

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

**Tuesday, 22<sup>nd</sup> October, 2024**

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.33 p.m.*

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

#### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

*(The Quorum Bell was rung)*

**The Speaker** (Hon. Kingi): Hon. Senators, I am informed that we do have quorum. Kindly take your seats.

Clerk, you may proceed to call the first Order.

#### PAPERS LAID

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

#### THE SOCIAL HEALTH INSURANCE ACT (TARIFFS FOR HEALTH SERVICES), 2024

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Tuesday, 22<sup>nd</sup> October, the year of our Lord 2024-

The Social Health Insurance Act, Tariffs for Healthcare Services, Legal Notice No. 146 of 2024.

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THE SOCIAL HEALTH INSURANCE ACT  
(AMENDMENT) REGULATIONS, 2024

The Social Health Insurance (Amendment) Regulations, Legal Notice No. 147 of 2024.

THE REVISED MEDIUM TERM DEBT  
MANAGEMENT STRATEGY

The National Treasury and Economic Planning revised 2024 Medium-Term Debt Management Strategy.

I thank you.

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

**The Speaker** (Hon. Kingi): The Chairperson of the Mediation Committee on the Water (Amendment Bill) (National Assembly Bills No.33 of 2023.) Sen. Beatrice, are you a Member of that Committee?

**Sen. Ogola:** Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): You may proceed then to lay the Paper.

REPORT OF THE MEDIATION COMMITTEE ON THE WATER  
(AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILLS NO.33 OF 2023

**Sen. Ogola:** Mr. Speaker, Sir, I beg to lay the following Paper on the table of the Senate today, 22<sup>nd</sup> October, 2024.

Report of the Mediation Committee on the Water (Amendment) Bill, the (National Assembly Bills No.33 of 2023).

*(Sen. Ogola laid the document on the Table)*

**The Speaker** (Hon. Kingi): The Chairperson of the Mediation Committee on the Sugar Bill (National Assembly No.34 of 2022).

REPORT OF THE MEDIATION COMMITTEE ON THE SUGAR BILL  
(NATIONAL ASSEMBLY BILLS NO.34 OF 2022)

**Sen. Wafula:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 22<sup>nd</sup> October, 2024-

Report of the Mediation Committee on The Sugar Bill (National Assembly Bills No.34 of 2022).

Thank you.

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*(Sen. Wafula laid the document on the Table)*

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

### NOTICES OF MOTIONS

#### ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE WATER (AMENDMENT) BILL, (NATIONAL ASSEMBLY BILLS No.33 OF 2023)

**The Speaker** (Hon. Kingi): The Chairperson of the Mediation Committee to give Notice of the Motion on the Report of Mediation Committee on the Water (Amendment) Bill (National Assembly Bills No.33 of 2023).

**Sen. Ogola:** Mr. Speaker, Sir, I beg to give notice of the following Motion-  
THAT, the Senate adopts the Report of the Mediation Committee on the Water (Amendment) Bill (National Assembly Bills No.33 of 2023), laid on the table of the Senate on Tuesday, 22<sup>nd</sup> October, 2024 and further that pursuant to Article 113(2) of the Constitution and Standing Order No.167(3) of the Senate, approves the mediated version of the Bill.

#### ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE SUGAR BILL, (NATIONAL ASSEMBLY BILLS No.34 OF 2022)

**The Speaker** (Hon. Kingi): The Chairperson of the Mediation Committee on the Sugar Bill (National Assembly Bills No.34 of 2022), proceed to give your notice.

**Sen. Wafula:** Mr. Speaker, Sir, I beg to give notice of the following Motion-  
THAT, the Senate adopts the Report of the Mediation Committee on the Sugar Bill (National Assembly Bills No.34 of 2022), laid on the Table of the Senate on Tuesday, 22<sup>nd</sup> October, 2024; and further that pursuant to Article 113(2) of the Constitution and Standing Order No.167(3) of the Senate, approves the mediated version of the Bill.

Thank you.

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

### QUESTIONS AND STATEMENTS

#### STATEMENTS

**The Speaker** (Hon. Kingi): Statement pursuant to Standing Order No.53(1).

#### OPERATIONS OF TAVEVO WATER COMPANY IN TAITA-TAVETA COUNTY

Proceed, hon. Senator for Taita Taveta County, Sen. Mwaruma.  
That Statement is deferred.

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*(Statement deferred)*

Next Order.

### MOTION

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS  
TO THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS  
BILL (SENATE BILLS NO.19 OF 2024)

THAT, the National Assembly amendments to the County Governments Additional Allocations Bill (Senate Bills No. 19 of 2024) be now considered.

*(Sen. (Dr.) Khalwale, on behalf of the Chairperson, Budget and Finance Committee on 15.10.2024 – Afternoon Sitting)*

*(Resumption of debate interrupted on 15.10.2024 – Afternoon Sitting)*

**The Speaker** (Hon. Kingi): This is resumption of a debate that was interrupted on 15<sup>th</sup> October, 2024. At the time of interruption, Sen. Cherarkey was on his feet and he had a balance of 15 minutes.

You may proceed.

**Sen. Cherarkey:** Mr. Speaker, Sir, thank you very much.

The last time I was on my feet, I was contributing on the report on the issue of National Assembly amendments to the County Government's Additional Allocations Bill (Senate Bills No.19 of 2024).

Mr. Speaker, Sir, before I make any further comments, allow me, with your indulgence, to wish all 965,000 Kenya Certificate of Secondary Education (KCSE) and the Kenya Primary School Education Assessment (KPSEA) students all the best as they begin their national exams. I encourage them to do their best in their forthcoming exams. I wish them good health and good memory.

They have to know that you must not get an A. You can get any grade, but head in a particular direction. God will be gracious and he can make their life wherever they would be, especially our KCSE students.

Secondly, I want to comment and thank the Committee on Finance and Budget. For the first time, they have made tremendous progress. You can remember that after the Finance Bill, 2024 flopped, there was an issue of reviewing our allocations to counties. One of them was Kshs401 billion. After the amendment by the National Assembly, it was reduced to Kshs380 billion, which was way below before the last financial year allocation of Kshs385 billion.

Mr. Speaker, Sir, they even went ahead to reduce the conditional grants. The National Assembly continues to violate and defile the Constitution in all instances,

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especially when it comes to allocation to counties. While we agree that there are challenges in our county governments because of corruption, lethargy and poor governance, you do not need to undermine devolution by reducing the money that will go to our devolved units. Therefore, I thank the Committee on Finance and Budget for the good job of rejecting these deductions. I can see a number of Members in the House.

Mr. Speaker, Sir, as a former governor, you know many counties struggle to fulfill the basics of roads, bursary, water and access to drugs. Therefore, I want to agree, that it should be done while we agree that counties do not do the job. For example, in Nandi, in the financial year that we just concluded, my good friend, the Governor, purchased a mass grave for Kshs115 million, which cannot be located. When the county assembly asked about it, he said there was no need to buy a mass gravesite since people did not die. However, the money had been expended and the land that was bought cannot be located, yet Kshs115 million was spent. We allocate money to the counties, and, therefore, governors must be accountable to those monies and be prudent in use of the resources that we are talking about.

Mr. Speaker, Sir, for example, in my county, in the Financial Years 2022/2023 and 2023/2024, my Governor used Kshs310 million on foreign travel according to the Auditor-General's report. One of the foreign trips he went on was to see how tarmac roads are done to bitumen standards somewhere in China, yet we know that county governments do not have the capacity to build tarmac roads, unless it is different in Migori.

He also went to see where Jesus Christ was born, yet we Christians believe that Jesus Christ should be born in our hearts. These are the challenges that we face. We are asking governors, at any given instance, to use resources that they have prudently.

Conditional allocations for the Financial Year 2024/2025 are to be decreased to Kshs15.4 billion from over Kshs61.9 billion. I do not agree with that. If you can recall, we sat in our parliamentary group meeting and discussed about the Road Maintenance Levy Fund (RMLF). We agreed that Kshs10 billion must be given to counties to help them improve the infrastructure to bitumen standards.

The RMLF was to help towns like Kapsabet, Nandi Hills, Maraba, Kabiyeet and Mosoriot where the contractor is doing a substandard job. We are having a ratchet-like tarmac road. It is the same case in Kaptumo and Kobujoi. The county should be given its share of Kshs10 billion through the RMLF to ensure that there is value for that money. Counties like Elgeyo-Marakwet, Isiolo and Nyamira cannot construct their county headquarters. About Kshs523.1 million was to assist them to do that.

We visited Isiolo and noticed that the county headquarters construction has stalled because of revenue allocation that we give counties like Elgeyo-Marakwet, Isiolo, Nyamira and others. They do not have sufficient resources to allocate money for construction of county headquarters. There was a reasoning as to why we gave them about Kshs523 million, which has now been reduced to zero.

I have not seen the distinguished Senator of Mandera County who is the Chairperson of the Committee on Finance and Budget. For Members who are here, did they consult with the Budget and Appropriations Committee of the National Assembly?

How could they remove about Kshs523.1 million meant for construction of county headquarters, yet these counties continue to struggle?

Thirdly, on the issue of county aggregation and industrial parks, counties were to give Kshs250 million and the national Government was to match with a similar amount. It is indicated as Kshs2.5 billion, but it was supposed to be Kshs4.5 billion, so that we build industrial parks.

Mr. Speaker, Sir, a number of visitors in the Gallery are young people who are looking for opportunities and jobs. One of the ways of growing this country by moving from Third to First world is by looking at the Singapore story. The only way is to have the manufacturing sector, so that we have job opportunities for our young people. This slashing of money going to aggregation centres will affect Kilifi, Nandi and Vihiga, yet we had agreed that Kshs250 million be given by the national Government. That is unfortunate.

Another issue that I found weird is that we are talking about Universal Health Coverage (UHC), Social Health Insurance Fund (SHIF) and Social Health Authority (SHA), yet people cannot access healthcare. The Government came up with what we call Community Health Promoters (CHPs). It was unwise for the National Assembly to cut this money to Kshs2.584 billion. The money can only pay 86,133, yet we had hired 107,831 CHPs. These CHPs are like extension officers that we have in the counties. These are people who go to our villages.

Some of us come from areas where for you to access a health centre, it takes you a journey of five kilometres. Once you access that health centre, there are no drugs and services. These CHPs are supposed to assist people to access quality healthcare.

When you go to Moi Teaching and Referral Hospital (MTRH) in Eldoret, Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH) in Kisumu, formerly known as Russia Hospital, Coast General Teaching and Referral Hospital, Nakuru County Referral and Teaching Hospital or Mama Lucy Kibaki Hospital (MLKH), there is no quality healthcare.

