

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 8<sup>th</sup> June, 2023

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

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

### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

*(The Quorum Bell was rung)*

*(Several Senators walked into the Chamber)*

**The Speaker** (Hon. Kingi): Serjeant-at-Arms, you may stop ringing the Bell. I am informed that we do have quorum now.

Clerk, please, proceed to call the first Order.

### COMMUNICATION FROM THE CHAIR

#### ANNUAL JOINT SESSION BETWEEN THE COG AND THE SENATE

**The Speaker** (Hon. Kingi): Hon. Senators, following the promulgation of the Constitution of Kenya in 2010, it is now 10 years into the existence of the county governments. Devolution has highlighted the existence of unique opportunities for socio-economic growth. However, reports also reveal emerging challenges that continue to hamper the operations of the devolved units, thereby impacting the ability of counties to manage situations that affect the well-being of the people.

Hon. Senators, in the spirit of nurturing collegiality between the Senate and the Council of Governors (CoG), it is proposed that an annual high-level joint session of the CoG and the Senate be established.

The objective of the proposed high-level joint session is-

(1) Recognize the contributions of the devolved units and their position as vital drivers for adequate social protection and transformative development as envisioned by the Constitution of Kenya, 2010.

(2) Accelerate and support coordination between the Senate and the CoGs and further devise ways of fostering intergovernmental relations between the national and subnational level and, by extension, the County Executive Assemblies and County Public Service Boards (CPSB) with the objective of seamless service delivery within the devolved units.

(3) Identify the gaps in policy legislation and institutional mechanisms impeding intergovernmental relations, oversight and service delivery within devolved units, and explore opportunities for smart solutions for accelerated services.

(4) Build momentum in exploring actionable solutions, in addressing funding challenges affecting service delivery in devolved units amidst the current shrinking resource envelope.

(5) Share county experiences in all aspects to foster collegiality between CoG, the Senate and the respective counties.

Hon. Senators, towards this end, a steering Committee for the high-level joint session was constituted to plan for the inaugural joint session. The Committee comprises of Sen. Cpt. Ali Roba Ibrahim EGH, MP, Sen. Abbas Sheikh Mohamed and Sen. Moses Kajwang' from the Senate, and Governor Fernandes Barrasa, Governor Steven Sang and Governor Mutula Kilonzo Jnr, CBS from the CoG.

Hon. Senators, the steering Committee has now organised an inaugural joint session to be held from 15<sup>th</sup> to the 18<sup>th</sup> June 2023 at the Great Rift Valley Resort in Naivasha, Nakuru County.

Hon. Senators, the joint session will focus on achieving the following-

(1) Enhance relations between the CoG and the Senate, including other critical stakeholders in devolution.

(2) Inform future in-depth engagements among the devolution stakeholders, including, but not limited to the upcoming Devolution Conference 2023, Legislative Summit 2023 and the Senate *Mashinani* slated for later in the year.

(3) An action-oriented joint communiqué spelling out commitments of the CoGs and Senate to enhance dialogue, address challenges and accelerate service delivery.

(4) Comprehensive resolutions targeting social development and protection concerns with clear timelines to be implemented jointly by the Senate and the CoGs and monitored by respective technical teams.

Hon. Senators, I, therefore, urge all the Senators to prioritize and attend these very important meeting.

I thank you.

Let us move to the next Order.

**PAPERS LAID**

**The Speaker** (Hon. Kingi): Senate Majority Leader, please, proceed.

REPORTS ON FINANCIAL STATEMENTS OF  
VARIOUS ENTITIES

**Sen. Veronica Maina:** Hon. Speaker, Sir, on behalf of the Senate Majority Leader, I beg to lay the following Papers on the Table of the Senate this day, 8<sup>th</sup> June, 2023-

Report of the Auditor-General on the Financial Statements of Makueni County State and Public Officers Car and Mortgage Loan Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Machakos County Assembly (Housing and Car Loan Scheme) Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of the County Government of Nyamira –County Revenue Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of the County Government of Nyamira – Receiver of Revenue – Revenue Statements for the year ended 30<sup>th</sup> June, 2022.

I beg to lay.

*(Sen. Veronica Maina laid the documents on the Table)*

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

**QUESTIONS AND STATEMENTS****STATEMENTS**

**The Speaker** (Hon. Kingi): Statement pursuant to Standing Order No. 53(1). Hon. Sen. Crystal Asige, please proceed.

ENFORCEMENT OF 5 PER CENT EMPLOYMENT  
QUOTA FOR PWDS

**Sen. Crystal Asige:** 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 enforcing the 5 per cent employment quota for persons with disabilities in public sector recruitments.

In the statement, the Committee should-

(1) Confirm whether the national Government, through its Ministries such as the Ministry of Defence and State agencies and the Kenya Revenue Authority (KRA), which in recent advertisement advertised for 1,500 and 245 job openings respectively, have complied with the legislative requirement to reserve five per cent of the advertised positions for PWDS.

(2) Explain the mechanisms put in place by the Ministry of Public Service, Gender and Affirmative Action to ensure that public sector entities such as KRA, adhere to the five per cent rule during recruitment processes, stating how this compliance is audited and enforced.

(3) Address the broader concern of the need of regular compliance checks on public sector recruitment, so that the five per cent quota for PWDs is consistently respected and applied.

(4) State measures the Ministry is taking to raise awareness and understanding of the five per cent rule among potential employers in the public sector.

I thank you.

**The Speaker** (Hon. Kingi): Proceed to the next Statement by Sen. Mbugua.

STATUS OF FUNDING OF SPECIAL  
NEEDS SCHOOLS

**Sen. Mbugua:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order 53(1) to seek a statement from the Standing Committee on Education regarding the status of funding for special needs schools across all counties.

In the statement, the Committee should-

(1) Confirm whether the Government has increased the capitation to learners in special needs schools by 50 per cent and ringfenced the 15 per cent of all public funded bursaries to pupils with disability, as it had undertaken in its bottom-up economic transformation plan of 2020 to 2027.

(2) State steps to address Staffing in Education Assessment and Resource Centre (EARC), considering that special officers have retired and have not been replaced, particularly in Nairobi County where only three EARC officers serve 17 sub-counties.

(3) Address the discrepancy in infrastructure between regular and special needs primary and secondary school, stating the budgetary allocation for all special needs schools in the Financial Year 2023/2024.

Thank you, Mr. Speaker, Sir.

**Sen. Cherarkey:** On a point of order, Mr. Speaker, Sir.

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

**Sen. Cherarkey:** Mr. Speaker, Sir, I rise under Standing Order No.1 to request your indulgence. If you look at Statement Nos.1 and 2, it concerns our unique nature of our population, especially the PWDs.

I request your indulgence to use Standing Order No.1, to allow us to comment on the Statements by Sen. Crystal Asige and Sen. Mbugua, just like what you did last time. You may allow one or two Senators from both sides and maybe limit our time to two minutes.

Secondly, I bring to your attention that some county assemblies have gone on strike. I will request your ruling at the end of this Statements hour. If you remember, we had a discussion about it. I seek your indulgence under Standing Order No.1, to request the Chairman of the Committee on Devolution to give us a Progress Report by next week. I am informed that a number of county assemblies will keep shutting down in the part of this week and next week. Those are my two interventions.

Thank you, Mr. Speaker, Sir, for indulgence.

**The Speaker** (Hon. Kingi): Thank you, Sen. Cherarkey. I am afraid I may not be able to allow comments on these statements. When we sat at the Senate Business Committee (SBC), having looked at the Order Papers for the last three or four months, we realized that we were not making any progress beyond Sstatements. It is like the Senate's main mandate was basically to prosecute Sstatements. We were not prosecuting our main mandate, which is processing Bills.

It may be painful but it was necessary that we leave the committees to handle statements. A determination was made that once a Senator rises to request for a Statement, in order to save time, we commit that particular Statement to the select Committee and then move to the next.

Sen. Cherarkey, if you look at the Order Paper today, you have a Bill. If we proceed in the manner you are suggesting, that Bill may be with us for the next four months. I do not think you would wish to have your Bill hang around for four months. It is with those reasons that I will not be able to invite comments on the statements.

Sen. Wambua, Proceed.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I have a comment on the issue raised by Sen. Cherarkey on the strikes in the county assemblies. I do not want us to go back to where we came from. The Committee on Devolution and Intergovernmental Relations does not need any ruling or direction from the Speaker to act on matters relating to their Committee.

I would expect that on their own motion, next week, they should give us an update report on what is happening in our counties. They do not need any direction from the Speaker.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): The Chairperson of the Committee on Devolution and Intergovernmental Relations, this is a very weighty issue. I believe you have heard the sentiments from your colleagues. I received that memorandum, but you are the door to these assemblies as far as the Senate is concerned. By next week, you should give the Senate a progress report on how you are handling these matters. If need be, you can even invite the Plenary. Depending on the kind of progress you are making, we may either come up with different interventions or maybe allow you to proceed in the manner that you will be allowing.

However, it is good to give the Senate a progress report and the challenges you are facing. The Plenary of the Senate is here to help you succeed in the mandate of your Committee.

May the Chair of the Committee on Devolution and Intergovernmental Relations say something in this regard.

*(Sen. Abass spoke off record)*

*(Laughter)*

**The Speaker** (Hon. Kingi): You need to go on record. The reason we have these microphones is because we cannot be heard.

Proceed, Sen. Abass.

**Sen. Abass:** Mr. Speaker, Sir, I have heard the issues raised. We will have meetings from tomorrow with the people from the County Assemblies Forum (CAF) in Nakuru. The policies are still on. We will give you a report by next week, God willing.

**The Speaker** (Hon. Kingi): By next week, Wednesday, we expect a Progress Report.

**Sen. Abass:** We will do that.

**The Speaker** (Hon. Kingi): Thank you.

Let us have the Statement by Sen. Sifuna.

RENT ANOMALIES IN WOODLEY AND  
MARIAKANI ESTATES IN NAIROBI

**The Speaker** (Hon. Kingi): Sen. Sifuna is not in the Chamber. The statement is, therefore, dropped.

*(Statement dropped)*

The next Statement is by Sen. Hamida Kibwana.

*(Sen. Mumma spoke off the record)*

**The Speaker** (Hon. Kingi): Proceed.

LIFTING OF BAN ON LOGGING IN  
PUBLIC AND COMMUNITY FORESTS

**Sen. Mumma:** Thank you, Mr. Speaker, Sir, for allowing me to read the Statement on behalf of Sen. Hamida Kibwana, on the lifting of the ban on logging in public and community forests in Kenya.

Mr. Speaker, Sir, I rise pursuant to Standing Order 53 (1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding reports of the lifting of the ban on logging in public and community forests in Kenya by the Ministry of Environment, Climate Change and Forestry.

In the Statement, the Committee should -

(1) State whether the ban on logging in public and community forests has been lifted, stating the rationale behind the decision, in view of existing forest policy and legislative frameworks.

(2) Table evidence of any environmental impact assessment that was conducted prior to this decision.

(3) State whether public participation was conducted, tabling evidence of the same.

(4) State measures in place, if any, to ensure the sustainable management and preservation of forests, given the imminent threat posed by commercial and illegal logging.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Miraj, you may have the Floor.

## MASLAHI NA USTAWI WA MABAHARIA NCHINI KENYA

**Sen. Miraj:** Asante Bw. Spika. Nimesimama kwa mujibu wa Kanuni ya Kudumu ya 53(1), kuomba kauli kutoka kwa Kamati ya Kudumu ya Leba na Ustawi wa Jamii kuhusu Maslahi na Ustawi wa Mabaharia Nchini Kenya.

Katika Taarifa hiyo, Kamati iangazie yafuatayo:-

(1) Ieleze ni hatua gani Serikali inachukua kuhakikisha uzinduzi rasmi na utendakazi wa Baraza la Mishahara ya Wafanyakazi wa Baharini, ikizingatia kwamba mabaharia wanasalia kuwa wenye kipato duni nchini Kenya.

(2) Iarifu Seneti sababu zinazosababisha ucheleweshaji wa uchapishaji wa vitambulisho vya mabaharia, ikieleza kwa kina ni mipango gani Serikali inafanya kuhakikisha zoezi hilo linatekelezwa kwa upesi ili kuwapa fursa mabaharia kuweza kuingia nchi mbalimbali ulimwenguni.

(3) Ipendekeze utekelezaji wa sera ya mgao wa mshahara wa mabaharia na kuwalazimisha wamiliki wa meli kutuma asilimia sitini ya mshahara kwenye akaunti za mabaharia hao nchini Kenya zikiwa katika sarafu ya dola.

(4) Kupendekeza kuajiriwa kwa wakaguzi wa wafanyakazi wa baharini mahsusi wakusaidia kufuatilia maslahi ya mabaharia wanapotoka safari.

Asante, Bw. Spika.

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

**BILL***Second Reading*THE EMPLOYMENT (AMENDMENT) BILL  
(SENATE BILLS NO. 11 OF 2022)

*(Sen. Cherarkey on 30.5.2023)*

*(Resumption of debate interrupted on 6.6.2023)*

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. Since I have been called out as the Mover to reply, I intend to do so.

This is a straightforward Bill. I thank the many Senators and the Committee that gave invaluable advice and report on this Employment (Amendment) Bill 2022. I want to thank Sen. Okiya Omtatah who seconded the Bill, among other Senators.

In conclusion, this Bill has generated a lot of misinformation and miscommunication. The right to disconnect will be guided by the law. Many people such as the Federation of Kenya Employers and Central Organisation of Trade Union, among others, have raised concern about this Bill.

Mr. Speaker, Sir, during the COVID-19 pandemic, we were able to learn a lot of remote working using *Skype*, *Cisco* and other applications, including Teams in our Judiciary where we were working from home and virtually. Therefore, this Bill is informed by what we experienced during COVID-19, where even the Senate was working virtually. We were having hybrid meetings.

The right to disconnect is not the right *kupiga sherehe* as many young people would imagine; that you are not supposed to be called by your employers on Fridays or beyond working hours. What I am just saying is that this Bill - the right to disconnect - has been implemented in most countries. If this law is assented to by the President, Kenya will be one of the countries in Africa to proceed with the right to disconnect. It is a very important that we encourage and ensure that this Bill is applied in the working environment, but we should not abuse it.

I have indicated that some employers are mischievous, where they send emails beyond 4.30 p.m. and 5.00 p.m. and demand that that work should be ready by 8.00 p.m., not knowing that all of us; both men and women, have other obligations between 6.00 p.m. and 6.00 a.m. in the morning. That right should be respected. The right to privacy and right to family time; where people have quality time to spend with family should be respected.

Family is a social basic unit. You saw the old man with the hat, the great President of the Republic of Uganda, President Yoweri Kaguta Museveni; we wish him well as he recovers. He addressed the nation and said that he has tested positive for COVID-19.

He signed the anti-gay law in Uganda. Therefore, we need to lead in Kenya and encourage remote working. The reason President Museveni signed that into law is to protect the family unit. We must protect the family unit because it is basic.

Mr. Speaker, Sir, you can imagine when you are in your house with your spouse, you are expecting to be prepared for Chicken soup--- A neighbour, people who love chicken, especially free range not the broiler. I know there are people who eat other things in this town in the name of broiler or *kienyeji* chicken.

When you are somewhere and your stew is being prepared by your spouse, then you see your employer sending emails and messages of work; it even distracts you from doing what the Lord ordained us to do. This is because some employers even send messages at midnight when we should be proceeding with other serious matters of procreation, as ordained by the Holy Book.

Mr. Speaker, Sir, number three is that this Bill gives right to engage at an opportune time. Colleagues, Members, friends, leaders and even our visitors, what I am just transferring is to create a structured engagement. If you work virtually now, no one will pay you for overtime. Now I am bringing a law that will ensure that if you work virtually beyond working hours, as stipulated by the Employment Act, you are supposed to be compensated. I am just enriching Article 41 on Labour Rights under the Constitution of the Republic of Kenya.

I saw some people making fun of me on *TikTok* and many other social media platforms saying that I could not answer the question on housing deficit in the country. The reason the President is pushing for the Housing Levy Fund under the Finance Bill of 2023 is that we are aiming to ensure we protect the family; the 6.5 million Kenyans who live in the slums, including those in the City of Nairobi. It is good that my brother, the Senator for Nairobi City County, who is a staunch Catholic, is here.

