is squandered and embezzled. Two years down the line, after the audit report, is when we try to find out what happened. By that time, the money has already found its way into some funny corners.

It is a bright idea that counties need money because that is the essence of devolution. We voted to make sure that we take services closer to the people down at home. However, it is important that this House strengthens the oversight responsibility.

I happen to be in one of the committees that oversight expenditure and I have some shocking news that I may not have time to divulge in this House. There are some counties that are very pathetic despite having received billions of monies. It is an issue that we are supposed to legislate on and change the Standing Orders. We are supposed to be hands-on in making sure that we oversight the money we are taking to the counties.

In this respect, I wish to support the Motion that counties should get money. I am happy with the Government because if you remember, last time, we gave counties Kshs384 billion. This time, we have increased to Kshs415 billion. I hope by Financial Year 2025/2026, we shall have more funds going to counties. I urge the governors to make sure that that money is used prudently to make sure that our people enjoy the services.

Thank you. I support.

Sen. Joe Nyutu: Thank you, Mr. Deputy Speaker, Sir, for this opportunity to also support this report by the Senate Finance and Budget Committee.

I am very excited by this report because it not only made financial recommendations, but also policy recommendations. One of the policy recommendations that caught my eye is recommendation (b) where the committee recommended that:

“The Ministry of Health should submit to the Senate a framework of collaboration between the national Government and county governments on the management, including funding of human capital in the health sector.”

Mr. Deputy Speaker, Sir, most of our counties have their health facilities ailing. It is for this reason that I find this recommendation very important because human capital is a problem. As I speak, we have a labour standoff between the doctors and the Ministry. I think if we come out with a very good framework, then our hospitals across the counties will be well staffed and our people will receive the services that they need on a daily basis.

Recommendation (c) is on the prioritization of disbursement of equitable share. This is something that we must support. This is because every time we go to our counties

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and the sharable revenue has not been disbursed for a month or two, the governors give us a good beating. They say that the Senator says that they look for funds for counties, let them go and tell the national Government that we have not received our disbursement for the last two months.

Prioritization of disbursement of equitable share is very important. That is a very good policy recommendation that we must commend the Committee for.

Recommendation (f) also caught my eye, that:

“The Intergovernmental Relations Technical Committee fast-tracks the process of unbundling, delineation and transfer of functions to the county government and submit a report to the Senate by June, 2024”.

As a Senate, we are here to defend, protect and promote devolution. It is for this reason, that we must support every plan that involves transfer of functions to county governments. This is because every devolved function must be transferred to the county.

I like their financial recommendations too. Had it not been for budget constraints and deficits for counties to get about Kshs415 billion, we need a lot of money in our counties. In fact, the 415 billion---

The Deputy Speaker (Sen. Kathuri): Sen. Maanzo, you may have the Floor.

Sen. Maanzo: Mr. Deputy Speaker, Sir, thank you for giving me an opportunity to contribute to this very important matter.

The funding of the counties is our priority. From the policy statement, it is clear that just a little money has been added as equitable share of revenue and yet the counties have a lot of challenges. Although the Government has tried to post the monies in good time, the counties have still had a delay of about two months or so.

The OSR has been a big challenge partly because of theft. The county levies across the nation have not been fully digitized, especially the use of pay bill numbers and Mpesa. A lot of revenue is still being lost and yet we are here to protect devolution and make sure that counties are effective, efficient and serve the people, so that devolution can go to the furthest corner in the village.

Devolution was a very good idea. Counties that have applied it well, they have done very well. Even the counties which seemed to be doing very well, still have challenges.

Mr. Deputy Speaker, Sir, we still have challenges in terms of operations in the counties, seepages and loss of monies. The Ethics and the Anti-Corruption Commission (EACC) is charged with the responsibility of making sure that money is not lost by checking corruption which is the biggest problem in the counties. However, we are yet to see EACC get devolved for them to take serious action against those who steal county money.

By that strict Act and by taking people to court, including former governors who have stolen money, it will become preventive and the money will be protected for the benefit of people.

Mr. Deputy Speaker, Sir, the money is not a lot and efforts are being made to give more monies to counties. This is our work here and we have made a lot of effort, but there are challenges in OSR and the funding from the national Government.

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It will be good if the money is sent in good time so that we do not see the kind of ratings we saw where some counties have little consumption and others having dealt with their monies in good time.