Over the weekend, in one of the leading television stations, I saw a story of MLKH, where four people were sharing a bed. How can we alleviate that if at MLKH there are four or five people sharing a bed and others are sleeping on the floor? That is for countries that are still in medieval period. It should not be happening in Nairobi. That is the reason there are CHPs to assist people during delivery.

Some of us were not lucky to be born in hospitals like the Gen Z and the rest. Some of us were under the mercy of midwives in the villages. No wonder we are brilliant, because the first time we got into this world, we got good slaps that awoke us to the realities of this world and here we are. That is why we thought that having CHPS in the villages was critical. I am happy the Senator for Nairobi City, my good friend and the Secretary General of the broad-based Government, is here. What happened over the weekend at MLKH should not be allowed. How can four people share a bed? That should be condemned in the strongest possible terms. I hope that after this, the Senator for Nairobi City, who is my good friend, will request the Committee on Health to do a thorough inspection of MLKH, so that our people can get better access to medical care.

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I was talking about referral hospitals such as Kenya National Hospital (KNH) here in Nairobi. Why would somebody with a normal cough or malaria go to a referral hospital like MTRH in Eldoret? If our healthcare system was functional in Vihiga, you do not need to transfer anybody to JOOTRH or MTRH. I can see there is an upcoming hospital in Kakamega, but I do not know whether it was handed over to the national Government. I remember there were advanced conversations, and I hope it has been handed over because MTRH is overwhelmed. On this issue of CHPs, we must agree as a country that health is critical. In fact, what we should be doing is to have more CHPs. Let them work with some basic medicine or things like checking blood pressure.

Mr. Speaker, Sir, are you aware, most of the elderly persons in our communities, including in Kilifi, are dying because of basic ailments like diabetes and blood pressure. Those are conditions that can be managed. We should ensure that CHPs are well-equipped. They should walk to a village in Homa Bay and assist our parents and the elderly to check diabetes, blood pressure or hypertension. Conditions such as diabetes and hypertension are killing our people because of lack of access to healthcare. We thought that CHPs would ensure that they get access to quality medical care.

Fourthly is the issue of museums. What is interesting is that there are court fines. This is money that is collected by courts through court fees. I know Retired Justice Stewart Madzayo understands this. I do not know why people would want it to be cut down, yet they should have been given, just the way cities and others impose fines.

When we go to museums, we should see the zinjanthropus, which lived during the history of man. These young men and women need to know the history of Kenya and what is happening. We need to have proper museums in Kilifi and Kwale at the Coast where we can comprehend about the blue economy.

I appreciate the heroes of Kenya, including Koitalel arap Samoei, whom I am one of his remnants and we are proud of them. This includes Jean-Marie Seroney, one of the seven bearded sisters who built the foundation of this Parliament. We need to celebrate our heroes, and learn from them. When I go to the Coast, I want to go to the museum and know who Mekatilili wa Menza was; what she fought for, how the past was, and those things that Sen. Madzayo is saying.

When I want to learn about the history of the Maasai people, I want to walk into a museum in Narok County and understand how they eat, their culture, their values, and reasons why Maasai women are very beautiful, although they are not as beautiful as those from Nandi.

We need to understand what is happening across, and we need to be told. There is the first railway I normally see here in Nairobi. We need to understand about the man-eaters of Tsavo, and it can only happen within the county centre.

The fifth is on the Road Maintenance Levy Fund (RMLF), which is Kshs10 billion. I want to still insist that Kenya Rural Roads Authority (KeRRA) and Kenya Urban Roads Authority (KURA) are unconstitutional, and illegal road bodies. I know that there is a matter in court. KeRRA and KURA are unconstitutional and should be scrapped. It can be either national roads or county roads.

You find a road is being done by KeRRA, and the governor comes and puts a signpost that it is done by the county. Where there is a road done by the county, KURA

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comes and puts a signpost on it. Let the RMLF of Kshs10 billion go to counties, so that counties can improve their centres. Whether you are working in Mandera, Homa Bay, Kakamega, Kilifi, Kwale, or Lamu, those centres can be improved by the counties. That Kshs10 million through RMLF should be given so that it becomes very easy.

The only way we can agree on the functionality of national trunk roads and trans boundary roads is by having only the Kenya National Highway Authority (KeNHA). As for KeRRA and KURA, we should avoid this duplication. The transfer of functions under the Fourth Schedule in our Constitution 2010 is very critical. Why do we have KeRRA and KURA, yet in most of those small centres---

With those many remarks, allow me to support this Motion and thank the Standing Committee on Finance and Budget for rejecting these amendments. I also reject them in totality.

**The Speaker** (Hon. Kingi): Hon. Senators, before I allow the next speaker to take to the Floor, allow me to make the following Communication.

*(Interruption of debate on Motion)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KABIANGA  
UNIVERSITY, KERICHO COUNTY

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence, in the public gallery this afternoon, of a visiting delegation of Kabianga University in Kericho County, comprising six lecturers and 100 students.

Hon. Senators, in keeping with the tradition of warmly welcoming visitors to Parliament, I extend a heartfelt welcome to the delegation. On behalf of the Senate and my own behalf, I wish them a productive and enjoyable visit.

I thought I had seen the Senator for Kericho County. In his absence, I will allow the Senate Majority Whip, under one minute, to extend a warm welcome to the visiting delegation.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir, for the honour to acknowledge the presence in the House today of this delegation.

The importance of education, especially university education, cannot be gainsaid. I want to welcome them and encourage the students and the lecturers, of course, to ensure that they should not just be at the university, but they should come out of the university with quality education.

Lecturers, we want to appeal to you, as the leadership of this country, that we are starting to have a culture of fake degrees; degrees from River Road. This must be checked, and you are at the centre of it.

Secondly, we have had many people complain about buying of marks by students, ending up giving us half-baked professionals. As the leadership of the country, we cannot accept or entertain this. I, therefore, want to invite them to find time to see the quality of

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leadership in this House and the history of Parliament. The best legislators have always been people with good education.

Thank you, Mr. Speaker, and welcome.

**The Speaker** (Hon. Kingi): Sen. Beatrice Ogola, you have the Floor.

**Sen. Ogola:** Mr. Speaker, Sir, I thank you for the opportunity to welcome the team from the university. Some research recently came my way---

**The Speaker** (Hon. Kingi): Hon. Sen. Ogola, you have the Floor to contribute to that Motion. The delegation has already been welcomed.

**Sen. Ogola:** Thank you, Mr. Speaker, Sir. I stand down that chance so that I do it the next time.

**The Speaker** (Hon. Kingi): Sen. Abass, you have the Floor, you may proceed to contribute to the Motion.

*(Resumption of debate on Motion)*

**Sen. Abass:** Mr. Speaker, Sir, thank you so much. I wish to contribute to the Consideration of the National Assembly Amendments to the County Governments Additional Allocations Bill (Senate Bills No.19 of 2024).

Our counterparts have not been very serious on these issues. The funds for the Senate have already been reduced so greatly, and the funds for counties have been reduced. While the National Assembly is looking for more money for the National Government Constituencies Development Funds (NG-CDF), they keep on reducing funds for counties, the Senate, and other open institutions. Eighty five per cent of this money collected by the national Government is from the taxpayers and is going to the National Assembly.

Unfortunately, even the counties have received less than what they were supposed to get. Already, Kshs20 billion has been reduced from the money that we allocated through the Mediation Committee. The TMLF is reduced by Kshs10.5 billion.

As you are aware, it is only KeNHA that comes under the national Government. KURA is doing the work on the municipalities, and yet municipality belongs to the counties. Therefore, that fund should have even gone earlier to the counties. The second one is KeRRA, and it is within the mandate of the counties. This same fund has been reduced by Kshs10.5 billion. As a result of the previous *El-Nino* rains, many roads have been damaged, and most of the roads in the rural areas are not portable today. Therefore, the reduction of these funds has not been fair.

Another thing is minerals in this country are not found in the national office. It is found in the community land. The land that is owned by the communities is where we find the minerals, and most of this land is managed by the counties. They have reduced this money by Kshs1.1 billion. This is not fair; we need to get even more money. The money that has been generated within certain areas of the counties should go back and belong back to the counties. The court fines were also reduced by Kshs30 million. These are also not in order. There are counties that are still living in the defunct municipal

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council offices like Tharaka-Nithi County, Lamu County, Elgeyo-Marakwet County and Isiolo County. Some of their offices have not been done up to now, 12 years down the line. It is not fair for the Kshs528 million to be removed from the budget. Those people are living in makeshifts.

Mr. Speaker, Sir, the other issue is the Community Health Promoters (CHPs). They offer very important health services. The CHPs that were engaged the other day have not been paid. They earn little money of Kshs5,000 per month, which is peanuts, yet their services mean a lot to Kenyans, especially in the rural areas. The CHPs who have been employed were able to reach every household within the rural areas. It is not fair to reduce their money from Kshs3.2 billion to Kshs2.5 billion. That is a difference of Kshs1 billion. These are people who were already employed. They do not have means of transport and hire *boda bodas*. They do not even get their salaries in time. Therefore, reducing the money for the CHPs is not acceptable.

Hon. Speaker, the National Assembly is provoking this House. They want to see that counties do not work. They want us to do away with the counties. Therefore, this House has a responsibility to defend the counties and make sure the money is brought back to them, so that the counties get their right resources.

Mr. Speaker, Sir, with those few remarks, I reject the amendments.

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

**Sen. Kisang:** Thank you, Mr. Speaker, Sir. I also rise to join my colleagues to support the Report by the Committee on Finance and Budget to reject the amendments by National Assembly. It looks like our colleagues in the National Assembly do not know what happens in the counties. When they get such a report, the first item they want to reduce is what goes to the counties. There are about 11 of us in this House who were Members of National Assembly from 2013 to 2022. When you come here, you realize the need for protecting devolution and counties by giving them resources. There are no separate people for counties and the national Government. We serve the same people.

I believe it is important that we engage very closely with our colleagues in the National Assembly, so that they understand and give counties priority in terms of resource allocation to the counties. This is one of the reasons we need to fight as a House and agitate for the budget-making process to come to this House, so that it goes through the two Houses. They believe that because they have that weapon, they can do whatever they do and then we go into mediation.

