

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Tuesday 26th September, 2023**

*The House met at the County Assembly of Turkana,
Turkana County, 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)

Kindly proceed to call the first Order.

COMMUNICATION FROM THE CHAIR**SITTING OF THE SENATE IN TURKANA COUNTY ASSEMBLY**

The Speaker (Hon. Kingi): Hon. Senators, I have the following Communication to make. I take this opportunity to welcome you to Turkana County. This is indeed a momentous event, for it marks the first sittings of the Senate outside Nairobi in the term of the 13th Parliament.

It is also the first sitting of the Senate in the predominantly arid Northern part of our country, which sets unique challenges and opportunities that are different from the rest of our country.

I thank the leadership of the Turkana county government, both the executive and the county assembly, led by the Hon. Governor, Jeremiah Ekamais Napotikan and Hon. Speaker, Christopher Doye Nakuleu, for the warm welcome since our arrival in Lodwar and for facilitating this sitting.

I request the two men to stand so that they can be acknowledged in the Senate tradition if they are in the Chamber. If they are yet to make their way here, we will acknowledge them when they make their way to the Chamber.

Allow me, at this juncture to convey our deep appreciation to the leadership and Members of the Turkana County Assembly for hosting the Senate and for adjourning

their regular Sittings to allow the Senate to use this County Assembly premises for its sittings.

I request the leadership of Turkana County Assembly, if they are present, to stand up so that they may be recognized and acknowledged in the Senate tradition.

I also acknowledge the significant contribution that has been made by the national Government. We particularly single out the Office of the Cabinet Secretary and Principal Secretary in the Ministry of Interior and National Administration. Your cooperation and facilitation of our request cannot go unnoticed.

We thank you.

Finally, our sincere gratitude goes to the great people of Turkana County for the friendly welcome to their county. We shall forever be grateful for the acts of kindness and the warm hospitality extended to the Senate.

Hon. Senators, you will agree with me that a major hallmark of Constitution of Kenya is devolution and the devolved governance structure as captured in Chapter 11 of our Constitution. Devolved government aims to bring services closer to the people as a means of accelerating development and enhancing collective responsibility.

The sittings of the Senate outside its traditional premises at Parliament buildings in Nairobi are, therefore, designed as an ingenious way of enhancing the interaction between the national and county levels of Government and an innovative way through which the Senate may exercise its roles as provided for under Articles 94 and 95 of the Constitution.

In this manner, we bring the Senate and by extension, the Parliament of Kenya closer to the people. More specifically, the objectives of the sittings of the Senate outside Nairobi is to achieve the following-

(1) To promote the role and work of the Senate and enhance public awareness regarding the business of the Senate and Parliament in general.

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

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

(4) To provide an opportunity to Members and staff of the county assemblies to learn and share best practices with Senators and parliamentary officers.

The Senate embraces the fundamental principle that it exists for the people and stands as a beacon of democracy representing their collective will, aspirations and concerns.

Through this Senate *Mashinani* Initiative, the Senate is making its contribution towards nurturing inclusivity and management of public affairs in Kenya.

In holding a sitting at the Turkana County Assembly, the Senate also affirms that county assemblies have the power to directly identify and address the people's concerns, revitalize the hopes and aspirations, deepen our democratic, consultative and participatory Government, as well as strengthening institutions of governance in the country.

County assemblies are, therefore, called to complement good legislative practices by proactively and robustly taking up the constitutional and statutory rules as espoused under Article 185 of the Constitution and Sections eight and nine of the County Governments Act to bring the executive to account.

In this respect, the Senate is willing to partner with the county assemblies to ensure that devolution works. On our part, the Senate will continue to play its role as the protector and defender of devolution. We shall jealously guard against attempts at watering down the devolved governance structure and thereby, eroding the gains that devolution has brought and portends.

Hon. Senators, beginning yesterday and over the next four days, there are various activities lined up. These includes Plenary and Committee sittings, as well as engagements forums and inspection visits. These activities accord the public a special opportunity to actively engage and participate in the legislative process. We encourage residents of Turkana and the neighbouring counties to turn up and engage with the Senate.

Therefore, let us take advantage of this unique opportunity to engage in candid discourse, on what needs to be done to achieve prosperity and to strengthen devolution. In doing so, I am confident that the objectives you have set for yourselves through the event and the subsequent ones in the time of the 13th Parliament, shall be met.

Hon. Senators, I now wish to acknowledge the presence of invited dignitaries who were invited to join us for this special occasion. Kindly stand up when I call your name, so that you may be acknowledged in the Senate traditional way. These are-

1. Hon. Jeremiah Ekamais Napotikan - Governor, Turkana County
2. Hon. Simon Kachapin - Governor, West Pokot
3. Hon. Jonathan Lati Lelelit - Governor, Samburu County
4. Hon. Mohamud Mohamed Ali - Governor, Marsabit County
5. Hon. Benjamin Chesire Cheboi - Governor, Baringo County
6. Dr. John Erus - Deputy Governor, Turkana County
7. Hon. Daniel Epuyo Nanok - MP, Turkana West
8. Hon. Paul Ekwom Nabuin - MP, Turkana North
9. Hon. John Ariko Namoit - MP, Turkana South
10. Hon. Nicholas Ngikor Ngikolong - MP, Turkana East
11. Hon. Protus Ewesit Akujah - MP, Loima
12. Hon. Cecilia Ngitit - Women Representative, Turkana County
13. Hon. Christopher Doye Nakuleu - Speaker, Turkana County Assembly
14. Hon. Fredrick Kaptui - Speaker, West Pokot County Assembly
15. Hon. Steve Lenamale - Speaker, Samburu County Assembly
16. Hon. Aden Wario Dida - Speaker, Marsabit County Assembly
17. Hon. Vincent Kemboi - Speaker, Baringo County Assembly

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| 18. Mr. Linus Lokowa Miinyan | - | Clerk, Turkana County Assembly |
| 19. Hon. Josephat Nanok, EGH | - | Deputy, Chief of Staff, State House |
| 20. Mr. Abraham Lokuwom | - | Chairman, Turkana Council of Elders |
| 21. Mr. James Ekelale Lochakula | - | Treasurer, Turkana Council of Elders |
| 22. Mr. Cosmas Namaa | - | Secretary, Turkana Council of Elders |

On behalf of the Senate and my own behalf, I wish to thank our guests for honouring our invitation and joining us on this auspicious occasion.

Hon. Senators, as I conclude, I reiterate the symbiotic relationship between the Senate and county governments. This relationship must be based on mutual understanding, consultation, learning and experience sharing for devolution to achieve its objectives as enshrined in the Constitution. I am optimistic that this will be demonstrated in the coming days.

Once again, I extend our gratitude to the leadership of Turkana County Government and the great people of Turkana County for receiving the Senate and facilitating our sittings in the cradle of mankind.

Thank you.

Hon. Senators, before I take my seat, I am alive to the fact that the environment in Turkana and particularly in this Chamber, may not be the same as the one you are used to back in Nairobi City. Since the environment is different, the dress code is being called upon to be relooked, so that we are comfortable as we transact our Business.

(Applause)

One of the fundamental rights of a worker or an employee is a comfortable working place. That way, you will be able to get or draw the most from them. If the employee is dressed in a manner that will hamper the discharge of his duties, then that dress code must be reviewed.

In this instance and for purposes of the Sitting in Turkana County Assembly, I am going to review the dress code for the three sittings. That is for today, tomorrow and Thursday. This is in no way a precedent to be used or to be quoted when we are back in Nairobi City.

I will allow, for the comfort of Members while discharging your noble duty in this Chamber, that it shall not be mandatory that Senators dress in formal suits. For those who are comfortable in donning official suits, kindly proceed to do so but it shall not be mandatory. As long as you are decently dressed, the Chair will be comfortable with that.

I am saying this because I am experiencing what is happening to me as I address you.

(Laughter)

As your Chair and Speaker, I will persevere the heat of Turkana County because I have an option of sitting here for only ten minutes and allow my Panel to relieve me. You have no reliever because you represent your counties and you will be expected to sit through the session. Therefore, your comfort is a major concern to the Chair.

For those who will don African attire, be it women or the men, as long as the shirt is long sleeved, we will allow you. I believe this will ensure that Senators are comfortable and none will say they were unable to discharge their duties as a Senator because the environment was harsh. Your comfort is our concern and that is why we have reviewed those rules precisely and particularly for the three days. It is so directed.

Next Order.

(Loud consultations)

Order! Hon. Senators, as you sit here, the Standing Orders are applicable. Do not assume we have a different set of Standing Orders because we are sitting away from Nairobi City. The very same Standing Orders as applicable in Nairobi are applicable in this County Assembly.

I now call upon the Chair of the Committee on Budget and Finance to lay the Papers.

PAPERS LAID

REPORT ON THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL (SENATE BILLS NO. 22 OF 2023)

Sen. Faki: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 26th of September, 2023-

Report of the Standing Committee on Finance and Budget on County Governments (Revenue Raising Process) Bill (Senate Bills No. 22 of 2023).

(Sen. Faki laid the document on the Table)

The Speaker (Hon. Kingi): Next Order.

NOTICES OF MOTIONS

EXTENSION OF MANDATE OF THE *AD HOC* COMMITTEE ON PROLIFERATION OF RELIGIOUS ORGANISATIONS

The Speaker (Hon. Kingi): I thought I travelled here with Sen. Mungatana. The Vice Chairperson! Let us have any Member of that Committee.

Sen. Cheptumo: Thank You Mr. Speaker, Sir. I beg to give Notice of the following Motion-

THAT, AWARE THAT at the Sitting of the Senate held on Thursday, 27th April, 2023, the Senate, by Resolution, established an Ad Hoc Committee to

investigate the proliferation of religious organizations and the circumstances leading to the deaths of more than 95 people in Shakahola, Kilifi County;

APPRECIATING that the initial mandate of the Select Committee was due to lapse on Wednesday, 26th July, 2023 but was extended for a further thirty (30) days at a Sitting of the Senate held on Tuesday, 1st August, 2023 to allow the Committee to conclude the investigations owing to the evolving nature of the matter at the time; with discovery of new gravesites;

NOTING that the renewed mandate of the Committee lapsed on 5th September, 2023, and the Committee is yet to meet a number of key stakeholders in order to prepare a comprehensive report;

NOW THEREFORE, the Senate resolves to renew the mandate of the Ad Hoc Committee by a further period not exceeding seven (7) days of this resolution, and to table its final report in the Senate on or before 4th October, 2023.

EXTENSION OF MANDATE OF *AD HOC* COMMITTEE ON
COMPENSATION TO VICTIMS OF USA
EMBASSY 1998 BOMBING

Sen. Kavidu Muthama: Thank you, Mr. Speaker, Sir for this opportunity. I beg to give Notice of the following Motion-

THAT, AWARE THAT, at the Sitting of the Senate held on Thursday, 27th June, 2023, the Senate, resolved to establish an *Ad Hoc* Committee to investigate the compensation to the Kenyan victims of the 1998 bombing of the United States of America Embassy in Nairobi and report back to the House within three months of its establishment;

REALIZING THAT the three-month period will lapse on 30th September, 2023 but owing to the magnitude of the work involved the Committee will not have completed its work within the duration;

NOTING THE NEED for more time to carry out a thorough inquiry into this matter;

NOW THEREFORE the Senate resolves to renew the mandate of the Ad Hoc Committee for a further period not exceeding forty-five (45) days of this resolution, and to table its final report in the Senate on or before 10th November, 2023.

EXTENSION OF TIME FOR CONSIDERATION OF
THE CROPS (MIRAA) REGULATIONS 2023

The Speaker (Hon. Kingi): Proceed, Chairperson, Standing Committee on Delegated Legislation.

Sen. Gatya Mo Fire: Hon. Speaker, you know we are disoriented since this is not our usual Sitting place. Anybody can easily understand where we are.

(Laughter)

Mr. Speaker, Sir, I beg to give Notice of the following Motion-

THAT, AWARE THAT at the Sitting of the Senate held on 20th June, 2023, the Crops (Miraa) Regulations, Legal Notice No. 41 of 2023, was tabled in the Senate and referred to the Select Committee on Delegated Legislation for consideration;

REALIZING THAT that the 28 sitting days timeline for consideration of the Regulations lapses on Tuesday, 26th September, 2023, but owing to the magnitude of the work involved, the Committee has not been able to complete its work within the duration;

AWARE THAT Section 15(3) of the Statutory Instruments Act, 2013, provides that by a resolution, Parliament may extend the time for consideration of a Statutory Instrument by a period not exceeding twenty-one calendar days;

NOTING THE NEED for more time to scrutinize the submission from the public engagement forums especially the Ministry of Agriculture, Livestock and Fisheries and the Council of Governors;

NOW THEREFORE, the Senate resolves to extend the time for consideration of the Crops (Miraa) Regulations, 2023, by a further twenty-one (21) calendar days and table its report on or before 17th October, 2023.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, this is just for housekeeping. In the event that you will need to visit places to make yourselves comfortable, you can use this exit. The other one is not available. That is the office of the Chief Serjeant-at-Arms. This Chamber is not a replica of what we have in Nairobi. These two doors do not---

(Sen. Methu spoke off record)

No, you can use this. They will have to go to the Bar, bow and come this way. You will have to bear with this kind of inconvenience.

Next Order.

COMMUNICATION FROM THE CHAIR

REORGANIZATION OF THE ORDER PAPER

Hon. Senators, for the convenience of the House, you will allow me to rearrange the sequence of today's Order Paper pursuant to Standing Order No.45(2). Instead of taking the statements at this juncture, we will move to do Division on Order Nos.9, 10 and 11. After we are done with the Division, we will move to Order Nos.12 and 13. Once we are done with that, then we will come back to the normal flow as contained in today's Order Paper.

Clerk, kindly proceed to call the Order as per the amendment.

(Sen. Wambua consulted loudly)

Sen. Wambua, we are not in some market where you just shout to your colleagues on the other side. There is a better way of consulting. I know you are consulting on a very important matter, but there is a better way of doing it.

BILLS*Second Reading*

THE PROMPT PAYMENT BILL
(SENATE BILLS NO.8 OF 2022)

(Sen. Mariam Omar on 16.2.23)

(Resumption of debate interrupted on 23.5.2023)

(Division)

Second Reading

THE EQUALIZATION FUND (ADMINISTRATION) BILL
(SENATE BILLS NO.14 OF 2023)

(Sen. Ali Roba on 27.7.2023)

(Resumption of debate interrupted on 9.8.2023)

(Division)

Second Reading

THE KENYAN SIGN LANGUAGE BILL
(SENATE BILLS NO.9 OF 2023)

(Sen. (Prof.) Kamar on 22.3.2023)

(Resumption of debate interrupted on 19.9.2023)

(Division)

Serjeant-at-Arms, kindly proceed to ring the division bell for five minutes.

(The Division Bell was rung)

Serjeant-at-Arms, kindly proceed to close the door and draw the bar

(The Door was closed and the Bar drawn)

Order, hon. Members.

Now, voting will not be done electronically. Instead, we will vote through a Roll Call in which case, therefore, we have to get Tellers for the “Noes” and for the “Ayes”. Can we have those two Tellers proceed to the Dispatch Box?

The Senate Majority Leader (Sen. Cheruiyot): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Yes, what is your point of order?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, for ease of process, I request that we take all the three votes together. Therefore, as you arrange the Tellers, we do it that way.

The Speaker (Hon. Kingi): That is exactly what I was to speak to after we have the Tellers.

The Senate Majority Leader (Sen. Cheruiyot): Thank you.

The Speaker (Hon. Kingi): Let us have the Tellers please.

(Sen. Nyamu and Sen. Mumma proceeded to the Dispatch Box)

Sen. Nyamu for the “Ayes”, is it not? Sen. Nyamu, you are a Teller for which side?

Sen. Nyamu: For the “Ayes”.

The Speaker (Hon. Kingi): Sen. Mumma, is the Teller for the Noes”. Hon. Senators, when your name is called out, you will proceed to vote once for the three Orders. You will vote for Order Nos. 9, 10 and 11 at once. Order No. 9 is the Prompt Payment Bill (Senate Bills No.8 of 2022). Order No. 10 is the Equalisation Fund. You better listen carefully because you may shoot down a Bill that you intended to support – Equalisation Fund (Administration) Bill (Senate Bills No.14 of 2023).

The third Bill is Order No.11 which is the Kenya Sign Language Bill (Senate Bills No.9 of 2023). Having explained that I will now proceed to put the question.

(Question put)

(Roll Call voting in progress)

The Speaker (Hon. Kingi): Can we hasten in tallying the votes. Senator for Nairobi, approach the Chair please.

(Sen. Sifuna approached the Chair)

(Roll Call voting in progress)

Hon. Senators, the results of the Bill are now in. Before I proceed to read the results, Serjeant-at-Arms, kindly open the Doors and withdraw the Bars.

(The Bars were undrawn and Doors opened)

Second Reading

THE PROMPT PAYMENT BILL
(SENATE BILLS NO.8 OF 2022)

DIVISION

ROLL CALL VOTING

*(Question, that the Prompt Payment Bill
(Senate Bills No. 8 of 2022) be read a Second Time put,
and the Senate proceeded to vote by County delegations)*

AYES: Nil.

Teller of the Ayes: Sen. Nyamu.

NOES: Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. Korir, Bomet County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County, Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Onyonka, Kisii County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County.

Teller of the Noes: Sen. Mumma.

ABSTENTIONS: Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Osotsi, Vihiga County; Sen. Wambua, Kitui County.

The Speaker (Hon. Kingi): Hon. Senators the results of the Division are as follows:

AYES: 0

NOES: 21

ABSENTIONS: 4

The "Noes" have it. The Bill cannot proceed to the Second Stage.

(Question negated by 21 votes to nil)

Second Reading

THE EQUALIZATION FUND (ADMINISTRATION) BILL
(SENATE BILLS NO.14 OF 2023)

DIVISION

ROLL CALL VOTING

*(Question, that the Equalization Fund (Administration) Bill
(Senate Bills No. 14 of 2023) be read a Second Time put,
and the Senate proceeded to vote by County delegations)*

AYES: Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. Korir, Bomet County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County; Sen. Wambua, Kitui County.

Teller of the Ayes: Sen. Nyamu.

NOES: Sen. Mwaruma, Taita Taveta County.

Teller of the Noes: Sen. Mumma.

The Speaker (Hon. Kingi): Hon. Senators the results of the Division are as follows:

AYES: 24

NOES: 1

ABSENTIONS: 0

The "Ayes" have it.

(Question carried by 24 votes to 1)

(The Bill was accordingly read a Second Time and committed to a Committee of the Whole tomorrow)

Second Reading

THE KENYAN SIGN LANGUAGE BILL
(SENATE BILLS NO.9 OF 2023)

DIVISION

ROLL CALL VOTING

*(Question, that the Kenyan Sign Language Bill
(Senate Bills No. 9 of 2023) be read a Second Time put,
and the Senate proceeded to vote by County delegations)*

AYES: Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. Korir, Bomet County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Onyonka,

Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County; Sen. Wambua, Kitui County.

Teller of the Ayes: Sen. Nyamu.

NOES: Nil.

Teller of the Noes: Sen. Mumma.

The Speaker (Hon. Kingi): Hon. Senators the results of the Division on Order No. 11 are as follows:

AYES: 25

NOES: 0

ABSENTIONS: 0

The "Ayes" have it.