One of the other challenges in financing the counties is the pending bills. They have pinned down counties in the last 10 years. Some of those pending bills belong to previous governors. Some of the projects where there are claims of pending bills are not claimable. One cannot see the project and yet, the contractors or people who work with the counties are claiming money.

Mr. Deputy Speaker, Sir, there must be a policy and a system of verifying these pending bills so that where theft is detected, the EACC and the DCI take it up and those stealing from the counties are brought to book.

I support the report since it has been made pursuant to the law. We are yet to see further details and a breakdown into different counties.

I thank you.

The Deputy Speaker (Sen. Kathuri): Sen. (Prof.) Tom Ojienda, SC.

Sen. (Prof.) Tom Ojienda, SC: Thank you, Mr. Deputy Speaker, Sir. I have just one or two contributions to the BPS. I first thank the Standing Committee on Finance and Budget for tabling this report before the Senate today. It is notable from the BPS that there is an increment of Kshs5.7 billion that will be going to the counties from the Kshs385 billion to Kshs391.1 billion this financial year.

Just like my other brother Senators have said, it is important for county governments to focus on development. This financial year, there was a poor report of counties on the question of development and the fund for development.

Mr. Deputy Speaker, Sir, counties should also focus on reducing their outstanding debts. Their pending bills are worrying and they go right to the question of delivery of services. It is unfortunate that in certain counties, including my County Kisumu, pending bills go back to the period when the first Governor served. I have presented a Statement before this House on pending bills that remain unpaid.

Mr. Deputy Speaker, Sir, one of the things that this House must do is to find a framework that will ensure that pending bills are settled. Governors who come into power should ensure that projects where there were deliveries, contractors get paid. This is so that we do not frustrate individuals who have helped counties to not only grow, but have also rendered services at cost and continue to incur interests in bank loans. These contractors go to commercial banks to get loans to perform services or contracts in counties.

As a Member of the Standing Committee on National Security, Defence and Foreign Relations, we considered the BPS. Our standing questions included the actualization of the new boundaries that have been set by the Cabinet Secretary of Interior and Administration of National Government. The need to construct offices for chiefs and the need to ensure that the processing of passports is done timeously. These go to the very need in ensuring that this BPS is given a stamp of authority by the Senate.

Mr. Deputy Speaker, Sir, there are priority areas for this House and they go to the need for counties to be actioned and to perform for the people of these counties.

I support.

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The Deputy Speaker (Sen. Kathuri): Sen. Wafula.

Sen. Wafula: Asante, Bw. Naibu Spika, kwa kunipa nafasi hii. Mchango ni kwamba matarajio ya Wakenya yataweza kuafikiwa kutokana na pesa ambazo tunagatua kwenda mashinani.

Juzi, magavana walidai kwamba pesa zimechelewa na miradi mingi ya maendeleo haijatumika Wengine wamekuwa wakikenua vichwa wakidai tumepunguza mgao wao.

Leo, mbele ya Wakenya wote, wamejionea wazi msimamo wa Bunge la Seneti. Tunataka waongezewe pesa ili ziambatane na majukumu yaliyogatuliwa katika Katiba

Zile pesa ambazo kaunti zinawatozwa watu ni kama sadaka au kafara kule mashinani. Naomba hili Bunge la Seneti lifuate hizi pesa ili tuhakikishe zote zinazotozwa watu wa kaunti zetu, zinaweza kuhesabika na kuajibikiwa kwa miradi ya maendeleo.

Ukipiga kurunzi mashinani, utagundua kwamba, baadhi wanaochukua ushuru mashinani ni matajiri kuliko Viongozi wa Wadi na Wabunge katika Kenya hii.

Ndio kwa sababu tunataka mfumo mpya wa kuchukua ushuru kutoka kwa Wakenya. Haiwezekani wale wanaotoza ushuru waache kutumia mfumo wa kidijitali waanze kutembea na mikoba, wakichukua pesa kutoka kwa Wakenya na ukiuliza hesabu, wanasema uchumi ni mbaya.

Bw. Naibu Spika, ugatuzi unawapa watu wa kaunti hizi kuimarisha shule za chekechea, shule za anuwai, ukulima, uchumi samawati na mazingira na miradi ya michezo.