You can imagine last year, we sent Kshs385 billion to the counties. We had agreed to Kshs400.1 billion, and they have now reduced it to Kshs380 billion. They are not serious. At the same time, they are raising the resources that are going to the National Government Constituencies Development Fund (NG-CDF) and National Government Affirmative Action Fund (NGAAF). This is serious. In fact, I want to touch on a few items.

Our colleagues have talked about what happened early this year on the Universal Health Coverage (UHC), Social Health Authority (SHA) and Social Health Insurance Fund (SHIF). We employed close to about 100,000 CHPs. The national Government is contributing Kshs2,500 and the counties Kshs2,500, making a total of Kshs5,000. This is not even a salary because the minimum wage is way above Kshs15,000. This is just a

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stipend, an allowance for them to move around. They have reduced the allocation to CHPs to Kshs2.58 billion. This means that some CHPs who are already helping our people on the ground will have to work without an allowance. How do they expect them to support? It means that communities will not have CHPs to do the basic health issues. We reject this amendment. They will have to return what they removed.

The other issue that I want to touch on is the Road Maintenance Levy Fund. This is a fund that, the other day, the Cabinet Secretary for Transport and Roads gazetted and increased from Kshs18 per litre to Kshs25 per litre. Our colleagues have removed over Kshs10 billion. If anything, they should have doubled and sent this money to the counties, so that our feeder roads within the counties are motorable, our farmers are able to take the produce to the market and we are able to take our animals to the market. We refuse this.

The Kenya Urban Roads Authority (KURA) is domiciled in our municipalities. What business do we have to send this money to KURA? We should send the money to our counties. KeRRA is an acronym for Kenya Rural Roads Authority. Where is rural? Is rural in the national Government or the counties? Therefore, this money must go to our counties. We demand reinstatement of the Kshs10.5 billion. If possible, we can raise it to Kshs15 billion.

There is an issue we have talked about. We need to have industrial parks within our counties to spur the economy and generate employment for our youth. There was a conditional grant of Kshs250 million for each county. They had already identified a piece of land to put up the industrial parks and the counties contributed Kshs250 million. In Elgeyo-Marakwet County, our Members of the County Assembly (MCAs) had already agreed with the Executive that the county to set aside Kshs250 million.

You can imagine this money has been removed from the national Government portion. What will happen? It means that our youth will continue missing employment opportunities. We need this money to be reinstated, so that we can generate employment. Our youth came to Parliament sometime in June because they were angry with us. They were demanding for opportunities. We should not give them another opportunity to come back to Parliament. We need to reinstate the resources that are going to the counties.

We have also talked about health. Our hospitals do not have resources. During the Covid-19 pandemic, we gave money to the counties to construct Intensive Care Units (ICUs). If you go around the counties, you will be surprised that they do not have ICU beds. What happened to conditional grants that we gave out during Covid-19 pandemic period? The counties are complaining that they do not have nurses who are trained to operate ICUs. Therefore, we need more resources, so that our counties can have ICU beds. In fact, I was surprised that there are five counties that were given resources in the Financial Year 2023/2024 to put up county headquarters and Elgeyo-Marakwet County was not one of them. The county headquarters and county assemblies in Elgeyo-Marakwet are in prefabs and have continued to be there. In fact, I have met the Finance and Budget Committee several times.

We have also discussed with the Devolution and Intergovernmental Relations Committee that we need to allocate additional conditional grants to our counties, especially those that do not have county headquarters or modern county assemblies.

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However, the National Assembly goes ahead and removes the allocation to the first five counties that they were given, yet the county headquarters are not complete.

If you go to Tharaka-Nithi County, and our colleague Sen. Gataya Mo Fire is here, he will tell you that it is incomplete. It is a shell. So, by not giving them what had been proposed, we are saying that let the projects continue to stall. This is unfair. Completing projects has become more expensive because of our insensitivity to not allocating resources.

We need to be champions of devolution. This means rejecting anything that reduces resources going to our counties. Other functions are supposed to be handed to the counties, and the resources must follow them. How can we reduce the allocation to counties further instead of giving out more resources? Last year, libraries were given to the counties, and resources followed, and this year, I am told they are removing them. So, how do they expect the libraries within the counties to pay the employees, buy new books, and ensure the libraries have adequate books for young people to read and do research?

I beg to support the Report and reject these amendments. We also urge our colleagues who will be in the Mediation Committee to put their foot down. They should not accept anything less than the Kshs391 billion they proposed earlier. Otherwise, we need to go back to Kshs400 billion, so that our counties can function.

We want to inform the Cabinet Secretary for National Treasury and Economic Planning, who was our colleague in the National Assembly, that the law is clear. Resources must be sent to the counties by the 15th of every month. Since July this year, our counties have not received any resources from their Exchequer. How do they expect them to function? How do they expect them to pay salaries? The reason we have a lot of pending bills within the counties is because of this.

Another issue is own source revenue. We need to give our governors notice. They need to implement proper revenue systems so that they can collect revenue. Some of them are still collecting resources manually. If they collect resources manually, you do not expect them to know where the funds are going.

We support the idea of having one unified revenue management system for the counties, just like they have IFMIS for expenditures, so that they can seal any loopholes or leakages in revenue collection.

Mr. Speaker, Sir, I support the Report and reject the amendments from the National Assembly.

Thank you.

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

**Sen. Wambua:** Mr. Speaker, Sir, I thank you for the opportunity to also add a voice to this Report that was tabled in the House by our Committee on Finance and Budget.

From the onset, I wish to state that from many fronts, devolution has come under attack. You will realise, even from the comments of other Senators, that every county government in Kenya is crying for disbursements from the National Treasury. It was tested before when some of us were toddlers – and I think Sen. (Dr.) Khalwale, was a

grown-up man at that time – the best way of killing devolution was to starve the *Majimbo* of funding. This is being repeated now.

It seems like there is a concerted effort to deny funds to the devolved units of Government, so that we can kill devolution. Giving a dog a bad name so that you can kill it. It is clear in our statutes that if there is any disparity or deficit in the national budget, you do not touch the allocation to county governments. The national Government takes care of the shortfall in revenue, and you do not touch the allocation to county governments.

I want to go to the specifics of our Committee's Report and begin from the onset to say that I am in total support of this Report in rejecting the proposed amendments by the National Assembly.

I will begin with the construction of the county headquarters. We had this conversation even during the original debate for the Division of Revenue Bill (DORB). What will happen is that this Financial Year, 2024-2025, the money that has been allocated of Kshs525 million was supposed to be the final allocation to the five counties that were given some preferential treatment for the construction of county headquarters. If there was going to be a shortfall and they were unable to complete those headquarters, then they were supposed to look for other sources of completing the county headquarters. That allocation of Kshs528 million has been reduced to zero.

The net effect is that the construction of the county headquarters in the five counties, including Isiolo, Nyandarua, Lamu, and Tharaka-Nithi, will continue to be a white elephant since a lot of money has been sunk into them.

The most worrying thing about the proposal by the National Assembly to reduce allocations to county governments is the area of the share of mineral royalties. I want this House to remember, and Sen. (Dr.) Khalwale would benefit from this because I believe that some mineral resources are extracted from Kakamega County. There is gold, he says. This revenue is already realised. It has been collected, and there is money. Then we are saying that the royalties of the gold that Sen. (Dr.) Khalwale is talking about Kakamega County, which is supposed to be allocated to Kakamega County, and then they get zero out of it.

If you ask me, and I do not know which better word I would use, this is actually a proposal that is inviting us to participate in the theft of resources from county governments to the national Government. Whatever happens, the mineral royalties that are shared with the counties where these mines are, at the very least, that amount should remain in the counties, even if for anything else, to ensure that they are utilised for the development of infrastructure around the mines. Construction of hospitals or roads leading to the mines, that money should not be touched.

The other area is the Road Maintenance Levy Fund (RMLF). A whopping Kshs10.5 billion is being reduced to zero. This fund was established by an Act of Parliament, which stipulates how it will be rolled out.

The Act of Parliament dictates that both county governments and the national Government take responsibility for the maintenance of roads assigned to them. If you take away Kshs10.5 billion from RMLF allocated to counties, what funds will the counties use to maintain the roads in their respective jurisdiction?

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Mr. Speaker, Sir, with those remarks, I would like to stand with the Senate Standing Committee on Finance and Budget, in saying that we should totally reject the proposals to amend the allocations to counties and stick to what we had discussed in the Division of Revenue Bill (DORB). That, counties will get their Kshs400 billion to roll out their functions.

As I conclude, I would also like to call upon the National Treasury to ensure that they expedite the release of funds to counties. All of us come from counties. We represent the interests of our counties. I can confirm to this House, and I know I am preaching to the converted, that, the level of suffering in the county governments, is unbearable. Staff have gone for months without pay. In fact, I know of a county that I will not disclose for now, that the Members of County Assembly (MCAs) are now threatening to down their tools and stop operations because they have not earned their salaries for the last three months.

Mr. Speaker, Sir, I see Sen. Cherarkey all the time, telling us that the Kenya Kwanza administration stands for devolution and is keen on devolution. If this administration cares about devolution, we should hasten the release of funds to county governments.

There are no drugs in hospitals. The staff are not being paid their monthly dues. The roads are seriously dilapidated. The supply of water in those counties--- Basically, nothing is happening in our county governments. What these people are doing in the county governments is just maybe collecting own source revenue and paying little things like fuelling cars and moving around. Basically, there is nothing happening in our counties.

I call upon the administration to prioritize the release of funds to county governments.

I thank you.

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

**Sen. Gataya Mo Fire:** I would like to register my dissatisfaction with the way the National Assembly is handling devolution.

Mr. Speaker, Sir, our role as the Senate is purely to protect devolution. However, it seems there is some prolonged rivalry between the National Assembly and the counties. The two entities normally receive money at various capacities. However, you will notice that the intention of the National Assembly, I do not know for what reasons, throughout the 12 years of devolution, is to cripple counties. That is one way of diluting our objective as a Senate, because the core responsibility of this House is to protect devolution. It is quite saddening that the counties are really suffering.

If you go to my county, Tharaka-Nithi County, which was among the counties that were incepted without county headquarters, it has been without headquarters for the last 12 years. Up to now, the County up to now is a shell, makeshift and a white elephant. Money was poured there but the building has not been completed. I am sure that is what is happening in other counties like Lamu, Nyandarua and Isiolo.

Mr. Speaker, Sir, there is absolute resolution to cripple devolution. It is high time, as a House, we must stamp authority over what is supposed to be executed by this House, and make sure that devolution is properly and strongly protected for that matter.