(Question carried by 25 votes to Nil)

(The Bill was accordingly read a Second Time and committed to a Committee of the Whole tomorrow)

The Speaker (Hon. Kingi): Next Order.

Hon. Senators, you will allow me to vary the directive I had given earlier. I had indicated that we will re-arrange the sequence of the Order Paper and from the Division, we are supposed to go to Order No. 12 and 13. However, there is a procedural Motion and those regulations lapse today, so, we have to determine it today. Since it is a procedural Motion, I do not expect us to spend a lot of time on this Motion.

I call upon the Chairperson, Standing Committee on Delegated Legislation to move this Motion. Once we conclude on this matter, we will go back to Order No. 12 and 13. Sen. Gataya Mo Fire, proceed.

MOTION

EXTENSION OF TIME FOR CONSIDERATION OF THE CROPS (MIRAA) REGULATIONS 2023

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir. I beg to move the following Motion-

THAT, AWARE THAT at the Sitting of the Senate held on 20th June, 2023, the Crops (Miraa) Regulations, Legal Notice No. 41 of 2023, was tabled in the Senate and referred to the Select Committee on Delegated Legislation for consideration;

REALIZING THAT that the 28 sitting days timeline for consideration of the Regulations lapses on Tuesday, 26th September, 2023, but owing to the magnitude of the work involved, the Committee has not been able to complete its work within the duration;

AWARE THAT Section 15(3) of the Statutory Instruments Act, 2013, provides that by a resolution, Parliament may extend the time for consideration of a Statutory Instrument by a period not exceeding 21 calendar days;

NOTING THE NEED for more time to scrutinize the submission from the public engagement forums especially the Ministry of Agriculture, Livestock and Fisheries and the Council of Governors;

NOW THEREFORE, the Senate resolves to extend the time for consideration of the Crops (Miraa) Regulations, 2023, by a further 21 calendar days and table its report on or before 17th October, 2023.

I beg to move, Mr. Speaker, Sir. I ask Sen. Faki, a Member of my Committee to second the Motion.

Sen. Faki: Thank you, Mr. Speaker, Sir. It is important the Committee be given more time to consider these Regulations that will govern all the crops similar to *miraa* including *Muguka*, *Khat* and others. The reason why we could not complete the scrutiny in time and consider those Regulations is because the Cabinet Secretary in charge of Agriculture and Livestock Development was unwell last week when we summoned him together with the Council of Governors (COG).

I second the request for time and we shall conclude these important Regulations within the specified time.

(Question proposed)

The Speaker (Hon. Kingi): Now, Hon. Senators, under Standing Orders, each of you is allowed to contribute for a maximum of twenty minutes on such a matter. You may proceed and debate this Motion with each talking for not more than twenty minutes or one of you for example, may move a Motion to limit the time within which Members can make contributions.

Alternatively, you may agree by consensus that you do not have to debate a Procedural Motion and allow the Chairperson to put the question. Which of those three options are you comfortable with, Hon. Senators?

An hon. Senator: Put the Question, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): The Chair will therefore proceed to put the question?

(Question put and agreed to)

Next Order!

COMMUNICATION FROM THE CHAIR

INVITED GUESTS FROM TURKANA COUNTY

Now, Hon. Senators, at the start of this sitting, I indicated that I had invited a number of guests to this Session. However, when I called out their names, they were not present. I am happy now to announce to you the presence of the following senior officials led by none other than His Excellency the Governor of Turkana County.

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| 1. Hon. Jeremiah Ekamais Napotikan | - | Governor |
| 2. Hon. Christopher Doye Nakuleu | - | Speaker of the County
Assembly of Turkana |
| 3. Mr. Linus Makawa Meiyen | - | The Clerk of the County |

Assembly of Turkana

Thank you.

Proceed, Sen. Kathuri.

Sen. Kathuri: Thank you, Mr. Speaker, Sir for this opportunity. I want to pass my appreciation to the County Government of Turkana led by the Governor himself His Excellency Jeremiah, who has really welcomed us in this town. I arrived this morning with Majority and Minority Leaders and we were met by very enthusiastic dancers and a very organised choir.

You know, I was stressed because I woke up at 3:00 a.m. to catch the 6:45 a.m. flight. When I landed and did the jig with the choir, I was refreshed and re-energised. I am very happy to be in this Chamber. I congratulate my colleague Speaker Christopher Nakuleu whom I served with in the National Assembly for two consecutive terms from 2013 to 2022.

Hon. Nakuleu is a very charismatic man. I remember that from 2013 to 2017, we served together in the Committee of International Relations. This gentleman had a lot of knowledge because he had also served in the East Africa Legislative Assembly (EALA). He has a lot of wisdom which made us prosper as a committee.

I know with Hon. Nakuleu as the Speaker, this House is in the right hands. So, my colleague Hon. Nakuleu, I will be looking for you later in the evening for our normal discussions. We will pick up from where we left off at that time.

(Laughter)

Thank you very much.

The Speaker (Hon. Kingi): In that same breath, allow me to give the Senate Majority Leader on behalf of the majority side to also express his appreciation. Thereafter, I will allow the Minority Leader to communicate and register his appreciation.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir, for this chance. I join you, the Deputy Speaker, and all of our colleagues in appreciating and sending our greatest and best wishes to the County of Turkana as they host us for this year's edition of Senate *Mashinani*.

I appreciate that the leaders have found time to welcome us into the beautiful County of Turkana, the cradle of mankind, the home of the world's largest desert lake and so many attributes that we can list about this county.

I know many of our colleagues like yours truly, this is the first time to be in the County of Turkana. In the few hours that we have been here since I arrived this morning, I have learnt that one of the greatest potential counties in our country is the County of Turkana. They say that a chain is as strong as its weakest links.

I still maintain the position that our weakest links are our frontier counties, not because they lack opportunities or they are not resourced but because we have over the years marginalised them, yet they have great potential if we invest in them. They can be a source of great inspiration for the people of Kenya.

Therefore, I hope that in the next few days that we shall be here, we shall all have an eye-opening moment as Senators and decision-makers in this country, so that we continue investing in our frontier counties like Turkana and the others.

I also thank my colleague leaders who have come together with the people of Turkana. I hope we shall get to learn and enjoy. It was our most ardent wish and I spoke to Governor, earlier and told him to please have the *Tobong Lore* ceremony alongside this Senate *Mashinani*.

Unfortunately, I think due to other reasons, that was not possible. So, just to tell him that if there were goods that he had set aside for Senators, he should not sell them. We shall still be back here for *Tobong Lore* later on in the year when they reveal it to us.

I will join the Deputy Speaker together with my friend Hon. Nakuleu in their usual discussion only that my drink of choice will be different. I will survive on water.

I thank you.

The Speaker (Hon. Kingi): Senate Minority Leader?

The Senate Minority Leader (Sen. Madzayo): Asante Bw. Spika. Najiunga na wewe kwa kuwashukuru ndugu zetu waheshimiwa wakiongozwa na gavana Jeremiah kwa ukarimu na makaribisho yao hapa Turkana. Nimejionea mwenyewe wakati nilipofika kwa mara ya kwanza. Kaunti zote ambazo tumeweza kwenda kwa shughuli ya Seneti Mashinani, kama kungekuwa na kupeeana zawadi ya ushindi basi, tungepea Kaunti ya Turkana. Makaribisho ya watu wa Turkana ni hali ya juu sana. Tumeyapendelea na kuyakubali.

Pia tumeweza kucheza ngoma za kinyumbani za hapa Turkana na tumefurahia sana. Asante sana Bw. gavana, Waheshimiwa wenzetu na ndugu zetu wengine wote walioshiriki katika makaribisho hayo.

Vile vile, ninatoa shukrani kwa ukarimu wenu na kwa kukubali tulete Seneti Mashinani hapa na tuweze kutumia *Chamber* yenu ambayo ndiyo Bunge lenu la hapa Turkana. Mmetupisha sisi ili tufanye shughuli. Pia, ili muweze kuwaona Maseneta ambao wengi wenu mmewaona kwa runinga.

Ilikuwa sababu nzuri kuja hapa. Nyinyi pia mmetupatia nafasi kukaa hapa ili muone vile tunavyopitisha Miswada na kujibishana katika majadiliano yetu hapa ndani ya Bunge la Seneti. Ninajua kuwa tutakapoondoka, mtajifundisha mengi kutoka kwetu sisi kama ndugu zenu wakubwa tukiwa katika Bunge la Seneti.

Vile vile, Bwana gavana ningependa pia kukuunga mkono katika makaribisho yako kwao. Ungewakaribisha na kuwaambia kuwa ikiwezekana, waje kule Nairobi nasi pia tuwafanyie makaribisho makubwa.

Asante.

The Speaker (Hon. Kingi): I will allow the host Senator to officially welcome the Senate to his home county.

Sen. Lomenen: Thank you, Mr. Speaker, Sir, for this golden opportunity. I was very worried that the Speaker had forgotten me.

(Laughter)

I knew that you would not.

I am sorry that we came late. We had taken the Committee on Energy to Tullow Oil in Lokichar which is 90 kilometres from here. Yesterday, we went to Lake Turkana Wind Power (LTWP) to get rid of blackouts in this nation.

I am very happy for giving me permission to mobilize the county. On Wednesday, I came here and went to every radio station. I also sensitized the youth and women to

make sure that they were aware that God had given us an opportunity to hold Senate *Mashinani*.

To us, this is a special opportunity. This is because most of the time, I have cried in the Senate while saying that we were marginalized and forgotten in the Sessional Paper of 1965. We were denied many opportunities that we deserved.

However, this time, I can confidently say that Turkana County belongs to Kenya.

(Applause)

As we prepare to go back, I know that everybody will say that they have come from the furthest corner of Kenya and they have learned many things in Turkana County.

Finally, I know that we have challenges just like in every community. We were with the senior Senators in Lokichar to see the challenges faced by the community brought by the Tullow organization.

I am very happy to see that all the invited Senators are here. I am telling my community that the people whom they see on television and newspapers and hear on radio, are all here. You can feel, touch, and hear them because they are all here. They are fearfully and wonderfully made.

I have been given this opportunity because I know the challenges that Turkana County has been having. There have been assumptions that we are allocated funds but we do not know where they are. However, those who went with us to Lokichar, saw what happened on the road.

The Kenya Women Senators Association (KEWOSA) also saw how the women were. For those people who want to go to Kibish, there are so many things to see.

When Jesus was preaching the word, he visited all the areas to see with his naked eyes before he went to the spirit. So, you have seen it. So, when you go back, you will interpret it in spirit and assist us to challenge our issues.

I thank you.

(Applause)

The Speaker (Hon. Kingi): Thank you, Sen. Lomenen.
Next Order.

(The Clerk consulted the Speaker)

Hon. Senators, before we proceed to Order Nos.12 and 13, I will allow Sen. Mandago to table the Papers.

PAPERS LAID

Sen. Mandago: Thank you, Mr. Speaker, Sir. I beg to lay the following Papers on the Table of the Senate today, Tuesday, 26th September, 2023.

REPORT ON THE FACILITY IMPROVEMENT
FINANCING BILL 2023 (SENATE BILLS NO.43 OF 2023)

Report of the Standing Committee on Health on the Facility Improvement Financing Bill 2023 (Senate Bill No.43 of 2023).

REPORT ON THE PRIMARY HEALTH CARE
BILL 2023 (SENATE BILLS NO.44 OF 2023)

Report on the Primary Health Care Bill 2023 (Senate Bill No.44 of 2023).

(Sen. Mandago laid the documents on the Table)

The Speaker (Hon. Kingi): Next Order.

BILL

Second Reading

THE FACILITIES IMPROVEMENT FINANCING BILL
(SENATE BILLS NO. 43 OF 2023)

The Speaker (Hon. Kingi): The Senate Majority Leader, you may proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir, for this chance to move this very important Bill.

I beg to move that the Facilities Improvement Financing Bill (Senate Bill No.43 of 2023) be now read a Second Time.

Mr. Speaker, Sir, as the Senate, we would not have chosen a better destination to move this particular Bill before the House of the Senate than in Turkana County. Like my colleagues have said, Turkana County is filled with great potential. However, thanks to many reasons of which I do not wish to indulge in this afternoon, the county continues to suffer marginalization and various challenges many of which will now be addressed by a Bill such as this.

This Bill is one amongst a series of four Bills that will be coming to the House of Parliament in the next few days, that gives life to the promise of Universal Health Coverage (UHC).

Mr. Speaker Sir, to the best of my knowledge, as a country, we have had the conversation on UHC for too long. In fact, to the best of my recollection, the conversation on UHC began as early as 2009, when you were a Member of the National Assembly.

We have had trials and mistrials. You will recall that in the last Session of the Senate, about five counties were picked. You served as a Governor there. Therefore, you are all too familiar with the trial phase of the Universal Health Coverage (UHC). The five counties are Nyeri, Kisumu, Nakuru Machakos and Isiolo where Sen. Dullo comes from.

Our Committee on Health returned a very damning verdict on the role of UHC as was then rolled out. Therefore, a lot of thinking has gone into these four Bills, the first

one of which I am moving this afternoon. I see it is 4.00 o'clock and I do not want to pre-empt debate but if colleagues allow, if we contribute on this one and have the time to subsequently still consider the other Bill, we can commence work on the same.

This is so that the people of Turkana County can appreciate the goodies that the Senate has brought to them. The work of the legislature is to set laws and provide the legislative framework upon which the Government policy – either national or county governments – can be dictated and directed upon.

It is my most sincere hope that we will have concluded the two Bills that the Senate has published by the time we leave Turkana County on Thursday. I am talking about the Facilities Improvement Financing Bill and the Primary Health Care Bill, whose report has just been tabled. I hope we will have time to explain the importance of those Bills to the people of Turkana County and what it will mean when you visit a health facility in any of the far-flung villages of Turkana County.

Mr. Speaker, Sir, allow me to just lay the basis of why we need the Facilities Improvement Financing Bill. I do not know how many colleague Senators take time to go through the financial records of their specific counties, especially the own source revenue collection; to see how their county utilizes those resources.

I saw the sad reality in my own County of Kericho in the last term. When Members of County Assemblies (MCAs) or County Governors want to enter into an arrangement or a deal, the quickest way to reward their cronies is to direct resources to places of easy procurement. That is why if you go to any county – and I bet you check each of your 47 counties – you will find that the roads department has the highest bill. Why is it so? It is because many times, you will find that almost every MCA or friend of the governor has a tipper or a lorry and they are able to procure easily. When it comes to supply of medical equipment for example, you will find that many of the people that have the connections to those who hold the reins of power in our county governments, do not know where to source from.

Sen. Oburu, allow me to use Siaya or Bondo District Hospital as an example of what I have seen happen in my County. Despite all the own source revenue that the hospital generates, do you know that, that revenue goes into one pool just as all the monies that are collected in markets, from permits and all these other sources of resources?

Therefore, at the end of the day, you will find that despite the fact that your sub county and health centres have collected say Kshs300 to 400 million in a financial year, what troupes back to those facilities is hardly 10, 20, or 30 per cent. This explains the reason why many of our health centres are in the condition that they are. They cannot service suppliers, citizens are sharing beds and doctors cannot be paid.

Therefore, the thinking that has informed the four Bills that are coming before the House, is that before we have a conversation on UHC, let us first ensure that we secure all the resources that are collected in our health centres in our counties; and put it in law. That is why this law is coming before you.

This is an Act of Parliament to provide for public health facility improvement financing and management and administration of the improvement financing, and for connected purposes. It ensures that atleast for a start, before we even think about any other resources that we can get, what we have collected remains specifically and budgeted for.

In fact, later on, I will refer to the amendments that have been proposed by the Committee on matters nomenclature. They have paid even greater attention so that the Committee is using a language that is agreeable to the provision of the Public Finance Management (PFM) Act. For instance, you will come across some words that have been used because of maybe poor drafting due to the Bill being hurried. If you read through the Report, it is using words such as 'budgeted for'. This means that once resources have been budgeted for a certain purpose, you cannot divert to a different purpose. The wording in the Bill as is, before the amendment that will be coming from the Committee, is reserve. We are specific. We do not want to just reserve. We want to budget for the same resources.

This Bill was first published on 15th September, 2023 and read for a First Time then. Of course, I have explained that this Bill provides for public health facility improvement financing, management and administration. I have laid basis of the justification using live examples of things that you need to check in your own county governments, some of which are provided in the PFM Act.

Section 109(2)(b) of the PFM Act stipulates that:

"The County Treasury for each county government shall ensure that all money raised or received by or on behalf of the county government is paid into the County Revenue Fund, except money that may, in accordance with other legislation, this Act or County legislation, be retained by the county government entity which received it for the purposes of defraying its expenses."

This is what will blockade your resources.

Mr. Speaker, Sir, I will use an example which I do not like. I am not a very big fan of the National Government-Constituencies Development Fund (NG-CDF). However, one of the reasons why NG-CDF remains to be very popular amongst citizens of the Republic, is that its use is stratified. There is a certain percentage beyond which a Member of Parliament (MP) cannot spend those resources. There is an amount you can use for bursary, sports activities and administration. All these are specified and provided in the law. That is the brilliance of NG-CDF.

That is why on many occasions when you take the discussion to members of the public, despite our opinion as a House on the same Fund, they appreciate it for what it has done. That is the same kind of thinking that informs this decision.

Therefore, this Bill will ring fence the money generated by the health facilities ensuring that there is a predictable regular and steady source of funding for the health facilities operation in our counties. That is intended to guarantee funds are utilized for improvement of patient care at individual facilities and you prevent them from being absorbed into the county coffers.

I have explained what happens in our counties. Check with your own counties and you will notice all counties actually without exception, do this particular thing.

Mr. Speaker, Sir, investing in our public health facility improvement financing and effective management and administration of these funds, is an essential pillar of equitable health care system. We are talking about UHC. However, the discussion cannot just end and begin at how much funds have been raised. It is about how we use those funds that we have raised.

One of the key measures that is being put is that before we even look at the resources that will be raised from the National Health Insurance Fund (NHIF)

contributions and insurance funds, that which has already been collected is ring-fenced. This will perhaps come in the other Bills that will be coming to the House once the Assembly is done with them.

Sen. Kavindu Muthama, in Machakos County, the collection from all your facilities will be ring-fenced. Governor Wavinya will not use it for any other purposes other than improving your own health facilities. This is a brilliant idea which has been learnt from the experiences of all the trials that I have explained of UHC from 2009 up to where we are.

Further, these investments will have further far reaching economic and social societal implications.

Mr. Speaker, Sir, improved health facilities create jobs in construction, maintenance and healthcare services stimulating the local economy where all these health centres are. Deep down in the villages in whichever part of the country that you come from, this will bolster the reputation and trust in our healthcare system.

Sen. Wambua, if you have a headache in the dead of the night, the decision you make on which facility to go to is based on the trust you have in that facility.

The same is the case we are proposing for the citizens and the people we represent in this House. Your citizens and mine in Kericho need to be happy about a particular health centre. I should be able to know that if I fall ill in the dead of night in my village in Kapchebet where I come from, I can go to Kabianga Health Dispensary; the closest health dispensary to my rural home and get treatment.

It is about trust in our facilities, something that is deeply lacking. On many occasions, even something as basic as having the hospital opened is not something that our citizens are guaranteed. On many afternoons, they ask themselves whether that health centre is operational.

At least with these resources attached to a particular health centre, you are able to keep some health centres opened for 24 hours so that any of your citizens - the people you represent in the House - can access them easily.