How beautiful and nice when you walk to your house, acquired under the affordable national housing programme, and have instant shower in your house. It is very important. That is why this Finance Bill will ensure the family, as basic unit of society, is protected.



For the benefit of the country and my colleagues, we are exempting those working in emergency services on call. There is an arrangement that they normally have. If you are a doctor, a fireman or work in the emergency department, you will be exempted from the right to disconnect because you need to agree with your employer.

I want to allay the fears of the Federation of Kenya Employers (FKE) and other players in the sector or the Government. In the last Session, we had a push and pull in the Floor of the House about Mental Health Bill. We had an issue on mental breakdown. I am finishing in the next three or five minutes.

I do not know why the Deputy Minority Leader is excited today. For the record, because my Bill has been misunderstood, last year, Sen. Wambua, Sen. Madzayo - The Minority Leader and Sen. Olekina - we were with the former Senator, Sen. Kasanga, if my memory serves me right.

She was pushing the Mental Health Bill. What is happening is that there are performance targets by banks and other organizations. Our employees have burnout, mental breakdown and depression because of the performance targets.

Imagine you have left the office at 5.00 p.m., then your bosses call you up to midnight asking for the sales targets reached. We are protecting against burnout. We are protecting the health and mental wellness of the employees.

To the FKE and other employers, it does not make sense to have an employee who is mentally depressed and on burnout. The productivity will go low. Even International Labour Organizations, under the European chapter, have agreed with me on the right to disconnect. I want to bring to the attention of this House that this is an international issue, not a local one. The right to disconnect is a very important right in this evolving world.

My brother, Sen. Madzayo, who is our revered and respected Minority Leader, is a former Judge of the Labour Court. He knows that some of these disputes are because of mental depression.

You have seen some elements in the police killing each other because of mental breakdown, stress and burnout. Sen. Kibwana had even brought a Motion that we are still discussing on the Floor of the House because of mental breakdown.

The fifth point is that these international countries such as France and Portugal have already enacted the right to disconnect. The environment is changing from the traditional office, where you go and work from your desk from 8.00 a.m. to 5.00 p.m.

We now need to shift our focus to remote working environment. It will even assist the People living with Disabilities (PWDs) to be able to work at their convenience. Most of the government offices are not accessible and friendly to PWDs in the Republic.

I know where Sen. Olekina stayed for some time, the United States of America (USA), there is a debate about this Bill. He might have borrowed his political strategies from there. Many people do not know that he did at some point want to run for President. I do not know if the dream is still there.

I advise him to join us. He might have his dream realized on this side of the House, but after you. He should also behave and maintain order.

**The Speaker** (Hon. Kingi): Sen. Cherarkey, conclude on your comments, kindly.

**Sen. Cherarkey:** Mr. Speaker, Sir, I am concluding. You should even add me more time because I am putting your future on a proper trajectory of national power.

There are many countries with large economies buying this idea of the right to disconnect.

Colleagues and friends, this Bill will be a life changer, it will transform, protect out right to family, ensure everybody is respected and ensure the growth of the many labour rights across the country. The right to disconnect Bill does not mean *kupiga sherehe* at the expense of working because one must perform.

It is to ensure that when you engage through electronic mails (e-mail), short message services (SMS) and any virtual engagement while working remotely, your employer must compensate you. It will be the same as overtime, when you sit beyond working hours in an office.

I hope the National Assembly will agree with me and allow this Bill to be signed by His Excellency the President, Dr. William Ruto. It will effectively amend the Employment Act and giving Kenyans the opportunity to disconnect.

In conclusion, I thank your Office. It has been of great help together with the Secretariat led by the Clerk. The Committee of Labour and Social Welfare - I have seen the Vice-Chairperson, Sen. Mbugua and a number of Chairpersons - has been very supportive.

Your office has been very vital and supportive together with many other people who have given their support physically and virtually.

As I reply, I request that under Standing Order No.66, the putting of the question for Division be deferred until appropriately guided by the House.

Mr. Speaker, Sir, with those so many remarks, I beg to reply.

**The Speaker** (Hon. Kingi): Thank you. Division on that Bill is deferred until otherwise advised.

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

At this juncture I will move to re-arrange the sequence of the Order Paper, pursuant to Standing Order No. 45 (2). If you go through your Order Paper, you see Order No.10, The County Allocation of Revenue Bill. This is a Bill that has some statutory period within which to be processed and concluded.

Therefore, we will start that Order, and I will give further guidance, thereafter, on how we are going to move after we are done with it.

Clerk, proceed and call that Order.

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

Before the Clerk reads that Order, allow me to make this Communication.

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MUKAA GIRLS'  
HIGH SCHOOL, MAKUENI COUNTY

Hon. Senators, in the public gallery we have 72 students accompanied by three teachers from Mukaa Girls High School in Makueni County, who are in the Senate on an education tour.

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

*(Applause)*

I will allow Sen. Wambua to say a word.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity to join you in welcoming students from Mukaa in Makueni. Their Senator is engaged elsewhere, but he is on his way to the Chamber.

For the visiting teachers and students, I welcome you to the Senate of the Republic of Kenya.

This is where your leaders, who are elected to represent different counties in this country, converge every Tuesday, Wednesday and Thursday to debate matters of national concern, especially those that touch on counties.

Mr. Speaker, Sir, I wish them a fruitful stay. I hope in the course of their stay, they will learn a lot and some of them will aspire to come back here, not as visitors in the Public Gallery, but as Senators representing different parts of the country.

With those remarks, I welcome the students.

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

## BILL

### *Second Reading*

#### THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 16 OF 2023)

**Sen. Ali Roba:** Thank you, Mr. Speaker, Sir, for the opportunity to present the Second Reading of the County Allocation of Revenue Bill, 2023.

The County Allocation of Revenue Bill, 2023 (Senate Bills No. 16 of 2023) was published on 27<sup>th</sup> April, 2023 and read in this House for the First Time in the Sitting held on Tuesday, 2<sup>nd</sup> May, 2023. The Bill was then assigned to the Senate Committee on Finance and Budget for further processing.

The Bill proposes to share the allocation of Kshs385.425 billion (as contained in the Division of Revenue Act, 2023), equitably amongst the county governments for the Financial Year 2023/2024 in accordance with the Third Basis of revenue sharing.

Mr. Speaker, Sir, the Bill also contains two Schedules. The First Schedule is that of the horizontal share of revenue of Kshs385.425 billion. The Second Schedule contains the ceilings for the county executive and the county assemblies.

The horizontal distribution of the equitable share among the 47 County governments is achieved using the Third Basis sharing formula as approved by the Senate in September, 2020.

Mr. Speaker, Sir, for the sake of refreshing and sharing, that formula, if applied to the Kshs385.425 billion, proposes the Third Basis provides that Ksh158.25 billion be shared using an allocation ratio applied in the 2019/20 Financial Year.

The balance which in this case is Kshs226.75 billion, be allocated in accordance with the following parameters:

1. Basic equal share - 20 percent
2. Population index - 18 percent
3. Land area index - 8 percent
4. Agriculture index - 10 percent
5. Health index - 17 percent
6. Roads access index - 8 percent
7. Urban index - 5 percent
8. Poverty - 14 percent

Mr. Speaker, Sir, regarding the recurrent expenditure budget ceiling, the Commission on Revenue Allocation (CRA) submitted the recommendations, as they have been processed for county assemblies and county executives. These were considered by the Committee and published with a few amendments.

The total county assemblies recurrent budget ceiling for the 2023/2024 Financial Year amounts to approximately Ksh39.597. This is about 14.5 percent increase as compared to allocation for the 2022/23 Financial Year due to the provisions for Members of County Assemblies (MCAs) car reimbursement.

On the other hand, the county executive budget ceilings for 2023/2024 Financial Year amounts to Kshs25,825,556,396. The allocation is a 9.34 percent reduction from the allocation in 2022/2023 Financial Year budget ceiling.

Mr. Speaker, Sir, during the consideration of the County Allocation of Revenue Bill, 2023, the Committee held consultative meetings with various stakeholders, among them:

1. The National Treasury and Economic Planning;
2. The Council of Governors (CoG);
3. The Commission on Revenue Allocation (CRA);
4. The County Assemblies Forum (CAF)
5. The Society of Clerks at the Table (SOCATT) Kenya.

A number of county assemblies appeared before the Committee and requested for upward adjustment of their recurrent expenditure budget ceiling. The Committee noted the issues raised, such as security in some counties, cost of public participation in other counties and acquisition of recurrent assets which are one-off expenditures for some of these county assemblies.

Mr. Speaker, Sir, having considered the Bill, the Committee recommends that the Senate approves the Bill with the amendment – that the Second Schedule to the Bill be deleted and substituted thereof with a new Second Schedule reflecting the adjusted recurrent expenditure ceilings for county assemblies.

It is worthwhile to note that there is some air of emergency around the passage of this Bill because county assemblies are required to pass their budgets by 30<sup>th</sup> June, 2023. For them to pass this budget, these numbers need to have been considered in the budget well in time for that deadline to be arrived at.

*(Sen. Joe Nyutu consulted loudly)*

**The Speaker** (Hon. Kingi): Sen. Joe Nyutu, you are out of order and you are getting the caution for the day.

**Sen. Ali Roba:** Thank you, Mr. Speaker, Sir. It is the considered opinion and request of this Committee, that we expeditiously pass this County Allocation of Revenue Bill in order for county assemblies to factor in all the numbers as accurately as possible to minimize future necessities for amendments. We should as well pass the Bill in time for that consideration to take shape in order to meet the deadline of the passage of county budgets by 30<sup>th</sup> June.

The Committee has also made several recommendations, which are contained in the detailed report as submitted.

Mr. Speaker, Sir, I beg to submit and request Sen. Faki to second.

Thank you.

**The Speaker** (Hon. Kingi): Sen. Faki.

**Sen. Faki:** Asante, Mhe. Spika kwa kunipa fursa hii kuunga mkono Mswada wa Ugavi wa Raslimali kwa Kaunti zetu. Mgao wa Raslimali za Kaunti 2023 ni sheria muhimu ambayo inagawanya fedha zinazotoka kwa Serikali Kuu kwenda kwa serikali gatuzi.

Bunge hili lilipitisha Mswada wa Division of Revenue Act (DORA) ambayo ilileta Kshs385.425 billioni, kutoka kwa Serikali Kuu Kwenda kwa serikali za kaunti. Ijapokuwa sheria hii ilipita shingo upande, ndio sheria ambayo iko. Kwa hivyo, sheria ambayo tunajadili kwa sasa, imeundwa ikizingatia kwamba pesa zitakozota kutoka Serikali kuu kuja kwa serikali za kaunti ni Kshs385.425 billion.

Ugavi wa rasilimali hii umezingatia mfumo wa tatu wa kugawanya rasilimali, ambao ulipitishwa na Bunge hili Septemba, 2020. Katika vipengele ambavyo vimejadiliwa, mgao wa msingi, yaani *basic share*, unachukua asilimia 20; wingi wa watu, asilimia 10; ukubwa wa ardhi, asilimia nane; ukulima, asilimia 10; afya, asilimia 17, barabara, asilimia nane; ukuaji wa miji, asilimia tano; na umaskini, asilimia 14.

Katika kujadili wa Mswada huu, Kamati yetu ilipata fursa na kuchukua maoni kutoka kwa Baraza la Magavana, Wizara ya Fedha, Tume ya Ugavi wa Rasilimali na washikadau wengine. Vile vile, Kamati ilipata maombi kutoka kaunti 17 ambazo zilitaka kuongezwa pesa za msingi kutoka mwaka 2023/2024.

Baadhi ya mambo yaliyozungumziwa na mabunge ya kaunti ni pamoja na maswala ya usalama katika kaunti zilizo mbali. Kwa mfano, Kaunti ya Mandera inagharamika pakubwa kupeleka usalama wanapofanya public participation wanapojadili miswaada yao. Maswala ya ujenzi wa majengo ya mabunge ya kaunti pia ni gharama. Vilevile, kununua vifaa vya kisasa vya *HANSARD* ni donda sugu katika kaunti ambazo zimejenga bunge mpya. Ujenzi wa ofisi za Wajumbe wa Mabunge ya Kaunti pia ni gharama nyingine. Ofisi zenyewe zinatakiwa kuwa na samani na kadhalika.

Tuliangalia haya mambo hayo kisha tukatoa mapendekezo kwamba fedha wanazogawiwa ziongezwe, wananchi wahudumiwe vizuri. Tumeona pia Tume ya Ugavi wa Rasilimali imetoa mwongozo kuhusu idadi ya wafanyikazi wanaopaswa kuandika kazi na mabunge ya Kaunti.

Bw. Spika, imefika wakati ampapo ipo haja ya kuangalia upya maswala ya wafanyikazi wa kaunti. Kaunti zetu zimenawiri na kamati zimeongezeka. Kamati zile zinasaidia kuhakikisha kwamba fedha zinazotumwa zinatumiwa vizuri. Ikiwa mabunge ya kaunti yatakuwa na unyonge wa kufanya *first oversight*, matatizo mengi ambayo

yangetatuliwa huko yataletwa katika Bunge hili la Seneti. Itakuwa bora iwapo hayo matatizo yatatatuliwa huko na kuhakikisha kuna haki na usawa katika ugavi wa rasilimali hiyo.

Mabunge ya kaunti yanazidi kukandamizwa na Serikali za Kaunti, kwa sababu fedha zinapitia kwa County Treasury ndio zifike kwa Wajumbe wa Mabunge ya Kaunti. Hili swala linafaa kuangaliwa upya katika sheria ya Public Finance Management (PFM) Act, ndiposa bunge la kaunti liwe na fedha zake tofauti na County Executive. Tukifanya hivi, kazi za kaunti hazitalemaa kwa sababu ya ukosefu wa fedha.

Mswada huu ni muhimu katika uendeshaji wa kaunti zetu. Kama alivyosema Mwenyekiti wa Kamati yetu; ni lazima tuupitishie kabla ya mwisho wa mwezi huu ili mabunge ya kaunti yatakapojadili bajeti zao, yazingatie pesa kutoka Serikalii Kuu. Hivyo, watajumuisha fedha watakazokusanya katika maeneo yao, ili kuhakisha huduma hazilemei.

Ripoti zilizoko ni kuwa zaidi ya kaunti 14 zimefunga kazi kwa sababu ya ukosefu wa fedha. Ni muhimu Serikali izingatie mpangilio wa ugavi wa pesa unaopitishwa na Bunge hili, wakati wanapotuma pesa katika kaunti zetu. La sivyo, huduma za kaunti zitalemazwa halafu ndoto ya ugatuzi na huduma kwa kila mwananchi itafifia.

Kwa hayo mengi, ninaunga mkono Mswada huu.

**The Speaker** (Hon. Kingi): Hon. Senators, before I propose the Question, I have a Communication to make.

*(Interruption of debate on the Bill)*

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM SEKENANI PRIMARY SCHOOL, NAROK COUNTY

Hon. Senators, in the Public Gallery, we have 50 pupils from Sekenani Primary School in Narok County. They are accompanied by five teachers and they are all in the Senate on an education tour.

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

*(Applause)*

Since these are young people, I will allow the most youthful Senator to say a very brief remark.

Sen (Dr.) Oburu, proceed.

*(Laughter)*

**Sen. (Dr.) Oburu:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to welcome these young people to the Senate. It is an honour that they chose to come to the Senate to learn about legislation and the leadership of this country.

It is advisable that when young people come here, we give them words of encouragement. I would like to encourage them to adapt the principles of hard work and

discipline. Discipline is one of the cardinal principals of success in the life of young people. If you are not disciplined and you do not obey your teachers and parents, you will get into bad habits that affect most young people in our schools. The young people are getting into drugs and bad habits, which spoil their future. All those things such as enjoyment and so on are ahead, and they shall enjoy as much as they want.

This is not the time to enjoy. It is the time to work hard, obey teachers and parents and observe the principles of hard work. Your parents are working hard at a time when the economy of this country is going through a lot of hardship. They must know the burden being borne by their parents in paying school fees, is through a lot of sacrifice. It is not because in future they will help their parents, but because their parents expect them to be independent and support their own future lives. It is upon them to work hard.