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I agree with the Senate Standing Committee on Finance and Budget that, our resolve to give counties money must stand, and we may not be able to accept any other arrangements where the National Assembly would slash money meant for counties.

Quite a number of activities, projects and departments are now devolved. It is saddening that counties have turned out to be just shells, with no operations. People have gone without salaries for months. We must make a statement to the National Treasury that, we are subjecting these counties to total suffering. It is important that we register our dissatisfaction to that effect.

If you go to counties like Tharaka-Nithi and many others that I do not wish to mention, the governors have been relying on overdrafts from local banks to pay salaries. I do not know the reasons that would make us subject our people to this level of suffering.

Hon. Speaker, Sir, since our core business as a House is to protect devolution and give the necessary oversight over those funds, we must call upon the National Treasury and the Exchequer, to make sure that our counties are functional and well funded, because all the activities are currently in counties.

I agree with Sen. Cherarkey that the National Assembly has absorbed all the roles. The governor has no say, even on roads that are done in the counties because the Member of Parliament will say, this is my project. The National Assembly would want to lay hands and claim ownership on anything that is brought to the counties. I do not know for what reasons the National Assembly has absorbed the role of every activity in counties.

Hon. Speaker, Sir, we must stand our ground and make sure that we protect devolution and for that matter, I agree with the Senate Standing Committee on Finance and Budget, to make sure that we retain the Kshs400 billion that is meant for counties.

Thank you.

**The Speaker** (Hon. Kingi): Sen. Kinyua, the floor is yours.

**Sen. Kinyua:** Asante, Bw. Spika. Ningepenga kupongeza Kamati yetu ya Fedha na Bajeti ya Seneti kwa kazi nzuri wanayoitekeleza.

Ni jambo la kuvunja moyo kwa sababu, ukiangalia, hela ambazo Kamati hiyo ilikuwa imetenga, Mswada huo ulipoenda katika Bunge la Kitaifa, walipunguza mgao huo kwa Shilingi 46.5 bilioni. Ni kana kwamba hawaelewi mambo ya ugatuzi yanavyoendelea. Hii ni kwa sababu, hakuna hela zozote zimebaki baada ya kupuguza pesa hizi kwa kiwango hiki, za kufanya majengo ambayo yalipaswa kujengwa katika *county headquarter* zetu.

Vile vile, ukitembea katika gatuzi zetu zote, barabara ziko katika hali mbovu kwa sababu mvua imeziathiri lakini Bunge la Kitaifa hawana njia ya kuangalia. Wanapunguza fedha ambazo zinaenda katika gatuzi zetu shilingi 10.5 bilioni. Kwa hivyo, ukitembea katika gatuzi zetu utapata hakuna Barabara.

Vile vile, kwa sababu tunategemea fedha hizi kununua madawa, hospitali zetu hazina madawa. Watu hawajalipwa, ilhali kazi yetu kama Seneti ni kulinda na kutetea gatuzi zetu. Kwa hivyo, hatutakubaliana na mtu yeyote atakayekuwa kazi yake ni kupunguza fedha ama kuonyesha kana kwamba yeye anapigana na ugatuzi.

Bw. Spika, Kamati yetu ilijitolea kuleta maendeleo katika sehemu zetu za mashinani. Unapata kuna viwanda vidogo vidogo ambavyo vilipaswa vitengenezwe. Kwa mfano, ukitembea Rumuruti, tayari tulikuwa tumetenga sehemu ambayo itatumika

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kutengeneza hizi viwanda vidogo. Hata hivyo, pesa ambazo ziliwekwa na Kamati yetu, Shilingi 5.2 bilioni zilipunguzwa mpaka Shilingi bilioni mbili. Kwa hivyo, ile miradi ambayo ingetokelezwa kutumia fedha hizo imepungua na hata mengine haitaketekezwa.

Kwa hivyo, ningependa kusema ya kwamba, hii Kamati yetu ya Seneti ilifanya kazi nzuri lakini wenzetu wa Bunge la Kitaifa wanaonekana ya kwamba wanapinga ugatuzi usiendeleo.

Nafikiri pengine wanapinga ndio ili National Government Constituencies Development Fund (NG-CDF) yao ifanye ile kazi ambayo ingefanywa na magavana, ila hatutakubali.

Wale wasaidizi wa wauguzi pale nyanjani, wanaoitwa *Community Health Promoters* (CHPs) kwa Kiingereza hawajalipwa. Wanasononeka wakizunguka ilhali wanafanya kazi nzuri. Seneti ilikuwa imewatengea Shilingi 5.2 bilioni ila wale wa Bunge la Kitaifa wakapunguza bila kutazama kazi nzuri ya afya wanayofanya pale nyanjani.

Kumbuka hii ni sehemu kubwa iliyotengwa na hawa ndio tutakaowategemea kwa sababu kabla ya mtu kwenda hospitali, anapaswa kuonekana na hawa maofisaa wa afya wa nyanjani. Ila pesa iliyotengwa ya shilingi 5.2 bilioni imepunguzwa hadi shilingi 2.5 bilioni.

Ningetaka tusimame kidete. Walio katika Kamati ya Mshikamano wa Kitaifa, fursa sawa na utangamano wa kikanda wasibanduke. Wakae vile Seneti imesema kwa sababu kazi kuu ya seneti ni kulinda na kutetea gatuze letu.

Mtu yeyote katika Jamhuri ya Kenya atakueleza kwamba ukitembea katika gatuze zetu, utashuhudia kazi ambayo imefanywa. Pengine mahali ambapo hakungetengenezwa barabara kunapatikana barabara. Daraja inaonekana kutengenezwa na gatuze zetu.

Hali ya afya katika sehemu zingine imeimarishwa na gatuze zetu. Ikiwa hatutawapa fedha zozote, tutakuwa tumezembea kama Seneti na kulemewa katika kazi yetu. Ninajua kwamba Kamati inayoongozwa na Seneta Roba pamoja na wanakamati wengine wamefanya kazi nzuri. Wanaotaka kutukata miguu ni hili Bunge la Kitaifa.

Naunga mkono na asante kwa Kamati yetu ya Seneti ya Fedha na Bajeti ambayo ilifanya kazi nzuri.

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

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir, for the opportunity to make my presentation on this very important Bill; the County Additional Allocation Bill, 2024.

As you know, this Bill is supposed to allocate additional funds to counties apart from the shareable revenue which we allocate through other pieces of legislation.

As the other Members have said, this Bill is designed to reduce the monies that this House had passed in the earlier Bill. They are reducing the money that we had passed to the industrial parks which was Kshs250 million for each county to Kshs105 million for each county.

They are further reducing the money that we passed to go to Community Health Promoters (CHPs). They are removing all the money that is supposed to go to mineral royalties. They are also doing the same to the Road Maintenance Levy Fund, Fuel Levy and court fines.



Mr. Speaker, Sir, if there is any evidence that the National Assembly is the biggest threat to devolution in this country, this is one of them and something has to be done by us, Senators.

We need to sit down, caucus and find out ways of stopping the National Assembly from being the real enemies of devolution in this country. If you reduce money that is supposed to go to counties in the Division of Revenue Bill from Kshs400 billion to Kshs380 billion yet you stay in that county, what will you be doing? Some of these Members of Parliament (MPs) want to become governors and Senators. How will they govern counties which have less money?

Mr. Speaker, Sir, we have to call out the National Assembly. I am even informed that the Committee on Justice and Legal Affairs and Human Rights (JLAHR) of the National Assembly has come up with the Constitutional Amendment Bill 2024, where they are questioning the existence of two Houses of Parliament. They are questioning the existence of the Senate. That is very shameful.

That Committee has serious Members that I respect, like Hon. Murugara, Hon. Otiende Amollo; respectable lawyers in this country. They must be told that you cannot remove the Senate by a mere committee in the National Assembly. You have to go to the referendum and seek the views of Kenyans on how to do it. It is clearly stipulated under Article 255 of the Constitution that any amendment touching on devolution has to go to the people via referendum.

All these designs are being done after the court issued a ruling on National Government Constituencies Development Fund (NG-CDF). I agree with the courts. The Members of Parliament have no business managing funds. They only have three functions; legislation, oversight and representation. They have no business moving around building schools using public money and telling people that it is their money. They have no business doing roads, they are not engineers, but legislators. I agree with the courts that CDF should be a devolved fund and should not be managed by Members of the National Assembly.

Mr. Speaker, Sir, it saddens me that the CHPs do a wonderful job in our villages in moving around to look after the sick people at very minimal fee. This House passed money to the CHPs and then the MPs do not see what the CHPs are doing. They instead went ahead to cut down their money. That means that stipend paid to the CHPs will reduce.

In my county, the stipend will reduce by Kshs9 million. That means each CHPs will earn Kshs500 less what he has been getting. I see MPs from my county all the time walking around with the CHPs, asking them to even do some tasks for them yet they come to this House and reduce the money supposed to go to the CHPs. Shame on them. They have gone ahead to reduce the money that is supposed to go to the Road Maintenance Levy Fund and Fuel Levy. This is unacceptable. They have gone ahead to remove all the money that counties are supposed to get from court fines. This is unacceptable.

The industrial parks have not taken off in most counties. In my own county, they launched the industrial park at Luanda. Nothing has taken off in this industrial park apart

from the ground breaking done by hon. Moses Kuria because there is no money. The money that is supposed to be given by the County Assembly has not been approved.

The national Government has not sent any money. We were to get Kshs250 million, now it will be reduced further to Kshs105 million. This project is a wonderful idea, but I am worried that it will be a white elephant. We have Members of Parliament (MPs) who sit there, look at these projects, they do not see any sense, they reduce the money and then the projects fail to succeed. As we talk about the National Assembly reducing the money that is meant for the county governments and additional allocation, we must also talk about what is happening in our counties. Our counties are not functional. The governors are now staying in Nairobi.

The County Executive Committee Members (CECMs) for Finance and Chief Executive Officers (CEOs) are staying in Nairobi because there is no money. They are unable to access the little money they received for July because of the inefficiency at the office of the Controller of Budget (CoB). Therefore, they are basically here in Nairobi, moving from the National Treasury to the CoB and going back to their Liaison offices here in Nairobi while their staff are not being paid.

Mr. Speaker, Sir, we cannot sit here pretty as Senators and our counties are not functional because money has not been sent to them. Article 219 of the Constitution is very clear that the Shareable Revenue should be sent to the counties without undue delay and deduction. If you go for four to five months, without receiving the money from the national Government, this is already a violation of Article 219 of the Constitution.