Ni lazima magavana wajue kwamba hizi pesa ni za kuhakikisha majukumu haya ya yanatekelezwa. Wakituona mashinani, watukumbatie na wafungue vitabu vya hesabu ili tuvikague na tuelezee watu wa kaunti zetu, pesa zetu zinatumiwa vipi. Yule atapatikana akipora pesa hizi, akubali kubeba msalaba wake.

Ninashukuru na kuunga mkono mapendekezo ya Kamati ya Uchumi na Bajeti katika Seneti. Pia naomba Maseneta wote wapitishie ili tuanze kupambana na ufisadi kule mashinani.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, according to my dashboard, there is no other Senator interested in contributing. This system, however, should be checked because Sen. Tabitha Keroche made a contribution, but she is still appearing on my screen.

I request the Mover to reply.

Vice Chairperson, Sen. Mutinda.

Sen. Mutinda: Thank you, Mr. Deputy Speaker, Sir. I take this opportunity to reply to our Committee Report. I also thank all the Members for their time and contributions. As a committee, we have keenly noted the different issues they have raised.

The main responsibility of the BPS is to set out the strategic priorities and the policy goals. That is our responsibility as the Senate and the National Assembly to embark on this within the timelines that have been set by the Constitution.

Mr. Deputy Speaker, Sir, we had different stakeholders during this BPS and the Medium-Term Debt Management Strategy (MTDS) process. The Cabinet Secretary of National Treasury, Prof. Ndung'u has always been very diligent in appearing before this committee and we appreciate it. We do not see the same happening in Plenary, but we

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acknowledge he is one of the key stakeholders that has great input as far as this committee is concerned.

To our surprise, apart from our frequent stakeholders, for the first time, we saw most of the governors appearing. We had about 10 of them who were able to diligently give their time. We also had others like the Institution of Certified Public Accountants of Kenya (ICPAK), the Institute of Social Accountability (TISA) and the County Assemblies Forum (CAF).

In 2024, the BPS has mainly focused on sustaining the bottom-up economic transformation for economic recovery and improving livelihoods which is highly the manifesto of the current government that I serve in. We pride in ensuring that the BPS that we embarked on focuses on the bottom-up-economic transformation agenda.

We also pointed out the different agricultural-economic sectors ranging from rice, tea and coffee. Sen. (Dr.) Khalwale was able to point out the issue that has been seconded by one of the Members, the issue of sugarcane needs to be part of the agricultural sector and economic investment that needs to be highly recognised. The committee highly agrees on the same.

I want to note that, with respect to the exchange rate, the Kenya shilling had depreciated by 19.3 against the US\$ and 23.4 against the euro. This is what led to the increased debt which amounted to about Kshs800 billion. It is also good to note that the Kenya shilling value compared to the major global currency had increased appreciating to 10.8 per cent against the US\$ and 10.9 against the sterling pound.

Areas that were of focus on the key interventions ranged from the Housing and Settlement sector. As you can see, as a House, we are looking forward to the Bill on Housing which is one of the key priority target sectors. On agricultural transformation, we have micro, small and medium enterprises. In healthcare, we have the Social Health Insurance Fund (SHIF), the digital superhighway and the creativity industry.

Mr. Deputy Speaker, Sir, the other key thing I have heard Members discuss which I am very pleased is that this time round, we have an increment of about Kshs30 billion to the equitable share. That is from Kshs385 billion to Kshs415.9522 billion. How did we get to this figure? When the governors came before our great committee, their request was Kshs450 billion. However, finance and budgeting are not theoretical, but mathematical and have to be much more factual in terms of the figures that are put in. They have to be more realistic and make sense.

In our deliberations as a committee, we were able to note and appreciate that the Ministry of Treasury had suggested Kshs399.1 billion. This is about an increment of Kshs6 billion. County Revenue Allocation (CRA) suggested Kshs398 billion. In our discussion, we were able to analyse some of the reasons brought to us. We looked at why these minimal increments from the National Treasury and CRA. One of the challenges we have noted as a committee, which is being affected by the National Treasury is the approval of the last audited financial reports.

The ones that we currently use up to date in the year 2024, is the last audited report for the Financial Year 2019/2020 which stands at about Kshs1.63 trillion yet if we were to adopt the current audited report, it amounts to about Kshs1.9 trillion. If those audited reports were approved by the National Assembly and we were to use that figure

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that would give us an automatic increment out of the 15 per cent which is the equitable share to our governors.

The equitable share is not a beg from the national Government, but a requirement by the national Government.