I welcome them and appreciate that they have chosen to come here and be with us, and see how their leaders speak and give some good leadership guidance to the country.

**The Speaker** (Hon. Kingi): Sen. Olekina, you have under one minute to make your welcoming remarks.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. On behalf of myself and this House, I welcome the students from Sekenani Primary School. Sekenani is in the greater Maasai Mara region.

It is interesting that we are talking about the County Allocation of Revenue Act (CARA). Narok County generates most of its own source revenue from the greater Maasai Mara. One of the challenges we face in that area, is that most schools are still lagging behind.

In fact, I am happy that these students are here today.

I was having a conversation with two of my colleagues, the Chairperson of the Committee on Finance and Budget and Sen. (Prof.) Kamar. We talked about visiting the school. I am happy that they have committed to accompany me to the school in Massai Mara and build a dormitory for the young girls. This is highly commendable.

Sen. (Prof.) Kamar has also indicated her support towards education. She has asked me to tell the students that they have an opportunity to become great leaders. You have been honoured by this House and given an opportunity to be welcomed by the most youthful Senator we have in this Republic. He is attestation that hard work and determination can bring you here.

I welcome the students. After this, I will be joining them so that we enjoy lunch together. At least, they have gotten a chance to see what happens in the Senate.

Thank you, Mr. Speaker, Sir.

*(Resumption of debate on the Bill)*

*(Question proposed)*

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir, for this opportunity to contribute to this important Bill, which comes after the horizontal distribution of resources that we did a few weeks ago.

I listened to the comments of the Mover and the Seconder of this Bill on the debate we had before this House and in other places, including in public *barazas*, funerals and rallies.

This is testament to the work of the Senate and how important it is, particularly this and the Division of Revenue Bills. Once we have shared resources between the national and the county Governments, we proceed to share amongst the 47 devolved units via the County Allocation of Revenue Bill.

I congratulate the Members of the Committee on Finance and Budget who have taken time, worked diligently and presented a report before this House. I will refer to it most of the time in the submission I am making on what I think about this Bill and the findings that have been made by this Committee.

I have said many times that I value and respect the work of every Committee of this House. Unfortunately, because of having served the longest in my career in this House in the Committee on Finance and Budget, I take a lot of interest and follow keenly the work they do.

This is why when Sen. Ali Roba was moving this Bill – although I was out of the House when it began – I quickly dashed in to listen to him. I grabbed a copy of the report to acquaint myself with the thoughts of the new colleagues on the County Allocation of Revenue Bill, perhaps from a different eye.

This is the first opportunity I get to read and see County Allocation of Revenue Bill, not as a Member of a Committee, but an ordinary Senator. I want to see it from the perspective of our colleagues who have taken time to listen to the presentations and the request that come from the various county assemblies, which are quite important. This is not a practice that was long established. It is something that we began a few years ago.

Otherwise, back in the day, once the Division of Revenue Bill was out of the way, there was very little interest on County Allocation of Revenue Bill. However, with the introduction of ceilings after we amended the Public Finance Management Act in 2019 or 2020, the Committee was empowered to vary the various ceilings for individual county assemblies via the kind of requests that that both Sen. Faki and Sen. Ali Roba were refereeing to.

I will quickly move on to the crux of the matter. The Kshs385.425 billion is the amount of money before the Senate. We are being asked to share this equitably among the 47 counties – not equally, but equitably; a word that will take time for many to understand and distinguish.

However, this is what separates us and the National Assembly, on many occasions, on matters such as National Government-Constituency Development Fund (NG-CDF). The Senate, through its Committees, is able to set out a formula where we can equitably distribute these resources between all our 47 county units; taking into consideration the various dynamics and the difficulties.

This country almost split right down the middle. The debate on the “one man, one vote” is still alive. It is the Senate that added the ‘one kilometer’ to the debate.

We said that every inch of this country matters to us. That, while it is possible to carry on the dreams and aspirations that come from densely populated counties like yours truly represents, we cannot forget or leave behind those that come from sparsely, yet very expansive counties.



We were able to point to the country, at that particular time, that every inch of this country is important. Although, you may feel at this moment in time, for one reason or the other, that particular part of the country is not important to you, eventually you will come to understand that there is a correlation between a thriving Mandera and a thriving Kericho County, which I represent in this House.

There are things which if they were to go wrong in Marsabit, Samburu or any of the far-flung counties, have a direct correlation on us as the people of Kericho and Kisumu Counties or whichever part of the country that you come from.

Therefore, this Bill is an application of that particular formula. If you read through the Report, the Kshs385.452 is spread out via the table and the Schedule that has been issued together with the Bill.

After the work is done, what remains is pretty much plug and play exercise. The minute you have determined the 'how,' the bigger question is 'how much'. Once those two are determined then the other part that our colleagues in the Committee on Finance and Budget had to consider is the various ceilings.

I would like to point out that when reading through the Bill, I read through the Report. Of keen interest to me are the various observations that have been proposed before gathering the conclusion of the Committee via the recommendation.

The Committee informs us that they have taken serious concern the approach of the Commission on Revenue Allocation (CRA) on the allocation for public participation component under the operations and maintenance expenditure. It does not fully take into account the unique needs of each county. Several counties have requested for an increase in allocation due to the cost associated with the vastness of the various counties.

It is fairly straightforward to us, while we may want to distribute resources equally amongst us. Many of us that come from the Western side of the country, our counties are densely populated but do not have the geographical expanse. If you would carry out a public participation in my county, you would not use the same amount of resources like what it would take to do the same in Turkana, Garissa and Kitui, which we visited three years ago.

I did not know how expansive Kitui County was until we did Senate *Mashinani*. It was the first time that we got to travel around. There were days that we would leave at 6.00 a.m. for Committee engagement because we were supposed to make to the meeting at 10.00 a.m.

We would drive for three hours across the same county. I do not know how it will be like in Turkana County when we visit for Senate *Mashinani* later on this year. This is because it is three times the size of Kitui County. Basically, the Committee is making an observation in the agreement with CRA.

We shall continue to have this conversation because this is the work and the reason for this House. We exist as a Senate to look into the uniqueness of each of our devolved units and try to carry them on board as we make decisions.

The Committee has told us that counties continue to incur high costs associated with the provision of legal services such as litigation. Thereby further straining the resources available for development.

Sen. Ali Roba, you will realize that human behaviour is not static. It changes with time. You know the kind of work that we do as Senators is like a policing exercise. The kind of audit queries that we used to deal with here from 2013 to 2017 are not the same

as the ones that we see nowadays. I say this as someone who has been in this House for a while. It reminds me of what Chinua Achebe says in his book. I forget the exact name of the bird. Maybe Enugu. Achebe says that when men learned how to shoot without missing, the bird learned how to fly without perching.

**The Speaker** (Hon. Kingi): Senate Majority Leader, the name of the bird is Eneke.

**The Senate Majority Leader** (Sen. Cheruiyot): Eneke! Thank you, Mr. Speaker, for reminding me. Eneke is the name of the bird. Senate must become like Eneke as well. We must learn. As various changes continue to be witnessed in our County Assemblies, we cannot come with the same mentality of 2013 to 2017.

Previously you heard of misappropriation of tenders that are being fixed here and there. However, out of the vigilance of the Ethics and Anticorruption Commission (EACC), you see a lot of corruption in our county governments through this item that is being flagged by the Committee of Budget and Finance. You find an allocation of over Kshs6 billion in a county yet dedicating in excess of Kshs500 million to legal services. What is this the counties are paying for?

Mr. Speaker, Sir, we must stand against this and find ways. You either put a cap on like we have done on all these other things including the budget to the various County Assemblies. You know that as a county, if this is your allocation, you cannot be spending, more than a particular amount like one per cent, 1.5 per cent, 0.5 per cent on legal services. I say that because I know what goes on in our counties. I agree with our Committee on Finance and Budget when they flag out and say this is an avenue for corruption.

Many of these legal services that are being paid for do that even cost that amount. It is unfortunate that the Senate has continued to condone this kind of behavior. Sen. Ali Roba, remember one of the practices we have already established in this House and in this term is that, apart from flagging out malpractices and maladies that our in counties, we must equally propose a legislative mechanism for addressing those challenges.

Therefore, I expect the Budget and Finance Committee to propose and later lead this House with an amendment to the Public Finance Management (PFM) Act on how this item should be handled and dealt with.

If you go through all these counties, all of them have the Office of the Attorney. We passed the Office of the County Attorney Bill late in the term of the last Parliament. Despite them being the same lawyers, taught by the same professors yet for one reason or the other, you feel that you spend a better chance when you take your case to be handled by a lawyer outside the one that you have employed in the county government.

Then you would rather strike out those legal units so that you use whatever you pay for salaries to be what you share with these law firms that are proposed to handle these legal cases. There are counties that have continued to submit request addition for additional staffing to various departments. The Committee notes that the Senate resolved in May 2021 and I recall very well that County Assemblies should rationalize their staff to the County Revenue Allocation (CRA) staffing capping of 100 by June 2023. To this extent, the Committee cannot allow for additional recruitment of staff to a level exceeding 100.

This is one of the biggest failings of this House. I say this fully conscious as a leader knowing that we have failed and let down our people. It is not just about County

Assemblies Sen. Ali Roba. There is no county today under the PFM Act that is allowed to spend over and above 35 per cent on recurrent expenditure. However, today, there is not a single county that spends less than 35 per cent on it. All of them are spending over 45 per cent and we continue to condone this behavior. That is our failure as the Senate. We need to be moved, Sen. Ali Roba.

I challenge you and your Committee to bring a Motion to this House so that we come up with recommendations so that counties begin to receive their approvals to withdraw these monies that we are devolving in the next financial year, let each county governor file a redundancy plan or an action plan on measures taken to ensure that they comply with that particular provision.

Do you know what happens in our counties? A new county governor comes into office, what do they do? They hire completely new staff. Do you know what most of these staffers do? One is carrying water for the governor, another one is carrying a diary, there is another one carrying a biro pen, and there is a famous one who has been around since 2013 carrying a chair. How can we allow that, yet we are proud to take salaries as Senators?

Therefore, Sen. Ali Roba, we will go down in history as having failed devolution if we allow this practice to continue. I will tell you for a fact because you have been a county governor. The first set of governors like yourself, our Speaker and many others keenly observed these provisions of the law and kept it even below 30 per cent for many of these counties.

However, subsequent county governments especially the counties that have had the unfortunate incident of having more than two governors at this particular time where a governor lost in 2013 and, therefore, another one came and in 2017 a new one also came. That is where this problem begins. The Senate must address itself to this issue.

Pointing out to County Assemblies on this provision is not enough. We must tell our governors to stop misleading the country. The infamous argument before this House over the years has been that we picked staffers from defunct Municipal Councils. I agree with some of them when they say that. However, we know many of those staffers have already retired. However, while they retire, they open up. If you look at the amount that used to be earned by staffers of the defunct municipalities, it is almost double or triple what the ordinary staffers earn presently.

People are hired for amounts that range between Kshs.30,000 and Kshs50,000. However, when you check the drivers that were hired at that time because they were smaller units and the tools of governance were not as strong as they are today, then you will find that somebody cheekily looks at and says, driver so and so has retired. Their salary used to be Kshs120, 000. So, what do you do? Instead of filling that position with one driver, you pick six of them and pay them Kshs20, 000 each because you are trying to think that I have all these supporters that I promised to give them employment.

Employment can equally be an impediment to development. If you take money that was meant to benefit an entire village through a road, medicine to their dispensaries, and Early Childhood Development Education (ECDE) class and use it to hire four or five people only from that village, have you developed it? You have denied the people of an entire village development opportunities.

I, therefore, request Members of the Budget and Finance Committee including Sen. Faki who is a lawyer. You know that this is possible. Please lead this House in

calling our Counties to order. Let each Governor file a plan with the Senate. That is why you are the Governor and the Chief Executive Officer (CEO). Unfortunately, we have not been diligent as Senators.

You need to know as Senator for Siaya and Kitui what percentage of my budget is going to development and to recurrent expenditure. Once you know that, expect your Governor to file in this House a plan so that you know that by 2027, we have forced our counties to spend in excess of 65 per cent in development activities. Otherwise, we will have simply turned County Governors into Pay Master Generals.

There are county governments that are spending 50 per cent on recurrent and 50 per cent on development or even more. That is unfortunate. We are failing as the Senate. I am informed. That is really unfortunate. We are failing as Senate. I expect that the Committee will be able to lead us to that decision.

Mr. Speaker, Sir, what are the eventual recommendations of the Committee? I see a deletion of the Second Schedule of the Bill, setting out recurrent expenditure ceiling for the various county assemblies and the county executives and substituting it with a new one. Of course, I want to believe that this is in reaction to the one that came to you and there is good justification.

In fact, as Senate, county assemblies are our brothers and sisters, or they are our twin institutions. Without proper county assemblies, you cannot have a successful implementation of devolution.

A question was brought here by Sen. Cherargei yesterday and we all made our contributions about what is happening in our county assemblies, thanks to what the SRC has done. Listening in on the good ideas that were being shared by colleague Senators yesterday, Sen. (Prof) Tom Ojienda pointed out to us - we all agree with him - that paying the Members of the County Assembly well is not enough to empower that institution of the county assembly.

Perhaps, it is time that the Senate also led in this conversation in ensuring that what is it that we expect of each of our 47 county assemblies and what will be the costing to ensure that the MCAs are able to carry out their oversight responsibility without having to incur personal expenditure. When they go to inspect projects, what tools are we providing to these county assemblies, in terms of personnel and the knowledge and skills that they need to check?

Many a times, if you expect an MCA to read through the bill of quantities, look at a bridge and say that it is in compliance with what the state department expected of a road or a bridge; that is expecting too much.

You need professionals to do this job and we can build the capacity of our county assemblies by ensuring that there is a mechanism of checking. Otherwise, it is like an internal audit department of any organization. You expect them to read and go through all these proposals.

I know that there are a number of my colleagues who would like to make contributions because this is a very important Bill. I will just make my last point. There is a proposal that within 90 days of the tabling of this report, county assemblies need to submit it to the Commission on Revenue Allocation (CRA). Why the CRA alone and not to the Senate as well?

They need to submit a copy to this House as well because we check on the operations of the county governments which includes the county assemblies. Let them

file if it was possible and this is something that we can amend later on when we meet as a committee.

As they file with the CRA, perhaps a copy needs to be filed with this House so that we can see how many are not in compliance with this resolution that this House passed in 2021 on the number of members in each of the respective county assembly committee, the purpose of monitoring compliance with guidelines on committee composition.

Sen. (Prof.) Tom Ojienda mentioned to us yesterday that in his county assembly you will find a particular member serving in 15 committees. You will have to be a magician to be effective if you are serving in all those committees.

For those that have been here long enough, the truth of the matter is that as a Member of Parliament or an MCA, you cannot be properly effective beyond two or three committees. That is the reality because of the demands of time and many other things that you have to do as an MP or MCA. That is what we are expecting of our county assemblies and I hope the same can be concluded.

Good job, Sen. Ali Roba. That is the proposal that we give to you as Members of the Senate. I can see you have also gone further and tackled a very divisive issue that has been in this Senate for quite a long time; county-specific request.

I see a habit and I say this with tremendous respect to my colleagues on the minority and majority side. There is a habit that is creeping into this Senate that was not there before, whereby before voting on a Bill, people ask: "What is in it specifically for my people?"

While it is your primary responsibility, that alone cannot be your basis for voting on a particular matter because, in almost all matters that come before this Senate, there will always be gainers on a particular front and losers on a particular front. If you make it your business to just look out for your county, what about the day others will also say that on this one, I am not voting with you because my county is benefiting?

The truth of the matter is that there is no time when on your own, you will be able to raise or marshal the 24 delegations. You will always rely on the collective spirit of all the 47 delegations that are in this House.

By the way, people like Sen. Wambua and the rest that have served in the Senate long enough will tell you that many of these Divisions are quite blurred within a very short time in the Senate; these ones of majority and minority. Before then people caucus on need basis and many things happen in between.

Therefore, I want to encourage colleagues that when a Bill such as this one comes before the House, it is not just enough to say that because--- I say that because I have dealt with county-specific needs specifically Tana River County, Kilifi County, and Kajiado County Assembly; those three counties Assemblies that made specific requests to this House.