Hon. Senators, I think we must do something extraordinary. I remember the Senate that came before us went to court at some point and marched to the Chief Justice's office. That was a serious commitment towards ensuring that Article 96 of the Constitution is complied with.

Mr. Speaker, Sir, even as we talk about this, we must also re-examine Article 249 of the Constitution on our role in the process of budget making. We must revisit this Article of the Constitution. It is very clear that Parliament, and 'Parliament' includes both the Senate and the National Assembly, shall allocate funds to commissions and independent offices.

We have over 12 commissions. That is already a role that we have been given by the Constitution in budget making process. Why are we not taking that up, so that at least we have a voice in the budget making process? Since, the National Assembly has taken advantage of its powers to try and frustrate us, I think it is important for us to lay a claim on Article 249 of the Constitution and say that any budget that is passed without adherence to Article 249 of the Constitution is null, void and is illegal.

This House must rise to the occasion and demonstrate that we are the true defenders of Article 96 of the Constitution, which provides that Senate exists to protect counties. We talk about it here but we do very little. It is a high time we had a *kamkunji* and discussed these things before we are elbowed out by the enemies of devolution, who sit in the National Assembly and every day they are thinking on how to derail the Senate.

Mr. Speaker, Sir, with those few remarks, I support the Report by the Committee on Finance and Budget and totally reject the Bill from the National Assembly.

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

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**Sen. Okiya Omtatah:** Mr. Speaker Sir, thank you for the occasion to contribute to this Report which I fully support.

Mr. Speaker, Sir, the question of revenue taken down to counties is at the heart of the Kenyan State. The Kenyan State is defined as divided in the counties as given in the First Schedule. That territory is supposed to be governed by both the national and the county governments. In the allocation of their shares, at least, 15 percent of the total revenue is supposed to be devolved. However, in the usual machinations of the National Assembly, when they enacted the Commission on Revenue Allocation (CRA) Act, they defined revenue available to counties as excluding certain revenues. Therefore, already they went against the constitutional provision to reduce the amount of money that is supposed to be devolved as an automatic percentage.

Two, they deliberately lag behind in terms of the approved audited accounts, such that when we come to divide this money that comes in the division of revenue, we lag behind. We are behind by so much time and you will find that the budget of the current year has grown by leaps and bounds. Nonetheless, we are using a budget that is about four or five years late. All those things have turned out to frustrate the amount of money that goes to counties.

Over and above that, they come up with these machinations where they think that the counties are at their mercy and so they should reduce the money at their whims. There is no study that the National Assembly has presented to this House to show that the reductions are scientific. It is not an art. These are facts and figures.

What is informing their figures when they say they are going to go down? Ours at least were informed by the Commission on Revenue Allocation (CRA) and stuff like that. We have good studies that have been done on the ground why we need this money to go down to counties as additional funds, to deal with this and that.

We do not have any scientific data that the National Assembly has used to arrive at a position that the allocations should be reduced and that is why it should be rejected with a resounding no from this House. Since, it is a document authored on the whims of men; men who think that they can roll or wrap this country around a small finger and all will be well with them.

If you look at the amounts of money being allocated to these counties, they are just millions of shillings. Most of the counties are just being given millions of shillings. In fact, some are just in tens of millions, very few are in hundreds. Therefore, you wonder why would anybody want to interfere with the very little money that is going to these counties.

I pray that the rejection of the proposals by the National Assembly be upheld by this House. Let us go by the earlier position whereby the counties at least get the money that the Senate has struggled to allocate them.

When the Finance Bill, 2024 was rejected by the Gen Z and other Kenyans, the President conceded by returning it back to Parliament. That should have been an exercise that went alongside the Budget or the Appropriation Act. That Appropriation Act survived in the absence of the Finance Bill that was supposed to finance it and that is where the problem begins. We should have gone back to the drawing board and done a good thing.

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Mr. Speaker, Sir, from where I come from ideologically, not ethnically or regionally, I do not share much with Sen. (Dr.) Khalwale. It is very clear, Sen. (Dr.) Khalwale, so, do not get offended. This is just a statement of fact that we do not share much, ideologically.

From where I come from ideologically, it is said that if something is worth doing, it is worth doing it well. So, if the President was convinced that the Finance Act that was supposed to finance his budget had a problem, then he should have rejected both the Finance Bill and the Budget Appropriation Bill for the current budget cycle.

Parliament would have gone back and looked at the two Bills and then proceeded to see what adjustments could be made. However, when he rejected one and assented the other into law, it creates a quagmire whereby we are saying, starve so-and-so and finance so, and so.

The other thing is our budget. From where I sit, I always do a Spreadsheet analysis of these budgets. Already, we had identified more than Kshs100 billion in that budget that the President signed into law which is money that has got no functions to perform.

What the National Assembly should have done, would be to sit down and comb through the budget and remove what has become in popular parlance, budgetary corruption.

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

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

There are very many things that are loaded into that Budget by the National Treasury that serve no purpose, and we did a clean-up of the budget.

Sorry, when I began it was Mr. Speaker, Sir, but and now I can see it is Madam Temporary Speaker. I do not know if I am allowed to switch.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Okiya Omtatah.

**Sen. Okiya Omtatah:** Okay. Mr. Speaker, Sir. May, may I be guided, please? Can I speak to the Senate Majority Leader to guide me just for this one time in the universe? Kindly, Senate Majority Leader, could you guide me?

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Okiya Omtatah, you have to refer to Madam Temporary Speaker.

**Sen. Okiya Omtatah:** Okay, Madam Temporary Speaker, I am well guided. I like being guided when I do not know. I am very honest.

Madam Temporary Speaker, if we were to carry out a forensic audit of the Budget, we would not have to go to a point of saying, cut this, cut that. We would simply get out the dead weight, and clean it up. You will find that we would have even more money to add to the counties. Maybe, that is what the President had in mind if I may give him some latitude, and the benefit of doubt.

I believe that could be what His Excellency the President had in mind when he decided to cut out the Finance Bill, but retain the Budget Appropriation Act, so that when he sent it back for a re-look, the National Assembly should not be looking at simply

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cutting here and there. It should have cleaned up that Budget and eliminate budgeted corruption.

I can volunteer. The monies which my team and I have isolated is more than Kshs100 billion that are in that Budget. This is much more than what we are trying to cut here, that is being stolen. It is just being put there to be carried away.

So, the Committee has recommended a total rejection of what the National Assembly has done. It is my position that we speak in one voice, in a bipartisan manner and make sure that Parliament sets up a special purpose committee to go and look at that Budget, flag out, corruption, and give us a lean and clean budget that will have excess money that can be added to the counties, not what we are having right now.

Sen. Osotsi, while contributing, made a very important statement about Article 249(3), which requires this House to participate in the budget-making process specifically as regards constitutional commissions and independent offices.

Also, Article 239 of the Constitution on the security institutions, requires Parliament to participate in every aspect of the national security organs and part of it is their budgets. I do not remember seeing the budget of the military or the the police come to the Senate for scrutiny and approval.

Article 239 requires that matters concerning national security organs shall be adjudicated by Parliament. As Sen. Osotsi rightly observed, Parliament includes the Senate and the National Assembly. So, there are very many things there.

If you go to Article 221 of the Constitution, you will find that the budget of the Parliamentary Service Commission (PSC) is among the budget estimates that are taken to the National Assembly when the budget estimates are being considered. How then does the Senate participate in the budget of Parliament if it is not allowed to participate in the budget-making process? So, the budget of the PSC cannot be adjudicated or determined just by the National Assembly alone.

Also, under Article 221, they bring in the budget of the Judiciary. We have got three arms of Government that check each other. How does the Senate participate in checking the Judiciary if we do not look at its budget? So, there are many provisions in the Constitution that require us to participate as a House in the budget-making process. Otherwise, we become irrelevant.

Maybe, we should get to a point where we need to look at all the laws that were made after 2013 in terms of public finance. That is where the problem is. The Public Finance Management Act was enacted by the National Assembly alone in 2012.

After 2013, many amendments were made that technically took away the powers of this House. For example, there is the question of the CEO of the PSC, whom the Constitution clearly says is the Clerk of the Senate, and the Speaker of the National Assembly is the Chairperson.

When you go to the Public Finance Management Act, they decided to create three executives whereby, you have the Clerk of the Senate, the Clerk of the National Assembly and some animal called the Director General of the Joint Services being accounting officers. That has undermined this Senate; we do not have a voice.

So, when you go to the PSC, our Clerk, who is supposed to be the final authority, has got no say because he has been undermined through the Public Finance Management

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Act. The National Assembly created three centres of power in the Parliamentary Service Commission (PSC). All these things need to be revisited, so that this House can assert its place. However, as a result of the budget, we must stand firm and ensure that what is rightfully supposed to be for devolution, including looking at the Division on Revenue Act being amended, to define revenue as it is defined in the Constitution. It should not be as the National Assembly would like to have it; where we begin off at a disadvantage by sharing less than what we are entitled to as a Senate and our counties then continue starving.

Some have said that there is corruption in the counties. Yes, but we have the Ethics and Anti-Corruption Commission (EACC), the Directorate of Criminal Investigations (DCI), the Officer Commanding Station (OCS) and all these organs that are supposed to deal with corruption. That is not our problem. Go and deal with those governors and the county officials where there is corruption. Our business is to ensure that the right amount of money is going down to the counties.

Madam Temporary Speaker, with those few remarks, I am very happy for the opportunity you have given me this afternoon to address this House. I fully support the report of the Committee, that we reject in total, the attempt to reduce the amount of money going to the counties as proposed by the National Assembly. I support the report.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Okiya Omtatah.

Sen. Wafula, proceed.

**Sen. Wafula:** Bi. Spika wa Muda, naunga mkono Ripoti ya Seneti kuhusu makadirio ya fedha ambayo tumeisoma hivi sasa katika Seneti. Muda mchache uliopita, niliuliza maswali hususan kandarasi za madaktari mashinani, malipo ya madaktari mashinani na mazingira ambayo madaktari wanafanya kazi katika Kaunti ya Bungoma. Nilipouliza maswali haya, misururu ya maswali yalichipuka kutoka kaunti mbalimbali humu Kenya, ikiwemo kwamba madaktari mashinani Kenya nzima, kwa zaidi ya miezi kumi hawajapata marupurupu yao.

Leo nimeona kiini cha shida za madaktari mashinani. Kuna viongozi katika jumba fulani hapa Kenya ambao wanadhani wana uwezo wa kuhujumu, kuwatesa na kuwagandamiza madaktari mashinani kwamba hawalipi ushuru na hakuna kazi wanafanya.