(Loud consultations)

Mr. Deputy Speaker, Sir, I beg your protection.

That is how we were able to resolve that 6.4 per cent of the Kshs385.425 billion was to give us about Kshs410 billion.

The issue of the medical equipment that had been mentioned earlier had been brought to zero during the mediation period. The 5.86 included, will give us the Kshs415 billion. It is one thing to give counties Kshs415 billion and another for the National Treasury to adhere to the timely cash disbursements that have been set. Without this, we will have a challenge.

The other issue on the advocacy for more funds that have had Senators advocate for is because we have the issue of inflation that has increased. We have the issue of increased bank rates and the cost of Community Health Volunteers (CHVs) that have also been rendered to the county government. We also have the statutory cost and the 10 per cent annual increment with the salaries of the county staff which also becomes an increased recurrent cost to the county governments. Hence, they needed more funding.

Mr. Deputy Speaker, Sir, as I conclude, we talked about the pension, which I am happy about. It is the mandate of the National Assembly and I urge them to ensure they put more emphasis on oversighting the national Government expenditure. We normally focus our mandate on the county governments, but I am happy that in our previous Public Finance Management (PFM), our advice as a committee was that it is the responsibility of Parliament.

We have a bicameral Parliament in Kenya that includes the National Assembly and Senate. We need to audit the reports within the stipulated duration of three months of the PFM Act such that we are going to ensure the money the Ministries have been given at the National Level is utilised as required.

As I conclude, I am happy to note the monies for the pension which we discussed last week in the County Public Investment and Special Funds Committee (CPICSF) Report that was tabled here. We realized staff are not able to receive their funding. I am happy there has been Kshs1.65 billion which has been allocated to pension. There has been Kshs670 billion which has been allocated to education. In the Agriculture sector, I am happy to report that there has been Kshs2 billion has been allocated to the Coffee Cherry Advance Revolving Fund (CCARF) among other funds as far as the subsidised fertilizer is concerned.

The issue of the passport has been highlighted. I am happy because about Kshs3.2 billion has been allocated to ensure people can get passports on time. All said, I take this opportunity to say that I officially reply.

(Loud consultations)

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The Deputy Speaker (Sen. Kathuri): Order, Senators! Do not confuse the Member replying. Sen. Tabitha Mutinda, just say you reply.

Sen. Tabitha Mutinda: Mr. Deputy Speaker, Sir, I beg to reply.

The Deputy Speaker (Sen. Kathuri): Thank you. Hon. Senators, we are now going to Division, and I direct the Bell to be rung for five minutes.

(The Division Bell was rung)

Serjeant-at-Arms, stop the Bell now.

(Loud consultations)

Order, Senators! Let us transact the business. Order, Sen. Maanzo and Sen. Veronica Maina. Majority Whip, please take your seat. Serjeant-at-Arms, kindly close the Doors and draw the Bar.

(The Doors were closed and the Bar drawn)

Hon. Senators, I now want to put the question.

Hon. Senators, you will vote electronically. At this juncture, I request all Senators to remove their cards and the Serjeant-At-Arms to check all the remaining cards in the delegates unit. I am applying Standing Order No.1. Log out, Senators.

(Sen. Cheruiyot spoke off record)

No, the Senator for Meru County will be voting.

(Laughter)

Meru County really needs this money, but we will be keen to see how it is spent. We want a lot of money. Senators, you can now log back in. If you are set, you can proceed to vote.

Sen. Cherarkey, to save time, kindly stop engaging this team now so that we can get results. Let them do the tallying then we get the results of the Division. Sen. Ogola and Sen. Mariam Omar, approach the table to vote on behalf of your delegations. Also confirm whether the Meru delegation has voted.

DIVISION**ELECTRONIC VOTING**

(Question that, the Senate, adopts the Report of the Standing Committee on Finance and Budget on the 2024 Budget Policy Statement, laid on the Table of the Senate on Tuesday, 5th March, 2024, and pursuant to Section 25 (7) of the Public Finance Management Act and Standing Order 186 (8), the Senate, approves the 2024 Budget Policy Statement, put and the Senate proceeded to vote by County Delegations.)

