

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 8th April, 2025

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Clerk, confirm whether we have quorum. Serjeant-at-Arms, ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Hon. Senators, I confirm that we now have quorum. Clerk, read out the first Order.

MESSAGE FROM THE NATIONAL ASSEMBLY

EXTENSION OF TENURE OF SELECTION PANEL FOR RECRUITMENT OF CHAIRPERSON AND MEMBERS OF THE IEBC

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I have a Message from the National Assembly concerning the extension of the tenure of the Selection Panel for the recruitment of persons for appointment as the chairperson and members of the Independent Electoral and Boundaries Commission (IEBC).

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.46(3) and (4), I received the following Message from the Speaker of the National Assembly regarding a resolution of the National Assembly on extension of the tenure of the Selection Panel for the recruitment of persons for appointment as chairperson and members of the IEBC, passed on Wednesday, 2nd April, 2025. The Message written 2nd April, 2025, was received in the office of the Clerk of the Senate on Thursday, 3rd April, 2025.

Pursuant to the said Standing Order, I now report the Message.

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(Several Senators walked into the Chamber)

Hon. Senators, you can have your seats as quickly as possible.

Pursuant to the provisions of Standing Order No.41(1) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

Whereas vide Gazette Notice No.715 of 27th January, 2025, His Excellency the President appointed members of the Selection Panel for the recruitment of nominees for appointment as the chairperson and members of the IEBC;

Further, whereas the Selection Panel is currently undertaking the interviews of the shortlisted candidates for the positions of chairperson and members of the IEBC, and that given the interviews schedule of all short-listed applicants, the Panel has inadequate time to conclude the recruitment process;

Appreciating the request by the Selection Panel for additional time to ensure the recruitment process comprises the understanding of the constitutional principles of regional balance, representation of the youth and overall inclusivity, while ensuring that the interviews are conducted as far as is practicable, within official working days and hours;

And whereas by a resolution passed on Wednesday, 2nd April, 2025, pursuant to the provisions of Paragraph 6(2) of the First Schedule to the IEBC Act, Cap 7(C), the National Assembly resolved to extend the tenure of the Selection Panel for the recruitment of persons for appointment as chairperson and members of the IEBC by a period of 14 days from 28th April, 2025.

Now, therefore, in accordance with the provisions of Standing Order No.41(1) of the National Assembly, I hereby convey the said resolution of the National Assembly and seek the concurrence of the Senate.

Hon. Senators, as you recall, on Thursday, 3rd April, 2025, the Senate considered and passed a resolution to extend the tenure of the Selection Panel for the recruitment of persons for appointment as chairperson and members of the IEBC by a period of 14 days from 28th April, 2025.

The Senate became seized of this matter following a request by the Chairperson of the Selection Panel to the Parliamentary Service Commission (PSC). The Commission subsequently deliberated on the matter and resolved to recommend to the Houses of Parliament that the Panel's tenure be extended by 14 days pursuant to Paragraph 6(2) of the First Schedule of the IEBC Act in order to enable the Panel to finalize the recruitment process.

The Senate's decision has since been communicated to both the National Assembly and the PSC.

I thank you.

Hon. Senators, before we proceed to the next order, I want to give the following Communication.

COMMUNICATION FROM THE CHAIR**SUBSTANTIATION OF FACTS BY SEN. CHERARKEY**

Hon. Senators, I have this Communication to make on substantiation of facts a Senator alleges to be true; that concerns Sen. Samson Cherarkey, MP.

As you may recall, at the sitting of the Senate held on Thursday, 3rd April, 2025, the Temporary Speaker, Sen. Catherine Mumma, MP directed Sen. Samson Cherarkey, MP, to substantiate utterances made in the course of his contribution to the Motion on extension of time of the Selection Panel for the recruitment of nominees for appointment as the chairperson and members of the IEBC. The direction was as a result of a point of order by the Senator for Kitui County, Sen. Enoch Wambua, CBS, MP, pursuant to Standing Order No. 105.

Standing Order 105 provides that-

“(1) A Senator shall be responsible for the accuracy of any facts that the Senator alleges to be true and may be required to substantiate any such facts instantly.

(2) If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order No.121 on Disorderly conduct, unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

Hon. Senators, in the point of order, Sen. Cherarkey, MP, was required to substantiate the statement that-

“With tremendous respect, I will not mention the name. I saw his leader objecting the process. Why is it that opponents of President William Ruto fear having the IEBC in place? It is because they fear elections. They must allow it to happen.”

(Loud consultations)

Sen. (Prof.) Tom Ojienda, this is the last warning I am giving this House. When the Chair is up standing and reading a Communication, you must keep quiet. You can see those two gracious ladies there are consulting. This is very unbecoming behavior in this House. When the Chair is communicating to the Members, you should just listen, so that you absorb the message.