Naomba Seneti isimame kidete kuhakikisha kwamba fedha ambazo Wakenya wanatozwa kama ushuru zinatumiwa kuwalipa madaktari mashinani ili kuboresha afya katika zahanati na hospitali za Kenya. Vilevile madaktari waliobobea na wenye tajriba na wako tayari kufanya kazi kuandikwa kazi.

Bi. Spika wa Muda, kupunguzwa kwa fedha zinazoenda katika kaunti ni kusema kwamba shule za chekechea na vyo anuai katika nchi ya Kenya havitaweza kuimarishwa au kujengwa na watoto wetu kupata masomo jinsi ilivyopangwa katika uasisi wa ugatuzi. Naomba Wakenya waangalie Seneti. Hatutatishwa wala kuyumbayumba. Tutahakikisha kwamba ugatuzi unawajibikiwa.

Na jinsi tunavyotetea magavana kupata pesa, lazima waje hapa kutueleza walivyowajibika kutumia hela hizo. Isiwe kama tunatoa ilani wa inspecta generali kama

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tulivyotoa juzi kwamba Gavana wa Isiolo akamatwe na kuletwa mzimamzima ili kujibu maswala ya uwajibikaji.

Bi. Spika wa Muda, miundo mbinu kama barabara katika nchi ya Kenya zinahitaji fedha. Hatuwezi kusema magavana na viongozi wa kata, *Members of County Assemblies (MCAs)* wachukue jembe na vifaa mbalimbali waende kutengeneza barabara. Lazima Serikali ihakikishe mabilioni ya pesa wanayopunguza kutoka mapendekezo tuliyopeana ya zaidi ya Shilingi 400 bilioni zitolewe ili tujenge barabara na vivukio ili Wakenya waweze kufurahia matokeo ya jasho lao.

Nikimalizia, Wakenya waliandamana na kuleta bugdha katika baraste na nchi nzima wakitaka uwajibikaji, utendakazi na uwazi. Kama Seneti kazi yetu ni kulinda ugatuzi, kutetea kaunti zetu na kuhakikisha kwamba mgao unaoenda katika kaunti uwe unaweza kutumika kuimarisha maisha ya wakenya.

Katika sekta ya ukulima, Serikali imekuwa inatoa pembejeo lakini mfumo mzima wa ukulima ama zaraa katika nchi ya Kenya unayumbayumba. Hii ni kwa sababu wanategemea wahisani lakini hawana nguvu za kinishati za kuenda mashinani na kujihushisha na kuwapa moyo na ujuzi wakulima na kuboresha mavuno ya wakulima, ikiwemo wakulima wa kahawa, majani chai na miwa. Kuna Mswada unaohusu miwa tumeuleta leo Bungeni. Serikali za kaunti hazijapata nguvu kwa sababu Serikali ya Kitaifa imekataa kuachilia pesa ili magavana na watendakazi katika kaunti waweze kuimarisha kilimo katika nchi ya Kenya.

Bi. Spika wa mda, tunapogotua michezo na sanaa na kaunti hazijaweka katika migao yao ya uchapakazi pesa za kuimarisha michezo na sanaa, itakuwaje tutarajie matokeo pale mashinani. Naomba pesa tulizodai ziende kwa kaunti kama Seneti zitolewe. Tutawaandama magavana wachapakazi waweze kuimarisha michezo na usanii ili vijana wapate kazi na wale ambao si wazembe wapate kipato na Kenya isonge mbele kwa jumla.

Kwa hayo, naunga mkono msimamo wa Kamati ya Seneti kwamba Serikali ama Bunge la Kitaifa lituachie nafasi na litende haki kwa wakenya jinsi tulivyotoa mapendekezo yetu kama Seneti kwamba pesa zisipungue bali zibaki zaidi ya bilioni mia nne.

Asante.

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

Sen. Oketch Gicheru, proceed.

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I thank you for giving me this opportunity to further my thoughts from the Committee because I sit in this Committee. We elaborately considered the Bill that was proposed by the National Assembly on the additional allocations from the national Government to county governments. There has been a very serious, erroneous understanding of austerity measures. I am saying this because in the understanding of austerity measures in this country, there is a serious proposal to cut back on county equitable resources. This is now extending to cutbacks on county conditional and unconditional allocations.

The problem is that this amounts to defunding of counties. As you know, most of our counties have no other opportunity to raise alternative cash. The only way that counties are able to somehow figure out how to raise their money is through own-source

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revenue. However, even the own-source revenue is limited because of the scope of taxing options that counties have. For instance, in the Financial Year 2023/2024, the County Government of Migori was only able to raise about Kshs406 million from its own-source revenue. If you look at how much money the County Government of Migori needs to run its functions, if you start doing these cutbacks, you are properly defunding the county government of Migori.

Madam Temporary Speaker, instead of blaming the National Assembly, we should advise it that the effort of defunding counties is counterproductive. The moment you have gone to counties and made it impossible for service delivery and administrative functions to work, you will start realizing that you are going to cause political tensions in these counties. For instance, a project stalled in the county government has a bigger ripple effect than a project stalled in the national Government. By the value of Schedule Four of the Constitution, they have bigger consequences. Schedule Four of the Constitution devolved fundamental functions that deal with basic human needs in the counties, starting from things like health, water, childhood education and vocational training. If you look at all the functions of devolution, they are existential functions.

If you do not fund them properly and do not allow money to go to them properly, what you end up doing is a counterproductive element of politics where you put these counties in serious political tension. Then, some of these fundings that we see being cut, both from the equitable share and now on these unconditional grants, you will find that some of these functions directly touch administrative functions where some commitments have been made. For instance, in the Bill that the National Assembly forwarded to this House, you realize that they revised the construction of the county headquarters from its initial allocation of Kshs528 billion downwards.

They also revised the cost of transferring museum functions downwards from the initial Kshs30 billion. They revised the court fines, which are monies that had already been collected. They have also revised mineral royalties. Then, the worst revision that touches directly on service delivery and efficiency of the economies at the grassroots, they revised the proceeds from the Road Maintenance Levy Fund, amounting to Kshs10.5 billion. If you think about it, the county roads are exactly what they are. They are county roads because they are found within counties.

In places like Kisii County, women who have worked hard on their farms and harvested potatoes, bananas and avocados cannot access the market during rainy days, which happen to be many during harvest, simply because their county roads are bad.

If you go to a place like Migori County, there is a road between Nyakweri, which is in the Nyatike sub-county, and Sori. Between Nyakweri and Sori, there is a major road that is supposed to facilitate a serious economic engine for that entire area. Nonetheless, fishermen from Sori cannot access markets because the roads there are bad. Fishermen from Sori cannot bring their goods to Migori Market because the roads are bad. We have an amazing workforce in places like Kuria and Getong'anya, where people work hard to produce amazing potatoes. However, during rainy days, the county cannot even maintain those roads.

Kenyans who have worked so hard in Kuria and have worked the entire season to produce their potatoes are having their potatoes go bad because there are muddy roads

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that cannot allow them to access markets. This is why I say that some of these defunding elements to counties are counterproductive. The National Assembly must understand that if you start allowing people not to do their basic economic activities in these counties, then we are making it difficult for the economy to advance.

Another problem we are starting to see is when you start interfering with administrative monies, especially in some areas, where even monies have been committed to some of these contractors who are working. For instance, if you look at the reduction in the county aggregation of industrial parks from Kshs4.5 billion to Kshs2 billion. That is more than a 50 per cent reduction on projects that contractors have been put on site. For example, Migori County was meant to get almost Kshs105 billion for County Aggregate and Industrial Parks (CAIPs). We ended up only receiving Kshs62 million, yet you have contractors who had already been committed. They are on-site workers they have committed to and bought a number of supplies. Then, all of a sudden, you are telling them that you have got over 60 per cent reduction on the money they are supposed to get.

What are you telling these contractors? Number one, lay off your workers. You can imagine how that has a serious effect on people who have committed to work in these counties. Number two, for a contractor to commit to such a humongous tender, it would mean that, at some moment, they have gone and even taken loans. Then you expose them to skyrocketing interests over a period of time that they cannot define because you have basically cut over 60 per cent of the money they were expecting without telling them when next they could plan with this. This is completely counterproductive. These are counties that will not raise money anywhere. They cannot take debt from any other country other than waiting for money from the Government, so this is a big problem.

I have argued for the case of service delivery in counties. Service delivery in counties is touching on essential and fundamental human needs. Now, think about a case where all the devolved functions in counties are basic needs functions. Then you are told we are going to cut down on XYZ, which also has basic need issues. If you look at some of this funding that we are talking about here, in that case, there was a reduction in the allocation of money that was allocated for Community Health Promoters (CHPs). It is being cut from Kshs3.2 billion to Kshs2.58 billion. Now, what you are forcing counties to do is to choose between food and water, and between health and basic education of our children.

When counties cannot get what has been allocated here, they must deprioritize some of the essential services and try to reprioritize some of the essential services. How are you going to remove money that is meant for Community Health Promoters, who are doing a lot of work? These Community Health Promoters used to be community health volunteers. They used to be people who could help our households, detect any health challenges early, take them to the hospital early, and get remedies early before any complication could become a major issue for those families and, therefore, save a lot of money. How are you reducing the Community Health Promoters' money from Kshs3.2 billion to Kshs2.58 billion? We know well that the money that the Community Health promoters are earning is not real wages. They are basic stipends that are just there to facilitate them.

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Madam Temporary Speaker, what is the ripple effect of that action, if you are telling the county governments to deprioritize whatever money they have for Community Health Promoters and put it somewhere else? We shall start seeing Community Health Promoters not being able to go to homes and identifying problems of women who are supposed to get clinical services early enough before they get to situations whereby, they need neonatal care at birth.

This is where you are going to start facing serious complications in families. Before you realize mothers will be dying during child birth, right in their homes without going to hospitals because they will not be able to get assistance by the Community Health Promoters. We shall have serious and multiple complications in our health care system to the extent that a family that could have used the services of a Community Health Promoter to avoid a health complication will have a complication that will require more money to be able to get proper treatment to deal with the complication.

We are talking about serious stuff here that I think that the National Assembly must be invited to a table where they can understand that this idea of defunding counties is completely counterproductive. You cannot keep on reducing monies from counties and then denying them the basic services that they need to do. That reduction is completely ridiculous. For instance, in Migori County in the Financial Year 2023/2024, the additional allocations to Migori County was Kshs394,621,807. Then, drastically, you suggest that Migori County should now get Kshs176 million. Look at how drastic that change is. It is over 50 per cent. Since counties run as an ongoing cases, projects and programmes that were started last year in Migori County will be forced to cut that by 50 per cent. It is not possible. It is only possible if you force them to do away with staff that were already committed in those projects.