AYES: Sen. Abdul Haji, Garissa County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang', Elgeyo Marakwet County; Sen. Lomenen, Turkana county; Sen. Maanzo, Makueni County; Sen. Mariam Omar, Mandera County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Ogolla, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Onyonka, Kisii County; Sen. Seki, Kajiado County; Sen. Osotsi, Vihiga County; Sen. Tabitha Keroche, Nakuru County; Sen. (Prof.) Tom Odhiambo Ojienda, SC, Kisumu County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County and; Sen. Wamatinga, Nyeri County.

NOES: Nil

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

AYES: 32

NOES: Nil

ABSENTION: Nil

(Question carried by 32 votes to Nil)

(The Budget Policy Statement was adopted)

BILL*Second Reading*

THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
(AMENDMENT) BILL (NATIONAL ASSEMBLY
BILLS NO.46 OF 2022)

(Sen. Cherarkey on 22.2.24)

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(Resumption of debate interrupted on 05.03.24)

(Division)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, let go to Division on the Public Service (Values and Principles) (Amendment) Bill (National Assembly Bills No.46 of 2022).

Let me now put the question. We are again voting electronically, so you log out first, and then as usual you check whether other cards have no owners, if not then, you log in again. Please login and proceed to vote.

Homa Bay and Madera County delegations, to approach the Table for manual voting.

DIVISION

ELECTRONIC VOTING

(Question, that the Public Service (Values and Principles) (Amendment) Bill (National Assembly Bills No. 46 Of 2022), be now read a Second Time, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Abdul Haji, Garissa County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang', Elgeyo Marakwet County; Sen. Lomenen, Turkana county; Sen. Maanzo, Makueni County; Sen. Mariam Omar, Mandera County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Ogolla, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Onyonka, Kisii County; Sen. Seki, Kajiado County; Sen. Osotsi, Vihiga County; Sen. Tabitha Keroche, Nakuru County; Sen. (Prof.) Tom Odhiambo Ojienda, SC, Kisumu County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County

NOES: Nil

ABSTENTIONS: Nil

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

AYES: 32

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

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(Question carried by 32 votes to Nil)

(The Bill was read a Second Time and committed to a Committee of the Whole today, by Leave of the House)

Serjeant-At-Arms kindly draw the Bar and open the Doors.

(The Bars were drawn and the Doors opened)

Clerk, kindly, call the next Order.

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

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I want to reorganize the business on the Order Paper again. We shall proceed with Order No. 10. We shall skip Order Nos. 11 and 12.

COMMITTEE OF THE WHOLE

(Order for the Committee read)

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

IN THE COMMITTEE

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

THE WATER (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.33 OF 2023)

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Senators, we will consider the Water (Amendment) Bill (National Assembly Bills No.33 of 2023). We will run through the amendments and go for Division tomorrow.

Chairperson of the Standing Committee on Land, Environment and Natural Resources, proceed to Move the amendment.

Clause 3

Sen. Methu: Thank you, Mr. Temporary Chairman, Sir. I beg to Move - THAT Clause 3 of the Bill be amended by—

(a) in the proposed new paragraph (g) by inserting the words “subject to the economic efficiency criteria set by the Regulatory Board” at the end of the paragraph; and

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(b) in the proposed new paragraph (h) by inserting the words “subject to the economic efficiency criteria set by the Regulatory Board” at the end of the paragraph.

(Question of the amendment proposed)

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

Clause 4

The Temporary Chairperson (Sen. Wakili Sigei): Chairperson Standing Committee on Land, Environment and Natural Resources, proceed to Move the proposed amendment.

Sen. Methu: Thank you, Mr. Temporary Chairman, Sir. I beg to Move – THAT the Bill be amended by deleting Clause 4 and inserting the following new Clause 4 —

4. Section 68 of the principal Act is amended by inserting the following new paragraphs immediately after paragraph (b)—

(ba) operate water works and provide bulk water services by entering into a bulk water purchase agreement —

(i) with an investor in accordance with the provisions of the Public Private Partnerships Act, Cap 430, subject to the economic efficiency criteria set by the Regulatory Board and after conducting public participation and consulting the relevant county government whose area of jurisdiction the water works is located; or

(ii) with a water services provider subject to the economic efficiency criteria set by the Regulatory Board.

(bb) operate water works and provide bulk water services as a bulk water services provider until such a time as the water works development agency transfers responsibility for the operation and management of water works to a county government or water services provider in whose area of jurisdiction the water works is located.

The essence of this amendment in a one-liner is to mandate rigorous consultation and public participation before Water Works Development Agencies can enter into bulk water purchase agreements.