Hon. Senators, Sen. Cherarkey, MP, was not able to substantiate his statements as required pursuant to Standing Order No.105(1) and subsequently requested the Temporary Speaker, Sen. Catherine Mumma, MP, to provide the evidence at the next sitting day in accordance with Standing Order No.105(2). Having acceded to the request, the Temporary Speaker directed that the Senator substantiates the allegation at the next sitting day.

Pursuant to Standing Order No.105(2), I now invite Sen. Samson Cherarkey, MP to forthwith substantiate the claim, as raised in the point of order by Sen. Enoch Wambua, MP, failure to which, the Senator shall be deemed to be disorderly within the

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meaning of Standing Order No.121. In the absence of such substantiation, the Senator will be required to withdraw the statement and apologise to the Senate.

I thank you.

Sen. Cherarkey, proceed.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I do not know whom I am apologizing to since Sen. Wambua is not here. I need your guidance, so that I know who I am apologizing to since Sen. Wambua is not here.

The Deputy Speaker (Sen. Kathuri): Whatever you are doing is for the consumption of the Senate. The Senate is properly constituted.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I apologised and it is on record. I remember Sen. Sifuna and Sen. Wambua rose on this point of order. You can check on HANSARD that I apologised and withdrew.

Both the Senate Majority Leader and the Senate Minority Leader were there. You know I am an altar boy.

(Laughter)

The Deputy Speaker (Sen. Kathuri): If you did, why then do we have the communication here with the Senate? Just proceed.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, for the comfort of my detractors, I repeat and apologise a thousand and a million times multiplied by ten million, so that the House can move on. I apologise and withdraw.

(Laughter)

The Deputy Speaker (Sen. Kathuri): That is good. It is being a gentleman enough.

Let us proceed to the next order.

QUESTIONS AND STATEMENTS

The Deputy Speaker (Sen. Kathuri): We have Statements under Standing Order No.53(1). We shall start with the Senator for Kisumu County.

OUTBREAK OF MALARIA AND OTHER DISEASES IN KISUMU COUNTY

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Mr. Deputy Speaker, Sir.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health regarding the response to the recent outbreaks of malaria and other diseases in Kisumu County. Being in the lake region, Kisumu County is highly prone to malaria outbreaks, which continues to pose a serious health risk to residents.

Additionally, cases of other diseases, including cholera and typhoid, have been reported in various parts of the county, raising concerns over public health preparedness

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and response mechanisms. Despite efforts to curb diseases many residents, especially in informal settlements and rural areas, still face difficulties accessing adequate prevention and treatment services.

In the statement, the committee should address the following-

(1) The level of funding allocated to disease control programmes in Kisumu County and provide details on how these funds have been utilised.

(2) The prevalence of the recent outbreak of malaria and other diseases in Kisumu County, including the number of reported cases and fatalities in the past.

(3) The interventions in place to combat malaria, including the distribution of insecticide-treated mosquito nets, indoor residual spraying and access to anti-malarial drugs.

(4) The measures taken to prevent and contain the outbreak of waterborne diseases such as cholera and typhoid, including improvements in sanitation and access to clean water.

(5) The availability of medical personnel, drugs and test kits in public health facilities to ensure timely diagnosis and treatment of malaria and other infectious diseases; partnership between the national and county governments as well as the donor agencies, in enhancing disease prevention and response strategies in Kisumu County.

Thank you.

STATE OF KENYA'S BLOOD STORAGE INFRASTRUCTURE

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health regarding the state of Kenya's blood storage infrastructure, which continues to undermine the effectiveness of our healthcare system despite the ongoing interventions.

While Kenya has made strides in blood collection, the real crisis lies in our inadequate storage capacity, which has rendered many blood donation efforts futile. The Kenya Tissue and Transplant Authority (KTTA) reports that although blood collection has improved, our national cold storage can only hold 65,000 units, far below the demand required to sustain emergency response and life-saving procedures.

Kenya has seen a marked increase in blood banks, from 35 to 45, yet the infrastructure remains overstretched and hospitals across the country continue to grapple with erratic blood supply. Collected blood is going to waste due to inadequate preservation facilities, while some counties, including Kisumu, lack sufficient storage and distribution systems to ensure timely access to blood when needed. This failure to expand storage capacity in tandem with collection efforts is putting lives at risk, particularly for accident victims, surgical patients and mothers in maternity wards.

Mr. Deputy Speaker, Sir, blood should not be a scarce resource simply because we lack the capacity to store it. Kenya cannot afford to lose lives due to logistic failures when solutions exist and people are willing to donate.

In the statement, the committee should-

(1) Analyze the comprehensive assessment of the current blood storage infrastructure across all counties, highlighting any disparities in identifying regions most affected by storage limitations.