I am glad that our colleagues have requested it. We have done it before. When we first came to this House, some counties did not have even offices for their governors to meet because previously they were either districts or very small administrative units.

This House in its wisdom, because we consider that all the 47 units are important to this country allocated to around four counties among them being Nyandarua and Tharaka Nithi, for them to put up their headquarters and we passed it here without much of the huff. I never heard anybody say that why are you building a county headquarters

for Tharaka Nithi yet I do not come from there? That is the kind of spirit and thoughtfulness that I expect of each of us.

Finally, it is just a thought that I have shared, and I want to ask Sen Roba and Members of the Committee on Finance and Budget: What are we going to do on this issue of delayed disbursements? We must think through it. We have to give proposals and even radical ideas to the National Treasury because if we expect the National Treasury to sort it on behalf of our county governments, perhaps, they will never do it.

Is it not possible that as the Senate, we gather the collective wisdom of all the colleagues that are here and demand of the national Government that they issue a bond specifically for funding devolution and whatever money they attract on that particular bond be put in a consolidated account and then we have the national Government continue to add on that particular kitty as the month goes by?

This will ensure that if you issue a bond of maybe Kshs200 billion or Kshs300 billion, and I know, it is not easy to attract such monies but it is possible if we went out of our way. I have seen what the World Bank and the Government of China have been able to do on a specific department like the roads department by raising a US\$1 billion or US\$2 billion dollars. We could start with even just Kshs100 billion and have the National Government know that this is what they will spend in about three to four months because we are developing here Kshs385 million.

If you check over a long period of time you will observe that there is always a delay of between two, three or four months most of the time. In between that period, that money will be sufficient such that each county knows that by the 2<sup>nd</sup> or 3<sup>rd</sup> of every month, they will have received their expected disbursement on that month.

Then the National Government, because we understand the economic situation that we find ourselves in, fills up into that particular bond and the CRF account for devolution can be set up at the Central Bank of Kenya such that after three months that constant figure of Kshs100 billion is never moved.

Any time it reduces, there is a top-up because it is impossible to imagine that we will develop our counties if governors have to wait for three, four, five, or even six months sometimes before they get their disbursement. This problem is not likely to go away soon, especially with the debt situation that we find ourselves in.

We have to think and by resolution or whatever means, demand of the National Treasury to come and appear before this House and give a proposal. We will have ours but it cannot continue like this.

The present system that is being used is not tenable. This is not devolution as expected from us as and as enshrined in our Constitution.

Mr. Speaker, Sir, with those very many remarks, I beg to support and celebrate the good work of the Members of this Committee.

Thank you.

**The Speaker** (Hon. Kingi): Proceed, Sen. Wambua.

**Sen. Wambua:** I thank you, Mr. Speaker, Sir. From the onset, I wish to state that you do not get a second chance to make the first impression. Sen. Ali Roba and his team have done a good job. This being their first County Allocation of Revenue Act (CARA) and created a good impression.

It is important for colleague Senators who are debating CARA for the first time and for all of us to remember that perhaps this is actually the only Bill that originates

here, ends here and our word on it is final. This is the most important Bill for the Senate. We are now sharing revenue to our respective counties.

Mr. Speaker, Sir, I wish to state two things before I delve in to this Bill.

*(Sen. Cheruiyot stood in his place and consulted Sen. Veronica Maina)*

**The Speaker** (Hon. Kingi): Order, Senate Majority Leader and Sen. Veronica Maina. May the Senator be heard in silence, just like you were heard in silence.

**Sen. Wambua:** Mr. Speaker, Sir, you have defended me, so that is fine. Let me just continue.

The two things which Sen. Cheruiyot has mentioned that I want to put emphasis on, is the role of the Senate on matters devolution. I think if we do not get that right, then anything else that we do will be in vain.

Without mentioning names because there is no need to, I was a bit taken aback when we were debating the Equalisation Fund Bill. Some Senators said that they were not going to vote for it because their counties were not included.

If we take that route, then, instead of defending devolution, we will just kill it. If a substantial number of counties benefit from our work, then those counties do not have to be the counties that have sent us here. That is success of devolution and we must all be proud of counties benefiting from our work.

Mr. Speaker, Sir, the other issue is what this Committee has done on the matter of horizontal sharing of revenue among the 47 counties, of course as guided by the Third Basis. There has been a debate, which is coming up again and therefore, we must be cautious - the one-man, one-vote and one-shilling debate.

I am happy that we ring fenced the matter of land area index in the Third Basis. Every conversation that we are going to have on the sharing of resources to our counties, must always take into account one-man, one-vote, one-shilling, one-kilometer.

Mr. Speaker, Sir, there is something that we call distance to service. The amount of money, time, personnel and vehicle that you spend to deliver drugs in the furthest end of Marsabit County must count for the money that is allocated to that county. It is very easy to distribute drugs in an hour's time, to 50 hospitals here in Nairobi.

There are other counties where it will take a whole month to distribute the same drugs to the same number of health facilities. Therefore, the issue of distance to service as captured in land area index is an important one. For that reason, we should not lose out on that as this debate begins to reemerge.

Mr. Speaker, Sir, coming back to CARA for 2023, it is ridiculous. I want the Chairperson, and Vice-Chairperson to take note that there are certain things which we have to deal with going forward. One of those issues is pursuing an almost absolute autonomy of the County Assemblies from the Executives.

We ought to move beyond just an amendment of the Second Schedule and endeavor to ensure that once the Assemblies defend their budgets and their budgets are passed and approved, then, they should be fully in charge of their budgets, without making any reference whatsoever to the Executive.

Mr. Speaker, Sir, the debate on the matter that was brought here by Sen. Cherargei from Nandi, on salaries and allowances of Members of County Assemblies

(MCAs), is alive today. I was speaking to the Minority Leader in the County Assembly of Kitui, hon. Nganga from Miambani Ward, and he was telling me that they are not actually asking for more money. They already have that money in our budget.

The only thing that they are asking is to find a way of reallocation of those money and revenue, so that all the money that they have is not lumped in travel. He was very honest with me and told me that that is the reason why every now and then, your MCAs are either in Mombasa, Naivasha, Dubai or Turkey. They are trying to make up for the deficit that they face.

Mr. Speaker, Sir, the Committee on Finance and Budget needs to take the lead in looking for what amendments we need to propose to the Public Finance and Management (PFM) Act, to attain that autonomy, in terms of spending by County Assemblies. They should make sure there is proper flexibility on the way that they use their budgets, without reference to the Executives.

Mr. Speaker, Sir, the second thing is on the issue of Committees. The Senate Majority Leader has mentioned it in passing. In fact, in my conversation with the Chairperson of the Committee on Finance and Budget, he mentioned to me that there are some County Assemblies where they have in excess of 25 committees and yet, the ideal is between 14 and 16 committees. That is a regulation which the Committee on Finance and Budget must ensure that all County Assemblies comply with.

Mr. Speaker, Sir, there is the matter of the Exchequer releases to county Governments. This is my second last point. There are some quick wins that I expect Sen. Ali Roba to take a keen interest in. All county governments and Assemblies run accounts in commercial banks in their respective counties.

Those banks are making money and profits using the county money that passes through those accounts. The last time I checked, this country was doing badly financially. However, we are not necessarily insolvent. The Committee on Finance and Budget can help county governments by making it a pre-condition for commercial banks where the revenues for counties pass through, to process payments for county staff on the 26<sup>th</sup> of every month, whether there is money in the salaries account of the county assemblies and county governments or not.

At the end of the day, that money will be wired through those banks. There is no reason why the employees of the county government of Kitui should go without pay for two or three months yet the commercial banks that process these monies will eventually receive the money and process the payments. We can have a standing order. This can be a pre-condition for county governments to open accounts with commercial banks in their respective headquarters.

Mr. Speaker, Sir, I am going to complete my submission with the issue of disbursements. A conversation between a Committee of the Whole led by the Committee on Finance and Budget and the National Treasury would greatly help. This time round, let it not be a summons issued to the National Treasury. Let it be a conversation between us and the National Treasury. Let us ask them why they are unable to disburse funds to counties when the disbursements are due. What is it that we can do as leaders in this country and technocrats in the National Treasury to ensure that counties get their monies when they are supposed to?

If we continue in this way, that after we have passed the County Allocation of Revenue Act (CARA), we sit back and as governors complain that they are not getting



money, we in the Senate are also complaining. Somebody must provide a solution for this disbursement issue. That solution can only be found between ourselves and the National Treasury.

Mr. Speaker, Sir, with those many remarks, let me give other colleagues an opportunity to contribute to this Bill.

I support.

**The Speaker** (Hon. Kingi): Sen. Kisang', please proceed.

**Sen. Kisang'**: Mr. Speaker, Sir, I also rise to support this Bill. I know when we passed the Division of Revenue Act (DORA), the allocation was raised from last year's Kshs370 billion to Kshs385.25 billion to the counties with an increase of about Kshs15 billion. Although as Senators, we would have wished to raise it to Kshs404 billion, because of the conditions in the country, we reluctantly passed the Kshs385 billion. Out of this Kshs385 billion, Kshs425 million was for libraries that were devolved during this and the next financial year.

When the committee went around the counties, those 14 counties that did not have libraries wished that---

**The Speaker** (Hon. Kingi): Sen. Kisang' would you wish to be informed by Sen. Faki before you proceed?

**Sen. Kisang'**: He can inform me. He is my senior in this House.

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

**Sen. Faki**: Bw. Spika, ningependa kumfahamisha ndugu yangu Seneta wa Elgeyo Marakwet, Sen. Kisang' kwamba pesa ambazo tulipitisha kwa DORA ni Kshs385,425,000,000. Za maktaba haziko hapo. Waziri wa Fedha alipokuja katika Kamati yetu, alitaka kutuchanganya; alisema hizo Kshs425 milioni zilikuwa ni za kutoa huduma za maktaba ambazo zinatoka kwa Serikali Kuu zinakuja katika serikali za kaunti.

Lakini, tukamwambia Kshs385,425,000,000 ndizo pesa ambazo zinakuja kama *shearable revenue*; yaani, pesa ambazo zinatoka kwa Serikali Kuu zinakuja kwa serikali za kaunti. Mwishowe alikubali kwamba hakuna Kshs425 milioni ambazo ni za maktaba. Watatafuta katika fedha zao zingine lakini katika zile za mgao wa kitaifa, ni Kshs385,425,000,000.

**Sen. Kisang'**: Thank you. At least that is positive information. Sen. Faki is a Member of the Committee. We can push for an additional Kshs425 million for the libraries for the 33 counties. Now that they are going to look for money for the libraries that will be devolved, then we also need money for the other 13 counties so that all our counties, especially the county headquarters can have libraries.

When the committee moved around the counties during public participation, we learnt that not all counties are the same; they are very unique. There are those counties that are very flat, others hilly and others very rocky. So, it is important for County Revenue Allocation (CRA) to consider the terrain of the counties. As people say, one kilometre, one vote, one shilling. We also need to look at the uniqueness of these counties.

There are counties that have been marginalised. I know there is Equalisation Fund. There are counties that have suffered for long, especially in terms of insecurity. When CRA is doing these policies on allocation, they do not consider that. They talk about poverty and population. The population we are using is of 2009 instead of the latest 2019 census.

Mr. Speaker, Sir, as everybody has said, county assemblies need autonomy from the Executive. We have already agreed on what resources they are supposed to get but they have issues. You will find a county that has about 40 Members of the County Assembly (MCAs) has about 25 committees.

If it is a minimum of six Members per committee, it means that a member belongs to about six committees. Even here in the Senate, most of us are in either two or three committees. It is not easy to be effective in three committees because of the venues and timings of the committees. Committees are supposed to sit on Tuesdays and Thursdays up to lunch hour. If they are many, where will they sit? Probably it is the allowances that is making MCAs put themselves in so many committees. They appear there technically and do not make meaningful contributions.

It is important that the committee does regulations as Members have proposed so that they become effective and meaningful in terms of their primary oversight role at the county level. I am happy that there is about Kshs4 billion here on reimbursement of the motor vehicle grant for MCAs. Some counties have not allocated the car grant to the MCAs. Most of them are using public means.

For those who have even agreed to reimburse the car grant, Kenya Revenue Authority (KRA) are demanding 30 per cent of the car grant. Counties need to budget so that our Members of County Assemblies (MCA) can work effectively.

Mr. Speaker, Sir, I have also seen that they are spending a lot of money on insurance and legal services. I agree with the Committee that they need to hire their own internal legal counsels. They should have lawyers in the panel so that they can hire on a need basis if the internal capacity cannot execute the court cases.

As we go towards the review of the allocation of the formula, it is important that the Senate ensures fairness in terms of allocation of resources to counties. As Sen. Wambua said, we need to call the National Treasury and representation of the Council of Governors (CoG) to come before a Committee of the Whole House to discuss this matter.

It was agreed that resources are supposed to be disbursed timely and yet three or four months down the line, counties have not received resources. They have not paid salaries for the last three months. County assemblies and our hospitals are closing because they want to go on a go slow or strike.

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

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

I agree that if the National Treasury does not want to follow the Schedule that has been agreed upon, then we set up a fund. The Senate Majority Leader has proposed that we can have three months' cash in a particular account. If the National Treasury does not release resources directly by the second or third day of every month, then the Controller of Budget CoB will release those resources directly to counties.

If we do that, counties will not go without funds due to the many applications. The moment they delay paying salaries, it basically means that KRA will be on them. Most employees use facilities from banks and Savings and Credit Co-operatives (SACCOs) and they are due by end of every month.

Madam Temporary Speaker, it is very important that we ensure whenever the National Treasury releases resources to the national Government, they also release to county governments so that we do not stifle devolution.

It is important that we pass this Bill so that it is signed into law as soon as end of this month. If we do that, MCAs will be able to start debating the budgets in counties. As soon as we go to the next financial year, counties should be ready to receive money from the national Government.

I also believe that we need to give a condition to counties for their own source revenue. Most counties are not collecting enough. We need the Commission for Revenue Allocation (CRA) to give an incentive to those who meet the targets, so that they can get additional revenue.

Finally, Madam Temporary Speaker, I request our colleagues to pass the Bill, so that our counties can get resources as soon as we begin the next financial year.

Thank you.

**The Temporary Speaker** (Sen. Mumma): Sen. Sifuna, proceed.

**Sen. Sifuna:** Thank you, Madam Temporary Speaker. Allow me to join my colleagues who have thanked the Committee on Finance and Budget for a job very well done.

In continuation of the discussion we were having yesterday, I would want the House to pay attention to a matter that has been referred to by the Committee at page 14 of the report. This is on the question of the need for revenue allocation that anticipates the conditions in the country and on the ground.

In item No.11 the Committee tells us that the annual inflation currently stands at 6.5 per cent. The problem we have with this, is that every single year, the amount that is allocated to counties must consider some of these issues. If this is done, then you will not look like you are adding revenue or resources to the counties, when in the larger macroeconomic climate, you are doing the exact opposite or nothing at all.

If it is true that annual inflation is currently at 6.5 per cent and then you look at what the Senate approved to go to counties in terms of marginal increase, it was only representing about four per cent. The Kshs15 billion extra in the Division of Revenue is about four per cent of the entire amount of Kshs370 billion allocated last year. That tells you if you merge those two figures – the annual inflation and the marginal increase in the allocation to the counties – we have done a disservice to counties. This is part of the issue we were raising yesterday and on the date of debate on division of revenue.

Madam Temporary Speaker, for instance, Nairobi City County was allocated Kshs19.25 billion in the financial year ending June 2023. We are getting a marginal increase of only Kshs823 million in this particular financial year. Now, Kshs823 million in the context of the problems of Nairobi City County--- Nairobi City County has outstanding pending bills of Kshs100 billion. This financial year was the first time Nairobi City County was building an Intensive Care Unit (ICU) at Mama Lucy Kibaki Hospital in the history of devolution.

If you look at the needs of the people of Nairobi City County, I will continue to remind my colleagues that when it comes to the division of revenue, we must access all these factors and ensure that the counties get money that is substantial for them to make any meaningful progress. In fact, this position is further buttressed by the submission of CoG on page No.5 of that report. I will read this verbatim from the report of the

Committee under paragraph 31, which is the submissions of CoG. That; “the increase of Kshs15.425 billion---” They call the increase ‘a paltry’ increase and I agree with CoG. They say that; “the county governments will face major challenges in the performance of their functions and delivery of services to citizens in Financial Year 2023/2024, given the paltry allocation that we gave them as Senate.”