This requirement underscores the commitment to a participatory approach in water management ensuring that county governments are involved as the provision of water services is a devolved function.

You recall that this was a heated matter when Members were contributing during the Second Reading. As a committee, we felt that this is an important amendment to move. The move not only fosters transparency, but strengthened the bond between the two levels of Government.

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The amendment also seeks to clearly define the operational limits of the Water Works Development Agency. You recall that we had this challenge that was raised by our colleagues. By stipulating that these agencies can operate water work and only provide bulk water services. Water Works Development Agencies can only operate bulk water services.

We set clear boundaries to their functions preventing any potential overreach into areas beyond their mandate, especially when it comes to the provision of water services at the retail level.

This clarification ensures that their activities remain focused on the provision of bulk water services within the Public Private Partnership (PPA) agreements, which the county governments are involved in.

Mr. Temporary Chairman, Sir, finally, the proposal introduces stringent adherence to economic efficiency criteria set by Water Services Regulatory Board (WSRB), for all bulk water purchase agreements.

This criteria ensures that these agreements are not only financially viable, but also aligned with the broader objective of national economic and stewardship consumer protection.

By so doing, we safeguard the interests of the people of Kenya by ensuring that they receive efficient, reliable and effective water services.

Mr. Temporary Chairman, Sir, this will be a very important amendment because it will allay the fears that have been raised by our colleagues that we are taking this role from the devolved units.

We have set the boundaries to which the WWDA can go in terms of the provision of water.

I thank you.

The Temporary Chairperson (Sen. Wakili Sigei): Thank you.

(Question of the amendment proposed)

Division will be at the end

Clause 5

Hon. Members, I propose the question that Clause 5 be part of the Bill. The Chairperson Standing Committee on Land, Environment and Natural Resources, proceed to move the proposed amendment.

(Sen. Methu, consulted the Temporary Chairperson)

Sen. Methu: Thank you very much, Mr. Temporary Chairman, Sir, for the guidance.

I beg to move:

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THAT, the Bill be amended in the proposed Section 68A (2) by deleting the words “and with the approval of the Cabinet Secretary,” appearing immediately after the words “necessary thereafter”.

The core of this amendment centers on eliminating the phrase “with the approval of the Cabinet Secretary,” which is currently positioned after the “necessary thereafter”.

In the proposed Section 68A (2) of the Bill, the rationale behind this deletion, is anchored in the existing legal framework of the Water Act, specifically Section 71 (1) which delineates WSRBs independence in executing its duties and responsibilities.

Furthermore, Section 72 (1) (a) of the Water Act literates the board's mandate, to set national standards for the provision of water services and the development of water services assets, by requiring that the Cabinet Secretary's approval for the standards and licensing conditions set by the regulatory board.

The current language in Clause 5 inadvertently undermines this statutory autonomy. Such a requirement not only contradicts the spirit of the Water Act, but also impairs the board's ability to function as an independent regulatory board.

(Question of the amendment proposed)

Division will be at the end

Clause 6

The Temporary Chairperson (Sen. Wakili Sigei): The Chairperson Standing Committee on Land, Environment and Natural Resources, proceed to move the proposed amendment.

Sen. Methu: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 6 of the Bill be amended—

(a) in paragraph (a), by deleting the new proposed subsection (1) and inserting the following new proposed subsection (1) —

(1) As soon as possible, following the commissioning of waterworks, the water works development agency shall enter into an agreement with a county government, a joint committee, cross-county water services provider, or water services provider to provide water services within whose area of jurisdiction the services are located.

(b) by deleting paragraph (b) and inserting the following new paragraph—

(b) in subsection (2) by deleting the word “authority” appearing after the words “the joint committee” and inserting therefore the words “cross-county water service providers”.

(c) by deleting paragraph (c) and inserting therefor the following new paragraph —

(d) in subsection (3) by deleting the words “the authority” appearing immediately after the words “the joint committee” and inserting the words “cross-county water service providers”.

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Mr. Temporary Chairman, Sir, under the current legal framework, specifically Section 69 of the Water Act, there is a clear mandate for the legal Works Development Agencies (LWDA) to hand over completed Water Works to county governments.

However, the initial proposal within the Bill sought to restrict the transfer of national public water works to county governments. Water service providers or Joint Committees formed between the national and county governments.