(2) Study the steps taken to address storage limitations, particularly how funds allocated to improve cold chain facilities have been utilised, as well as the Government's strategy to modernize and expand blood storage facilities to ensure collecting units are properly preserved and accessible when needed.

(3) The measures in place to ensure that increased storage capacity translates to improved blood availability, particularly in rural and underserved areas.

(4) The role of county governments in ensuring such an ability and efficiency of blood storage infrastructure within their region.

Thank you.

(Loud consultations)

The Deputy Speaker (Sen. Kathuri): Order, Senators!
Sen. Samson Cherarkey, you have two Statements.

DISCRIMINATION OF SOME LEARNERS FROM
PARTICIPATING IN SCHOOL SPORTS

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the discrimination of school-going children aged above 19 years in high school and above 14 years in primary school from participating in school sports competitions.

I wish the Chairperson for Education, Sen. Betty Montet was listening.

Section 17 (III) of the Kenya Secondary School Sports Association (KSSSA) constitution prohibits students who exceed the age limit of 19 years from participating in regional and international sports competitions. Similarly, the Kenya Primary School Sports Association (KPSSA) imposes age restrictions that unfairly exclude certain learners from full participation in school sports. These restrictions, if not removed, will continue to deny students equal opportunities in sports.

Mr. Deputy Speaker, Sir, this matter was contested in the High Court in Mombasa through Petition No.65 of 2017 and a judgment was delivered by Judge Ike Ogola on 9th May, 2019, declaring Section 17 (III) of KSSSA constitution unconstitutional and invalid. However, despite this definitive court decision, the KSSSA continues to enforce the annulled provision, thereby violating the constitution and acting in contempt of court.

In the statement, the committee should address the following-

(1) The reasons for the continued enforcement of Section 17 (III) of the KSSSA constitution despite its annulment by the High Court.

(2) The status of compliance with the court ruling and the immediate actions being taken by the Ministry of Education against the officials of the KSSSA and KPSSA who continue to disregard this ruling.

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(3) Measures being implemented by the Ministry of Education to ensure that the junior secondary schools' JSS learners participate in sports without discrimination based on their age, considering that learners are domiciled in primary school as per the implementation of CBC.

Mr. Speaker, Sir, with your indulgence, I move to my second Statement.

DEMOLITION OF STALLS IN KAPSABET
TOWN, NANDI COUNTY

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Tourism, Trade and Industrialisation, regarding the demolition of small-scale structures and stalls of *mama mboga* in Kapsabet town in Nandi County.

In the statement, the committee should address the following-

(1) The circumstances that led the Nandi County Government to carry out demolitions of small-scale trader stalls in Kapsabet town without prior notice despite traders having already paid for their 2025 trading licenses for the affected premises to the Nandi County Government.

(2) The reasons for the relocation of traders to a new market that lacks basic amenities such as toilets.

For the information of the House, I have visited that market. You will find that women do not have access to toilets and other utilities.

(3) The number of traders impacted by the demolitions and the extent of financial losses incurred by each trader and its plan for compensation.

(4) Rationale behind the demolition of Namgoy Trading Center in Nandi County given that no alternative location was provided for the displaced traders at Namgoy Shopping Center.

(5) The measures in place by the County Government to compensate traders for the loss of businesses resulting from relocation, demolition from Kapsabet Central Business District (CBD) and also from Namgoy Junction demolitions.

Thank you.

The Deputy Speaker (Sen. Kathuri): Next is Sen. Wahome Wamatinga.

ALLEGED TRANSFER OF KEVEVAPI LAND IN NAIROBI CITY
AND KIAMBU COUNTIES TO PRIVATE ENTITIES

Sen. Wamatinga: Thank you very much, Mr. Deputy Speaker, Sir.

I rise pursuant to the Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the status of land belonging to Kenya Veterinary Vaccines Production Institute (KEVEVAPI), which was transferred to private entities in Nairobi and Kiambu counties.

In the statement, the committee should address the following-

(1) The circumstances under which land belonging to KEVEVAPI in Nairobi and Kiambu counties was alienated, registered under private ownership, including any administrative or legal lapses that allowed the transfer to occur.

(2) The specific steps taken, if any, by the Office of the Attorney-General to protect KEVEVAPI's interests and to challenge or prevent the transfer of land from a public to a private entity.

(3) Clarification of the National Land Commission (NLC) on how the land was accessed and registered for private property and the collective actions being undertaken to ensure that the land is reverted to KEVEVAPI.

(4) A report on all concluded and pending court cases related to the land in question, including the legal status of each case and associated legal costs.

(5) Plans by the Ministry of Agriculture, Livestock and Fisheries indicating how and when it intends to settle the legal fees incurred by KEVEVAPI in defending these land cases and whether any policy reforms are underway to safeguard the institution's land in the future.

Thank you.