I do not intend to speak long about it because it is a very simple Bill. I know many of our colleagues would wish to speak on this particular Bill and therefore we will have a discussion about how much time it will take and how many people can speak on it.

In conclusion, Part One of the Bill comprises of Clauses 1 to 5, which contain the preliminary provisions which include the title, interpretation and objects. Part Two of the Bill contains the regulating public health facility, improvement financing; including the retention of public health facility improvement financing. What will be the sources of the improvement financing and the functions of the public health facilities improvement financing? Part Three comprises of Clauses 9 to 20, which provide for the regulations. How will this money be kept? Who will be in charge? There is also the introduction of the position of the director of health in each of your counties. You need to hold somebody accountable.

Mr. Speaker, Sir, the curse that we have in this country about corruption and pilferage of resources is that we do not want to ring-fence resources then before you know it, they are lost again in the same routes that you are blockading. That is why we have to provide all that in Clauses 9 to 20, the administration and improvement of this financing. Part 4 of the Bill, comprises Clause 21 to 26 which contains the financial

provisions regulating the bank account for the facility improvement financing. These things have happened.

I cannot remember which particular county it was but I know in my first days in the Senate, one of the petitions which a member of the public brought to the House around 2016 - Sen. Madzayo and those who were there will remember - that a County Executive Committee Member (CECM) in charge of Health in that county was swiping resources and taking to their personal accounts.

Given that when members of the public are unwell, they go to a hospital in their county; they expect that it has resources. If you are paying using cash or a pay bill number, you expect that it goes to the Country Revenue Fund (CRF) account. Unfortunately, the funds were lining the pockets of corrupt county officials.

Therefore, Clause 21 to 26 speaks to how the funds will be regulated; what the bank account the funds will go to; the Authority of Incurring Expenditure (AIE) of issuing the expenditure for facility improvement, audit, overdraft and all the continuity up to the winding up for example if a facility is found not to be economically viable.

The last part of the Bill, Part 5 has Clause 27 to 29 which contains miscellaneous provisions and includes transactional provisions, penalties and regulations. This is just the usual transitions and provisions and what happens to the available resources because this Bill will come midway through a financial year and many such matters. I hope that our colleagues will get the chance to contribute to this particular Bill and share their thoughts so that as we interact with the people of Turkana, we can explain to them what is about to happen in each of their health centers from the time this Bill is assented into law. Given that it is something that will be achieved while we are in one of the most marginalized counties in our Republic, it will be quite momentous and impressive of us as a Senate.

Therefore, I urge hon. Senators to support this important Bill which will go a long way in improving our healthcare facilities in our counties and turn healthcare into a better managed function by our counties.

With those many remarks, I beg to move and request the Chairperson of the Committee on Health, Sen. Mandago, a former Governor who perhaps has far greater detail on some of the provisions, having served as a county Governor alongside the Speaker, to second this Bill.

I thank you.

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

Sen. Mandago: Thank you, Mr. Speaker, Sir. The Facility Improvement Financing Bill is a critical Bill. As a House, this Bill is critical towards the implementation of Universal Health Care (UHC).

As the Senate Majority Leader has put it, this is a Bill that is going to enable our facilities to address short-term emergency procurement of consumables within facilities that would have taken time if regular procurement processes were followed in the county.

(Technical hitch)

The Speaker (Hon. Kingi): Sen. Mandago, is it your height that is----

Sen. Mandago: Mr. Speaker, Sir, I think it is my height. Maybe I can use---

(Loud consultations)

Sen. Mandago: The problem with the Senator for Nairobi City County---

The Speaker (Hon. Kingi): Sen. Mandago, kindly, proceed to second.

Sen. Mandago: Mr. Speaker, Sir, I was saying that this Bill is very critical for the rolling out of UHC. Our facilities have had challenges in the past. I agree with the Senate Majority Leader that speaking from experience and having served as Governor just like the Speaker, the requirement of putting all the revenue from our facilities to the CRF, then requisitioning through the normal requisition process and making it available to facilities was curtailing service delivery especially addressing procurement of consumables which would otherwise be required on an emergency basis.

This Bill provides for facilities to retain not only the revenues they generate but also makes provision for development partners and donors to also put in resources directly to facilities. Previously the county governments were asked by development partners to open special purpose accounts where donor funds could be sent to the counties. The counties would then be required to ask the facilities to open bank accounts. Counties would again from the Chief Officer (CO) Finance send the money to those bank accounts at the facilities.

This Bill is going to shorten the process and avail this money at the facility level. This means that whenever a facility runs short of commodities or drugs, they can procure on an emergency basis because of the availability of resources. Our facilities are going to be improved considering there has been a decline in terms of financing and resourcing these facilities. Through the facilities committee, this Bill---

*(Sen. Abass walked across the Floor of the House
without bowing to the Chair)*

The Speaker (Hon. Kingi): Sen. Abass, you are out of order.

(Laughter)

If you need to move from one side, you know exactly what to do. Kindly, proceed to do what the Standing Orders require of you. Proceed, Sen. Mandago.

Sen. Mandago: Thank you, Mr. Speaker, Sir. This Bill is going to allow our facilities to be improved and gives some autonomy to the committees that are managing these facilities.

I thank various stakeholders we engaged, including development partners, county governments and the Ministry of Health. We are proposing amendments based on the recommendations they gave. This Bill will be among the enablers of rolling out the Universal Health Care (UHC).

I thank my Committee Members for the good work they have done to make sure the Facilities Improvement Financing Bill is in place. This Bill will make healthcare uniform for all counties, so that no county is left behind. We are aware that counties through their own motions and initiatives have passed their own Facilities Improvement Finance Bills at the county level. However, more than 30 counties have not passed the

Bill. Therefore, this Bill will fill this gap and enable retention of resources in all health facilities across the country.

The importance of this Bill in UHC is the intention of having a unified package for certain health services to be availed in all health facilities. It will enhance access to minimum standard of healthcare in any part of this country.

As the Senate sits in Turkana County, Members should note that once UHC is rolled out, they will not worry about the healthcare services in this region, since they will be available at the ward level. When hon. Members visit Loima and Turkwel here in Turkana and there is an issue, they could visit any healthcare facility in the area as they are guaranteed of a certain minimum package of healthcare.

Mr. Speaker, Sir, I beg to second.

(Question proposed)

The Speaker (Hon. Kingi): Hon. Senators, this being a Bill, under the Standing Orders, each one of you has not more than 20 minutes to speak to it. We may move to limit time owing to the fact that this Bill is important. Many of you would wish to contribute but because of constraints of time, we may want to limit the rule through a Motion moved by one of you. However, acknowledging the importance of the Bill and the fact that Members would wish to contribute, as a House, we may agree on the time within which each one of you will speak to this Bill.

Hon. Senators ---

Hon. Senators: Five! Five!

The Speaker (Hon. Kingi): Hon. Senators, can we therefore agree that anyone of you standing to contribute speaks for not more than five minutes?

Hon. Senators: Yes.

The Speaker (Hon. Kingi): Is that the consensus?

Hon. Senators: Yes.

The Speaker (Hon. Kingi): Hon. Senators, we shall proceed in that manner. I will proceed with the list on my dashboard. Sen. Osotsi, you have the Floor.

Sen. Osotsi: Mr. Speaker, Sir, we need to spend time to interrogate this Bill. From the onset, I will oppose this Bill for the following reasons –

I have the advantage of being the Chairperson of the Committee on Public Investments and Special Funds. One of our mandates is to oversight the special funds in our counties. I would like to agree with the views expressed by other Members that we have a challenge in the management of special funds in the counties; particularly the facilities improvement fund.

Some counties have set up this fund whereas others have not. However, if you read through the Bill keenly – I have spent time reading through the Bill – I am concerned that most provisions in this Bill conflict with the Public Finance Management Act. It also conflicts with the constitutional role of the Controller of Budget which is to regulate the special funds in the county. All these considerations have not been looked at in this Bill.

If you read Clause 5 of the Bill – I have never seen this kind of Clause –

“Where there is a conflict between the provisions of this Act and the provisions of any other law in matters relating to public health facilities improvement financing, the provisions of this Act shall prevail.”

If you read the Constitution carefully, the Controller of Budget has a role in the formation of public funds in the county. Also, the County Assembly has a role in setting up the appropriate laws to manage public funds. If you read through the Public Finance Management Act and the relevant regulations, this law has not taken the set up laws and regulations take into account.

I have heard the Chairperson Committee on Health stating that donors will finance the fund. We are all aware, as a Senate, that additional funds to the counties shall be taken to the counties based on the County Additional Revenue Allocation Act which is on the Order Paper.

On one hand, we are saying that we need better management of funds and on the other hand we are allowing direct injection of funds into the counties. We are contradicting ourselves as the Senate. I will not join those who will support this Fund based on my experience as the Chairperson of the Committee on Public Investments and Special Funds. This Bill contradicts with what we have done and the Constitution. It is not clear on the role of the national and county governments.

I wonder why we are pushing the Bill fast through this House. We reduced the public participation period and we now have five minutes to discuss the Bill and dispense with it. Yet, it is touching on serious matters that affect our counties. We have a role under Article 96 of the Constitution to protect counties.

(Sen. Osotsi's microphone was switched off)

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

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. It is rare to have Bills creating laws that unite the opposition and the Government in Parliament. A Bill touching on water and health naturally attracts us. Therefore, this Bill causes us to agree on both sides.

I appeal to our Chairperson of the Senate Sessional Committee on Public Investments Accounts and Special Funds. Your thoughts are important but do not kill the Bill. Propose amendments, then we shall manage them.

Mr. Speaker, Sir, similarly, like him, I am supporting the Bill but there is room for us to improve on it a little bit.

Both Azimio La Umoja One Kenya Alliance and Kenya Kwanza Coalition had something to say about the Universal Health Care during our campaigns. This is the moment for the whole House. As we support this Bill and pass it into law, we are doing it from Turkana County.

Mr. Speaker, Sir, allow me to thank the leadership of Turkana County led by the Senator for Turkana County, Sen. Lomenen, together with the people of Turkana for hosting us today. Just as we pass this law for the people of Turkana, we should also remember that as we are seated here in Turkana, we must ensure that we fix small but very critical things; health and water.

Yesterday, we had an opportunity to go to Laisamis. On the way, children were stopping us as they looked after goats. They were asking for water. Today, we have come

from Lokichar and again, five-year-old children have stopped us requesting that we give them water. Water is a real problem.

I urge the Standing Committee on Health; before we go back to Nairobi, to visit Lodwar County Referral Hospital. I was there and the situation is pathetic. Somebody is attempting to give the services but medical facilities are not there. We have to urge the governors of Kenya to ensure that funds are spent on this particular cause, not just in Lodwar.

Mr. Speaker, Sir, I request the Mover of the Motion; our Senate Majority Leader, to look at this Bill. If you look at Clause 11, it is trying to establish the management team. In Clause 11(b), in this management team, you have created somebody called the administrative officer of the department to be the Chief Executive Officer (CEO). This is the wrong way of doing it. As a doctor, I advise the House that the person who should be the CEO, is the medical superintendent. Also, the matron of the hospital or the nurse in charge of the facility should sit in this committee.

Mr. Speaker, Sir, since you and Sen. Mandago have been governors, you know that our health centres have community teams. Therefore, the chairperson of that community management team should also sit in this Committee.

I have a confession to make. One of the reasons why as the Chairperson of the team that led the impeachment Motion of Governor Kawera Mwangaza--- I thought she was doing very well is, she was being fought because she wanted money to remain at the referral hospital in Meru County, for her to do what this Bill is proposing in Clause 8. I am told she has developed other manners but time will tell.

(Laughter)

She was forward-thinking.

Thank you, Mr. Speaker, Sir, with those few remarks, I support and I will propose some amendments.

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

Sen. Wambua: Mr. Speaker, Sir, I thank you for this opportunity to also contribute.

(Senators consulted loudly)

The Speaker (Hon. Kingi): Order, Senators. May the Senator be heard in silence, please.

Sen. Wambua: Thank you, Mr. Speaker, Sir, for protecting me from Sen. Methu.

There have been several attempts in this country to arrive at Universal Health Care (UHC), to ensure that we provide health care to our people at all levels. It will be remembered that we started with the managed equipment services which became very infamous and was used as a cartel to siphon a lot of public funds. Now, we have progressed into the Facilities Improvement Financing Bill.

Mr. Speaker, Sir, from where I sit, the spirit of the Bill is sound. However, the letter of the Bill is serious. I will begin by just pointing out that a Bill as important as this, is not a Bill that should be passed and pushed through the Senate. It is a Bill that we will need serious engagement with as Members. After the Committee tables its Report, there

will be a need for Members to interact with that Report and ask themselves questions as to how the Committee arrived at the position that we are at.

I have just had a glance at the Bill and noted two important things. One, whereas it is true that the Public Finance Management (PFM) Act of 2012 stops county governments from spending money at source, requiring them to deposit their collections in the County Revenue Fund (CRF) accounts, there is a lacuna created by the law; that, county governments could legislate on areas where they would want to collect and ring-fence monies and spend at source. That is the lacuna that the proponents of this Bill have used to bring about new legislation on the use of monies collected by public health facilities to improve the same facilities.

As I said, the spirit is sound, however, when you look at Part 1, Clause 4, that is where the problem begins. This Act is only supposed to apply up to level five public health facilities in Kenya. You ask yourself, why not in the teaching and referral hospitals which actually collect a lot more money than the Level Five Hospitals and below? What is the thinking behind that?

That is why I am saying that Members need to engage with this Bill so that we propose proper amendments to it. The proposal is that where there is a conflict between the provisions of this Act and any other law--- what we have done is, we have elevated ordinary legislation over and above all other legislations. The only legislation that supersedes ordinary legislation, is the Constitution of Kenya. Why are we upgrading this law above any other law?

Mr. Speaker, Sir, the 100 per cent retention at source is also a recipe for manipulation and for abuse by county governments.

(Sen. Wambua's microphone was switched off)

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

Sen. Kathuri: Thank you, Mr. Speaker, Sir, for this opportunity to also make my contribution to this important Bill. First of all, I support this important Bill because we must start from somewhere. If it is a good Bill, let us say so and come together to see how we can improve it.

Mr. Speaker, Sir, my friend, Sen. Osotsi, said that this Bill contravenes the Public Finance Management Act. When I look at Clause 22, the chief officer in the Department of Health is the accounting officer for this Fund. He is the one who will be authorizing the expenditure to the facilities. Therefore, I do not think there is a lot of problem.

My problem is that there is a lot of bureaucracy right from the chief officer who authorizes. There are many other people who should act before the money is expended. This means that there will be a lot of back and forth before this money is utilized.

Mr. Speaker, Sir, I also looked at this Bill to see whether the money collected from the facilities can be used to pay casual workers in the facilities. At the moment, in most of these facilities in the counties, workers are going for 10 months without payments. So, as we improve the facilities, we can also have these monies to pay the casual workers in these facilities.

There are a few things that we can improve on. The Senate Majority Leader has not closed the Bill for discussion. So, if the Minority Side feels that there is something

you can contribute to improve the Bill, you are welcome. This is the Second Reading. That is the genesis of failed legislation.

If I come up with any legislation, let us sit down as a House and see where we can improve. However, the spirit that has been exhibited by the first contributor is that he was furious as if this is a murder case. As Senators of this House, let us accommodate any legislation that is brought before us.

Most of the facilities in Meru County, where I come from, are really dilapidated. The reason is money collected from the facilities is taken to other departments. The executives, the Chief Executive Officers (CEOs) and the management team of the governor collect money and use it elsewhere.

It will be very good if we ring-fence the money collected from facilities but make sure it is utilized for the intended purpose. Therefore, I support this Bill and encourage Members to open their minds and discuss soberly as leaders of this country.

We are happy that we are starting this Bill in Turkana County where there is a lot of need for improved health care.

Members, this is an important Bill. We need to open our minds and come close to one another to make this legislation.

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

Sen. Sifuna: Thank you, Mr. Speaker, Sir. Sometimes, perspective is very important so that we understand what we are dealing with in some of these discussions. I will give the House the example of monies we are discussing in this particular Bill.

There are four main hospitals in Nairobi: Pumwani, Mutuini, Mama Lucy Kibaki and Mbagathi as the four main ones. For perspective, in the Financial Year 2020/2021, Mbagathi Hospital was the highest in terms of revenue raised and it was only Kshs60 million.

This money we are talking about is not a lot especially if you juxtapose it with the need of some of those hospitals. It costs, for instance, an average of between Kshs7 million or Kshs8 million to just put up a descent Intensive Care Unit (ICU) ward or bed.

Mr. Speaker, Sir, whereas the spirit of the Bill might be good, the Mover of the Bill must engage with Senators on some of the concerns that have been raised, that, in fact, it might have undesired consequences. County governments might start saying that now that you are retaining your revenue or resources, we are not going to continue financing you to the tune we used to finance you in the past. That will cripple these hospitals because these monies we are talking about and the revenue that is retained is not a lot of money.

I also suspect that it might force many of these institutions to review their charges upwards. I can see the Senate Majority Leader laughing. However, in Nairobi right now, there is a Finance Bill, 2023 that is under debate. I am sure you have followed the debate. It is proposing, for instance, that Level 4 hospitals are going to charge you Kshs2500 to clean your tooth. Male circumcision in a Level 4 hospital, it is Kshs4000. Not many people can afford these charges.

My fear is that when you put this pressure on these public hospitals to go look for these resources, we might see an uptake in the charges that are being levied by the hospitals.

Mr. Speaker, Sir, as I said, some of the concerns that have been raised by Sen. Osotsi are valid in terms of us strengthening devolution and making sure that there is

proper oversight. This is because you are creating a management board and in terms of decision-making of how the resources that are retained are going to be used, key institutions such as the Controller of Budget might not have sight of those decisions. We are going to create a very powerful officer in the officers of the medical superintendent. This is because he is going to have a lot of powers to make decisions on the reinvestment of the resources that are retained at the facilities.

There is also the problem that has been identified by Sen. Osotsi on the question of conflict with other existing laws. As a lawyer, I also know that any legislation that is passed by Parliament is on the same level as any other legislation. I do not think any Act can elevate itself beyond other Acts of Parliament because they are passed by the same House. You cannot say you are going to elevate one Act over the other Act when they are especially dealing with the same thing.

I have seen a provision under Clause 3 on re-donation to other public facilities of non-financial receivables. Maybe, this is the only positive thing I have read in this Bill. In fact, if Kiambu Level 4 Hospital receives a donation that maybe they did not need or already have, for example, existing facilities like machines, they can then donate the non-financial receivables to another facility.

Mr. Speaker, Sir, I would take the view that more consultations need to be done because of those fears that we have, that it might result in unintended consequences and then see a plummet in the quality of services or an increase in the charges that are levied on *mwananchi* to access Level 4 facilities.

Sen. Wamatinga: Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Bill.

Nyeri County is among the 30 counties that have been able to pass a Motion in the county assembly, whereby the resources that are collected within health facilities are retained and reused.

Mr. Speaker, Sir, this is a very good Bill. However, we must be very cautious because as it has been said before, it could be misused.

In Nyeri, we have had a good successful story about it. We have an efficient system that ensures that money is reinvested back to the health centres.

However, as we pass the Bill, we need to also come up with mechanisms that will ensure a few greedy people do not take advantage of that.