Madam Temporary Speaker, be that as it may, there are things that at least I am happy that the Committee listened to. The MCAs of the Nairobi City County Assembly appeared before this Committee and because of certain unique issues in Nairobi City County Assembly, I am happy that the Committee listened to them. They have approved an increase of about Kshs200 million in the ceiling of expenditure of the Nairobi City County Assembly.

As you know, Kenya has become an increasingly litigious society. People are going to court on just about every single issue and action that is taken by the county assembly. Nairobi City County Assembly has faced growing legal bills because of the many cases that involve the County Assembly. There is litigation that comes from impeachment of governors, the legislation that they pass and just about every act or law of legislation that is debated or passed in the County Assembly.

I believe this is part of the robust structure of our Constitution that, in fact, every citizen has a right to challenge these things. Whether it is on packing or advertising fees or review of valuation role, every single one of these matters have found its way to the courts. Right now, the demand on litigation alone in Nairobi City County Assembly is reported to be Kshs400 million.

Secondly, there is the question of the increase in the cost of public participation. I have heard my colleagues refer only to the geographical size of the counties as one of the factors that determine or affect the cost of public participation. However, we should also factor the population that we are governing.

Nairobians, as my delegation Member, Sen. Nyamu, will bear me witness, are very ‘woke’. That is the term the young people are using. Everything you do in the name of the people of Nairobi is subject to question and they would want to participate.

The county government is undertaking an urban regeneration programme of the old city council estates. Two weeks ago, it announced public participation for 13 of the old city council estates that are the subject of re-development. They want to build new houses in these places.

I had an opportunity to only attend two of those public participations to see that there was effective public participation happening in those forums. I went to Ofafa Jericho in Eastlands and Woodley Estate. The one at Ofafa Jericho was quite animated. By the time I arrived there, the residents had already kicked out the people from the county who were conducting public participation. Therefore, I believe the county assembly that the cost of public participation, the nature and need for engagement of citizens on every single thing that happens in the assembly has gone up.

The assembly also cited an increase in the cost of insurance driven mainly by factors within the insurance industry. I am happy that the Committee captured this particular need of an additional allocation of about Kshs30 million on insurance costs in Nairobi.

Therefore, whereas we support the ceilings, we wish that we had done better as a Senate on the division of revenue.

Let me conclude by speaking to something that the Senator for Kitui also alluded to, on the question of late disbursements. It has become the song in every meeting we have at the County Public Accounts Committee with county assemblies and the county governments. It looks like it is a pointless exercise for us to allocate these resources to counties. This is because they never receive the resources and when they do, it is late. When the money comes, it goes to payment of outstanding bills.

We have had a conversation with people from National Treasury. We asked the question, does the current National Treasury understand that it is not a national Government Treasury but a national Treasury?

You can see open bias in the manner in which these two levels of Governments are financed. When we had a meeting with the Cabinet Secretary (CS) and his Permanent Secretary (PS) for National Treasury and Economic Planning, the beginning of May, two months to the close of the financial year, about Kshs90 billion out of the Kshs370 billion that we had allocated to the counties in the last financial year, was still undisbursed.

Such a huge percentage of the total allocation is still pending. When you compare that to the Kshs2 trillion that had been allocated to the national Government, only about Kshs2 billion was remaining. Which tells you that when money hits our National Treasury and somebody is sitting there asking what are the priorities of the National Treasury, they never consider counties as a priority.

That is the reason we are saying we need a review. We may even need to change the name. Instead of National Treasury let us call it Kenyans Treasury so that these people get it that they do not exist to serve the whims of the national Government but these two levels of Government.

After we have determined the equitable share, then when money comes in, no one arm of Government should have priority of the other in terms of disbursement of those resources.

I rise to support. I hope that we can do better next year. I have seen the Council of Governors (COGs) complain that their recurrent ceilings have been lowered in this financial year.

I am sure the Chairman of the Committee on Finance and Budget has explained to them. Great explanations are going to come from them. However, for me, I wish that we do more in terms of growing the basket of devolution so that we do not have these conversations every time that there are constrictions of resources for the devolution functions.

Thank you, Madam Temporary Speaker.

**Sen. (Dr.) Oburu:** Thank you, Madam Temporary Speaker for the opportunity. I do not want to say much on this Bill, but it is one of the most important Bills that should be discussed by this Senate. I am not very happy that the Senate is not full.

Having said that, I would like to dissuade my colleagues in the Senate from the notion that there was an increment in allocation to counties from Kshs370 billion to Ksh385 billion. There is money in real terms and money in nominal terms. When you talk of money in real terms, you must look at the net present value of money. That is money minus inflation.

Even if you do not want to increase, at least, increase to the extent that you cover the inflationary trends in the country. The Kshs15 billion which we increased and passed

here to Kshs385 billion from Kshs370billion was only 4 per cent increment of the budget yet the projected inflation was standing at about 9.2 per cent.

That means that there was a difference of about 5 per cent which translates to more than Kshs20 billion. In actual sense, you reduced the allocation to the counties by more than Kshs20 billion. From Kshs370 billion it must have gone down to less than Kshs350 billion in terms of the real terms of money instead of the nominal.

Madam Temporary Speaker, that is something we are not debating now because it was already passed. I would like to speak to delayed disbursement. When you delay disbursement to the counties it means that the national Government is giving very little priority to the county governments. It was contemplated. I do not know why it is not explicitly stated, that in every shilling collected, the share of the county must be set aside.

It should not be the discretion of the national Government to decide when to and not to pay the counties. They should deduct the county portion and put it aside and remain with theirs, which is huge.

They can play with theirs as much as they like but not gamble with the one for the counties. Gambling with counties' money is making Government services very expensive.

In the counties, a lot of credible businesspeople have stopped doing business with the counties. This is because counties do not pay. Sometimes, it takes long for the money to be paid.

You find some of the small businesses have gone bankrupt. This is because counties are unable to pay them. They do not have enough capital to continue and the banks also cannot support them. Some of them have been bankrupted by the banks because of lack of payment of funds which is due to non-release or disbursement of money by the national Government.

Madam Temporary Speaker, this is something that the Senate must find a way of compelling and making sure the national Government disburses the necessary funds to the counties; either by setting aside from every shilling collected and making sure counties get their fair share.

The own-source collection is an area that needs to be strengthened and counties need to be strengthened so that they can collect money. This is an area where there has been a lot of corruption. I am not speaking about any county. This area has a lot of loopholes where more than 50 per cent of collections go to pockets of the individuals who collect these monies.

A lot of effort needs to be put so that these loopholes are plugged and counties have sufficient money to operate even when the national Government does not disburse money as is the position currently.

There were functions that were devolved by the Constitution but 10 years down the line, these functions are still being performed and their resources retained by the national Government. This is a serious issue because provisions of the Constitution are being violated. If it is because counties have not developed the capacity to handle some of these functions, that capacity was supposed to be developed with the assistance of the national Government. It was the national Government to assist counties to develop those capacities so that they can effectively handle those functions.

Madam Temporary Speaker, 10 years down the line, I cannot believe that the Ministry of Roads and Transport is still holding on to the Kenya Urban Roads Authority

(KURA) and Kenya Rural Roads Authority (KeRRA). These are obviously devolved functions because KURA is the one that deals with the roads in towns, urban areas and municipalities. Why should those functions be retained in the Ministry? I know the reason is corruption. There are people who know that when they hold those funds, then they have some leverage to get some benefits from them and therefore, they do not want to let go and these functions under the Ministry. The same applies to KeRRA.

Madam Temporary Speaker, these are just two examples but there are several others, particularly in the health sector. They have a lot of functions which the Ministry of Health is still holding on to, including funds to the counties. This needs to be released.

My county is being given some paltry increment and this is because we did not do a good job in allocating more money to the counties. I hope that in the next allocation, our Assembly will be more alert to the fact that we need to defend devolution, we need not come here to defend the national Government. We need to allocate more money to our counties.

Madam Temporary Speaker, on holding of funds for the county assemblies by the county executives. The county assemblies need to have a clear line for their funds to be allocated to them. This dependency on the county executive is making them subservient. To speak more bluntly, it is to disable them from oversighting the counties effectively.

The Senate should think of a way of creating clear budget lines for the assemblies and for the executives. From my experience, the county assemblies are better paymasters to their suppliers than the county executives. I do not know the reasons, but it is high time we considered separating the budgets of the county assemblies from those of the county executives; so that assemblies can effectively oversight executives without depending on them for allocation of funds.

Madam Temporary Speaker, with those few remarks, I support this Bill on behalf of my County and I hope these remarks will be taken seriously in the next allocation for counties. Thank you.

**The Temporary Speaker** (Sen. Mumma): Sen. Veronica Maina, you may proceed.

**Sen. Veronica Maina:** Madam Temporary Speaker, I thank you for this opportunity. I rise to support the Bill that is being debated. The Bill is clear that it is a horizontal allocation of resources to the 47 counties.

I specifically note Section 6 of the County Allocation of Revenue Bill, 2023 which has laid out certain parameters and steps to be observed for any functions that may be transferred to the national Government, pursuant to Article 187 of the Constitution from the county governments. I have remembered the incident where functions from Nairobi County were transferred to the national Government in the previous regime. The reading of Section 6 of the County Allocation of Revenue Bill, 2023 gives me comfort on the level of transparency that has now been thrown into such a transfer by this Section of this Bill.

Madam Temporary Speaker, there will now be clear reports given by the Auditor-General, not later than three months after the end of each financial year where they will prepare special audit reports on financial and non-financial performance of an entity to which a county government function has been transferred. This is so that we have higher levels of accountability when it comes to functions being moved from one level of government to the other level.

Madam Temporary Speaker, you will recall that Nairobi County has the highest allocation of resources. This level of accountability secures any transfer of function so that we do not have any mischief being ran by any level of government when such a transfer of function has been done.

This level of accountability should also run even after the horizontal of resources across the counties. It is one thing for resources to be transferred to counties but it is another thing how those resources are expended by the counties.

While the counties may be crying for more resources, they should be encouraged that if any funds are transferred for specific functions which are being run and managed by those counties; then we need to sit as leaders and *wananchi* and ensure that those resources are being utilized in a diligent manner and accountable fashion so that counties will not just be asking for additional resources while in actual fact those resources are disappearing through corrupt means while those resources are being managed at the county level.

The challenge goes not just to the national Government but the county governments too. If you look at the kind of resources that are being sent to the counties, even the Kshs385 billion if it was utilized well, we would have results that would be showing for a fact that the resources in this country are being properly utilized and that the citizens within the counties are benefitting from the allocated resources.

There is also the aspect of own source revenue from the counties. It is high time counties became more innovative on earning their own resources as opposed to waiting a whole year to pass and then crying out for allocation of resources from the national Government. We must look for ways of sustainability within the counties so that they can run their governments and budgets in a manner that is credible to the people who are paying taxes at the local level.

I would like to refer to one of the counties we visited in the USA that is Miami Dade County where we found that they had excess revenue because of their own source revenue. Somebody may quickly quip and say do not bring the American experience here. However, we will look at the experiences of successful counties and places so that we can take the best practices from those jurisdictions.

I would urge county governments to continue being diligent in management of resources. The same way that leaders are able to manage their resources in a credible, believable and transparent manner; let the same ideals and the same principles be transferred to public offices so that we can account credibly to the whole Nation and the people in our counties on how resources are being managed.

I support the Bill.

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I rise to support this important Bill in its amended version. Although I support the Bill, sometimes I am baffled as to why we sit here and debate both the vertical and horizontal Bills in terms of how funds are divided and sent to counties or between the two arms of government. The Constitution is quite clear that the money that is supposed to be sent to counties should not be delayed or reduced at all. It has to be sent immediately.

All of us are here supporting this Bill so that our counties can get money. Do we ever ask why we should not penalize the National Treasury for delaying the disbursement of money to counties?



A couple of weeks ago we invited the Cabinet Secretary in charge of the National Treasury to explain to us why he was violating the Constitution when it comes to the issue of disbursement. I am happy that this Senate is taking its work seriously and passing legislation. It is about time we have a conversation on how to safeguard the money supposed to go to counties.

The Commission on Revenue Allocation (CRA) is doing a fantastic job and I am happy with the steps they are taking but they have to be consistent. I have noted the ceilings for the county executives particularly Narok County have gone down from the previous year's ceiling. When I inquired from the Committee they indicated that this is from the county staff establishment and there are a few things that have changed. They have shared them with the CRA. The CRA has realized that earlier on they had overestimated their ceiling budgets but now they have come down.

I have also been made to understand that the County Executive Committee Members (CECM) will no longer be drawing money from the Executives budget; they will be drawing money from their line Ministries or departments.

As we debate this, we are aware that counties are up in arms saying they would like to be given money for this and that. I think it is important that we explain to them that there are a few things that have happened. For instance, the salaries for the governor and the deputy governor have been adjusted downwards. It is important for them to know that under full disclosure.

Secondly, when they realize that their ceilings have been reduced, it is important for them to realize that it is not the Senate that reduced the ceiling. The ceiling for Narok County Executive was reduced from Kshs607 million in the previous financial year 2022/2023 to Kshs545,667,287 in the financial year 2023/2024. Nairobi City County has been heavily affected. Before their ceiling was Kshs816 million but in this financial year it has gone down to Kshs640 million.

We might get daggers being thrown at the Senate by the county governments saying we have reduced their executive ceilings, but it is imperative for the governors to know that CRA relied on the information that they submitted on verifiable staff establishment.

Madam Temporary Speaker, as we debate on this Bill, the biggest question for us to ask ourselves is: What we are going to do to ensure that at least these counties get their money on time.

I do not believe that any county should have anything to do with pending bills. It behooves this House to build the capacity. I am happy that the ceilings for county assemblies have gone up to build capacity for county governments and budget for the money they have.

Most counties have this very bad habit and I think they are copying it from the National Government; that you pass a budget but before the financial year is over you have carried out about four or five supplementary budgets. It is time for us to become realistic and realize that the money that we have is the only one money that we will have in that financial year.

One thing I am always happy about and it is good for me to share with our new colleagues in this Parliament is that the last Parliament played a critical role in ensuring that money being sent to county governments will never go down. It will always go up.

Although this year the money going to counties went down because of inflation in the country, we tried to some extent to make sure it does not go down below Kshs370 billion.

I hope that in a couple of years when we shall review the formula that is relied on by CRA to disburse money--- I know at this point they are looking at different things. Allow me to grab my file. They are looking at different parameters given that they have taken basic equal share to be about 20 percent, population index 18 percent, land area index eight percent, agricultural index, 10 percent, health index 17 percent, road access index, eight percent, urban index, five percent, and poverty index.

I hope that now apart from just relying on these, we can go back to the earlier school of thoughts of putting a two percent incentive for accountability. I have noted with great concern and I do not know why the Committee did this that the Committee noted and never checked this with CRA.

For instance, the audit Committee meetings have been reduced to four. This has got two consequences; one is a direct consequence to the internal auditors in the county and the other is unintended.

The issue of accountability in counties will be will be left for the auditors from the Auditor General's Office to point what counties should have done. The internal auditors will not have enough money to sit in and audit the accounts of the county to help it maintain accountability.

We need to ask ourselves whether we are only sending money because of population, poverty index, road access index and not following it to ensure it is utilised effectively. Looking at all the 47 counties, there is no single county that does not have pending bills. Why do these counties have pending bills? It is because of bloated budgets.

Narok County is receiving Kshs9.1 billion which is slightly above what it received in the last financial year of Kshs8.8 billion. However, we need to sit down with the county assemblies to ensure that they, first of all, budget for the Kshs9.1 billion, remove the recurrent and development expenditures and shift their burden into the own source revenue game.

We have a huge capacity and capability of raising more money. However, the problem is that we do not like to build systems which enhance accountability. If we build systems that are clearly defined by our spatial plans and the own source revenue streams, our counties will not be saying that they are shutting down because money from the National Treasury has not been released. They would be relying on their own source revenue.