Madam Temporary Speaker, I would like to urge this House that, even as we take this Bill and go to mediation, to start an advocacy programme with the National Assembly to help them understand that these cutbacks are not cutbacks. They are proper defunding to counties, that is not in the spirit of devolution and of making sure that our children in these respective counties can get basic services.

Therefore, Madam Temporary Speaker, I reject in totality, the idea that we can even cut a shilling from counties. We cannot do that because we know if we do, counties will not have alternative ways of raising money in whichever way.

I thank you, Madam Temporary Speaker, for this opportunity and I hope that we will make sure that the amendments that are proposed by the Senate Standing Committee on Finance and Budget to this Bill that was proposed will be implemented. Let us stand strongly because now we are going to face a situation where we have two Bills that we must reject. We are going to reject this Bill and the Division of Revenue Act (DORA) Bill that was proposed, so that we stand firm with the money that is supposed to go to counties.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Eddy. There are no more Senators who wish to contribute to this Motion. So, I would like to call Sen. (Dr.) Boni Khalwale, on behalf of the Senate Majority Leader, to reply, as the Mover of this Motion.

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**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker.

I am so happy as a Member of this Committee. We thought we would find problems in---

*(Sen. Cherarkey and Sen. Methu consulted loudly)*

**The Temporary Speaker** (Sen. Veronica Maina): Please consult in low tones, Sen. Cherarkey. You look very excited.

Please proceed, Sen. Boni.

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. We feared that we would have problems in our request that we reject the proposal of the National Assembly. However, I proudly notice that Members have unanimously agreed with the Committee, with reasons. The only rider that I would like to add in response is a presentation from the Senator of Vihiga County who said that, the reason why money finds too long to reach the counties is because of inefficiency in the office of the Controller of Budget (CoB).

Madam Temporary Speaker, that is not true. The Controller of Budget is very efficient. The only reason why people want to label her as being inefficient is because she is strict. She does not want a situation whereby a county government like Kakamega County has spent Kshs531 million on entertainment and they come without justifying why.

Madam Temporary Speaker, with those remarks, I wish to reply and request--- The Senator of Nyandarua County wants to inform me something. He is threatening me with his beard.

Madam Temporary Speaker, I wish to request that pursuant to Standing Order No.66(3), you defer putting of the question to a later date.

Thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, the putting of the question has been deferred to another sitting, which will be reported by the Speaker in due course.

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

Clerk, you can call out the next Order.

Sen. Wafula Wakoli, please proceed.

## MOTION

### ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE SUGAR BILL (NATIONAL ASSEMBLY BILLS NO. 34 OF 2022)

**Sen. Wafula:** Hon. Temporary Speaker. I stand here this afternoon, to do my maiden moving of a Motion. Hon. Madam Temporary Speaker, I beg to move-

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THAT, the Senate adopts the report of the Mediation Committee on the Sugar Bill, (National Assembly Bills No.34 of 2022), laid on the Table of the Senate on Tuesday, 22<sup>nd</sup> October, 2024 and further pursuant to Article 113(2) of the Constitution and Standing Order No.167(3) of the Senate, approves the mediated version of the Bill.

Hon. Madam Temporary Speaker, as I have indicated, today is my maiden day moving of a Bill that has been at the core and the heart of the sugarcane farmer in the Republic of Kenya. This is a Bill that comes in handy to solve long-standing issues that have affected the farmer, manufacturers and the chain production from the grassroots to the table, in the country. As I speak to you now, the Mediation Committee appreciates that the Sugar Bill aims to reinstate the Sugar Act that was previously replaced by the Crop Act in 2013. It has been a subject of extensive deliberation within both Houses of Parliament.

The Senate first considered the Bill and subsequently transmitted and proposed amendments to the National Assembly on 15<sup>th</sup> May, 2024. Following this, on 1<sup>st</sup> August, 2024 the National Assembly approved the Motion regarding the report from the Committee of the whole House concerning these Senate amendments. However, it is important to note that some of the amendments proposed by the Senate were rejected by the National Assembly. This triggered a mediation process that is outlined in Article 112(2)(b) of the Constitution resulting in the formulation of Mediation Committee that developed the harmonized Bill.

Mr. Speaker, Sir, there are a few items that were of consideration. I want to be brief, so that I give honourable Members an opportunity to contribute. We analyzed and concluded that we amend or change the terming of zones to eliminate zones and factor in catchment areas that will consider areas of electoral representation and areas that will provide sugarcane management. This is where the specific catchment area has a number of factories where they will pump resources, do farming and ensure farmers within that area benefit from the factories around there. The catchment area is to represent the farmers when electing people to the Sugar Board.

Madam Temporary Speaker, another factor that was of concern to the mediation team was to ensure that gender, youth and Persons with Disability (PwDs) are factored in the Board. This necessitated the Mediation Committee to allow at the end of the process, the Cabinet Secretary when appointing people to the Board to ensure that they meet the gender threshold, the disability and the youth.

Equally, to capture the aspirations of the diverse zones in the country that people grow sugarcane, the representation and the leadership will be in rotation. This is in the sense that no specific area will dominate, balkanize and seclude others in the management and running of the Board. That mandate has been given to the Ministry to ensure regulations are in place and that the factor is enshrined in the law.

Another concern that came to the table was on how to utilize the taxation that farmers incur when they are taxed this money. We agreed these funds will be channeled to the Sugar Board because it will file returns to National Assembly and the Senate. If there is anything that is not in tandem with the laid down regulations in the Constitution, then both Houses will be able to tackle.

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Madam Temporary Speaker, another matter that was of concern was the choice of a professional on the Board. We agreed as a team and the mediation that the Cabinet Secretary will get a professional in sugarcane development technology with not less than 10 years in a recognized institution in the Republic of Kenya.

This is a person with the technical know how, experience and deep research to inform the Board on the changing dynamics in the sugar sector. These are among the many things that the farmer in the Republic of Kenya was looking out to ensure that they do not miss out in this new dispensation.

Madam Temporary Speaker, there is something else that I was about to forget. In this amendment we have put it that-

“A miller shall not purchase crop from or accept sugar crop delivered by a grower and a grower shall not sell or deliver sugar crop to a miller unless:

(1) A grower is registered with and has enforced a valid supply agreement with a miller.

(2) Factory of the miller is situated within the grower's sugarcane zone.

(3) The grower is exempted from the requirement by the Board under section 19A.”

Madam Temporary Speaker, these are some of the regulations that we have put in place to ensure that the miller and the grower do not overstep and everyone runs within his line to ensure that both parties benefit out of this agreement.

Further, there is a provision here that if a factory is not able to mill, it can get into an agreement with another miller to ensure that the agreement it has with the farmer is in cognizant and within the premise of the agreement where the farmer does not suffer any loss.

As I conclude, this is a new chapter for the Republic of Kenya; the farmer in Western, Nyanza, Kisii, Mombasa *et cetera*. This time the sugarcane farmer will benefit out of his sweat. The manufacturers will earn profit out of their hard work and the country will get taxes out of this process.

Finally, we agreed that industrial sugar cannot be imported for free. They have to pay taxes like any other commodity in the Republic of Kenya, so that the sugar sector does not continue being run by cartels hiding under the disguise of industrial sugar.

I beg to move and call upon my senior brother, my Alumni of Musingu High School, *daktari* himself, the only bullfighter in the House to second.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Boni Khalwale.

**Sen. (Dr.) Khalwale:** Thank you Madam Temporary Speaker. It is impressive that the Sen of Bungoma is barely two years old in this House but you can see the way he has moved this Bill so ably. I congratulate him but it is not surprising because he shares the same Deoxyribonucleic acid (DNA) with Henry Pius, Masinde Muliro, the freedom fighter and one of the founding fathers of this nation.

*(Applause)*

Madam Temporary Speaker, I am very happy for what has happened in the National Assembly and what I am hearing about this Bill in this House. I am extremely happy for the industry of the Committee because they went around the country---

I remember when they came to Western, I was traveling to Kigali. I cut short my trip and joined them in Kakamega. I made my contribution and our people made their contribution and I can see all those contributions included in this Bill. Being a very happy day for me, allow me to congratulate them, and also congratulate the new Deputy President of the Republic of Kenya, Prof. Kithure Kindiki.

Madam Temporary Speaker, how things change. Just the other day, Professor was our Leader of Majority in this House. I had a new entrant and we used to call him Junior. He is a very humble man. Little did we know that he would be where he is today. I have no doubt that he will do a good job. I want to tell the farmers back home that this Parliament has given them a godsend breath of pure oxygen because this is an industry that supports eight million people. This is an industry that supports 600,000 small-scale farmers. This is an industry that supports five government-owned factories and nine privately-owned factories. All these factories come with jobs.

We allowed the sugar industry to collapse, purely because of poor legislation, through an animal called the Agriculture and Food Authority (AFA). I have never understood what became of the 11<sup>th</sup> Parliament when they did that misadventure. For our sugar in this country, thanks to the kind of climate and soils that we have. We have sugar which is in a high-refined form and it is known for its great crystalline shape and purity, free of smell and 100 per cent fit for human consumption.

Madam Temporary Speaker, I am privileged to come from Kakamega in the catchment area that produces 80 per cent of all the sugar consumed, not just in Kenya but 80 per cent of all the sugar that is consumed in the East African Community (EAC). This is led by Mumias Sugar Company, which is the biggest and the best.

I want to use this opportunity to congratulate the new investor in Mumias Sugar Company. He has brought order to the nucleus farm, 12,500 acres that had collapsed. He has regenerated it. I was there yesterday and the cane is so beautiful. When you fly over with a chopper, you feel like you have just seen life in Kakamega when you see that kind of scenery.

I want to speak to the cardinal issues in this Bill that should be the reason why all of us should support it wholeheartedly. The first one is the New Schedule. In the New Schedule, we have managed to contain through legislation the conmanship, fraud and trickery that was being practised by one infamous investor in the sugar factory. An investor who would actually poach cane from other factories that had developed that cane.

You would see those days trucks pulling trailers of 36 wheels. This nonsense has been controlled by the introduction of sugar zones, which are now catchment areas. In the counties of Kisumu, South Nandi and Kericho, they have been given the central catchment area. Upper Western has been given Bungoma, Kakamega, excluding Trans Nzoia, Uasin Gishu, and Northern Nandi districts. The lower Western, has been given Mumias, Busia, and Siaya counties. Southern Western has been given Migori, Homa Bay, Kisii, Narok counties and finally, Coast is Tana River, Lamu and Kwale counties.