Mr. Speaker, Sir, health being one of the devolved functions and the Senate having the role of oversight, we must come up with mechanisms that will ensure we have a way of getting to know how much has been collected, how it has been utilized and most importantly, come up with mechanisms that ensure the temptation to increase the charges does not fall through.

Health as a devolved function has faced many challenges, both at the county and national level. We also know there is commitment to introduce universal health which needs a lot of resources and most of the money the Ministry of Health is supposed to allocate to county governments is held in Nairobi.

Mr. Speaker, Sir, I therefore request my colleagues that as we support and pass this Bill, we should also come up with mechanisms that can be put in place to ensure that all devolved functions are followed by budgetary allocations as opposed to the current situation where money is left in the national Government. It is equally important to ensure that we have uniformity in the charges levied in the different levels of hospitals

across the country so that one county does not overcharge its people. If that happens as has been the case before, people are left with no option but to go to private hospitals where they pay a lot of money.

Mr. Speaker, Sir, as we look at this Bill, we should also ensure that the National Health Insurance Fund (NHIF) card covers service delivery across the counties and hospitals so that when a visiting resident from another county falls ill, they are covered in the host county.

We have supervision and oversight roles and it is important that we agree that the onus is on us to put in place mechanisms to ensure that there is some uniformity; and that there is prudence after the money has been collected.

Therefore, the requirement that each county makes known to the general public what each and every facility has collected must also be made mandatory so that it is not left in the hands of the governors to decide whether to make it known or not. We must also put mechanisms in place to ensure that for the money that is being reinvested, proper procurement mechanisms are followed because failure to do so will bring system abuse.

Mr. Speaker, Sir, I support.

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

Sen. Thang'wa: Mr. Speaker, Sir, I am Sen. Thang'wa and not Sen. Dullo. I was next according to the screen.

The Speaker (Hon. Kingi): I need to balance the House. We need to harvest views from both sides of the House. Sen. Thang'wa, from the screen, if I am to go by your suggestion, I would have eight of you speak from the Majority Side before I pick one from the Minority Side.

We need to balance so that we carry each one of us. Proceed, Sen. Dullo.

Sen. Dullo: Thank you, Mr. Speaker, Sir, for this opportunity. I take this opportunity to thank the Senate for holding Senate Mashinani in Turkana County. We can learn a lot from this visit than when we sit in Nairobi.

Secondly, this Bill is important. I remember in the last Senate, I chaired a Committee that was looking at the Medical Equipment Scheme (MES) where governors were forced to sign some memorandum without even doing a proper needs assessment. In that programme, equipment was dumped at various facilities that did not have electricity, water and other amenities.

The Government has spent a lot of money over the years on medical care but, unfortunately, we have never gotten it right. I wish the Government's side had organized a visit to one of the dispensaries in Turkana County for us to really understand how they operate.

Mr. Speaker, Sir, as the Senate Majority Leader has said, Isiolo County was one of the counties in the Universal Health Coverage (UHC). Unfortunately, we have absolutely nothing to show as far as UHC is concerned. We only ended up spending a lot of money.

One of the things we had challenges with were the cards issued for UHC purposes. That card could not be used in any other facility even in referral cases. What was the use of having those cards? That anomaly should be corrected before we go to this particular programme. Where, if I do not get service delivery in Isiolo County, and I am referred to Kenyatta National Hospital (KNH), I can be admitted or attended to there.

Mr. Speaker, Sir, that did not happen when UHC was launched in the previous programme. The Senate had requested for an audit of what happened during the first launch of UHC. I have come across some audit report but it was never publicized or used in a proper manner so that we correct the situation.

I know I will be cut short but if you go to a hospital, hospital health management committees are there on paper. They do zero work. Hospitals are run by chief officers, County Executive Committee Members (CECMs) and governors. I am sure that if we do not have proper structures even on this programme, then it will just be another futile exercise. We need to do something about this Bill if we want to achieve our objective.

Mr. Speaker, Sir, our dispensaries have nothing. You cannot even get Panadol. Some Level IV county referral hospitals do not even have paracetamol and yet we spend a lot of money in those hospitals. Considering this Bill is important for all of us, I wish the Senate could sit and come up with proper amendments that can benefit our people so that we can say that, yes, this time, we did it right.

This is long overdue. Our mothers are dying and our patients are---

(Microphone went off)

The Speaker (Hon. Kingi): Sen. Joe Nyutu.

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir, for this opportunity. I first want to commend the technical team serving us here because, today, we can see who is next. We usually do not see at the Senate what the Speaker is reading there. I also want to lament a bit because I was meant to speak before Sen. Wamatinga but something happened.

The Speaker (Hon. Kingi): Sen. Joe Nyutu, for a Senator to speak, they must be given the authority to speak. I can decide to put this gadget very far and pick from the group. This list is for purposes of knowing who wants to speak. I can decide to pick from the bottom, going up.

(Laughter)

Sen. Joe Nyutu: I am well guided, Mr. Speaker, Sir. I pray that as you decide to always look at me with merciful eyes because sometimes, I do not benefit from those mercies.

Having said that, let me make my contribution. From the onset, I support this Bill because we serve counties and we know the problems that are there, especially in health facilities. Devolution was crafted to bring services closer to the people.

(Sen. Methu consulted loudly)

Mr. Speaker, Sir, I pray that you protect me from Sen. Methu.

The Speaker (Hon. Kingi): Order, Senators! May Sen. Joe Nyutu be heard in silence.

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir.

(An Hon. Senator spoke off record)

The Speaker (Hon. Kingi): Hon. Senators, let me tell you that the gadget gives the Speaker the pool to pick from. That is why you will notice that from No.1 to No.7 after Sen. Nyutu has contributed, I will jump all that list and move to Sen. Kibwana. It is because we want to balance the debate. If I stick to this gadget, we will hear only one side and that is going to be extremely unfair.

So, just get to know that this gadget has given me the pool of Senators who wish to contribute. All of you will contribute but there is a certain order that the Speaker must be alive to, in order to bring some bit of balance between the two sides.

Proceed, Sen. Nyutu.

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir. I hope the Clerk has frozen my time. I had just started by saying that devolution was crafted to bring services closer to the people. From what has been happening in our hospitals, it has been very difficult if not next to impossible, for our facilities to procure goods and services that may be needed at short notice.

So, we have a proposal through this Bill, that a health facility can procure services and goods that are needed at short notice and that we can do that through ring-fencing of this Health Facility Improvement Bill. That is something that everybody of goodwill needs to support.

When we have to go through those lengthy procurement processes, sometimes we are unable to get services and goods at the right time. I know of a lawyer who died in my county because there was no ambulance. Those which were there had no fuel and there was no quick way of getting fuel to ferry the patient to hospital. This subject is under investigation by the Senate Committee on Health.

We have seen problems including a lack of fuel for generators. Having to go through that lengthy process, then it means that some of these goods that are needed at short notice are not available. Therefore, this becomes something that we must support.

Some health facilities are dilapidated. They need a cover of a coat of paint but it has to wait for those lengthy procurement processes. I see the clerk has given me the red light. So, I will not proceed but I support this Bill so that we can make health facilities to procure goods and services at the shortest time possible.

Thank you, Mr. Speaker, Sir. Just like I started by saying, always look at me with a merciful eye.

(Laughter)

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

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Bill.

This is a good Bill but it needs to be worked on. Every time people call us to complain that they have no drugs and that there are not many personnel in the facilities. If this will solve those issues by retaining the monies at the county level and being able to purchase the drugs, I think it is a good Bill.

However, we should check that we do not take the functions of the county back to the national Government. If this will be retained at the county level and the counties will be able to use this money they want to use it at the facilities, then I support this Bill. This

is on condition that the Governor and the hospitals will manage this money well. There must be a law to control how they will use the money.

It is so sad when our hospitals call to tell us that they have no money. When we call the governors, the reason they give us is that they have not received their monies from the National Treasury. As such, they have no money to purchase drugs. When we communicate with the Kenya Medical Supplies Agency (KEMSA), we find that they have bills and they have no money to pay for these bills. If the money collected from a facility will be used by that facility, then we will solve this problem once and for all.

With a lot of changes on this Bill, I support it.

The Speaker (Hon. Kingi): Sen. Thang'wa, proceed.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir, for this opportunity to support this Bill.

This Bill is calling for a revolving fund for every health centre. I am happy to discuss this Bill today in a County Assembly chamber. It is so nostalgic.

When I was an MCA, we passed a law that will grant hospitals to have a revolving fund. Allow me to paint a picture of what happens. By lack of a good example, if a vehicle knocks a wall of a certain hospital, for that wall to be repaired, the Hospital Medical Superintendent has to write to the Chief Officer (CO). The CO has to look at whether there is money in their budget for that vote. If there is money, the Chief Officer would have to go to the Controller of Budget (CoB) for the money to be released. That process would delay such a repair.

If there was a revolving fund in that hospital, it would take maybe a day or---

(Technical hitch)

The Speaker (Hon. Kingi): Proceed. I think that it is good now.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. This Bill is bringing about devolving of the budget making process. Every hospital will have an opportunity to budget for what they want and they will also have an opportunity even to raise monies from the well-wishers.

Mr. Speaker, Sir, today, as a Senator, if you want to give money to your dispensary, maybe you want them to use it in a certain way, that money will have to go to the county, then the county will have to bring it back. However, with this, if you give Kshs100,000 as a donation to a small dispensary, that money will go to the account and that dispensary will be able to do something that they always wanted to do.

Each facility will have an account and this account will have the allocation from the county government; it will have the revenue, for example if that dispensary has a coffee farm and they are making money so that money will go to that account. They will have to receive donations, even *harambees*. We are giving these small health centres an opportunity to come up with new ways of raising funds so that they can develop their facilities.

Sen. Osotsi and I are co-sponsoring a Bill called Ward Equitable Development Bill; the same to devolve funds further to the ward level. This is exactly what this Bill is doing. So, I encourage him to relook into what he had said before and support this Bill.

This Bill is also restraining governors from micromanaging the running of hospitals. If you have a team that is running a hospital, you do not require to call a

governor. For example, in my county - I can tell you this because I do know what happens there - you will find the governor micromanaging even which car is to be fueled by asking the driver to take a picture of the fuel pump and the car dash-board and take it to the governor to see whether that is what he did. However, if there was a small committee in those hospitals, they would be able to do their work without getting worried about what the governor thinks or what the governor will do.

The Chief Officer is the accounting officer but he has been given power by this law to authorize the medical superintendent and administrator in charge to run the affairs of the hospital.

This Bill will bring about competition on prudent use of resources. A hospital will have to showcase what they do with their little resources and that means that there will be competition among the medical superintendents of certain hospital. This means that service delivery will be rendered very well, precisely, efficiently and on time.

This Bill is bringing a sense of ownership because every ward will take care of their hospitals without interruption from the headquarters or from wherever.

Mr. Speaker, Sir, I do support.

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

Sen. Mumma: Mr. Speaker, Sir, I would like to request to speak a little bit later. I am analyzing the Bill

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

Sen. (Dr.) Oburu: Thank you, Mr. Speaker, Sir. I stand to support this Bill and I also note the concerns of my colleagues about some provisions in this Bill which need amendments.

We have been talking of the facility starting from the formal level which is the dispensary level but there is an aspect of this Bill which is very important and that is the primary healthcare before you go to a dispensary or a formal facility.

This is the facility which was created sometimes back in what they were calling the Bamako Initiative and that initiative gave rise to the community health workers. The community health workers were givers of certain drugs which are non-prescriptive drugs and they have been dispensing them to treat simple diseases which do not need prescriptions.

Some of these people who do the primary healthcare. They go to the people and teach them preventive measures because prevention is better than cure. Therefore, if you can teach people to prevent contracting certain diseases, it is more important than waiting for them to get sick and then you start treating them. The big problem has been how to pay these community health workers. What they get is so little that it is not sufficient to sustain them.

Also, there are counties which have been paying them but now in this Bill, it is proposed that the CEO will identify them and maybe employ them but will they pay them? If they are not going to pay them, then the problem will still continue to persist and people will continue to suffer at that level.

These people are the ones who are at the grassroots. They are the ones who know every home; they know how many people do family planning; they teach people and do all the primary healthcare things. They are very important at that level. This Bill has proposed it but it needs refining and improvement. We need to be very clear whether

these people are going to be paid or not. If they are going to be paid, at what level are they going to be paid.

Retaining money at the health facility up to level 5 is good but we need to have very clear accountability for this money. I know that there are shortcuts which are going to shortchange the Public Finance Management (PFM) Act but of course, it will help our people to get drugs faster than they are getting right now. However, we must establish proper ways and means of auditing those funds which are being spent at source. This is because spending money at source sometimes is not that good. Sometimes it is dangerous but because of the situation in which we are, a desperate situation, our people are suffering; you go to a health facility and there are no drugs, not even Panadol. This is a measure which is necessary but I hope that this Bill will address those problems which are persisting and existing right now within our facilities.

I support this Bill but I hope that we are going to continue to work on it as a Senate and improve it to make sure that what comes out addresses all the concerns which have been raised particularly by my brother, Sen. Osotsi, on this matter.

The Speaker (Hon. Kingi): Sen. Omar, you have the Floor.

(Technical hitch)

The Speaker (Hon. Kingi): Sen. (Dr.) Murango, you are disappearing and you have gone to the bottom. Do not interfere, once you are on green, just relax.

Sen. Okenyuri, you have equally gone to the bottom.

Sen. (Dr.) Murango: It is not our fault.

The Speaker (Hon. Kingi): Alright. Then I will go manual.

Proceed, Sen. Omar.

Sen. Mariam Omar: Thank you, Mr. Speaker, Sir, for giving me this opportunity to add my voice to this Bill.

This is a very important Bill. However, before I add anything, I want to make some corrections on what one of the Senators described this Fund as a Revolving Fund. This is not a Revolving Fund. A Revolving Fund is a fund that can be replenished and paid back. However, this is not the money that you can pay back. This is money that is utilised in our facility for development.

As a Vice-Chairperson of the Committee, we have planned to visit Lodwar Referral Hospital to see the challenges that they have.

This Bill is aimed at helping with devolution. We have seen the advantages and disadvantages of devolution. In the devolved sector of health, we have seen the challenges. We have visited almost five counties to see the challenges in the health sector.

Mr. Speaker, Sir, most of the health sectors have some items that must be procured with the revenue collected by the county governments, which is not ring-fenced for the hospitals. They normally use it for other developments.

So, if we pass this Bill, our health sector will develop because they will use the revenue collected from them, like in the maternity and children's sections. Therefore, they will be developing.

We have listened to many stakeholders and Non-Governmental Organizations (NGOs) and there are also some amendments to be brought. We agree that we need to pass this Bill so that it can assist our devolved units and our health sector.

I thank you.

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

Sen. Lomenen: Thank you, Mr. Speaker, Sir, for this opportunity. I rise to support this Bill.

Mr. Speaker, Sir, if you look at most health centres, dispensaries or the so-called hospitals, you will find that there are many challenges that these facilities are facing. For instance, most of them lack funds.

Additionally, you will also realise that the management of most of these health facilities are not trustworthy because of how they manage the funds. It is always questionable.

Mr. Speaker, Sir, we want to devolve everything that is meant to be devolved and bring the services closer to the people. These services include the issue of funds.

On the management of funds, we must ensure that the committees that are at the grassroots, all the dispensaries and health centres, manage these funds and are accountable.

The problem that we have in that most of these committees and institutions, is the usual, corruption.

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

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

Mr. Deputy Speaker, Sir, I have looked at this keenly. If you compare a community health worker in a health centre or a dispensary with a police constable, if a police constable fails to get his dues or remuneration or salary on time, he might decide to stop giving the services he is offering to the citizens.

However, if the same thing happens to community health workers who work every day for 24 hours just the way the National Police Reservist (NPR) works in providing security to the villagers, what will happen to them?

So, we have to motivate these community health workers wherever they are because they are human beings. They need to support their families, and themselves and face other challenges that they encounter.

Therefore, when we devolve these funds, we are sure that the services will be closer to the people and the citizens at the grassroots, and health centres and dispensaries will be served adequately and timely instead of waiting for services from the highest institutions or hospitals.

The other important thing is, that here in Lodwar, we have one referral hospital. If somebody gets a serious illness, that patient will need to be referred to Eldoret Referral Hospital; not even Kitale. The distance covered from Lodwar to Eldoret is more than 400 kilometres. It is rare for people here to go to Eldoret Referral Hospital; only a few do. However, most of those who do, lose their lives on the way.

So, it is important to reduce the distances covered by the patient being referred to a far hospital or the so-called big hospitals. It is good if the funds are there. Let these

funds be accessed locally. We do not know when one will fall sick irrespective of their status.

The principle of sickness is that it does not respect status. When you become sick, one thing that you require in a reflex action is treatment. The second thing is, where will you be treated? So, our wish and prayer is that when you become sick, you will need services closer to you so that you can be treated.

Nonetheless, when the services are too far, the drugs and means or logistics are far, you cannot be assisted. So, we have to be pragmatic when we say devolution is bringing services closer to the people.

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

Sen. Tobiko: Thank you, Mr. Deputy Speaker, Sir. I rise to support this Bill. The Bible says that the law was made for man not man for the law. It is important that as we protect devolution and we put in place procedures, policies and laws that will streamline it, we must not make it impossible for institutions to operate or emergency services to be rendered.

One priority among those issues is health. If we do not protect life in one way or another, then I doubt we shall be giving the necessary leadership in the course of devolution. We can imagine in this County of Turkana where we are today, when there is an emergency for a lady who is giving birth and blood is needed, then she is told about procurement issues. We know that procurement issues have bogged down a lot of systems and made things not work.

I think it is very important that this House enables the county governments to operate and the *wananchi* to benefit from the services that are given at the county level instead of putting bottlenecks for services to be rendered.

I do agree and support that county institutions, particularly hospitals can ring-fence a certain percentage of own source revenue in order to work and render emergency services to save lives. We have heard about the pending bills counties have with KEMSA that have made counties unable to operate or provide services. It is very important without necessarily---

The Deputy Speaker (Sen. Kathuri): Hon. Senators, the traffic flowing towards me is very pathetic.

(Laughter)

The good thing is that the system today is very transparent because you are able to see where you are on the screen. Kindly, I am overwhelmed by the traffic that is approaching.

Proceed Sen. Tobiko.

What is your point of order, Sen. Cheptumo? Kindly have your seat for one minute. You are all on the list. I am not the system, you know.

Sen. Cheptumo: Mr. Deputy Speaker, Sir, the truth of the matter is that the system is distorted. I was far much ahead just like other Members. However, I am at the end and you are insisting on following that list. I had said that the Speaker was not following the order.

The Deputy Speaker (Sen. Kathuri): It is very difficult to understand what you are telling me. Honestly speaking, the other system in the Senate is better because it

depends on the Chair entirely. With this one, you can see where you are and what is happening with it. We have a few Senators who want to contribute.

Sen. Tobiko, kindly wind up.

Sen. Tobiko: Yes, Mr. Deputy Speaker, Sir. I hope you are compensating me on the time they have taken.

I was saying even as we make laws that will protect the finances and the resources at the counties, we must not make laws that will strangle devolution or service delivery. Particularly this one for health is very important.

We have a case in Kajiado County. A lady was taken to Kajiado Referral Hospital and they did not have blood. They went to a neighbouring private hospital to get it. If money were available, a number of things would have been done to save her life. Unfortunately, they lost her in the process.