The Senate ought to start considering the own source systems that can ensure that as I sit in this desk, I can check on my phone how much Narok County is collecting today. Most county governors will not want that.

When the Controller of Budget (CoB) attempts to get information about how money is being spent in the county governments the county governors go up in arms. They say that they are trying to be controlled which is not the case. All we are calling for is accountability.

Although this allocation is a minimal increase from the previous financial year, I hope that the money will go to counties. I am happy that we had many Senators who ended up becoming governors. I hope that they will only budget for what they receive. Although the budget process has got to come in first, I hope they can budget for the money they know that they will receive and only commit to those expenditures.

Finally, I call upon the county governments to work closely with the Commission of Revenue Allocation (CRA). The county assemblies now that I have noted that most assemblies have got their budget ceilings increased. They should work closely with the Council of Governors and the National Treasury, so that after the term of this Parliament, county assemblies will have their financial autonomy.

The only time the county assemblies will oversight county governments is when they have financial autonomy. However, if they continue to rely on county governors, they will continue to sing the song of asking for the Ward Development Fund, just like we sing here in the Senate about the Senate Oversight Fund and forget our primary job which is legislative.

I thank you for the opportunity and hope that we are not just talking here. I hope the National Treasury will prioritize the money that is supposed to go to counties.

Before I sit down, something has crossed my mind. Now that we have the Consolidated Fund, why can we not start thinking about amending the Public Finance Management (PFM) Act, having a big kitty and dividing all the money we get into three. We will then have a fund where we put all the money that will go to county governments, the Consolidated Fund and the Parliament Kitty. This is so that in Parliament, we do not have to keep on relying on the Exchequer releases. In fact, even if the National Treasury is the one to release the money, they will look at our accounts and decide that since we have the money in the kitty they should release to us. The National Treasury will check the amount of money in the entire overall kitty for counties and decide the share for Narok, Kajiado and other counties.

**The Temporary Chairperson** (Sen. Mumma): Sen. Mwaruma, proceed.

**Sen. Mwaruma:** Asante, Bi. Spika wa Muda, kwa fursa hii umenipa ili nichangie Mswada wa *County Allocation of Revenue Bill (CARB)* ambao ni muhimu kwenye Bunge hili la Seneti.

Mwaka wa 2010 kama Wakenya tulijipa Katiba mpya ambayo ilileta mfumo wa uongozi kwa ngazi mbili -- ngazi ya Kitaifa ama *National Government* na ngazi za kaunti ama magatuzi.

Katiba mpya ilipopita, kulibuniwa *Consolidated Fund* ama hazina ya kitaifa. Tume ambayo inahusika katika kugawanya hizi pesa mara mbili kwa serikali ya Kitaifa na serikali za kaunti ni CRA.

Tume hii ikipitisha mfumo wa ugavi wa pesa kwa serikali ya Kitaifa na kaunti kwa sheria inayoitwa *Division of Revenue Act (DORA)*, Wakenya walisema kwamba ni vizuri kuwa na wawakilishi ama wabunge wa Bunge la Kitaifa na Bunge la Seneti ili kupiga msasa sheria ile.

Wiki kadhaa zimepita tangu kupitisha *DORB*. Baada ya kugawanya pesa mara mbili, pesa za kwenda kwa magatuzi inagawanywa mara 47, kwa sababu magatuzi ni 47.

Sheria inayotumika kugawanya rasimali ya kitaifa mara 47 ni *CARB* ambayo tunajadili leo. Sheria hii kupita kwenye bunge la Seneti inahitaji formula ama mfumo wa kugawanya pesa.

Mwaka wa 2020 kulikuwa na patashika, vuta nikuvute kati ya Maseneta na *Executive* kwa sababu ya ule mfumo uliopendekezwa. Kaunti zingine zilikuwa zinapoteza pesa. Tuling'ang'ana na kukubaliana kwamba tutumie formula ama mfumo wa pili wa kugawanya pesa.

Hii leo katika hii sheria *DORB*, Ksh385.4 bilioni imependekezwa kuenda kwa magatuzi. Kati ya hizi pesa, asilimia 14.5 ama Ksh35.9 billion zimeenda kwa *county assemblies*.

Bi. Spika wa muda, bila kuongea sana kuhusu undani wa *CARB*, ningependa kusema kwamba magatuzi ni mfumo wa serikali ambao ni mpya. Mfumo huu umekuwa kwa muda wa miaka 13 lakini umekumbwa na changamoto si haba. Nafikiri katika kuongea kwangu na kuchangia huu Mswada, ni vyema niangalie zile changamoto ambazo zimekumba serikali zetu za ugatuzi.

Changamoto ni nyingi na ya kwanza ambayo inafanya ugatuzi usinawiri ni kucheleweshwa kwa kutolewa kwa mgao kwa magatuzi. Hivi sasa, serikali za magatuzi zinadai pesa nyingi za mwaka wa kifedha 2022/2023 ambao unaisha mwezi huu.

Hata hizi pesa zikiachiliwa na Hazina ya Kitaifa, bado hakutakuwa na muda wa magavana kuzitumia. Kucheleweshwa kwa mgao kwa magatuzi kunapelekea kuwa na huduma duni. Kwa mfano, hospitali hazina madawa na vifaa vya kutibu. Wafanyikazi, madaktari na walimu hawajalipwa. Hivyo basi, huduma zitakuwa duni kwa sababu wafanyikazi hawana motisha. Kama daktari huwezi kufanya kazi ukiwa na motisha ikiwa haujalipwa mshahara. Motisha umekuwa chini kwa wengi. Hata kama wangukuwa na motisha na hakuna dawa na vifaa vya kufanya kazi kule hospitalini, huduma zingekuwa ni duni kabisa.

Vilevile, kuna changamoto nyingine tumeiona, na Kiongozi wa Wengi Sen. Cheruiyot aliiangazia vizuri sana. Alisema kwamba tumepeleka pesa kwa kaunti lakini shida imekuwa ni kuajiri watu wengi kupita kile kiwango ambacho kimewekwa na sheria. Sheria imesema asilimia 35 ya zile pesa zinazoenda kwa magatuzi itumike kwa uajiri lakini kaunti nyingi zimeajiri watu kupita kiasi. Wengine wametumia asilimia 40 na 50. Kwa mfano, Kaunti yangu ya Taita Taveta, tuko kwa asilimia 52 ya ule mgao unaenda kwa kaunti yetu. Kama tunahitaji kufanya maendeleo na kile kiwango kilichowekwa ni asilimia 35, tukilipa zaidi, zile pesa zinazobaki za *operations* inakuwa kama asilimia 10 peke yake. Ni vizuri kama Seneti tuhimize kaunti zetu na tuwalazimishe kufuata sheria za kuajiri. La sivyo, pesa zote zinazoenda kwa kaunti zitatumika kuajiri na maendeleo yatakuwa duni.

La tatu ni ufisadi ambao umekuwa donda ndugu katika kaunti zetu. Dhamana ya pesa zinazoenda katika kaunti nyingi hazionekani. Ile miradi inayofanywa na kaunti, bei yake iko juu sana kupita kiasi. Nilijaribu kulinganisha zile pesa, kwa mfano, za kujenga darasa kwa mgao wa *National Government-Constituencies Development Fund (NG-CDF)* na za kaunti. Unapata darasa inajengwa na Ks1.2 milioni katika NG-CDF, lakini madarasa mengi yanayojengwa na serikali za kaunti ina gharama ya Ksh2.5 milioni. Unashangaa wakandarasi ni wale wale. Kwa nini serikali za kaunti zinatumia pesa nyingi zaidi katika kandarasi hizo? Ni kwa sababu, katika kufanya bajeti ya miradi, wameweka pia pesa ya ufisadi.

Donda ndugu lingine lililoko katika kaunti katika uajiri ni kwamba kuna wafanyikazi wengi gushi wanalipwa. Ni vizuri kama Seneti ambayo inafanya *secondary oversight*, tuangalie na kutafuta mbinu ambazo zitakomesha ufisadi huu.

Shida nyingine ni kwamba kuna maeneo mengine ya magatuzi katika kaunti moja yanayobaguliwa kimaendeleo. Kwa mfano, katika kaunti yangu la Taita Taveta utapata kuna maeneo ambayo yalimpa Gavana *support* ukilinganisha na yale hayakumpigia kura. Maeneo hayo yanatengwa kimaendeleo. Kwa hivyo, ni vizuri kaunti zianganalie kupitisha

sheria itakayo hakikisha kila eneo la kaunti linapata maendeleo bila mengine kuwachwa nyuma. Kama Mswada wa Building Bridges Initiative (BBI) ungepita, tulikuwa tumependekeza kuwe na *Ward Equalization Fund* ama *Ward Development Fund* ama sheria ya kuhakikisha kwamba kila wadi inapata pesa zinazowiana na zingine kwa sababu ya maendeleo ili kuhakikisha hakuna eneo lolote katika kaunti limewachwa nyuma. Kuna kaunti zingine nchini tayari wamepitisha sheria ya *Ward Development Fund* ili kuhakikisha kwamba mgao unaoingia kwa kikapu cha kaunti unaingia kwa kila wadi na kila wadi inapata pesa zake za maendeleo pasipo kutengwa.

Changamoto nyingine ni malipo duni ya Wawakilishi wa Wadi. Nashukuru ndugu yangu, Seneta wa Nandi, Sen. Cherarkey, kwa kuleta Ombi kwa Bunge la Seneti kuangazia mambo ya malipo na marupurupu ya Wawakilishi Wadi. Ikiwa unafanya kazi na unalipwa 80,000 kwa mwezi na unatajikana kutunga sheria, kufanya utafiti, kusoma kwa kina na kufanya uangalizi, sina uhakika utakuwa na motisha wa kufanya kazi hiyo. Kama Seneti, hili swala la mishahara na marupurupu ya Wawakilishi Wadi ni swala linalofaa tuliangazie kwa undani. Ni jambo la kuhuzunisha kwa sababu wale Mawaziri wa Kaunti wanapata Ksh400,000. Hata kama kungekuwa na tofauti ya mishahara, labda hawa Wawakilishi wa Wadi wangeanzia, kwa mfano, Ksh200,000 kwenda juu. Huwezi kufanya kazi wakati unaliwap Ksh80,000 kwa mwezi ilhali unatarajiwa kuangalia Ksh5 bilioni. Lazima ukifuatiliwa vizuri na Gavana, utawekwa kwa mfuko. Wawakilishi Wadi wengi Kenya wamewekwa kwa mfuko na magavana. Hawawezi kupumua, hawana sauti na wizi unaendelea kwa kaunti zetu na Wawakilishi Wadi hawaongei. Kwa hivyo, hilo ni swala lingine ambalo limepelekea ugatuzi kutonawiri.

Swala lingine ambalo tumeliongelea katika Bunge hili ni mfufumko wa bei. Seneta wa Siaya aliangazia hili jambo. Alisema zile pesa zinazotumwa kwa magatuzi hazilingani na mfufumko wa bei kulingana na vile gharama ya maisha imepanda. Ukiangalia kwa ile sheria ya *Division of Revenue Allocation Bill (DORB)* tuliyopata mapendekezo kutoka kwa *County Revenue Allocation (CRA)*, ilisemekana mfufumko wa bei ilikuwa asilimia nane. Iitakikana pesa za kwenda kwa kaunti ziwe Ks407 bilioni ili kuangazia mfufumko wa bei lakini tumepeleka Ksh385 bilioni. Kwa hivyo, pesa tulizopeleka kule haziwiani na mfufumko wa bei. Kama kuna bajeti imefanywa mwanzoni wa huu mwaka, kwa mfano, wa kujenga darasa wakati bei ya chuma ilikuwa ni Ksh2000, kwa sasa bei ya chuma imefika Ksh2500, na hatuajaanza mfufumko na pesa tunayopeleka kwa kaunti, basi kutakuwa na miradi michache itakayofanyika. Kwa hivyo, tungekubaliana wakati mwingine tukiangalia sheria ya DORB ama zile pesa zinazoenda kwa kaunti, tusikize wataalamu wa CRA wanavyosema na walivyofanya hesabu kulingana na mfufumko wa bei na kadhalika.

Jambo lingine ningependa kuangazia ni kwamba, baada ya kupitisha hii sheria ya *County Allocation Revenue Bill (CARB)*, kule mashinani kwa kaunti na wao wanafanya bajeti zao kulingana na zile pesa ambazo tumepitisha huku ya kila kaunti kuangalia ile pesa ama makusanyo ama *own source revenue* ya kaunti. Kuna wazimu unaoendelea kwa kaunti zetu. Unapata kwamba, kufanya biashara kwa kaunti imekuwa vigumu sana kwa sababu vibali vya kufanya biashara vimekuwa juu sana.

Bi. Spika wa Muda, kijana mdogo ambaye anaanza biashara ya duka, unamlipisha Ksh40,000 kwa mwaka, ili kuongeza *own source revenue*. Vijana wetu, akina mama na kadhalika, hawawezi kufanya biashara kwa sababu wanagharamika sana kulipia leseni za biashara ambazo zimewekwa na magatuzi.

Nilikuwa ninaangalia Mswada wa Fedha wa 2022/2023 katika Kaunti ya Taita Taveta. Nikapata kwamba mama wa soko anapoleta gunia ya sukumawiki, anatozwa ada ya Ksh30. Ukienda msalani, unatozwa ada ya Ksh10. Nikawa ninajiuliza, jamani, simtamaliza hawa akina mama? Hii ada ya Kshs30 ambayo amelipa, ni ya huduma yaani *service charge*. Huduma zenyewe ni pamoja na choo, usalama na hata maji kama anauza maembe ama sukumawiki ili apate kuosha.

Wakati unamlipisha Ksh30 na zingine tena za choo, hivyo ni kulipa ushuru mara mbili, yaani *double taxation* kwa Kiingereza. Huo wazimu wa *own source revenue* ama pesa ya makusanyo katika county, umepelekea biashara nyingi kufa.

Ni vizuri pia niseme ya kwamba katika huu Mswada wa Fedha, Serikali ya Kitaifa itapelekea biashara nyingi kuharibika. Yule mama mboga ambaye anakusanya Ksh500,000 kwa mwaka, na yeye pia ataingia katika *tax brackets* kulingana na huu Mswada iwapo utapita.

Bi. Spika wa Muda, mtu yeyote ambaye anakusanya Ksh1,390 kwa siku ama Ksh500,000 kwa mwaka, atalipa ushuru kulingana na huu Mswada. Hawa ni mama mboga, mtu wa boda boda na wale watu masikini ambao hii Serikali ya Kenya Kwanza ilisema itawalinda. Huu Mswada ukipita, utawafinyilia. Mfumo wa *bottom-up* utafinya wale watu wa chini iwapo huu Mswada utapita.

Nikimalizia, huu Mswada wa Fedha hautakuja kwa Bunge la Seneti. Huo Mswada uko Bunge la Kitaifa. Kama viongozi na kama Bunge la Seneti ambao tunawakilisha kaunti zetu, ni vizuri tuupinge kwa kinywa na sauti zetu zisikike ya kwamba hatutaki huo Mswada upite kwa sababu utakandamiza mama mboga na wale watu wa chini.

Ninashukuru sana kwa huu muda.

**The Temporary Speaker** (Sen. Mumma): Sen. Cherarkey, proceed.

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker. I concur with what my colleagues have stated on the County Allocation of Revenue Bill, (Senate Bill No.16 of 2023).

As you are aware, this is just what we call the budgetary cycle process. We need to thank the Supreme Court because at the start of this Senate, the National Assembly thought that we should not be part of any budgetary making process. However, these are the fruits and the growth of devolution that continues.

Some of us have mixed feelings about money going to counties. I want to put the record straight. I have seen my colleague, for the convenience of microphones and the media and to excite the public, they have made very serious assertions; that we slashed money that was going to counties. Contrary, there is an increment. In the hindsight of institutional memory, in the Financial Year 2022/2023 after the protracted Third Basis Formula that we used, we allocated counties Kshs370 billion this financial year.

Madam Temporary Speaker, we have pushed the increment to Kshs385.3 billion. This shows the commitment of the Kenya Kwanza Administration and the President H.E Excellency, in protecting, nurturing and growing devolution. So, the public and Kenyans should be aware that against all our political leanings, there is a total increment of Kshs15.3 billion going to counties. We want to thank the Government for that.