This approach not only conflicts with the spirit of cooperative governance as highlighted in Article 99 of the Constitution of Kenya, but also overlooks the shared responsibility inherent in water management, a critical issue considering water's pivotal role in both national and county spheres.

Moreover, the Committee took into consideration the provisions of Section 23 of the Intergovernmental Relations Act, which underscores the establishment of Joint Committees between the national and county governments, whenever necessary to achieve the object of devolution as stated in Articles 174 and 175.

In light of this consideration, the Committee proposed this amendment. This amendment requires that upon the completion and commissioning of water works, the Responsibility Water Works Development Agency should formalise agreements not just with the county government, but also with cross-county water service providers, Joint Committees, or any other relevant water service provider operating within the jurisdiction of the completed work. This change aims to diversify the potential for partnership and ensure that the management and provision of water services are aligned with county needs and county government structures.

Additionally, the committee recommended inclusion of a clear definition of a Joint Committee within the Bill. This intends to eliminate any existing ambiguities, to provide a solid legal foundation for these collaborative entities, thereby enhancing clarity, efficiency and accountability at the handover process.

(Question of the amendment proposed)

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

Clause 7

(Sen. Cheruiyot consulted with Sen. Methu)

Order, Senate Majority Leader! Sen. Methu, proceed to move those proposed amendments.

Sen. Methu: Mr. Temporary Chairman, Sir, I beg to move:

THAT Clause 7 of the Bill be amended—

(a) by deleting paragraph (a) and inserting the following new paragraph

—

(a) by inserting the following new paragraphs immediately after paragraph (b)—

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- (ba) evaluate and recommend bulk water tariffs and approve the imposition of such tariffs in line with consumer protection standards for use of water for domestic and commercial purposes;
- (bb) evaluate and recommend tariffs for irrigation purposes;
- (b) in paragraph (b) by deleting the proposed new paragraph (c) and inserting the following new paragraph—
 - (c) issue licenses, set conditions for water service provision, and accredit water service providers and bulk water services providers

My train of thought has been affected by the Senate Majority Leader.

(Question of the amendment proposed)

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

Clause 8

(Question, that Clause 8 be part of the Bill, proposed)

The Division will be at the end.

Clause 9

Sen. Methu: Mr. Temporary Chairman, Sir, I beg to move:

THAT Clause 9 of the Bill be amended in paragraph (b) in the proposed new subsection (3), by deleting the words “provision of water services” appearing immediately after the words “infrastructure used for the” and inserting therefor the words “contracted function.”

This amendment seeks to replace the phrase “provision of water services” with contracted functions immediately following in order to construct the language and focus on the legislation addressing a crucial oversight in the original wording.

(Question of the amendment proposed)

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

Clause 10

Sen. Methu: Mr. Temporary Chairman, Sir, I beg to move:

THAT Clause 10 of the Bill be amended by deleting the proposed subsection (4) and inserting therefore the following new subsection —

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(4) Despite any provision in this Act, bulk water supply services which are primarily intended to supply water in bulk to a water services provider in a county or counties other than the county in which the bulk water abstraction works are located, shall be undertaken by bulk water services providers licensed under this section.

(Question of the amendment proposed)

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

Clause 11

Sen. Methu: Mr. Temporary Chairman, Sir, I beg to move:
THAT the Bill be amended by deleting Clause 11.

The reason we feel that this clause should be deleted is because it seeks to amend Section 114 of the Water Act, 2016, to include Water Works Development Agencies (WWDAs) as beneficiaries of the Water Sector Trust Fund. The Fund has traditionally been earmarked to support marginalised counties, assisting them in financing the development and management of water services.

By opening access to the WWDAs, which are national Government entities, there is a significant risk that the allocation of funds to counties, especially those that are marginalised, will diminish. This change could potentially divert resources away from the areas with acute needs, undermining the Fund's primary objective by elevating water service disparities in marginalised regions.

I urge Members to support deletion of this clause.

(Question of the amendment proposed)

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

Clause 12

(Question, that Clause 12 be part of the Bill, proposed)

Division will be at the end.

Clause 2

The Chairperson Standing Committee on Land Environment and Natural Resources, proceed to move the proposed amendment.