This Bill is very important. I am not ignoring the concerns that were raised by Sen. Osotsi so that we do not open a Pandora's box. However, as we do so, let us give priority to life.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed Sen. Kibwana. Did you contribute the time the Speaker called you?

Sen. Kibwana: Thank you, Mr. Deputy Speaker, Sir. I stand to support the Bill although I know it is not perfect. I am sure amendments will be done later, but there are other good things in it.

The Bill will improve efficiency by increasing the autonomy of the facilities to make decisions and manage their own finances. It will also ensure that all funds generated by the facilities are ploughed back to support facilities operations and services.

I imagine times when it gives an opportunity to hospitals where, for example, power has gone off and you have to use a generator and there is no money for fuel. You have to wake up the Chief Officer (CO) to request for fuel. This will utilize funds that are generated by facilities and take care of running costs. There are goodies in here. I am looking at the same Bill strengthening the governance and accountability structures devolved to the facility levels which is in line with the constitutional objectives and devolution.

As much as we may have worked hard on this Bill and amendments shall be been done in the Third Reading, I support it.

The Senate Majority Leader (Sen. Cheruiyot): Point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Yes, what is your point of order Senate Majority Leader?

(Interruption of debate on Bill)

**PROCEDURAL MOTION UNDER
STANDING ORDER NO. 34**

EXTENSION OF SITTING TIME

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to move that pursuant to Standing Order No. 34(4) (a), the Senate resolves to extend its sitting time until the conclusion of debate in Order Nos.12 and 13 in today's Supplementary Order Paper.

I have seen the list of Members who want to speak on this topic. It will be unfair for us to have spoken and at 6.30 p.m. we rise without the conclusion of this debate. Therefore, I request that the House agree with me that we conclude on Order No.12, I give the reply and perhaps move or commence Order No.13.

I beg to move and request Sen. Oketch Gicheru to second.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I rise to second the Motion by the Senate Majority Leader. This is an important Bill. Therefore, it would be unfair for any Member not to contribute to it.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, the Speaker has no vote.

(Question put and agreed to)

Sen. Veronica Maina, proceed.

(Resumption of debate on Bill)

Sen. Veronica Maina: Thank you, Mr. Deputy Speaker, Sir, for this opportunity to contribute to the Facilities Improvement Financing Bill.

The Bill offers a good framework for improving and setting better and higher standards in healthcare in the counties, sub counties and the grassroots level.

I have noted the definition of public health care facility as per Clause 2 of the Bill. However, I would like to propose an amendment on this. Public health facilities must include maternal healthcare services.

Only 42 per cent of women in this country have skilled attendants present at delivery of new born babies. Maternal mortality could be tackled if mothers have quick access to facilities that are defined as public healthcare facilities. If there is a maternity home within a county, it should fall within this definition and benefit from the own source revenue that is being utilized to improve the services. Notably, pregnant women are at risk of developing complications, they require emergency treatment and quick diagnosis. I would urge ---

(Loud consultations)

Mr. Deputy Speaker, Sir, the House is noisy at the moment. The Senate Majority Leader is consulting loudly.

The Deputy Speaker (Sen. Kathuri): Order! Hon. Senators, consult in low tones.

Sen. Veronicah Maina: Mr. Deputy Speaker, Sir, I propose that the definition of the public health facility be amended to include maternal healthcare, so that expectant mothers are not left behind.

I have listened to the proposals that have been made by Sen. Osotsi on Clause 5 of the Bill and he has a point. There is need for a clarification on that clause. An amended can be introduced to state as follows: “where there is a conflict between the provisions of this Act and the provisions of any other laws made in the county or enacted within the county in matters relating to the Public Health Facility Improvement Financing the provisions of this Act shall prevail.” We only subject them to laws that are enacted at county level.

There is an Article in the Constitution that clearly enunciate that if any law in Kenya is in conflict with the provisions of the Constitution, then the Constitution prevails. This is an amendment that can be introduced.

Clause 8 of the Bill defines the use of the own source revenue that would be collected in the facilities. I urge all Senators who are hesitant to allow the use of own source revenue to consider that after counties have appropriated finances through the Public Finance Management Act (PFM), they still utilize the resources.

Hon. Members should not be jittery about counties utilizing resources, what we need are checks and balances and accounting systems that are able to capture how the revenue is being utilized. This is a Bill that shows how devolution works. It entrusts the counties to collect the revenue and expend it for services that cannot wait for red tape bureaucracy.

This Bill will ensure that resources are utilized properly, accounting is done, auditing reports are generated out of the finances or resources utilized. Members are allowed to enjoy what they cannot have usually, for example, when there are no gloves or masks in hospitals because of the procurement system and delays.

I will pick out Clause 15 of the Bill on the hospital management team. The structure laid out by the Bill is elaborate and inclusive of the communities that are being served by those health institutions. This is important because the membership envisaged in Clause 18 is inclusive. It gives members of the community – the ones I would describe as ‘hustlers’ – a representative.

It is almost like putting an oversight at the grassroots level. Members of the community being served by the health institution are interested in the running of the health facilities. I see a situation where counties will build institutions to a level where there are universities, based on the framework that has been given in this Bill.

For those many reasons, I support the Bill.

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

Sen. Kisang: Thank you, Mr. Deputy Speaker, Sir. I am in the right place; I do not know why my colleagues are surprised. I rise to support this Bill.

If you give birth to a child with minor disability, you do not kill it. You take the child to the doctor, who will assist the child live a normal life.

The Bill has one or two issues that need to be amended, this is why the next stage of the Bill is the Committee of the Whole where Members will come up with amendments and ensure the Bill is improved and usable by our counties.

Hon. Senators are the champions and protectors of devolution. We should not kill a Bill that is supposed to assist and ensure devolution run well. This afternoon you have

heard that there is no medicine in Lodwar County Referral Hospital. Sen. (Dr.) Khalwale was there this morning and it is in a terrible state. Yesterday, we were in Laisamis Constituency in Marsabit County. The Turkana wind power management told us that before they moved to that particular constituency, out of five mothers who gave birth, three of them would die during childbirth. This is because there were no dispensaries or health centres, but they have been able to do something.

I hope with the passage of this particular Bill, our governors will ensure that the resources are retained within the facilities so that they are improved, there is medicine, nurses, clinical officers, and volunteer health workers within those particular facilities, get a stipend.

About three weeks ago, I was in Iten County Referral Hospital. Out of seven health workers on duty, five of them are volunteers who are not paid by the county government. Basically, as soon as we pass this Bill and it becomes law and they retain their own source revenue, the committee can set aside a percentage of the resources from the facility and give a stipend as transport allowance. We want to see health workers who are volunteering be motivated to work.

Mr. Speaker, Sir, in the past and even now, all the resources that are collected are taken to the County Revenue Fund (CRF) account. It is put in a pool, then the county executive decides how much they need to plough back to the facilities. This will help to motivate the facilities to collect and ensure the resources are put to proper use.

I know my colleague, Sen. Wambua, talked about Clause 4 which states-
“Subject to section 5, this Act shall apply to up to level 5 public health facilities in Kenya”.

Levels 6 and 7; the Medical Training Referral Hospital (MTRH), the Kenya National Hospital (KNH) and Kenyatta University Referral and Teaching Hospital (KURTH) are already retaining their own resources. Those are parastatals. We are not interfering with them. Basically, they still have and use the resources they get to run the hospitals completely. We are talking about our county referral hospitals and below. That should not be an issue.

Mr. Speaker, Sir, I have talked about the payment of stipends to our health workers who are assisting at the county level. There is an issue that Sen. Osotsi raised about not following the PFM Act.

If you read the Bill, it says that all the penalties that are in other relevant laws, especially the PFM Act and the Public Disposal Procurement Act, will apply in this particular management of the resources. This is because you are not going to procure outside the system. You will procure using the financial management system that is running the accounting function of the county.

Maybe where we need to check very closely is the KEMSA which is the source and provider of medicine for our counties. It is like counties have been forced to buy medicine from KEMSA. Yet, the medicine from KEMSA is more expensive than going to buy from other pharmaceutical companies.

There are also delays. As soon as the counties pay them and make orders, KEMSA takes time to deliver medicine. We need to relook at this so that we make the supply of medicine competitive to our counties. We ensure that they get medicine in time from all pharmaceuticals, not KEMSA alone. The Government should not do business. We should allow the pharmaceutical business community to sell medicine to our counties

and not KEMSA. That KEMSA thing should be closed. We believe this is a good Bill that will help us, especially on the Universal Health Care (UHC).

Mr. Speaker, Sir, I remember during the time of Prof. Anyang'-Nyong'o, the current Governor of Kisumu County, as the Minister for Health, they attempted to start UHC, but it failed. They did a pilot on five counties, but they did not go far. I hope with these four Bills that are coming to the House, we will have a proper working UHC in our counties and our people will be very happy.

We will not lose lives because of the ---

(Sen. Kisang's microphone went off)

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

Sen. Mungatana, MGH: Asante sana, Bw. Naibu Spika kwa kunipa nafasi nami nitoe maoni yangu kuhusu Mswada huu. Jambo la kwanza, tunafurahia kwa niaba ya watu wa Tana River County, ya kwamba, kumeletwa Mswada huu na kupitia kwa *Senate Majority Leader*. Mswada huu unaweka mamlaka mikononi mwa wale wanao simamia hospitali na zahanati mashinani.

Bw. Naibu Spika, shida imekuwa ya kwamba mara nyingi katika kaunti zetu, unapata akinamama wanaenda kujifungua na hospitali zimefungwa. Hii ni kwa sababu wale *casuals* ambao wamejitolea kuhudumia hospitali huko mashinani hawalipwi chochote. Unapata hospitali imefungwa. Mama anaenda kujifungua hakuna hata mtu wa kufungua ule mlango. Inakuwa shida sana kwa akina mama hawa.

Nilikuwa na mkutano na akina mama kutoka Milalulu Health Centre, Galole Constituency. Walituelezea shida ambazo wanapata. Sio wao pekee yao. Shida hii iko katika Kaunti ya Tana River County na kaunti zingine hapa nchini.

Unapata ya kwamba, ile zahanati ambayo iko karibu na wananchi inatumikia vijiji kadhaa. Hiyo moja, unakuta hakuna wafanyikazi ambao wameandikwa na kaunti wa kutosha. Wale watu wakujitolea ndio wanafanya kazi pale.

Bw. Naibu Spika, tukiwa na usimamizi wa pesa katika zahanati na hospitali hizi, itatusaidia sana kupunguza shida ya wananchi. Ninawaomba wenzangu ambao wako na tashwishwi kuhusu Mswada huu, wajaribu kuleta vipengele vya kuusaidia ili tuupitishie.

Ninawaomba wanao husika kuangalia Kipengele 11 ambacho kinapendekeza kuundwa kwa *county management boards* na Kipengele 13 kinachotengeneza *sub county management board*. Pia Kipengele 15 cha *hospital management board*. Ukiangalia hizi kamati ambazo zimetengenezwa na kazi ambazo zinafanya ni ya kusimamia zile pesa ambazo wananchi watalipa kupata huduma.

Mara nyingi, unakuta ya kwamba, wale walioajiriwa katika hospitali zetu, kwa mfano, *superintendent*, mkubwa wa *nursing* na wengine, sio watu wa kutoka kijiji hicho. Kule Tana River County, unaona wafanyikazi wa hospitali wa viwango vya juu sio watu wa kutoka kwa kijiji hicho au kaunti yetu.

Bw. Naibu Spika, pesa tumesema zije na ziangaliwe na wananchi wa kawaida. Lakini, daktari, *superintendent* na muuguzi hatoki hapo. Je, kweli tumeweka hizi pesa kwa mikono ya wananchi? Watu wanaweza kupanga mipango pale na kukosa kutumika kwa zile pesa kwa hali ambayo inafaa.

Ukija kwa Kipengele 17, unaona wametengeneza *health facility management committee*. Lakini, ni kama haina uhusiano wowote na ile *management* yenyewe ya hospitali, *subcounty* na *county management*.

Wananchi hawakupewa nafasi ya kusimamia zile pesa zao. Ile nafasi yote imeenda kwa wafanyikazi wa Serikali. Mtu hawezi kujua, pengine mwezi huu tumeleta Kshs150,000 kwa kituo cha afya. Lakini sasa haujui zile pesa zimetumika namna gani. Wameandika ya kwamba watatoa ripoti, ila haijulikani hiyo ripoti inapelekwa wapi.

Kwa hivyo, ingekuwa muhimu wananchi wapewe sauti kwa jinsi ambavyo pesa zao zinatumika. Wananchi wasikose katika hizo kamati za hospitali, *sub-county management committees* na ile ya kaunti. Tukifanya hivyo, wananchi wote watajua kiasi cha pesa kilichokusanywa mwezi fulani na hata kiasi ambacho kimetumika kununua madawa, sindano na *bandages*. Wananchi watatosheka na usimamizi wa hizi kaunti.

Kwa hayo machache, ninaomba kuunga mkono.

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

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute on this very important aspect of health. It is true that there is a problem, but I do not think that this is the best way to solve this problem of inefficiency in the hospitals.

Mr. Deputy Speaker, Sir, there have been serious problems in Makueni District Hospital in the business of scan. When someone has had an accident, scanning is sometimes not done in the hospitals. The other problem arises when someone has to read the scan because that patient cannot go to theatre or be released to a referral hospital like the Kenyatta National Hospital, unless that process has gone through. Quite a number of patients have died in that process. If it were done immediately, lives would have been saved.

There was once a delay for eight hours and the patient died. It has caused many problems in that particular hospital and generally in the county, as to the efficiency of hospitals and its management.

All the hospitals already charge some money and already have a system, which has a way of forwarding to become part of the internal collection of a county. So, what will stop these monies from getting lost has not been put in this law. Are we amending the PFM Act? What are we amending and what are we seeking to solve?

Mr. Deputy Speaker, Sir, in my opinion, we need many amendments on this Act. Probably, we do not need to amend this Act. Anything to do with finances and expenditure has its own regime of law and its own system. Otherwise, we might be trying to solve an existing problem, but create a bigger problem in terms of accountability. You need to look at multiplying effect. We are talking of the district and sub-county hospitals and dispensaries. There are collections in all of them. If you allow the staff to collect and use the money because they need to fuel an ambulance, the ambulance should already be fuelled. It should be in full capacity to operate for the day.

Then what is this you want to mitigate? If it is medication, it should have been supplied in advance. If it is anything to be used as an emergency, even if it is medication for a snakebite, it should already be in that particular level.

As much as we want to solve this problem which already exist, it may not be addressed by this particular law. We may pass this law and still find that inefficiency in

hospitals in the counties as it continues. I think the whole hospital management system has to be overhauled on how it is managed.

The most important is the attitude of the people who work in the hospitals. Do they want to save the people? Are they living to the Hippocratic Oath of saving a life as soon as it is practical or is it business or commerce, where the doctor is there just to make money for the day?

How will we make sure that these monies collected is put to good use by the management board or whatever is set up? In my own opinion, we need to look at this Act again and make enough amendments by the Third Reading. Otherwise, I will only support it if amended.

Thank you, Mr. Deputy Speaker, Sir.

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

Sen. Mbugua: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to contribute to this Bill. From the onset, I support it because ring-fencing revenue from these facilities will give autonomy which will help in achieving universal health care.

What is important to me is Clause 18 on the composition of a health facility management committee. The drafters of this Bill did well until they reached to (g). We have representation from the village representatives, someone appointed by women groups, youth forums and faith-based organizations. The proposal at (g) is to have two people representing the interests of the vulnerable and marginalized communities.

This mischief has been used severally to deny representation by People with Disability (PWDs) in most of these organizations. I will be proposing an amendment on (g) so as to have reference that one person should get nominated by PWDs organizations.

Mr. Deputy Speaker, Sir, I am impressed by Clause 20 on the appointment of members of the board of committees because it states that the committee mentioned above shall be in such a manner that respective expiry of their terms shall fall on different dates. This is important so as to retain the institutional memory of the facilities and for continuity purposes because we need our people at the grassroots level to access medical care.

The Deputy Speaker (Sen. Kathuri): Thank you. Senators, I can see you are now saving time for your colleagues. Let us have Sen. Ogola. Kindly move with the same spirit.

Sen. Ogola: Thank you, Mr. Deputy Speaker, Sir, for giving me the chance to contribute to the Facilities Improvement Financing Bill. I also support this Bill. However, as I support it, there are a number of things need to be re-looked into.

This Bill will ensure that funds that are collected from the facilities are factored in back to the services that are offered by the facilities. This may help alleviate the suffering of our people at the areas where hospitals serve. Many times, we see our sick people going to hospitals, but as soon as treatment starts, we see them trooping to chemists outside the hospitals.

Mr. Deputy Speaker, Sir, most of the time, the people going to seek for treatment at the hospital are not endowed properly and do not have money to buy drugs from chemists or pay for other services outside the public facilities that are there. If this Bill will address some of those challenges, then I support it.

As we get this Bill into place, funds that are budgeted by county governments for the facilities should also be ring-fenced. This is because this has often been abused and

you find that approved services at the budgeting process are not used in the facilities and do not benefit the locals.

Mr. Deputy Speaker, Sir, as funds are collected in those facilities, pilferage must also be addressed by the many boards that we are putting in place. It is also important to note that in constituting the management boards; not the health boards which specify the health practitioners that must be there, but we have a situation where our health facilities be they the county referral hospital or the health facilities; sometimes have people proposed, or nominated to be in the management board of the hospitals who have no interest or knowledge on health issues.

It does not help the health practitioners that they have a number of people nominated by the political class specifically by the governor and the Chief Executive County Member (CECM) who are just their political supporters and do not add value to the facilities.

You find a health referral hospital at the level of the county has people who are questionable in terms offering support. Coming to the nominations of the management of the hospitals, I see in section 18, there is a reference of a village representative. I question this because a village representative could be representing any village. It should specify which village this person should be representing.

Mr. Deputy Speaker, Sir, I support this Bill if it will enhance the support of the community health services workers, then it is going to be beneficial to our people. Some of these community health workers are at the mercy of the county governors. They are paid at will when someone feels like doing so. If this is going to improve the payment system, I support it. In the past, they have been paid in a manner similar to how our Early Childhood Education (ECDE) teachers were paid. Some were paid Kshs1000 before the county governments came.

So, I support this Bill with amendments that I have proposed.

I thank you, Mr. Deputy Speaker, Sir.

Sen. Methu: Thank you, Mr. Deputy Speaker, Sir. I am very happy that I have finally gotten an opportunity to speak. I suffered the same consequences as those of Sen. Cheptumo because I sat next to him. I am also happy that I depended on an old man to help me with these issues of technology.

I am very happy to be in Lodwar. It is my first time to come to Turkana County. I have never been to Turkana before. It is very nostalgic that I am in Turkana County. When I was vying, most of my opponents were accusing me of being a Turkana out of my skin complexion. So, I am very happy that I have come to the land of the people that I was told I was one of them. I have finally come home.

Since I want to save time for my colleagues, from the onset I support this Bill. Although I have heard from my colleagues about the panel beating that we need to do, I am convinced in my heart that we need to ring-fence the revenues that are collected from hospitals.

Even before I say how we are going to ring-fence these finances, allow me to demonstrate the reasons why I believe that this money should be used in---

(Sen. Cheruiyot consulted loudly)

I do not know whether the Senate Majority Leader can consult in a low tone than he is doing.

In the first nine months of own-source collection of Nyandarua County, we collected Kshs346 million. Out of this, Kshs156 million was collected from hospitals which denotes the fact that 45 per cent of all of our revenues are collected from the sick.