I have heard in other news very senior leaders telling the Government not to tax and then asking the Government why they are not paying judges and *wazee* and projects have stalled. It is unfortunate. As we talk, Kenya's public debt is approaching Kshs10

trillion. The only two options that we have is to borrow more – which is not tenable – or tax and seal loopholes and leakages of taxation.

The former Prime Minister has said the same thing that we are saying; that we ensure reduction of expenses and Government wastages. That is why the Finance Bill, 2023 should pass as it is without changing a comma. One of the reasons is that there are no new taxes in the Finance Bill, 2023. I want Kenyans to get this straight. For example, in the Housing Levy Fund, the employee and the employer will give three per cent each and we are capping the amount at Kshs2,500. These are savings and after seven years, you can get back your money.

I am saying this because it is under Article 43 of the Constitution on Economic and Social Rights. I have heard people saying that the Government does not have business building houses. However, the people will equally be accusing the Government that it needs to submit a report on the implementation of the human rights situation in the country. Part of human rights is the right to shelter, food, clothing, education and health. All this is captured in the Constitution.

It is unfortunate for any leader to say that Government does not have business building houses. I wish to repeat on the Floor of this House, more than 5.6 million Kenyans live in slums. There are slums in Kapsabet, Nandi County, where I come from. Even small towns like Imaki has a slum called Kibra. It does not mean that we want to pass this Finance Bill as it is.

Therefore, Madam Temporary Speaker, I know that all of us are excited. I do not have a problem with the Minority Side, including my brother, Sen. Mwaruma. They have a right to oppose but they should allow the Government to fix the mess. He was on the other side and I remember him leading the choir during the ‘Handshake’ Government.

I remember when the Finance Bill was being passed, there was the tyranny of numbers. At the time, Sen. Osotsi was a diligent Member and supporter of the Finance Bill in the National Assembly.

Therefore, we need to be honest. Where do you want Sen. Ali Roba to raise this money? I was shocked over the weekend to see a very respectable Member, whom I serve with in the Board of the SACCO of Bunge, telling the people that they want to cede. Before closing the comment, he told the Deputy President that they needed roads. So, what are you saying? As a country, we must speak the truth to power and to ourselves and accept the reality.

I have four points and I will go over them quickly. I want to confirm, I have heard people say that if the Finance Bill passes in the Parliament, they will do the wider public assembly. Why are you disturbing Kenyans? Article One of the Constitution gives us the power to exercise sovereignty and power indirectly. Kenyans voted last year. Why would you want to disturb Kenyans yet we voted?

The Speaker is there by right. Why would somebody imagine that he cannot preside over the House and go outside there and make noise; yet you were elected to preside over the House?

Madam Temporary Speaker, we have tremendous respect for the Chairperson of the Committee on Finance and Budget. He is one of our principals in Kenya Kwanza and a Party Leader. I can see he is excited about it, which is okay. I confirm to the whole country that the Finance Bill shall pass. We will raise revenue and it will be used prudently.

The second and final point is that I have seen there is an increment to Nandi County. I have mixed feelings about this. It is because if you want to know the headquarters of corruption, lethargy and mismanagement of county resources, then you need to see Nandi County under the leadership of Hon. Sang', the Governor.

Madam Temporary Speaker, there are many women who have lost their lives at Kapsabet Referral Hospital, a few days ago, while giving birth. Why should a woman during this time and era die while giving birth? It should be the other way round. She should be giving life.

Madam Temporary Speaker, it is sad that we are pushing to increase money to Nandi. I have heard us making sweeping statements that counties are corrupt or not functioning. I expect the Chair of Committee on Finance and Budget to listen.

Bring a policy or legal intervention, to stop counties like Nandi who are perpetuating corruption, from receiving their allocation, until they use it prudently.

If Mandera is using it well, then let them get their money. They should not be condemned because Nandi is perpetuating corruption. We must as, a Senate, bite the bullet.

Madam Temporary Speaker, the problem with Ethics and Anti-Corruption Commission (EACC) and Directorate of Public Prosecution (DPP) is that they are partners in crime.

If you report misappropriation of funds in Nandi, they go and tell the Governor that there is an issue. They see each other '*nyuma ya* tent and that is it. The people who report become the target of political witch-hunt, EACC and DPP, as opposed to pursuing the perpetrators. We should not allow it.

I condemn what is happening at Kapsabet Referral Hospital and other hospitals.

Madam Temporary Speaker, it is sad. Nandi County got Kshs6.9 billion during the last financial year. We have now increased it to Kshs7.3 billion. However, you will find my Governor changing clothes in the tarmacked runway of Jomo Kenyatta International Airport (JKIA); moving from Etihad to Kenya Airways (KQ) to Emirates to Lufthansa and even to private ones, at the expense of what we are allocating. I feel so pained. We have increased the allocation of Nandi from Kshs6.9 billion to Kshs7.3 billion.

There are no drugs in more than 196 health facilities in Nandi including Maraba, Kapsabet, Mosoriot, Kabiyet and Chepterwai.

In fact, I have seen in your Bill, Sen. Ali Roba, that health should go back to the national Government because counties cannot manage.

In fact, I have appealed to the President that counties should not refuse to relinquish their health function to the national Government. As the Senator of Nandi, I request him to, personally, take over the health function of Nandi County.

My people are dying and I am tired of burying them. I am tired of attending funerals, simply because of negligence by somebody who should be doing their job. We have agreed that since our Governor is serving his second and final term, we just pay him a salary. He should allow us to take these functions to the national Government, for the President to assist us.

Madam Temporary Speaker, you are our neighbour. I know you have passed through and admire Nandi. However, we are not doing well. The roads are pathetic. We cannot take our produce or milk to the market. Can you believe that our milk expires



before it reaches the market? I have seen the issues of maize and *unga*. My brother, Sen. Osotsi, is my neighbor. However, he cannot access the *unga* that I have because of the pathetic state of roads.

I, as the Senator, cannot even access my home in Kapkeben Village, Mosoriot because the roads are in a pathetic situation. If the road which goes to the Senator's home is pathetic, you imagine that of the *mama mbogas*, *bodabodas* and all other people who are in the bottom of the pyramid?

I did not want to speak for other counties. We are allocating funds but we need accountability. Governor Ali Roba now Senator, used to appear before me. Therefore, I challenge EACC; please, do your jobs. We cannot be appropriating money---

Madam Temporary Speaker, we sanctioned the former Cabinet Secretary (CS) Ukur Yatani.

Article 219 of the Constitution of Kenya states –

“A county's share of revenue raised by the national government shall be transferred to the county without undue delay and without deduction, except when the transfer has been stopped under Article 225.”

I want to call upon CS (Prof.) Ndung'u to stop violating Article 219. It is very clear. Release money to Mandera, Vihiga and other counties.

Madam Temporary Speaker, I know this Bill has a timeline. I agree with the Mover that we need to go to division as soon as next week on Tuesday.

Madam Temporary Speaker, I have just one comment. There are clauses of the Bill that I do not agree with, especially on the transfer of functions. We need to agree. The Chair is taking notes. When replying, can he brief the House on how many transferred functions are yet to be given to counties and how much does it cost?

In conclusion, I wish to tell the people of Nandi that I am increasing money from Kshs6.9 billion to Kshs7.9 billion. However, we must sit down as a county and not give a chance or an open cheque to our Governor to continue plundering our resources.

I want to say on the Floor of the House without any fear of contradiction that we, in Nandi, want to surrender all the functions so that we are assisted by the national Government. We are suffering. I can even break down here. However, in my culture, men do not cry in public. I am restraining my emotions. This is a very serious matter.

I will consider my position because it does not make sense to increase money to Nandi when there is nothing going on. I will make my position known when we will be voting.

Madam Temporary Speaker, with those very many remarks, I congratulate Sen. Ali Roba and the Committee. We wish them well and hope that they will lead us in those very many issues that we have raised.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Osotsi.

**Sen. Osotsi:** Madam Temporary Speaker, thank you for giving me an opportunity to also say something about the County Allocation of Revenue Bill that is before us. I support the Bill. However, I have a number of issues which I wish to raise.

First of all, is the issue of ceilings. I have noticed that the ceilings for the county executives have been reduced but those of the county assemblies have been increased. For my county, the ceiling of the county executive has been reduced by Kshs100 million; from Kshs588 million to Kshs487 million. The ceiling for the county assembly has been increased from Kshs637 million to Kshs714 million.

Madam Temporary Speaker, the Constitution under Article 218(2) requires that whenever we have a significant deviation, then an explanation must be given in the Bill. However, the Bill is silent on this significant deviation, on the issue of ceilings. The reduction in the ceilings for the county executive is a very important issue that the Committee needs to look at because the rate of inflation has gone up.

Madam Temporary Speaker, if you look at the Finance Bill that my neighbor and friend, Sen. Cherarkey, is supporting, it is proposing increases which will further affect the operations of the counties.

This Bill is now proposing to reduce the ceilings for the county executives, which will really affect the operations of the county executive. Therefore, under Article 218(2)(c), an explanation should have been given on this significant deviation.

Madam Temporary Speaker, the Schedule does not also indicate the actual expenditure and how much has been spent so far. It only indicates proposals to be given.

It is important for us to know which particular county executives or assemblies are violating the ceilings. That information is not provided here. The Committee should demand for that information so that Senate can begin to act on those county assemblies and executives that violate the ceilings. The increase in the ceilings is suggesting that the ceilings that you have given are not realistic.

Madam Temporary Speaker, on the issue of the legal services, I agree with the Committee that counties should have their own legal departments so that some of these cases are handled internally. Whereas we agree that Kenyans have become litigious, it would be cheaper and more efficient if we had a legal department within the counties so that some of these cases can be handled internally.

We know counties are spending a lot of money on legal costs and it has become a cashcow for people in the county attorney offices to make money using provision of legal services by getting their friends hired to represent counties. They all went to the same law school; they should be able to handle these cases without having to engage external lawyers to do it at a higher cost.

The issue of staffing has also been pointed out here. Some counties requested for more staff. However, we have a capping at 100 employees. I agree with the Committee that Commission of Revenue Allocation (CRA) and County Assemblies Forum (CAF) should engage to ensure that there is a review of the staffing levels within six months of tabling of this Report. That would be very important because some county assemblies have overemployed people and that affects the utilisation of the funds that we give them.

I believe we need to cap the numerous committees that we have in the county assemblies. The guidelines require that the maximum number of committees should be 14. I agree with the Committee that if you want to allow more, then it should only be capped at 18 or lower. This is because; a higher number of committees means higher expenditure. The composition of these committees is also a problem. You find one Member of the County Assembly (MCA) sitting in five committees. It is not possible to work efficiently in five committees and be very productive. That has to be looked at.

I am sure the Committee will keep monitoring this. Put in place monitoring measures so that we do not lose money because of bloated committee structures in our county assemblies.

There is also the issue of insurance. There is a request for increased allocation but, again, this is another area that must be watched very carefully. We can look at it in

two perspectives; one, this is an avenue for corruption and two, there may be need for increase of insurance ceilings on a need basis. Insurance is there to cater for risks.

Madam Temporary Speaker, let me also talk about the equitable share. I have had colleagues on the other side trying to explain that we never lost; we got Kshs5.3 billion extra. However, when you factor in the element of inflation, you realise that counties lost. The CRA were not foolish to advice that we have Kshs407 billion. How a Senate can decide to go for a lower figure of Kshs385.4 billion and not Kshsh407 billion, we let down our counties.

As Sen. Sifuna has said, when we are given an opportunity to increase our resource envelope, we must take that opportunity and increase the resources that we allocate to the counties. It was a sad day in this Senate that we refused more money; Kshs407 billion and went for Kshs385.4 billion. My county lost. In this Revenue Allocation Bill, I know the allocation to my county has increased by Kshs200 million but that is still very little. It is going to increase to Kshs5,267,000,000. That is too little increase. If we had gotten Kshs407 billion, we would have increased by Kshs5.5 billion or so.

Madam Temporary Speaker, in future, we need to ensure that when we are given an opportunity to give more money to our counties, please, let us do so, so that they can run their operation smoothly.

Members, I have talked about a number of issues. For the purposes of time, let me generally say that Article 96 (1) of the Constitution gives us a lot of powers. It states

—

‘The Senate represents the counties, and serves to protect the interest of counties and their governments.’

Madam Temporary Speaker, to be honest, as a first time Senator here, having served in the National Assembly before, I believe we need to seriously reset this Senate. There are so many things that are yet to be resolved yet we are here as a Senate.

In fact, when Sen. Cherarkey brought that Statement on MCAs and was reading it out, I was asking myself so many questions. Why must the Senate appear like we are unable to do some things? We are there to protect counties, and counties includes county assemblies. What are we doing about it? How can the Salaries and Remuneration Commission (SRC) just decide to slash their salaries and we do not do anything? We wait until they strike and then pretend that we want to do something.

The relevant committees must quickly sit down and make a resolution even if it means coming up with a Motion on this Floor for the Senate to be heard very clearly. We have the powers under Article 96 of the Constitution. The law is very clear on the issue of delayed disbursement of funds. Article 219 of the Constitution requires that —

“A county’s share of revenue raised by the national Government shall be transferred to the county without undue delay and without deduction, except when the transfer has been stopped under Article 225.”

That is very clear. Why are we allowing the national Government to go against the law and we are quiet? We are doing nothing about it. Every now and then, every year, we pass disbursement schedule. After this Bill has been passed, we will pass a disbursement schedule. Why do we do that if the ultimate powers are with the National Treasury to vary when the money will be given and how much would be given?

The Senate has to reset and assert itself and do its work. We should not join the chorus that is crying outside there when we have the law on our side. My Committee on County Public Investments and Special Funds, is currently dealing with the issue of pension funds in the counties where counties owe employees Kshs60 billion.

This is because some counties have not been remitting money and the Controller of Budget does very little in this case.

We will soon be bringing a report here and we want the Senate to rise to the occasion on that day to say that it is important for these people to be paid all their money even if it requires us to insist that that money has to be drawn from the equitable sharable revenue to the counties.

Madam Temporary Speaker, when we talk about agriculture and health, my friend here is saying that those functions should be taken back to the national Government. I think this is not the right House for the likes of Sen. Cherarkey, who is supposed to protect counties and yet he is coming here to tell us that services should be taken back to the national Government. This is a clear testimony that we have a problem.

We cannot be complaining about health not working in our counties and yet the bulk of the money is at the national level. Why can we not get all that money to our counties and when they fail, we can raise our voice? We have left the money in agriculture and health at the national level and then we keep joining the choruses of those who are saying that health should go to the national level, when we have something to do about it.

Madam Temporary Speaker, when you talk about the Finance Bill, I know it is a money Bill. The Constitution does not allow us to debate it. I think we need to relook at the Constitution because if the Senate is going to pass the Division of Revenue Bill and the County Allocation of Revenue Bill, why should we not participate in the Finance Bill? This is because even the provisions in this Bill are going to be affected by the provisions in the Finance Bill. I have seen one county that has raised concerns about the housing levy and said that the money given to them will not be enough because they will be required to pay housing levy, the 3 per cent employer element.

As much as we are saying that we are not involved in the Finance Bill, I think as part of our reset of the Senate, it is important for us to participate fully in the budget making process so that we can be very effective as a Senate and perform our role under Article 96 in the best way possible.

Madam Temporary Speaker, Sen. Cherarkey, my neighbor, has said that they will not amend even a comma in that Bill. I want to tell him that Parliament has procedures. Why would you take this Bill for public participation to ask Kenyans to give you views when you are not going to amend even a comma? Are you trying to tell us that we are running away from our legislative duties and listening to the Executive on everything? That Finance Bill in the form that it is in, it is going to kill Kenyans and this country. I want to ask my former colleagues in the National Assembly not to pass that Bill as it is because that Bill is very destructive, corrupt and it will not help this country.

With those very many remarks, because of time, I support this Bill with the amendments that will come at the Committee of the Whole so that our counties can get the money that they are supposed to get as per the allocation proposed.

Madam Temporary Speaker, I support.