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The next important thing that members of the public should rejoice is on the issue of the re-establishment of the Sugar Board. The Sugar Board, before it was removed by the Agriculture and Food Authority (AFA) law, was responsible for regulation of this industry and everybody was a winner. Since it went away, we have had problem after problem and we are glad that it is back and this Bill gives it the responsibility to regulate, develop and promote the sugar industry.

Secondly, the Board will be expected to coordinate the activities of the value chain actors within this important industry. Finally, facilitate equitable access to the benefits and resources of the industry by all interested parties.

The other cardinal issue that has been captured by this Bill is the issue of establishment of a special institute for technology and research. The world is changing in terms of climate change, acidity and alkalinity of our soils, which without technology coming out of this research institute, then we cannot continue getting quality sugar and bumper harvest as is expected.

The institute is supposed to promote, coordinate and regulate research in the sugar crop and sugar pie products using sugar technologies and management practises. It is expected that this institute will be able to expedite equitable access to research information, resources, sugar technologies, and innovations.

As I support this, I want to specifically go to where the law provides that this institute will have an opportunity to provide grants to institutions or persons desirous of carrying out research and training programmes, which are consistent with the national research priorities and plans of the institute.

I have in mind Masinde University of Science and Technology and Jaramogi Oginga Odinga University in Kisumu. I have no doubt that our professors in the Department of Agriculture will have a new actor who they can partner with, so as to support university research for this to be even a greater success.

Madam Temporary Speaker, I want to speak to the important issue of Sugar Development Fund. This Act establishes a Sugar Development Fund. What is critical in it is something we used to have which has been killed, called the Sugar Development Levy. This levy was money deducted according to your tonnage, from the farmers produced. It was supposed to go and develop the sugar industry and that money, because it runs into hundreds of millions of shillings, this law has been carefully crafted, that of this sugar development levy, 15 per cent will be set aside for purposes of factory development.

Sometimes factories abuse the pricing because they are challenged with development. Instead of them running to the bank, they have an access to a percentum of 15 per cent that they can use to do small repairs in the factory.

Madam Temporary Speaker, 15 per cent will be applied for research and training in the institute that I spoke to at the beginning and 40 per cent, the lump sum is meant for cane development and productivity enhancement. Therefore, 15 per cent of this will be applied for infrastructure development, including the feeder roads, bridges, and so on.

The 10 per cent will be applied for the administration at the board to take care of the salaries and allowances of employees and members of the board. Finally, five per cent shall be used for furtherance of functions of sugarcane farmers' organisation. This is very important.

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Madam Temporary Speaker, sugarcane farmer's organizations in the name of Mumias Sugar Company Out-growers Organization, (MOCO), the Nzoia Sugar Company Out-growers Organization (NOCO) and all other out-grower's factories, have collapsed back home because of the challenge of funding. Now, with five per cent available, if the people in Mumias can hear me, through this law, we are going to help you to revive MOCO, which was the lifeline to farmers.

There is the issue of quality, safety, and health control measures. The law has demanded that all sugar millers and importers shall ensure that all sugar produced locally or imported into the country meets the safety and quality standards as set out by the body responsible for setting up standards.

The important issue of sugarcane pricing has been a nightmare. As I have said before, sugar factories had been given a blank cheque. They would choose to pay you this much per ton and some of our poor farmers are not as highly educated, enabled, or connected to be able to challenge the pricing.

Now, this is going to be taken care of by this committee, which will ensure that it has representation from the millers and farmers to ensure that our prices are not exaggerated.

The main objective of this committee will be to review the sugarcane prices in consultation with the Sugar Research and Training Institute and provide a mechanism that remunerates farmers for other products delivered from the processing of the cane. What do we mean here? Farmers are hitherto only compensated based on the tonnage of the sugar that they deliver. Now, with this law, the other products that come from cogeneration will also enable farmers to benefit from it. To allow the distinguished Senators from Nandi County and Tana River County to give their input, I want to conclude, and emphasize the issue of the catchment area.

The First Schedule talks about catchment areas. Allow me to speak to the catchment area where I practice as a farmer. My catchment area is the Lower Western. The Lower Western catchment area comprises Busia, Kakamega, Siaya, and Vihiga Counties.

What this means, dear farmers back home in this catchment area is that your fears that free market economy would not be exercised in the sugar industry have been put to rest. It means once you are in the lower Western Catchment area of Busia, Kakamega, Siaya, and Vihiga Counties, you are free to sell your sugarcane to Mumia's Sugar Company, West Kenya Sugar Company, and Butali Sugar Company.

In so doing, dear farmer, you are free to take your cane to any of these companies depending on who is paying you the highest, who gives you the harvesting permit fastest or who pays you in the shortest time possible after you have delivered your cane.

So, just like I normally tell farmers back home, I want this law to spoil our farmers. When a *Muhindi* comes into your compound with his pickup wanting to buy your cane, because you are spoilt for choice, dear farmer, do not come out of your hut quickly.

Let them sit there waiting for you. Send your son to tell him that daddy is taking a cup of porridge. When you come out, you tell him that you are too busy and you are



going to take care of your cattle and so, you will meet him next week. So that you raise your stakes. This is what competition was meant to do.

I am so excited and happy. I thank the National Assembly and the Mediation Committee.

Madam Temporary Speaker, I Second.

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

Hon. Senators, I now propose the question.

*(Question proposed)*

**The Temporary Speaker** (Sen. Veronica Maina): I will now call upon the Senators to make contributions to the Motion beginning with Sen. Cherarkey.

**Sen. Cherarkey**: Thank you very much, Madam Temporary Speaker. I want to say that this is a mediated version of the report.

From the onset, allow me to thank Justice Ogola Sewe, Justice John Chikati, and Justice Joseph Mung'are for not stopping the Housing Levy Fund. There was a matter in court, but I am happy that they have not disallowed it. They have allowed the Government to continue so that we can provide affordable housing.

Secondly, I thank my colleagues who sat on the Mediation Committee. I sat in the Mediation Committee and I thought it is important that I make a few comments.

Allow me to thank Members of the Mediation Committee, led by Hon. Emmanuel Wangwe, the MP for Navakholo, who was our Chairperson; the Vice-Chairperson, Sen. (Dr.) Murango Senator for Kirinyaga; Sen. Catherine Mumma, Sen. Richard Onyonka, Sen. Kavindu Muthama, Sen. David Wafula, Hon. (Dr.) John Mutunga, MP Tigania West Constituency, who is also the Chairperson of the National Assembly Committee on Agriculture, Hon. John Owino, the MP Awendo Constituency in Migori County, Hon. Justice Kemei, MP, Sigowet-Soin Constituency in Kericho County, yours truly, Sen. Cherarkey from Nandi County, Sen. Esther Okenyuri, Hon. John Makali, MP, Kanduyi Constituency and Hon. Nabii Nabwera, MP, Lugari Constituency. These were the Members who sat on this Mediation Committee.

Madam Temporary Speaker, allow me to thank your office also for the wonderful job that you did. Your office was very critical. I thank the secretariat of the Committee. Your office was well-resourced both from the office of the Speaker of the Senate and National Assembly, led by Ms. Gloria Wawira, Ms. Laureen Wesonga, Mrs. Brigita Mate, Ms. Regina Munyao, Ms. Caroline Njue, Mr. Gerald Kadete, Mrs. Zainabu Sora; Mr. Victor Kilimo; Mr. Henry Kipng'etich; Ms. Juliet Masinde, Mr. Bernard Sika; Ms. Rose Ometere, and Mr. Collins Mahamba.

Madam Temporary Speaker, I apologize because from the way the titles of ladies have been listed, you cannot tell whether they are married or not.

**The Temporary Speaker** (Sen. Veronica Maina): Do you need to tell their status, whether married or not?

**Sen. Cherarkey**: No, it is just for record so that somebody cannot misquote me that I said miss or missus because there is that confusion. I thank you for your indulgence.

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**The Temporary Speaker** (Sen. Veronica Maina): Proceed.

**Sen. Cherarkey:** Madam Temporary Speaker, at least I know your status. I want to make a few comments on the amendment to the Sugar Bill because we debated it. There are five issues that we agreed on. One was on the amendment of the sugar zone. We changed it to become sugar catchment area. I want our farmers and stakeholders in the sugar industry to listen to this. Sugar catchment areas was to mean cane management, which means delivery, processing and research.

Secondly, it was for purposes of elections of the Kenya Sugar Board (KSB) directors. That is why we amended Clause 2, so that instead of calling it sugar zones, we called it sugar catchment areas. We agreed that it was for elections of the board and cane management.

On the issue of gender representation, we were guided by the KSB. When we were looking at it, we agreed that we should be guided by Muongozo code of conduct and the basic principle of gender representation within Kenya Sugar Board, including the youth and Persons with Disabilities (PwDs).

We also introduced Clause 19A where we said a miller shall not purchase sugar crop from or accept sugar delivered by a grower. A grower shall not sell or deliver sugar unless he is registered with it and has a valid supply agreement.

This was to ensure reliability and that there is no cane poaching. In sugarcane development, there are factories who would want to buy sugar without giving the resources for the growth and management of that sugar. That there should be an agreement--

Madam Temporary Speaker, I know what Sen. Oketch Gicheru wants to do. Can I just finish on this so that he can put a point of order? A grower is exempted by the KSB. We introduced Clause 19A to cater for the sugar agreement and the issue of delivering sugar to the factory and exemption from Kenya Sugar Board under Clause 19.

**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?

## QUORUM

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I rise under Standing Order No.41. The sugar industry is very important that we cannot consider this Bill with the quorum in the House. It is such an important Bill that some key stakeholders need to give their input. If we end up probably voting for this Bill tomorrow without some key input by Members who come from the regions where sugar cane is, it will be problematic. Therefore, I wish to draw to your attention that there is no quorum in the House to proceed with such a Bill. I request for your indulgence.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Clerk, can you confirm whether there is quorum? If there is no quorum, may the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, having failed to attain quorum at the expiry of 10 minutes, the Senate stands adjourned pursuant to Standing Order 41(2)(a) until Wednesday, 23<sup>rd</sup> October, 2024, at 9.30 a.m.

Sen. Cherarkey will have a balance of 13 minutes when the next session resumes. Thank you.

The Senate rose at 5.22 p.m.