It then makes sense that this money should be used to improve the health facilities from which this money has been collected. When we sweep this money to the County Revenue Fund (CRF), what would guarantee that this money shall be used again to acquire services, medical and nonmedical supplies for this particular health service and this money cannot be appropriated to be used in other different sources?

Mr. Deputy Speaker, Sir, it is for this reason that I am very convinced that we need to use this money. I am very persuaded by the reason given in Clause 8(b) of the Bill, that subject to applicable financial laws and regulations, we should ensure readily available financial resources for the purchase and acquisition of urgent goods and services at the respective health facilities.

I need not belabour to explain why we need readily available funds and resources because you understand the way the architecture of our budgeting has been. It is only now that this administration has been very forthright in ensuring that money is remitted to the devolved units in time. Counties hospitals and health facilities cannot depend on the goodwill of the Government to get readily available resources and finances to ensure that we provide resources for the acquisition of goods that are very urgent.

Health is not something that you can postpone. If you go to a hospital and you cannot get drugs, you cannot say that you will come and pick up the drugs after one or two weeks, just like we can wait for a road, or for provision of water and fertilizer. On drugs and health services, you cannot say that because you have not seen a doctor today you will wait until two or three weeks to see him. For this particular reason, we need readily available resources and finances at our health facilities.

My final comment is that at the very lowest level of provision of services at the health centres and dispensaries, much of what is required, it is not very huge sums of money. The little that is collected is enough to sustain the running of these small health centres.

I agree with my colleagues; we shall give our input so that we get a very good law. This is a well-thought-out Bill and I support it.

The Deputy Speaker (Sen. Kathuri): The Hon. Senator with some origins in Turkana. You had indicated that you would save time for your colleagues, but you did not do anything much.

Sen. (Prof.) Kamar, you have the Floor.

Sen. (Prof.) Kamar: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity. I rise to strongly support this Bill, but with amendments.

As I support it, I am doing so basically because devolution is supposed to go to the lowest unit. For me, this is the best part of this Bill, that each and every public health facility will have an account to collect this money and it will be independent. This is the strongest part of this Bill.

What this is going to do is that with the devolution of health to the health Centre, people will be independent and it will catalyse good services and it will encourage their own source revenue.

I say this because I have an experience that I had in Moiben where I come from. Most mothers were going to deliver across in Elgeyo/Marakwet County and when I asked why. I was told it is because of a facility in Elgeyo/Marakwet County where they were giving mothers who had delivered a blanket and other small things. That was something that mothers loved. So, the minute we do this, there will be competition between facilities because every facility will be the best and I can see this raising more revenue than we are raising right now.

I also like Clause 6(4) that is talking about this money being a supplementary to the budget not being a substitute. This is going to encourage people to improve their own source revenue.

The other thing that is extremely attractive to me is the use of this money and that is to deal with very urgent issues; goods and services. We have realized that many people go to dispensaries and health centres and they do not get even paradol; a very small and basic thing. We are freeing them to do so and I believe that this will give us very positive results.

Mr. Deputy Speaker, Sir, I would like to mention a few amendments that I wish to raise, so that the Chair of the Committee can start considering because it good to amend a number of things. The issue to me is on the management and administration of this fund.

One, I want to highlight Clause 9 (f). It is taking us back to the national Government because supporting facility improvement through capacity building by the national Government is of no value. Why can the Council of Governors (COG) not do that work? Health has been devolved, except policy. So, I would like to recommend that they consider dropping Clause 9(f).

The other area that I think should be brought in the amendments is the composition of the committees. Clause 11 of the Bill it is talking about the establishment of the county health management team.

I want to agree with Sen. Mungatana that it has completely divorced the community. The membership that they have given us is just the practitioners and officers who are in the area. I think it is very important that we have local representatives in these committees, right from establishment of the county management team to the next one which is in Clause 13, the sub county health management team.

It is very important that it is not just the officers in the place. We need members of the community to be represented. In any case, at this time we have health centre committees and dispensaries committees where the local communities have been running very well. In fact, they have been fund raising whenever they do not have any facilities.

So, now that the money has come, we still want them to go and watch over their facilities. It is very important that the two clauses; the county health management team, sub county health management team and the health facility management team is represented.

Mr. Deputy Speaker, Sir, I will be proposing an amendment that will introduce three more members from the community. The three more members must include one member who is also in the health sector so that the community feel comfortable that whoever that committee is dealing with their finances, are dealing with that in the right way.

I only want to caution the committee on this issue called the nominating forum of youth organizations. Which youth organizations are those? The same thing with joint

forum of women. It will take a very long time to get women or youth to come together to give you one person.

Let us make it not only open but also transparent and state that a *baraza* will be done and whoever will be there will be nominated. They need to articulate it better.

I thank you.

The Deputy Speaker (Sen. Kathuri): What is your point of order, Sen. (Dr.) Murango?

Sen. (Dr.) Murango: Bw. Naibu Spika, niruhusu niseme kitu kwa sababu mimi nimekuwa ni mtu wa kupiga makofi na kutumbuiza wengine wakisonga. Naona kama sasa ukipea nafasi ambayo inakuja, mimi niliyepitwa mara tatu, tena nitapitwa niwe wa mwisho tena.

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Murango, you know once I assumed this Chair, I have strictly followed the screen because I do not know who had pressed before last time. That is the only way I can be fair to Members.

Sen. (Dr.) Murango: Bw. Naibu Spika, angalia kama sasa, itabidi niseme tu.

The Deputy Speaker (Sen. Kathuri): That is how we are eating into the time of the next contributor. Please, let us save time.

Sen. (Dr.) Murango: Bw. Naibu Spika, yule aliyekuwa akiongea, akiongea tena tutakuwa watu sita tena tutaenda mwisho na inachokesha kupanga laini na kuketi na kupiga makofi.

The Deputy Speaker (Sen. Kathuri): Asiongee ama tufanye namna gani? You will get your time.

Proceed, Sen. Nyamu.

Sen. Nyamu: Thank you, Mr. Deputy Speaker, Sir. I rise to support this Bill. Let me take this opportunity to thank the Senate Majority Leader and the whole Health Committee for coming up with this very good piece of legislation.

It is unfortunate and disheartening that since the health function was devolved 10 years ago, our people on the ground are still suffering the wrath of poor health services and facilities despite being charged a lot for these services. One of the main contributors to poor services is facilities are unable to spend money they collect at source yet; it gets lost in county coffers because of mismanagement.

If this law passes, health facilities will be able to deal with their own unique challenges at the facility level. We do not need to have a uniform solution yet each facility has its own unique challenges.

I have heard some of my colleagues strongly opposing this legislation. We should ask if this is good legislation, which it is. Can we improve on it? Yes, we can on areas of accountability and those that ensure that every shilling collected is dealing with urgent matters such as services and equipment. As my colleague, Senator of Kiambu County, mentioned before, when you collect and plan for this money yourself, it is going to stimulate revenue collection. This will lead to improved facilities. The beneficiaries of all this are the *wananchi*, the persons whom devolution is meant to benefit.

With those few remarks, I support.

The Deputy Speaker (Sen. Kathuri): For the interest of balancing the number left. Let us have Sen. Wafula.

Sen. Wafula: *Asante sana*, Bw. Naibu Spika, for the opportunity to contribute to this matter on the Floor of the House. I borrow a leaf from what my good professor has

said. That the management of these facilities down from the village to the county level must have representatives of the people on board. We are in a situation where the appointing officer of these management boards, or the appointing officer of the superintended or administrators still wield the carrot and the stick.

If they do not respond or dance to the tune of the appointing officer, the stick will do its work. If the carrot is nice to the boss, the person continues running the affairs of the facility. This reminds us that we must ring-fence and ensure that despite the fact that they are emergencies, these monies are supposed to handle, the big question here is, if the county government itself has failed to procure medicine and non-pharmaceutical products for the county, how is it possible for the health facilities to procure these things at short notice?

Where are they going to get these things without following due process? We have to make sense of this matter. The facilities at the grassroots level at all times make their requisition in the main Ministry at the county level. The county level always remits what has been requested by the lower level.

We have to be honest here. When you say emergencies what does that mean? Every facility, for example, in the Financial Year 2022/2023---

(Loud Consultations)

Mr. Deputy Speaker, Sir, I request people not to make noise. This is not a cheering squad.

The Deputy Speaker (Sen. Kathuri): Order, Hon. Senators! Sen. (Dr.) Khalwale, you are interrupting your good neighbour and he is really on high gear.

Sen. Wafula: Mr. Deputy Speaker, Sir, when the facilities make their requisitions, they know very well the numbers they expect and what these people need. If the main Ministry fails to submit, how do you expect these small facilities to start procuring serious emergency materials for the patients? We have to be honest with this. Are we sure that these casuals will be employed on a free and fair platform? Will the remuneration be fair and just according to the work they do? We are operating in a scenario where recruitment process is based on who you know and the clan you come from.

We have to put mechanisms in place where the casuals being employed are paid on time. We have witnessed scenarios where people have not been paid for 18 months, yet monies are being handled by the administrators and finance departments in counties. Where does this money go? The Committee on Health and the rest of us need to stamp our feet down and ensure that the Ministry of Health does what it ought to do.

Finally, it must be clear how the health promoters will be picked. It has been proposed that they will be picked through public participation. However, it is not clear whether political party machinery in counties will to recruit the health promoters or it will be the provincial administration. We must be clear to ensure that we do not politicise this or have people skewed in a particular direction run the Ministry of Health.

Mr. Deputy Speaker, Sir, it is limping and we need to go back to the health practitioners in this country. We have to respect professions. I am a teacher by profession and cannot always purport to know matters of health. Health practitioners in this country

should give us a perspective on what we are discussing or are about to pass. As a result, we will be in tandem with the changing dynamics in this country.

As a teacher, I would like to accept that we have time to correct this Bill. This must be done on top of the table and not under it.

For those few remarks, I support this Bill.

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

Sen. Mumma: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. This Bill seeks to address a problem that has been there in the last 11 years. However, as we were told by Sen. Wamatinga, this problem has been resolved in some counties.

This Bill is about the constitutional requirement that all revenue in the county must be collected in the (CRF). This made it difficult for hospitals to retain their monies and expend it at the facilities.

The previous Senate failed. The advice given to Nyeri County and others could have been given to everybody. We should have strengthened county assemblies to pass the laws that ring-fence the money.

The counties that did it are operating without the problems we are describing here. I urge the Committee on Health to note that our first function as the Senate is to protect devolution. We must be careful not to bring laws like this one, seeking to resolve a problem, but while at it, half way reversing devolution by getting the Ministry of Health in the national Government to prescribe the details of what is happening in a county.

We need to be cautious on some of the proposals in the Bill. I have heard a few Senators state that we will achieve UHC through this Bill, which is wrong. We must not lie to the public that by allowing facilities to retain their funds, we will achieve UHC. This Government needs to come up of its prescription of how it will achieve UHC. The allegation that retaining funds in the health facilities will facilitate access to healthcare is misleading. We should be magnanimous enough to recognize this and correct it.

Clause 8(d) has put in place the international standards set in defining whether we have UHC or not. It says the finances retained---

Sen. Wambua: Point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Just a minute, Sen. Mumma, you will have your minutes.

Sen. Wambua, what is your point of order?

Sen. Wambua: Mr. Deputy Speaker, Sir, I know the Chair has ruled on the dress code in this Chamber. However, I keep saying this; we must respect the dignity of the Senate. I have a lot of respect for Sen. Gataya Mo Fire, but how can he walk in the Chamber in a T-shirt? This is not right.

The Deputy Speaker (Sen. Kathuri): Where is Sen. Gataya Mo Fire sited? For some time, I have not seen ---

Sen. Wambua: Mr. Deputy Speaker, Sir, he is seated on the right of the Speaker, the last row.

Sen. Chimera: Point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Gataya Mo Fire, can you be visible to the Chair. Stand up, please.

(Sen. Gataya Mo Fire stood)

Two hours ago, you moved a Motion when you were smartly dressed. What happened to you between the time you moved the Motion and now? Sen. Gataya Mo Fire, go back and dress appropriately and then you come back. The communication was made by the Chair a while ago.

Sen. Mumma conclude.

Sen. Mumma: Mr. Deputy Speaker, Sir, I was midway through. Clause 8(d) has actually taken the principle in health. The vision that you have for UHC is to ensure health services are available, accessible, acceptable, affordable and of good standard. For us to say that the finances that will be retained at the facility will achieve this, is lying to Kenyans. It is actually setting up facilities to fail. I would suggest those who are drafting this to relook at it and draft the Bill in a better way.

Article 9 has clauses that are reversing devolution. We need to ensure that we do not micro manage. We need to provide on how there will be accountability for those funds that will be retained by counties.

I agree with Sen. Wafula that we must not give the impression that funds collected at the facility are about urgent issues. They are actually funds that are supposed to be deployed. There should be proper annual plans aligned to County Integrated Development Plans (CIDPs). There should be budgets and those funds should go towards those budgets. Otherwise, we are going to create an opportunity for those who want to create emergency things and actually pilfer the funds.

Mr. Deputy Speaker, Sir, the establishment of so many committees is going to create bureaucracies that are just going to eat into the money. I have seen in the other Bill about the community health work; about eight institutions; bureaucracies being established by the Ministry of Health for county governments. Why are they doing that? They are not doing that for KNH. Why are they going back to reverse the roles of counties? We must recognize the Intergovernmental Committee and CoG on health---

(Sen. Mumma's microphone went off)

The Deputy Speaker (Sen. Kathuri): Thank you, your time is up.

Sen. Chimera, you may have the Floor. You can as well execute your point of order within your time limit.

Sen. Chimera: Mr. Deputy Speaker, Sir, I wish to abandon that point of order. Thank you for this opportunity to contribute to this Bill. First of all, I am record in support of this particular Bill. This is a very timely Bill in the whole conversation on UHC. I think we have heard and listened to Sen. Cheruiyot while he was making his presentation on the trials and mistrials on this particular UHC agenda.

Mr. Deputy Speaker, Sir, allow me to congratulate my colleague Members of the Senate Committee for a job well done. This is a very fantastic piece of legislation. It has got very amazing clauses here. It is time to walk the talk. We have had this provision for far too long and we are not realizing any progressive results and commitments towards implementing UHC.

I quickly want to speak to Section 2 of that particular Bill on the expenditure Committee. This is a very powerful committee that we intend to establish in all the counties. I want to urge the governors and those responsible in implementing this particular Bill, that it is time to walk the talk. Please do not appoint your cronies, proxies

or girlfriends to this very crucial expenditure committee that will be in charge in rolling out this finance improvement fund.

Mr. Deputy Speaker, Sir, you know in most cases we need to appoint people who have the skills and competencies to run this fund.

I want to urge and request governors across the country to pay a visit to Kwale County and learn from the changes that former Gov. Salim Mvurya and Governor Fatuma Achani made in terms of sound appointments to the hospital boards in Kwale County.

We have people who are well-equipped, people with proper knowledge and know-how and the technical capacity to run this particular office. It is my plea to the governors to appoint people who are coming on board with the requisite skill set and competency required of them to run this particular fund.

Mr. Deputy Speaker, Sir, this is an amazing Bill. I urge and reiterate the fact that I am in support of this Bill. It is still work in progress. It is not cast in stone; we can improve on it. I want to assure my colleagues from the other side that we a room to make amendments, sound ones for that matter, so that we can realize and achieve the whole UHC agenda in peace.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Mundigi: Asante, Bw. Spika. Naunga mkono kupitishwa kwa huu Mswada kwa sababu hii pesa ni zile zinalipwa na akina mama na wazee na watoto wale hawana chochote. Inalipwa katika hospitali zetu za kaunti na majimbo zingine zile ndogo kule mashinani. Hizi pesa saa zingine zinalipwa kila mwezi halafu inaenda kwa Exchequer kwa Serikali Kuu.

Naunga mkono hizi pesa ziwe zikisimamiwa na usimamizi wa hospitali zetu mashinani. Kama ni kwa mwezi mmoja, hizo pesa ziwe zikikaa kule ndio ziweze kuwasaidia watu wetu kwa sababu zikiwa zimeifadhiwa na Serikali kuu haziwezi kutolewa na kutumika kwa haraka. Pesa hizi zinaweza kuhifadhiwa na hospital kwa muda wa miezi mitano au minne. Wakati mwingine, mtu anaenda hospitali anaambiwa hakuna dawa au makaratasi ya kumwaadikia dawa.

Ninaunga mkono Mswada huu kwa sababu mimi ni mmoja wa wanachama wa Committee ya Labour. Wale wafanyikazi wanaokota pesa wanakuwa na shida nyingi sana. Juzi tulikuwa na watu wa Labour wakisema wakati wa ugonjwa wa Covid-19, kuna madaktari walioiba pesa na wale wanaokota zile pesa walichukuliwa kama sio watu. Zile pesa zingekuwa pale wakati ule, zingesaidia kuwapatia kitu kidogo.

Kwa hivyo, naunga mkono pesa hizo ziwe zikisaidia hospitali mashinani. Ni lazima tuzingatie mambo ya accountability ili pesa hizo ziweze kusaidia mwananchi aliye chini.

Pia naunga mkono pendekezo kwamba madereva na wafanyikazi wengine wapate hizo pesa, angalau kikombe cha chai ili wao pia wajisikie kuwa wako serikalini za kaunti. Utapata wengine wanasubiri miezi mitano kabla ya kupata marupurupu yoyote. Daktari analipwa ndio atibu mgonjwa, lakini msaidizi wake hapati marupurupu yoyote.

Naunga mkono Mswada huu nikiwa kwa hii kaunti hapa, nikiwa Embu County---

An hon. Member: Embu?

Sen. Mundigi: Ndio! Tuko na majimbo 47. Kwa hivyo, Kaunti ya Embu inaunga mkono Mswada huu.

Sen. Abass: On a point of order, Mr. Deputy Speaker, Sir.

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

Sen. Abbas: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity. This is a good Bill.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, once you contribute, kindly allow other Members to execute their contributions. Go ahead, Sen. Abbas.

Sen. Abbas: Thank you, Mr. Deputy Speaker, Sir. This Bill takes interest of public health facilities and takes care of the funds charged to the public. It also improves finances of health centres and the management of health facilities. Its justification is in the PFM Act.

This Bill ring-fences money generated by health facilities. It also guarantees patients to get services in every health facility wherever they may be, including Level 4 hospitals. It regulates health facilities and delegates legitimate powers to management committees.

Mr. Deputy Speaker, Sir, this is a good Bill that gives time to health facilities to do services at their levels. However, I have my fears with the retaining funds at the lowest level. Keeping money in these facilities, not depositing it and not accounting for it might encourage theft. Here we are saying that the same people will keep money collected by these facilities. This might encourage corruption and misuse of funds. This Bill is a good idea, but we need to have proper oversight mechanisms put in place.

Mr. Deputy Speaker, Sir, I have a case in my county where we have water-user associations who have men at the boreholes. These boreholes are managed by these associations. The same people collect funds and every animal is charged when they drink water, but this money cannot be accounted for. Keeping money in health facilities where money is being paid will bring corruption. We need to improve on this Bill on how we can manage the available funds. As it is, it might give many loopholes for money to be stolen.

Finally, some of these facilities are not able to generate enough funds to take care of their needs, including buying enough drugs or paying their staff. Therefore, governors might use this as an excuse to not give money to those health facilities because they are collecting their money and yet, the people in that area cannot afford to pay for health services.