**Sen. Okiya Omtatah:** Madam Temporary Speaker, thank you for the opportunity you have given me to support this Bill.

I rise to support this Bill and associate myself with the comments that have been made by Sen. Osotsi except to clarify that the Constitution does not prohibit the Finance Bill coming to this House. The Constitution only requires that the Finance Bill is introduced through the National Assembly. I think it has been a matter of habit that the Bill does not come here.

Madam Temporary Speaker, I rise to support this Bill but with a bit of reservations. My reservations are on Section 9 which reads-

“Despite the provisions of any other law, any serious or persistent non-compliance with provisions of this Act constitute an offence under the Public Finance Management (PFM) Act.”

My beef is with the words ‘any serious or persistent non-compliance’. From where I stand, any non-compliance with this Act should be an offence. Since we have not defined “persistent” or “serious”, we are creating a loophole for people to violate the Act and claim it was not serious or that it was a one-off and not persistent.

I request that going forward, Section 9 be looked at and any non-compliance with this Act, when it becomes law, should be an offense under the PFM Act. I say so because we are talking and we know how public money has been abused in this country.

If we give those who abuse the money any wriggle room, they will abuse and wriggle out. They should have no room to wriggle put once they mess. They should be caught up and tied to the issues. Section 9 needs to be looked at.

As we tackle the PFM Act, we may want to look at that Act because we are talking about money going to the counties. We need to be sure the money is used in an accountable manner. The Chief Officers for Finance in some counties, including my own county of Busia, have been given so much power, , that any other Chief Officer is irrelevant because they control the purse.

As a Senate, we should make a conscious decision that every Chief Officer like the Permanent Secretaries (PSs), should account for their department. They do procurement and everything and at the point of payment cede power to the Chief Officer for Finance.

The Chief Officer for Finance, then becomes a small god. That is what is obtaining in Busia. At the end of the day, you are being asked to bring 10 per cent before your bills are paid. It becomes difficult to hold people accountable and you end up with a lot of pending bills.

We would like a situation where every department in the county is accountable for everything that it does including how it spends money. We should be able to empower Chief Officers in every department in a county government to be able to pay for the bills they incur. We should not cede to the Chief Officer for Finance.

Look at the national Government, the PS for Finance is not a boss of the other PSs. That model should go down in the hope of stemming or controlling corruption.

As I continue in my contribution, I would like to comment on Sen. Cherarkey’s comments that nothing will change in the Finance Bill. For heaven’s sake, let Parliament be autonomous. Let it be able to debate and agree on issues and come up with resolutions. Parliament should not be a forum for rubberstamping what the Executive wants. I would really pray that we do that.

Finally, because I would like the Mover to have time to respond, I want to comment on the so-called affordable housing. I would ask those pushing for that to distinguish affordable housing from cheap homes. What I see people talk about is creating mechanism for cheap homes for homeowners. Affordable housing is about access to decent housing. Affordable housing would be where the State puts up houses and controls rent.

Let us assume the State develops Kibra and controls the rent there, people already living in Kibra today will not have to move to another slum because their houses will become too expensive, their houses will be decent and the State will control the rent so that people are not tortured through rent.

Madam Temporary Speaker, still on the question of housing, there is also the issue of land. We have been told that county governments should set aside land for the so-called affordable housing. From the way things are happening, transferring public land into private hands in the name of affordable housing is a scam. If that is required, that proposal must come to the Senate as the custodians of counties and county governments in order to make a decision whether we will allow counties to be stripped of public assets in the form of land or not.

Madam Temporary Speaker, as I support this Motion, I vehemently oppose the idea that counties should be made poorer by being forced to surrender many acres for the so-called affordable housing, which might eventually turn into homes of people, even if there will be no corruption, where private developers get land for free as has happened in Buxton, Mombasa, where the Estate was taken over by a private developer who put up houses. The people who lived in that Estate before cannot afford to live there now because the houses are expensive.

Madam Temporary Speaker, those who are talking about housing should bring that Bill to this House because housing is devolved and we will help them distinguish between affordable housing and cheap homes. Affordable housing is not about ownership of a home but is about access to decent accommodation that the State guarantees.

Madam Temporary Speaker, with those few remarks, I support the Motion and I thank you for the opportunity to comment.

**The Temporary Speaker** (Sen. Mumma): Sen. Omogeni.

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. I rise to support this Bill for the simple reason that our counties need money so that they can discharge their devolved functions.

I, first, register my protestations that the Kshs385.425 billion we are sharing today is not what we intended to send to counties. The figure of Kshs405 billion we had initially proposed was inadequate but it is unfortunate that we, the honorable Senators and protectors of devolution, contributed in reducing the allocation to counties.

I also bring to the attention of this House the fact that our counties are really suffering from late disbursement of money from the National Treasury. As I speak, in my County of Nyamira, the accounts of the executive have been attached by the Kenya Revenue Authority (KRA) because of late disbursements of Pay As You Earn (PAYE).

Madam Temporary Speaker, I respect the former Governor of Mandera, Sen. Ali Roba but he knows that one cannot disburse PAYE before paying employees. Disbursements for the County Government of Nyamira for the months of January and February were disbursed in March, together with the disbursement for the month of

March. KRA does not want to engage in any discussions yet this is one Government. Today, as we speak, the County Government of Nyamira is yet to receive disbursement for the month of April and May. KRA has already issued agency notices to the County, threatening to attach their accounts again.

We need order and we need this Government to be functional. You cannot have a government where KRA is attacking another government entity. We are becoming a laughing stock out there.

If you do not give me money, how will I pay Pay As You Earn (PAYE) to KRA if money has not been disbursed? I hope Senators can move forward quickly with this matter and have a discussion with KRA. We need to come up with a solution which shall not subject counties to the kind of harassment that they are facing from KRA.

Secondly, as we disburse these funds to counties, we must also assert our place in the Constitution. I have gone through the Finance Bill and seen a proposal to amend Section 31 of the Employment Act and deduct three per cent Housing Development Levy from Kenyans. The money will be used to develop housing units in counties.

I want us to look at this matter in a bipartisan manner. The only obligation that the Constitution bestows to the national Government is policy. All these issues of housing projects and the custodian of land in counties is the preserve of county governments. If you read Article 96, you will arrive at a conclusion that the proposed amendment in the Finance Bill touching on housing cannot have constitutional validity, unless it is considered by the two Houses.

The devil is always in the detail. Why is the Government making such a fundamental policy proposal, hidden in a Finance Bill? Why was that law not brought as a stand-alone, so that the two Houses could discharge their constitutional mandate? That is a matter that affects counties directly.

I urge my colleagues – whether from the United Democratic Alliance (UDA) or the Azimio la Umoja, One Kenya Alliance – to stand up and defend the Constitution. I urge that we do this by insisting that that provision is dropped. If not, then we must insist that it comes to the Senate. If it does not, we should join the case that has been filed by Sen. Okiya Omtatah to defend the mandate of this House.

Finally, I appeal to President William Ruto to be a man of wisdom. We have lived in this country and seen many presidents. Personally, I saw the three late Presidents, Hon. Kenyatta, Hon. Moi, Hon. Kibaki and also President Uhuru Kenyatta. You must listen to the people. I have gone to Nyamira County and consulted the people. They have resoundingly said they do not want their money to be deducted for the so-called housing levy. If you are a good leader, you must listen to the voice of the people.

I urge President William Ruto, please, listen to the voice of the people. Before it is too late, make legislative proposals from your UDA side that will drop the proposed amendment to Section 31. Kenyans do want this housing levy. If you push it down their throats, they will fight it. If they do, you will not leave a legacy. If you want a housing project, put food on the table for Kenyans first. If we have food, employment and healthcare and the National Hospital Insurance Fund (NHIF) is being honored, you can now ask for housing levy.

For now, on behalf of the people of Nyamira County, I am clear that we do not want the housing levy. I will oppose it when I get the opportunity on the Floor, out there or in court.

I support.

**The Temporary Speaker** (Sen. Mumma): I now call upon the Mover to reply.

**Sen. Tabitha Mutinda:** Thank you, Madam Temporary Speaker. I beg to reply.

I highly thank my colleagues in the Standing Committee on Finance and Budget for the commitment that they have shown in this Bill.

I cannot forget to thank the secretariat led by our Clerk Assistant, Mr. Gitonga, and his team. I also thank all the Senators that have positively contributed to this Bill. They have also proposed some amendments to the Bill. My Chair and I are dedicated to note each and every issue and concern that they have raised.

As a new Member in the Senate, I have paid keen interest in the key Bills that help us undertake our roles as Senators by supporting devolution. This is among important Bills like Division of Revenue Bill, Equalization Fund Administration Bill and the County Additional Allocation Bill which we look forward to discuss in this House.

In the Committee, we took in different concerns from different county assemblies. Some of the concerns ranged from purchase of motor vehicles in different regions. This is because what they inherited is old and not in a condition to be used. Some of them were requesting for recruitment of more staff and purchase of different furniture because what they have is not in good condition.

The issues of security services were raised especially in counties like Turkana, Marsabit and Mandera. The county assemblies requested for more funding for these services knowing well the security issues in these regions.

County assemblies also requested for funds for public participation and operation and maintenance of the different services and facilities they have.

These are issues that we noted keenly. What was also noted was the bloating of the committees. Some counties have up to 24 committees which increases the cost of maintenance. Concerns on the same have been raised by colleagues like Sen. Osotsi.

As a Committee, we take this issue keenly. We advise the assemblies to have 14 committees and a maximum of 17 depending on the different issues pertaining different counties in various regions.

I also note the issue of the legal services. Colleagues have mentioned and advised on in-house legal departments within the different counties so as to cut down on cost.

As a Committee, we also do recommend contract agreements. We know there are situations, for example, the Nairobi City County, where during the impeachment process, the cost of legal services was high.

The issue of amendment of the Public Finance Management Act has been mentioned. Colleagues have requested the Committee to look into the issue of disbursement schedule. This is a key issue. It is one thing to allocate funds and another to disburse the funds on time to counties to ensure services are continuously delivered as required and staff are paid on time.

However, I emphasize the issue of accountability that colleagues have mentioned. I would like to state that one of our key roles is oversight. As Senators, we need to understand how the funds have been used. Are the projects we are fighting for taken to the mwananchi on the ground.

Let me wind up, Madam Temporary Speaker, by saying that the concerns on the County Assembly and County Executive ceilings have been mentioned on the probability of lowering these amounts. You realize that these concerns come because Members have



to show that they are fighting for more funds in their counties. However, it is good for the Members to note that the county treasury staff amounts have been reduced for remuneration, the rent for the Governors' residences has also been scrapped, and salaries of the Governor and Deputy Governor have also been slightly reduced and hence the reduction of this amount is stated here.

The salaries of County Secretaries and Chief Officers based on the graduated scale at this initial point are at the minimal level. Each year, there will be an annual increment. As the years go by, the increments will continue to increase.

With those many remarks, I appreciate colleagues, confirm and support that we are going to be keen and ensure that all these amendments are captured.

Pursuant to Standing Order No. 66 (1), I request that the putting of the Question be deferred to a later date and beg to reply.

I thank you, Madam Temporary Speaker.

**The Temporary Speaker (Sen. Mumma):** The putting of the question is deferred to Tuesday next week.

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

Next Order!

Sen. Tabitha Mutinda, proceed on behalf of the Senate Majority Leader.

## STATEMENT

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 13<sup>TH</sup> JUNE, 2023

**Sen. Tabitha Mutinda:** Madam Temporary Speaker, Pursuant to Standing Order 57(1), I hereby present the business of the Senate for the week commencing Tuesday, 13<sup>th</sup> June, 2023.

There are a total of 24 Bills pending conclusion in the Senate. Out of these, 20 are at the Second Reading Stage and four are at the Committee of the Whole Stage. A total of 17 reports on the Bills have been tabled by the respective Standing Committees to which the Bills were committed, while seven reports are yet to be tabled, pursuant to Standing Order No.148.

I laud the committees for the tabling of the reports on the Bills and urge that we continue with the same spirit. In the same breath, I thank Hon. Senators for the commitment and dedication they expressed during the sitting on Tuesday, 6<sup>th</sup> June, 2023, whereby two Bills were passed. These Bills have since been forwarded to the National Assembly for consideration.

As indicated in today's Order Paper at Order No.10, the County Allocation of Revenue Bill has been listed. I urge all of us to avail ourselves this afternoon to consider and pass this Bill. I cannot overstate the importance of passing this Bill, which is a Bill that will unlock the release of funds to the counties.

Further, a total of 55 Motions have been filed by Senators. Out of these Motions, 29 have been adopted, one was negated and 25 are pending before the Senate. I urge

Movers of business to be available in the Chamber whenever their business is scheduled in order to prosecute the same for a speedy transition to the next stage.

Madam Temporary Speaker, with regard to Petitions, the Senate has so far received 22 that have been committed to respective Standing Committees pursuant to Standing Order No. 238(1). A total of 10 Petitions are already due for reporting by the respective Standing Committees to which the Petitions were committed. I urge the respective Standing Committees to expedite the consideration of the Petitions and table Reports thereon. I also urge the other Standing Committees to process the Petitions referred to them within the 60-day period as per the provisions of Standing Order No. 238 (2).

Statements are increasingly being sought pursuant to Standing Order 53 and others issued pursuant to Standing Order No. 52. I urge Standing Committees to promptly consider the Statements and report back to the House within the mechanisms provided for under the Standing Orders.

Madam Temporary Speaker, more Questions have been filed, approved by the Speaker and subsequently conveyed to the respective Cabinet Secretaries. At its meeting held on Tuesday, 30<sup>th</sup> May, 2023 and Tuesday, 6<sup>th</sup> June, 2023, the Senate Business Committee (SBC) approved a set of Questions to appear in the Order Paper for the morning sittings of Wednesday, 14<sup>th</sup> June, 2023 and Wednesday, 21<sup>st</sup> June, 2023. The summary of the Questions and the Cabinet Secretaries to appear on that day are as follows-

On 14<sup>th</sup> June, 2023: -

(1) Question by Sen. Kinyua, MP, to the Cabinet Secretary for Interior and National Administration to respond to the state of security in Laikipia County and the wider North Rift region;

(2) Question by Sen. Kinyua, to the Cabinet Secretary for Interior and National Administration to respond on curbing of rampant abuse of Ketamine;

(3) Question by Sen. Mohamed Said Chute, MP, to the Cabinet Secretary for East African Community (EAC), the ASALs and Regional Development, to respond on the state of tendering for relief food in the country; and

(4) Question by Sen. Mohamed Said Chute, MP, to the Cabinet Secretary for Investments, Trade and Industry, to respond on the prequalification of companies to import commodities by the Kenya National Trading Corporation (KNTC).

On 21<sup>st</sup> June, 2023, we had: -

(1) Question by Sen. Chute, MP, to the Cabinet Secretary for Agriculture and Livestock Development to respond on the importation of duty-free food commodities;

(2) Question by Sen. Lomenen, MP, to the Cabinet Secretary for Foreign and Diaspora Affairs, to respond to the inaction of the Kenyan Government to hasten the release of the Turkana pastoralists arrested in Uganda;

(3) Question by Sen. Mbugua, MP, to the Cabinet Secretary for Health, to respond on the accessibility of health facilities and services to Persons with Disabilities (PWDs);

(4) Question by Sen. Chute, MP, to the Cabinet Secretary for Agriculture and Livestock Development, to respond to the Implementation and audit of the Kenya Climate Smart Agriculture Project.

Finally, on Tuesday, 13<sup>th</sup> June, 2023, the Senate Business Committee will consider and approve the business of the day. This will contain business that will not be

concluded from today's Order Paper and any other business scheduled by the Senate Business Committee.

The Order Paper for Wednesday, 14<sup>th</sup> June, 2023 and for Thursday, 15<sup>th</sup> June, 2023, will contain business that will not be concluded on Tuesday, 13<sup>th</sup> June, 2023 and on Wednesday, 14<sup>th</sup> June, 2023, respectively. The Senate Business Committee will also schedule any other business pursuant to the Standing Orders.

I thank you and hereby lay the Statement on the Table of the Senate.

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

### ADJOURNMENT

**The Temporary Speaker** (Sen. Mumma): Hon. Senators, it is now 6.32 p.m. time to adjourn the Senate. The Senate therefore stands adjourned until Tuesday, 13<sup>th</sup> June, 2023, at 2.30 p.m.

The Senate rose at 6.32 p.m.