Sen. Methu: Mr. Temporary Chairman, Sir, I beg to move:
THAT Clause 2 of the Bill be amended—

- a) by deleting paragraph (a) and inserting the following new paragraph—
- (a) by inserting the following new definitions in the proper alphabetical sequence-

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“bulk water service provider” means a water service provider, contracting authority, or any other person providing bulk water services in accordance with a license issued by the Regulatory Board for the service areas specified in the license;

“contracting authority” means-

- (a) at the national government level, a state department, agency or state corporation which intends to have its functions undertaken by a private party; or
- (b) at the county level, the county government, county agency or county corporation which intends to have its functions undertaken by a private party;

“joint committee” means a committee established by the national or county government consisting of the national government and a county government or two or more county governments;

“private party” means a party that enters into a project agreement with a contracting authority and is responsible for undertaking a project on behalf of the contracting authority under this Act;

- b) in paragraph (b) by deleting the proposed definition of “bulk water” and inserting therefor the following new definition—

“bulk water” means supply of water in bulk by a bulk water services provider to a water services provider for retail;
by deleting paragraph (c).

This is a very straight forward amendment on the Water Tribunal that seeks to be established.

(Question of the amendment proposed)

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

The Title and Clause 1

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

Division will be at the end.

I now call upon the Mover, the Senate Majority Leader to report on progress. Hon. Members, we are unable to do the division. We shall defer this to the next sitting.

Mover, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Chairman, Sir, pursuant to Standing Order No.153, I beg to move that the Committee of the Whole do report progress on its consideration of the Water (Amendment) Bill 2023, (National Assembly Bills No. 33 of 2023) and seeks leave to sit again tomorrow.

(Question proposed)

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(Question put and agreed to)

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Members present, for the convenience of progress of the business of the House, we will adjourn later, pursuant to Standing Order No. 34(2)(a) so as we progress to the next Bill.

THE CARE AND PROTECTION OF CHILD PARENTS BILL
(SENATE BILLS NO. 29 OF 2023)

Hon. Members, we are now dealing with the Bill on the Care and Protection of Child Parents Bill (Senate Bills No. 29 of 2023). I will proceed.

Clauses 3 – 10

(Question that Clauses 3, 4, 5, 6, 7, 8, 9 and 10 be part of the Bill, proposed)

Division will be at the end.

Clauses 11- 20

*(Question that Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20
be part of the Bill, proposed)*

Division will be at the end.

Clauses 21- 30

*(Question that, Clauses 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30
be part of the Bill, proposed)*

Division will be at the end.

Clauses 31-40

*(Question that, Clauses 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40
be part of the Bill, proposed)*

Division will be at the end.

Clauses 41 and 42

(Question, that Clauses 41 and 42 be part of the Bill, proposed)

Division will be at the end.

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Clauses 2, the Title and Clause 1

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

Division will be at the end. Hon. Members and the Chairperson, we are unable to do the Division. I call upon Sen. Miraj to report.

Sen. Miraj: Mr. Temporary Chairman, Sir, pursuant to Standing Orders No.153, I beg to move that the Committee of the Whole do report to the Senate its consideration of the Care and Protection of Child Parents Bill (Senate Bills No. 29 of 2023) and seeks leave to sit again tomorrow.

I request Sen. Korir to second.

Sen. Korir seconded.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Speaker (Sen. Abdul Haji) in the Chair]

The Temporary Speaker (Sen. Abdul Haji): Sen. Wakili Sigei, please proceed.

PROGRESS REPORTED

THE WATER (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.33 OF 2023)

Sen. Wakili Sigei: Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered the Water (Amendment) Bill 2023 (National Assembly Bills No. 33 of 2023) and seeks leave to sit again tomorrow.

The Temporary Speaker (Sen. Abdul Haji): Mover?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report and request the indefatigable bull fighter, Senator of Kakamega to second.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Abdul Haji): Proceed, the Chairperson, Sen. ~~Wakili Sigei.~~

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THE CARE AND PROTECTION OF CHILD PARENTS BILL
(SENATE BILLS NO. 29 OF 2023)

Sen. Wakili Sigei: Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered the Care and Protection of the Child Parents Bill (Senate Bills No.29 of 2023) and seeks leave to sit again tomorrow.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Mover.

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

I beg Sen. Korir to second.

Sen. Korir seconded.

(Question proposed)

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, it is now 6.36 p.m. time to adjourn the Senate. The Senate, therefore, stands adjourn until tomorrow Thursday, 7th March, 2024 at 2.30 p.m.

The Senate rose at 6.36 p.m.