Mr. Deputy Speaker, Sir, we need to have a clause where a county gives money to these facilities from the common coffers. We need to train employees on how manage this programme. Some members of staff are not well-schooled. They might have accountability issues and most of them are locals. They can really misuse these funds.

I beg to support this Bill, but with some amendments. It is going to be a wonderful Bill.

I thank you, Mr. Deputy Speaker, Sir.

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

Sen. Seki: Thank you, Mr. Deputy Speaker, Sir. I support this Facilities Improvement Financing Bill which most counties have implemented, including my county.

I think this is a very important Bill because it is bringing uniformity to all 47 counties. We have a history of what counties have been doing with the department of health. When devolution came in, we experienced a lot of problems because we had a lot of delays in the procurement of services in the department of health, delays in supplies,

and more so, payment of overtime and sitting allowances to the staff who were working in the Ministry of Health.

This Bill in Clause 8 will bring the use of these funds and help to guide and to provide a mechanism on issues of procurement. Therefore, Clause 8 needs to be very clear on areas where procurement of goods and services needs to be done. It is not very clear.

The other thing that I want to highlight in the Bill is on Clauses 16 and 18. Clause 16 provides for the constitution of the hospital management team and Clause 18 provides for the constitution of the health facility management committee. As you can see very well, most of my colleagues have contributed in support of the hospital management team. I strongly support it because it will bring the public into that committee so that it can be in the management.

Mr. Deputy Speaker, Sir, when it comes to Clause 18 on the health facility management committee, we need to bring up the technical officer in the facility to be on it. Clause 18(b) provides that one person who is a resident of the area, nominated by the joint forum of women's organisations in the area and is appointed by the CECM. If you look at the roles of the health facility management committee, it is definitely a technical role that cannot be taken up by an outsider of the committee.

The other area that I would like the drafters of this Bill to look at is procurement. In that health facility management committee, there is no technical person from the procurement unit. Procurement of goods and services in the hospital facility is key. I think it is good we put that officer to be in that committee.

I support this Bill and request the drafters of this Bill to look at these amendments.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Eddy Oketch.

Sen. Oketch Gicheru: Thank you, Mr. Deputy Speaker, Sir. There is no doubt that we are congruent with the Standing Committee on Health together with the Senate Majority Leader that our health facilities are indeed the most critical areas in helping our people during emergencies and taking care of public health problems, as well as helping our people to deal with immediate health services. However, all this is a matter of being timely in that response.

I think the spirit of this Bill is to ensure that when health facilities can have money exactly as they need it, so that they can respond as fast as they can.

Mr. Deputy Speaker, Sir, what defeats my mind though is that if the function of that timely response is the issue of cash flow and not having money as fast as you want - and it is because the money to be released from county coffers is a difficult and tedious process - then why would you want to again legislate a number of bureaucratic elements that will make it more difficult to access that money?

I agree that cash flow is always a problem in health facilities, but we must go to reason as to why this cash flow is a problem. Health facilities work just the same as other businesses. There are issues around their medical supplies; debts that may need to be paid as immediate as it is needed to be paid. In some instances, there are some serious utility bills. For instance, somebody has just run out of money for oxygen or electricity bills to be able to take care of a certain calibre of people who are in hospital becomes difficult; that is understandable.

However, I do not think that we can cure it by having a more tedious process of having hospitals receive that money. For me, I propose that the sponsors of this Bill consider, if indeed they want to solve the issue of immediate access to finances, deleting and doing away with Clauses 11, 12, 13 and 14.

The only Clause that we need here if we are strictly speaking in the business of healthcare and service provision is Clause 15. In this Clause 15, I invite the Chairperson of the Senate Standing Committee on Health to consider something, like what we see in the United States of America (USA) or other countries that have made advances in terms of rethinking public health. Instead of having this health management team, they can have something called Receivables Financing Team.

This team can enable our health facilities to first figure out and propose the amount of money needed in a respective hospital, not in a generic way. In a perspective hospital, the amount needed to be retained so that you allow that Receivable Financial Team to allow some money are not needed for immediate used to go to the county coffers. That way, you will not claw back on devolution by, for instance, desegregating the hospitals from county plans.

If you look at Section 137 of the Public Finance Management (PFM) Act, in terms of budgeting and economic planning in the counties, hospitals are involved. If remove their entire financial instrument from the county side, then the county cannot budget for them.

Think about things, like what Sen. (Dr.) Khalwale was telling us---

Mr. Deputy Speaker, I just request for one more minute

Sen. (Dr.) Khalwale will tell you that a big part of cash-flow problem is medical claims. Medical claims are not the money that you have. Insurances have sometimes given you money, but you do not have it there and then.

If you have a receivable financial team, they will allow these health facilities to do medical factoring, and that can allow our facilities to be holistic in terms of their financial management, other than just looking at it from the money that they receive and the money that they spend.

I support this Bill, but encourage the Senate Majority Leader as well as the Chairperson of the Senate Standing Committee on Health to look at this from a perspective of ensuring that we do not claw back on devolution by separating the issue of healthcare and development of counties.

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

Sen. Cheptumo: Finally, Mr. Deputy Speaker, Sir. I want to add my voice in support of this Bill. I would like to refer the House to Article 43 (1) (a) of the Constitution, which states that-

“every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive healthcare.”

Mr. Deputy Speaker, Sir, that should be the foundation of this Bill. It is the constitutional responsibility of the Government of the Republic, the county governments and this House, to ensure that every Kenyan has access to good healthcare, which is a social right under the Constitution.

I support this Bill.

If you look at Clause 3 of this Bill on the objects and purposes of this Act, it spells out clearly what this law intends to achieve.

It states-

“The objects and purposes of this Act is to -

(a) provide for an efficient, secure and accountable mechanism for the collection, retention and management of revenue derived from health services rendered at public health facilities in Kenya;

(b) establish a governance framework that will facilitate effective planning, coordination, mobilization and access of public health facilities` improvement financing in Kenya;

(c) provide for the appropriation, management and use of retained health services revenue to supplement operations and facilitate quality service delivery in public health facilities;”

Mr. Deputy Speaker, Sir, this is an area I would just want to raise. This is because I heard my colleague, Sen. Mumma and some other Members, give the impression that this will discourage the county governments and the national Governments from funding our facilities.

The operative vote here is to supplement. So, the funds we are collecting in the health centres are not to be the only source of funding. In any event, the law is very clear here. Therefore, it is to supplement what is being given by the national Government through the county governments.

This House is the champion of devolution. The health sector is devolved. Some of us come from remote counties where we have dispensaries that are very far from the referral hospitals. In my county, if you are in a place like Tiaty; from Tiaty to the headquarters of the county, it is close to 300 kilometres.

Mr. Speaker, Sir, I support this Bill because it strengthens those units; the health centres and the referral hospitals. This is a deliberate intention that is taken, so that we achieve the UHC, which has been tried severally and has not worked.

If this law can be passed and it helps our small referral hospitals in our counties and sub-counties to have some resources to deal with the urgent matters of drugs and facilities, it will ensure that we have health access by our people.

Mr. Speaker, Sir, it is the county governments which, in my view, will be able to help in this process. If you look at the law here, it states that the national Government shall be able to develop policy and some regulations that will guide the usage of this money, and that will still be implemented by the county governments.

So, I do not agree with the argument that this law takes away the devolution process from the county governments. It actually strengthens, if I may say so. It enables county governments to achieve the UHC as enshrined in our Constitution under Article 43 (1) (a).

If there are areas we need to amend, we can do so. This is because we have the Third Reading, where we can bring all those amendments, so that we polish this document and law that--

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

Sen. Mwaruma: Thank you, Mr. Deputy Speaker, Sir, for this opportunity to contribute to the Facility Improvement Finance Bill. For starters, I am a strong proponent and supporter of devolution of health services. Before devolution most of the hospitals were in very deplorable conditions. However, after devolution, we have seen improvement in provision of health services, though we are not there yet.

This Bill provides a mechanism for connection, retention, and management of funds. After this Bill is enacted, there will be attendant regulations that will stipulate clearly how the money will be collected, retained and how purchase of both pharmaceuticals and non-pharmaceuticals will be done.

It is really disheartening that hospitals are collecting funds from patients and the funds are swept to the County Revenue Fund (CRF) accounts. It then takes an extremely long time for the funds to come back to the hospitals to purchase drugs and non-pharmaceuticals. This Bill is fashioned to cure that. It is very sad to note that when our mothers go to maternity, they have to carry their own gloves because the funds have been swept to CRF account, and we have to go through procedures of budgeting and procurement.

The passage of this Bill will ensure that the pharmaceuticals and non-pharmaceuticals are readily available. This is not to say that the provisions of the Public Procurement and Asset Disposal Act should not be followed; they should.

Previously, most counties were averse to enacting this Bill. In the second generation formula for sharing revenue, there was a parameter that was known as fiscal responsibility. For you to gain from fiscal responsibility, the first factor that was looked at was the amount of money you raise under own-source revenue. The second factor that the Commission for Revenue Allocation (CRA) was looking at was how prudent you have used your funds in terms of the Auditor-General's opinion. Most counties swept all the monies from hospitals to CRF accounts, so that the own-source revenue could go up and they could benefit from the parameter of fiscal responsibility.

However, in the formula we are using now, the parameter is no longer there. We encourage the House to pass this Bill because it will be an incentive for hospitals to improve the medical services, so that more people can come to hospitals and hospitals can collect more money. The provisions of health care will be better and better.

Mr. Deputy Speaker, Sir, I like the fact that we have many committees from the county, sub-county and hospital level. If we collect money and have it used at the hospital level and the committees managing the hospitals are made within the sub-county and hospital level, then there should be no reason facilities should not supply pharmaceuticals and non-pharmaceuticals in good time. There would be nobody to blame.

I would like to look at the regulations when they are made. There should be strict measures put in place to avoid pilferage of public funds that are collected within the hospitals.

I submit.

The Deputy Speaker (Sen. Kathuri): Thank you. Last but not least, Sen. (Dr.) Murango. Congratulations, this is my first time coming across this title.

Sen. (Dr.) Murango: Bw. Naibu wa Spika, ni ya kitambo sana.

(Laughter)

Sen. (Dr.) Khalwale: Ni daktari wa nini?

An hon. Member: Daktari wa miti shamba.

Sen. (Dr.) Murango: Bw. Naibu wa Spika, Mathayo 20:16-

“Yesu akamaliza kwa kusema, “hivyo, walio wa mwisho watakuwa wa kwanza na wa kwanza watakuwa wa mwisho.”

Siri ni kufika ukiwa umechelewa ili uweze kuongea mapema.

(Laughter)

Nitachangia kwa ufupi. Mswada tunaoadili, mambo ni matatu; tuipitishie vile ulivyo, tufanye marakebisho kisha tupitishie ama tupige kura ya kuukataa. Kwa mfano, nyumba ambayo panya ameingia, hawaweza ichoma, kama vile Sen. Osotsi alisema kuwa amekataa huu Mswada.

La pili, unaweza tafuta mtaalamu wa panya, kama Sen. Mbugua, akusaidie kutafuta panya; hii ni kupiga msasa na kufanyia Mswada marekebisho. Hatimaye unaweza lala na panya kwa nyumba kwani haiumi, kisha kukicha unafanya mpango tofauti.

Kukosa kupitisha Mswada huu hakutaondoa sheria ambazo zimepitishwa na *county assemblies* kule mashinani ambazo wanatumia uratibu kama wa Seneti. Tunafaa tu-*ringfence* pesa inayotolewa na wagonjwa kwenye hospitali itumike kwenye hospitali zile. Inapowekwa kwenye mfuko moja kama sadaka, pesa zile kurudishwa kwenye hospitali ni vigumu sana. Pia, zinapowekwa kwenye bajeti ya kaunti, pesa hizo zitatengwa kujenga barabara na kutengeneza miundo msingi. Zile fedha wakati mwingi hazirudi kwenye bajeti ya hospitali.

Mswada hauko kamili, lakini kuna nafasi ya kuufanyia marakebisho. Kwa sasa, tuvumilie tu, tuipitishie ili tutengeneze njia ya kuhakikisha kuwa zile pesa zinazoletwa na wagonjwa zinatumika kwenye hospitali.

Kuna hospitali kubwa na ndogo. Wakati matabibu sawa inakosa kwenye hospitali, gatuji zinatabia ya kuhamia kwenye hospitali zilizosawa kwenye gatuji zingine. Unapata mkusanyiko wa watu kwenye hospitali. Kuna kaunti tayari zinatumia mfumo huu. Huu si Mswada wa kwanza, na kukosa kuupitisha Mswada huu haimaanishi zile hospitali zitakosa kuendelea.

Kwa sababu ya Muda, nitamalizia mchango wangu hapo.

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

Hon. Senators, having no other Senator willing to contribute, I now call upon the Mover to reply.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir for the opportunity to reply. I have listened to many reactions and proposals on this Bill by colleagues, who have taken time to explain where they agree with the Bill and where they disagree. There are two or three things I would like to clarify.

First, Members must appreciate the procedure.

(Sen. Oketch Gicheru walked behind the Deputy Speaker)

The Deputy Speaker (Sen. Kathuri): Sen. Cheruiyot, just a minute. I do not know the intention of coming behind the Chair. You are out of order. Walk to the Bar and cross to your side.

Majority Leader, proceed.

(Laughter)

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. Excuse Sen. Oketch Gicheru, this is a new Chamber. In the Senate Chamber, you are covered and there is a shield. This is why we walk behind the Speaker. He did not know you were exposed.

There are two or three things that I want to say about this particular Bill. One, is for Members to appreciate the procedure of a Bill. When a Bill has been proposed, read a Second Time and people are debating, this is the time to raise all the suggestions that you have about areas, upon which you feel a Bill needs to be improved.

Therefore, I find it quite strange when you listen to colleagues. I think I heard Sen. Osotsi say that because of the proposals in the Bill, I will oppose the Bill in its entirety. Having listened to all our colleagues, everybody agrees that there is need to ring-fence this money that is collected at our various health centres, so that it is used for the purpose of developing that particular health centre. People disagree on small issues such as matters of procedure. I have listened.

We were just having a discussing with Sen. Oketch Gicheru before I was called to reply on the centralisation versus decentralisation of systems in our county government. I was explaining to him that as much as Clause 26 of the Bill proposes a centralised approach to procurement of goods and services, there is nothing different that this Bill is proposing separate from what happens in all the other departments of a county government.

If you go to roads, water or any other department of a county government, it is the same centralised system because of uniformity of practice, even for ease of procuring goods and services. I think the most important and the greatest gain; because I even saw the memorandum from the Council of Governors (CoG), is the fact that you ring-fence this money and ensure that it serves to develop that particular health center.

Madam Temporary Speaker, subsequently, I have also heard concerns by Members who say that this money is not sufficient. Of course, it is not sufficient. The fact that you have ring-fenced this money, does not mean that you have blocked any additional funding to that health center. I am just about to move a subsequent Bill on facilities improvement once we conclude this business. That is actually the next Bill, which is a separate line of funding again to our health facilities; separate from this particular resource basket.

The two other Bills that are being presently considered in the National Assembly speak to revenue raising measures, actually, on how to fund UHC. I do not know if it was Sen. Mumma. I listened to them explain and do not know whether it is the fact that I did not go into detail about the concept of UHC, but I never said or neither is it the intention of this Bill to say that this is the single Bill that will bring about UHC. Nothing could be further from the truth. This is one of the four enabling Bills. The other two Bills that are in the National Assembly speak to issues of, for example, standardisation of payment procedures for insurances.

For example, Sen. Oketch Gicheru, if a teacher in Migori goes to one of the private hospitals and presents their National Health Insurance Fund (NHIF) card, chances are, what they will be charged is twice what they will pay at Migori County Hospital for the same procedure. It will also take Migori County Hospital maybe the full financial

year before they file and receive their claims, yet, because of corruption issues and oiling people's hands at NHIF, that private facility that charged double the amount will get that money within one month. That is what has depleted many of our public health insurance schemes and even the private ones as well.

There are Bills that are standardizing that procedure; two of them are now in the National Assembly. Part of the resource basket that is being raised is the third revenue stream to these particular facilities. We will be explaining more when moving those Bills subsequently.

That is why when I was moving this particular Bill, I said that as much as in standard procedure you speak to the Bill that is before you, you cannot divorce all the four bills jointly put together and how their contribution comes to put together UHC. That is why it is important that we handle them together, so that we have a conversation about it.

I see Members agree on the need of the Bill, but many of them are disagreeing with one procedure or the other. Of course, I even had people speak of how we expedited the process.

If you ask our colleagues who sit in the Health Committee--- You know how Parliament works; we work through our committees. Our committees are our eyes because when you are considering a Bill, the reason most of the time we wait for that committee to guide us, much as it is not standard that you must have the report of the specific committee, is because committees take time to read clause by clause.

That is why when we were on recess, our Committee on Health was in Mombasa with all the stakeholders and practitioners going through this Bill for almost a whole week. There has been extensive public participation on this whole concept of Universal Health Coverage (UHC) and what needs to happen.

Of course, as is expected on a broad subject such as this, you are never going to get uniformity and agreement on how every procedure is supposed to be done. At least, nobody can say there has not been significant stakeholder involvement in all the four Bills that are coming before us. That is not factual. Our Members of the Committee on Health that are in the House can confirm that.

I remember engaging Sen. Mandago, the Chairperson of the Committee on Health as early as late last year, when I could see the Cabinet Secretary, Hon. Nakumicha, engaging with the Members of the National Assembly. I asked him, 'how come the Senate is not involved, yet you understand that health is a devolved function?'

We were able to resolve all those issues and mentioned to the Cabinet Secretary that any time they have a stakeholder engagement, they should have the Senate and the National Assembly Committees on Health seated jointly, if they ever expect us to pass that Bill. It is on that account and intervention that our Committee on Health has been extensively involved in this particular process.

Colleagues who rose and said that this ought to have been done differently, remember to file your amendment. The issue of superintendent and administrator of the hospital, which was raised by Sen. (Dr.) Khalwale, the Majority Whip who is a medical practitioner and perhaps has a better appreciation of some of these issues--- Though I know it has been long since he practiced, I know he still remembers anyway, as a trained medic.

The problem I have with many of you, colleagues, is that you are so eloquent during your contribution, but not diligent enough to follow through the proposals that you made. We shall shortly after I reply, go to division for Second Reading, which is to progress the Bill to the next stage. This is where all the beautiful ideas I have listened to from colleagues can be put together in the Bill. That is why I expect that between now and tomorrow, in the afternoon, when we now do Committee of the Whole, Members will have taken time to file all the proposals that they have made.

Mr. Speaker, Sir, I appreciate the time our colleagues have taken to respond to. Of course, many of the insinuations that have been made about the Bill are unfounded; some of them are actually not factual. They do not even feature in the Bill. However, in the nature of debate, politics and all these things, many good ideas sometimes get lost.

I appreciate the fact that Members have been diligent enough. It is now almost 7.30 p.m., and you can see that Members are in the House; many of them have sat through. Even those of us who were out, we have a very good lounge out there. For every Member who was contributing, we were watching and listening, agreeing and disagreeing with some of the proposals that were being made. I am sure many of them are still there right now. Should we raise the requisite number, they should be able to come in and we conclude on division for the Second Reading, so that tomorrow we progress the Bill.

Mr. Deputy Speaker, Sir, I appreciate all our colleagues, each one of them in their very eloquent presentations before the House this afternoon. This is how a debate should be in a House of Parliament. I do not know the magic of Turkana. I do not know if it is the heat.

(Laughter)

There were very minimal points of order. Members listened to each other. If you continue this way, we may reconsider the place of Parliament, so that we operate from here and debate more than argue. Parliament is a place for debating not for arguing. That is what I like about the session this afternoon.

Mr. Speaker, Sir, I appreciate the comments from all our colleagues. I request that you file your amendments tomorrow, if you strongly feel you should. Otherwise, let us give this proposal a chance.

We have worked with the system of managing our health facilities for the last six years as has been. This is a radical and different thinking. I plead that even if, for example, you have a particular amendment that does not see the light of day, let us still give this proposal an opportunity.

Mr. Deputy Speaker, Sir, I heard Sen. Osotsi speak on the issue of governance, saying that he was unsure of how these funds were going to be administered. That can be between the County Public Accounts Committee (CPAC) and the village accounts committees, like what we have in schools. When a Member of Parliament (MP) takes a cheque of, say, Kshs1.5 million to build classrooms, the village committee is more thorough than any Government agency that you can put together, including the Office of the Auditor General (OAG).

Villagers and Kenyans are very woke, as young people would put it. They know what the cost of ballast and stones is and how much it costs to put a classroom of this size versus that other. Do not be deceived that by going to the village, members of the public

do not understand these things. We have a very sober society coming up and they do oversight better than State agencies.

Mr. Deputy Speaker, Sir, much as we have put governance issues from Clauses 26 to 29 that are addressed in this Bill, Members are open to tighten it if they feel it is not tight enough by way of amendment between now and tomorrow, but mechanisms that have been put are fairly sufficient. I pray that we ask this proposed model a chance for it to conclude and we, as representatives of the people, should ensure our people enjoy better services.

Mr. Deputy Speaker, if you read the opening notes I had mentioned earlier, the whole concept of UHC is having preventive healthcare rather than what we presently have. The reason well-to-do Kenyans live a more-healthier life than those that are of a lower income bracket is because they are able to access preventive healthcare way in advance. They can go to hospitals at the slightest headache because they are insured and get checked, and whatever they are ailing from is detected and sorted out early.

If you follow through our current health expenditure, nationally or at the county government, we spend more resources at the higher levels of hospitals because by the time many of the people that we represent in this House go to hospitals, they are already extremely sick. This is because of the financial situation of many Kenyans. If they feel unwell, they opt to persevere and move along and yet, if they went to a better health facility courtesy of this proposal and the next one on improved facilities, they would get early detection of what they are suffering from.

Mr. Deputy Speaker, Sir, in the stages of intervention of a disease, the earlier you detect it, the better the chances of survival you give to that patient. That is the whole concept and that is why we are trying to re-think this proposal by making our health facilities vibrant and more effective, in order to ensure that they become better.

I do not intend to speak for long. I thank you and Members for indulging us.

With those remarks, I beg to reply, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you. Before we go to the division, as the Senate Majority Leader has said, there are many proposals. Members were supporting this Bill, but with amendments. These amendments should find their way to the Third Reading.

The Chairperson should direct Members on how to file their amendments, so that those interested can do those amendments tomorrow.

Yes, Senate Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, kindly allow me to say something on that. I mentioned that in my comments, but I do not mind repeating.

We have between now and Midday tomorrow to file all our amendments and have the Committee either consider them or give an approval for them to come before this House, so that we do the Committee of the Whole tomorrow, as you convince us why you think we should proceed in a particular way.

Therefore, Mr. Deputy Speaker, Sir, I repeat again for the sake of those who were not in at that time. Please, do not make your beautiful contributions and then leave them at that. Make sure that you write your proposed amendments to the Office of the Clerk, so that we can progress to the next stage.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Yes, Sen. Sifuna.

Sen. Sifuna: You know that I have a lot of respect for the Senate Majority Leader. I think that one thing that we are going to ask is that we proceed on the basis of good faith. Previously, we have allowed Bills to proceed to the Committee of the Whole, where we proposed amendments and those amendments were withdrawn and the Bill proceeded in the original format.

Therefore, I am just speaking to my colleagues saying that I think we need to proceed on the basis of good faith. We do not want to get to the same place we were with that previous Bill that I am sure everybody remembers.

For us, the amendments we propose are going to be proposed in absolute good faith, in order for us to have a perfect document that can help the counties.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): For the comfort of Sen. Sifuna and maybe those who feel like him, I will have you appreciate two things; that these amendments, if you listened to the debate that has come from both sides of the House--- None other than the Whip on my side has said he is filing an amendment.

It is very clear to me that it is upon you, as a Member, to file your amendment and convince us that, “the reason I am proposing this amendment is because of a, b, c, d.” If it makes sense to everybody, I believe we will pass that amendment.

I repeat, Sen. Sifuna, because I have been in this House and I know Members. After we vote, many of them never bother to follow through with what they had proposed during the debate. Please, file your proposed amendments.

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader, you know exactly that is what I said. From where I sit, there have been so many recommendations from the Members. That is why I said that it will be very important if they file the amendments, so that they can be considered by the House tomorrow.

We are now going to the Division. I request that the Division Bell be rung for five minutes

(The Division Bell was rung)

The Deputy Speaker (Sen. Kathuri): Order! Hon. Senators.

I request that the door be closed and the Bar drawn.

(The door was closed and Bar drawn)

The Deputy Speaker (Sen. Kathuri): We are voting by Roll Call. Can I have two tellers for the ‘Ayes’ and ‘Noes’? Let me have two volunteers; those who have energy. You know, there have been Members who have been going out to take tea and *mandazi*.

Yes, let us have Sen. Veronica Maina and Sen. Kibwana.

Clerk, please, go ahead and read the names of the Senators in the usual alphabetical order.

(The Senators proceeded to vote by Roll Call)

(Voting in progress)

BILL

Second reading

THE FACILITIES IMPROVEMENT FINANCING BILL
(SENATE BILLS NO. 43 OF 2023)

DIVISION

ROLL CALL VOTING

(Question, that the Facilities Improvement Financing Bill (Senate Bills No. 43 of 2023) be now read a Second time put, and the Senate proceeded to vote by County Delegations.)

AYES: Sen. Abass, Wajir County; Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Dullo, Isiolo County; Sen. Gataya Mo Fire, Tharaka-Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang', Elgeyo Marakwet County; Sen. Korir, Bomet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Mandago, Uasin Gishu County; Sen. Mariam Omar, Mandera County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita-Taveta County; Sen. Ogola, Homa Bay County; Sen. Oketch Gicheru, Migori County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

Teller of the Ayes: Sen. Veronica Maina

NOES: Nil

Teller of the Noes: Sen. Kibwana

ABSTENTIONS: Nil.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, these are the results of the Division—

AYES: 31

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it!

(Question carried by 31 votes to nil)

(The Bill was accordingly read a Second Time and

committed to a Committee of the Whole tomorrow)

The Deputy Speaker (Sen. Kathuri): Next Order. We are still detained. Serjeant-at-Arms, withdraw the Bar and open the doors.

(The Bar was undrawn and the doors opened)

BILL

Second reading

THE PRIMARY HEALTH CARE BILL
(SENATE BILLS NO. 44 OF 2023)

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. For the comfort of Members who might be tired, we have agreed that since we had moved the Motion on extension of time, I will move this Bill and it will be seconded. If there are Members who feel like they have the energy and want to contribute on it, you can contribute. If you are tired, there will be an opportunity tomorrow.

Most Senators have indicated that they are tired and would like to rest. Also, there are people who would like to save on the remaining time. It is now Eight O'clock in Turkana County and from here, most Senators will proceed to their rooms and cannot sleep. There are also the young-at-heart, who have many other things they want to do. We will allow them to indulge and do all that appertains to being young.

(Laughter)

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

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

The Temporary Speaker (Sen. Veronica Maina): Senate Majority Leader, I hope you are coming up with a consensus on how to manage the remaining time.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, we have agreed that I move the Motion, it be seconded, then, end the debate at that point. This will allow time for those who want to leave. Sen. Wambua, I understand your point, but we have a Standing Order. In a few minutes, this House will not have quorum. We will proceed tomorrow to save on time.

Sen. Sifuna has raised something valid with me; that the Speaker's dinner is equally part of the programme. I will take five minutes to move the Motion. Sen. Mandago will also take five minutes to second, then we will proceed to---

(Sen. Sifuna spoke off record)

The Senate Majority Leader (Sen. Cheruiyot): No, he is drafting his notes. Mr. Speaker--- Sorry, Madam Temporary Speaker, I apologise. It had not registered in my mind that there has been change.

I beg to Move that The Primary Healthcare Bill (Senate Bills No.44 of 2023) be now read a Second Time.

The Bill was first published on 15th September and read the First Time on 19th September. The principal object of this Bill is something important. This is because I have said that this is one of a series of the four bills, to be specific, that will come to this House in support of UHC.

We have just concluded the Second Reading on the Financing of Facilities. This is now purely on primary healthcare, which is at the heart of this conversation. I just said this in my replying notes in the Second Reading of the Financing of County Health Facilities; that, at the heart of this conversation, is primary healthcare. What is it that we can do that will move from a reactive to a preventive healthcare system?

Members, you know that it is very expensive to treat any particular ailment once it advances to a particular stage, yet, if you do the early detection, you save money and ease the burden on the taxpayers. That is why we are having this conversation about the Primary Health Care Bill. Primary healthcare is a fundamental essential component of a healthcare system anywhere. Those who have studied the world's best-performing healthcare systems, from India to Turkey to Israel, there is no miracle that they perform. It is just that their primary healthcare systems are very effective. Therefore, both at the national and county government level, we must have this conversation through this Bill.

Madam Temporary Speaker, I beg your indulgence, colleagues Senators, because I expect you to take time and read the Bill. The beauty of Turkana is that the levels of distractions are fairly limited, save for the easily distracted. For most of the Members, you have all the time to sit down and read. I encourage Members to read this particular Bill and make your contribution on what it is that you think needs to work with our primary healthcare because this is now the engine. If UHC was a vehicle, and financing of counties facilities that I have just read is the body, the engine is actually the Bill that I am moving, Primary Health Care System. It ensures that we have a system that detects and treats early, and ensures that members are properly informed. This is a proposal that you will find in the Bill.

You will find that this primary healthcare that I am referring to is of paramount importance, as it serves as the frontline defense in healthcare systems. It ensures that there is universal access to essential services that promote health. This is because the same training will be offered to all the 100,000 Community Health Promoters (CHP) that are being set up across the country. This is important for citizens of Turkana to listen. The CHP that will serve Sen. Sifuna in his Karen home is the same training that will be undertaken by the CHP officer who will serve you in your home in Lokichar

Sen. Sifuna: On a point of information, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): The Senate Majority Leader, would you wish to be informed by Sen. Sifuna?

Sen. Sifuna: Madam Temporary Speaker, just to inform the Senate Majority Leader and the House, I actually do not live in Karen. I wish that God heard the prayers that you are making for me. As they say, from your mouth to God's ears. However, I am

not yet there. Misrepresentation of my financial status can have adverse results. You know this, Senate Majority Leader.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): We all say Amen to that prayer.

The Senate Majority Leader (Sen. Cheruiyot): Sen. Sifuna, we have said ‘Amen.’ For us, Christians, we say you first confess, then you possess. There is such a theory. I am happy that Sen. Sifuna has confessed, all that is left is for him to now possess.

Madam Temporary Speaker, not to lose the points, is that our CHP in Turkana County will receive equal training, just like any CHP in all parts of the country. What may vary is the number of homes that they will be taking care of, of course, because of the pressures of population. Therefore, when we focus on prevention, early intervention, and holistic care, it improves an individual’s well-being. It also reduces the overall burden on healthcare system and resources. It fosters community-centred patient provider relationship.

It addresses the health disparities and promotes cost-effective health delivery. Why cost effective? I explained earlier and I repeat for my colleagues to understand. When we wait and intervene a bit late in the day, it becomes more expensive.

If you had a community health promoter, which is part of the officers or army that will roll out this programme of primary healthcare, they would guide and provide the necessary information. They also test citizens early in advance and give them the early warnings on lifestyle; change of certain cultures, so that people can live healthy lives.

Studies have been done and show that when you invest more in your primary healthcare, eventually, your overall budget spent as a country goes down. This is because you have very little to spend at secondary level, which is extremely more expensive than a primary healthcare.

For example, in the present, Kenyans spend in excess of Kshs4 billion to Kshs500 billion annually on medical care. This is when you cumulatively put together both private and public health facilities. If we were to spend our time and energy building a resilient primary healthcare system, which is the object and the organ of this Bill, the Bill will tremendously reduce. There are facts to support this.

I have seen amendments that have come from Kenya Medical Practitioners Pharmacist Dentist Union (KMPDU) who are in support of this proposal and other stakeholders that sent in their views on the Bill. It is Part of the report that has been tabled this afternoon, appreciating that this is long overdue. We should have done this from 1963 and Kenya would have been perhaps a better place than it is.

For this reason, the importance of the Bill can never be gainsaid and, therefore, this Bill is proposing the establishment of Primary Healthcare Advisory Council that advises national Government and county governments on implementation of primary healthcare. It tests the systems, ensuring information exchange and transfer; seeing what has worked and what has not, and making it better.

The Bill also creates the County Primary Health Care Advisory Committee at the county level. All the 47 counties will have this council that will be tasked with ensuring there is effective implementation of primary healthcare through resources.

Number one is to mobilize resources. Senators, the reason I keep remind you that these Bills are four, is so that you do not lose track of every conversation. Remember, we have already ring-fenced in the previous Bill that you are canvassing, money that is raised at that particular health centre.

We are now talking about other measures of revenue raising, still to that particular health centre. I heard Sen. Sifuna or someone mention earlier that once you ring-fence, perhaps, there is a risk of counties saying that because you have remained with the resources that you raised, there is no need for additional measures.

It will be the work of this County Primary Healthcare Advisory Committee to evaluate and see the needs for health centre by health centre. Are they properly resourced; are they falling short and by how much to roll out primary health care?

Therefore, they will do resource mobilization, advocacy and planning of development of the primary healthcare service delivery. They will sit and have a view of the entire county.

When you read the Bill, of course, Part 1 to Part 3, as is the practice and the norm, contains preliminary provisions. Part 2 of the Bill, which has Clauses 4 to 7, has provision on healthcare services that are accessible to community level and at health facilities. The provisions mandate the county government to facilitate the delivery of these services.

It is now cardinal by law for certain levels of treatment to be available at various health levels, from dispensary to a health centre and sub-county hospital. It is stratified and defined so that a particular institution cannot pass and you do not have governors painting buildings and calling them health centers, where the only available thing is a cupboard and Panadol.

Madam Temporary Speaker, that will be a thing of the past. This is provided in Section 2 of the Bill. Section 3; Clause 8 to 12, contains provisions for the primary healthcare workforce. These are the Committee Health Promoters (CHPs) and other healthcare providers. The provision sets out the recruitment process of CHPs by the county service through the County Public Service Board (CPSB) as well as their functions and their obligations.

Part IV of the Bill has Clauses 13 to 20. It provides for the roles of the national Government through the Ministry of Health, the county governments and various administrative committees and councils; the ones I had mentioned earlier. Clauses 21 to 23 contain miscellaneous, the usual provisions – transitional provisions and provisions on offences and penalties, in case you make certain offences and the delegated powers granted by the Cabinet Secretary for Health to make subsidiary legislation.

Madam Temporary Speaker, I urge fellow Senators to support this important Bill, noting that primary healthcare is the foundation upon which a comprehensive health care system is built. I know this might be raised by my colleagues when they speak later; this is something I saw the Committee address, but they did not conclude on it.

There is the issue of standards and the various bodies that manage the practice of professions. For example, if you were to be a lab technician, some of these Community Health Promoters (CHPs) will be carrying out tests in our homes. Therefore, what will be their place vis-a-vis that of the Kenya Medical Laboratory Technicians and Technologists Board (KMLTTB)?

It is important that we make a provision, perhaps, by way of amendment when we are done with the Second Reading of the Bill, in order to make sure that all these national bodies that have expertise that has been built over the years, are not lost by keeping them at the national level and yet, they do not have representative offices. With all these resources we are raising, nothing makes it impossible for KMLTTB, the one for nurses and for doctors, to have a resident office in each of our counties.

Madam Temporary Speaker, I say this because of the issue of standards. The fact that we are sending people to test people in their homes and give health advice does not mean we should blur the lines in healthcare service provision. We do not want to have instances where a CHP goes out to draw blood and yet, they are not trained lab personnel. These standards must be observed.

Later on, the Committee must assure us ways in which that has been covered because I have not seen that in the Bill, and it should also be moved by way of amendment.

With those remarks, Madam Temporary Speaker, I beg to move and request the Chairperson of the Committee on Health, Sen. Mandago, to second.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Mandago.

Sen. Mandago: Thank you, Madam Temporary Speaker. This Primary Health Care Bill will be part of the Bills that will enable the roll-out of UHC. This Bill will also set in motion the preventive and promotive part of health that has for a long time in this country been ignored or totally shelved. This is what has resulted into the high cost of health in this country. A shift from preventive and promotive to curative is what has resulted into high medical bills, many cases and a high disease burden.

This Bill is bringing into force the CHPs who initially were called community health volunteers. There are provisions that have been made under the CHPs, who are being brought on board, unlike in the past and therefore, this Bill provides for a monthly stipend for the CHPs. This is the way to make it sustainable for the community health promoters to be available for this service.

Other than training, the community health promoters will be equipped with specific tools and equipment for their work. For the first time in this nation, we are going to have a designated community health promoter, who will be responsible for, at least, 1,000 homes.

To make it possible even for the nation, both national and county governments should be able to have accurate statistics of people who are attended to. The community health promoters will help this nation in making sure that citizens are given proper advice. The community health promoters will check and advise them correctly.

The referral system of health in this country has never been very effective because patients have been left to self-refer. When citizens feel unwell, it is up to them to make a decision whether they are going to a Level 4 facility or a referral hospital. With the presence of community health promoters at the grassroots, citizens will be advised correctly.

This Bill will also clearly provide for the roles of national Government and county governments. For the first time, we are seeing a strong collaboration between county governments and the national Government in making sure that we are in this new direction of preventive and promotive health services.

Madam Temporary Speaker, because of the other engagements the Senators have, and we still have time to debate this Bill when Members will bring amendments, I want to stop there and beg to second.

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

(Question proposed)

Hon. Senators, time is now far gone. We are now ready for debate on this Bill. I am proposing that we limit the time for this debate and the number of contributors to the debate.

Sen. Oketch Gicheru: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Oketch Gicheru?

Sen. Oketch Gicheru: Madam Temporary Speaker, I am rising under Standing Order No.1 to seek your interpretation and guidance. When this House extended its sitting, it did so clearly until the debate and conversations around the Bill that we have just discussed ended. So, is it in order to still continue extending this sitting beyond the sitting hours of the Senate?

The Temporary Speaker (Sen. Veronica Maina): Sen. Oketch Gicheru, in view of the circumstances that surrounded the extension of time for the debate, I will order that the House be adjourned.

(Laughter)

ADJOURNMENT

Hon. Senators, having dispensed with the business as earlier resolved, it is now 8.12 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Wednesday 27th September, 2023, at 9.30 a.m.

The House rose at 8.12 p.m.