The Deputy Speaker (Sen. Kathuri): Next is Sen. Abbas Mohamed.

INCREASED CANCER CASES IN WAJIR COUNTY

Sen. Abass: Thank you, Mr. Deputy Speaker, Sir.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Senate Committee on Health regarding the alarming increase of cancer cases in Wajir County and its possible link to the allegation of nuclear waste dumping in Northern Kenya.

In the statement the committee shall address the following-

(1) Statistical data on the number of reported cancer cases in Wajir County from 2014 to date, including a breakdown by the type of cancer, age, gender and other demographic factors.

(2) Whether the Ministry of Health or any other relevant agencies have conducted epidemiological and environmental studies to establish possible causes of the rising cancer cases in Wajir County, whether radioactive or other hazardous wastes may have been illegally dumped in the parts of Northern Kenya.

(3) The investigations carried out by the National Environmental Management Authority (NEMA), the Kenya Nuclear Regulatory Authority (KNRA) or any other relevant bodies to ascertain the presence of nuclear or toxic wastes in the North Eastern part of Kenya, specifically Wajir, Mandela, Garissa, Marsabit and Isiolo counties in the potential area risks posed to the local communities.

(4) The measures the national Government and county governments are undertaking to address the rising cancer cases in Wajir County.

(5) Whether the Government intends to conduct a comprehensive environmental audit to determine the presence of hazardous wastes in Northern Kenya and if confirmed, the steps that will be taken to remedy the affected areas.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Next is the Senator for Isiolo County, Sen. Fatuma Dullo.

INCREASED INSECURITY IN ISIOLO COUNTY

Sen. Dullo: Thank you, Mr. Deputy Speaker, Sir.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations concerning the rising insecurity in Isiolo County.

Mr. Deputy Speaker, Sir, Isiolo County has witnessed a worrying escalation in violence, including rampant cattle rustling, killings and increased lawlessness. These attacks have left children orphaned, women widowed and entire communities living in fear. Most recently, on 26th March, 2025, Mr. Nicholas Lorot, member of Isiolo County Assembly for Burat Ward, was shot in a shocking incident that has further underscored the urgent need for robust Government intervention.

In the statement, the committee should address the following-

(1) The progress of the police investigation into the shooting of Hon. Nicholas, including any leads, arrests and efforts to ensure justice is served.

(2) The measures being taken to stem the proliferation of illegal firearms in Isiolo County and steps to disarm and disband armed criminal elements.

(3) Interventions in place to combat drug abuse, particularly among the youth, which has been linked to rising insecurity in the region.

(4) The reported cases of cattle rustling in the past six months, including the number of livestock stolen, casualties recorded in recovery efforts undertaken by security agencies.

(5) The Government's plan to enhance security presence in Isiolo, including a long-term strategy to restore lasting peace and stability through a comprehensive security sector overhaul.

Thank you.

The Deputy Speaker (Sen. Kathuri): Next, is Sen. Richard Onyonka. The statement is dropped.

PROPOSED ESTABLISHMENT OF RIRUTA-NGONG COMMUTER RAILWAY LINE

(Statement dropped)

Next is Sen. Haminda Kibwana. She requested that the Statement be read by Sen. Tabitha Mutinda, who equally is not in the House. So, the Statement is dropped.

STATE OF KENYA'S LOCAL TEXTILE INDUSTRY

(Statement dropped)

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I want to allow a few Senators to make their comments, but my screen is disabled. Who can come to my rescue?

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

We have 20 minutes to make comments. I restrict it to two minutes for each Member.

Proceed, Sen. Esther Okenyuri.

Sen. Okenyuri: Thank you, Mr. Deputy Speaker, Sir.

I support the Statement by Sen. (Prof) Tom Ojienda on outbreak of malaria in Kisumu County. That statement brings our attention to the issue of response to general outbreaks of diseases in this country. It is not only affecting Kisumu County, but many other counties have such challenges like was in the statements sought here some time back by the Senators for Wajir and Mandera counties.

Mr. Deputy Speaker, Sir, I support the statement by Sen. Cherarkey on the issue of demolition of market stalls of small-scale traders in Nandi County. I have the Street Vendors (Protection) Bill that seeks to protect the livelihoods of such traders. When you destroy property that is owned by these people and they have incurred millions of losses, where do we intend to take those people? Are we giving them alternative sources of income with the current economy that we have? It is very sad that we are experiencing this at this time when we want to protect the livelihoods of small traders who contribute effectively to this economy. It is not just Nandi County, this is a disease affecting the 47 county governments.

I would wish that the county government finds amicable ways of dealing with small-scale traders because they are equal shareholders of this country.

I thank you.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. I also rise to support the statement by Sen. Cherarkey. There is a cardinal rule when you want to do demolitions. First, you have to give notice and possibly engage the citizens who are operating those businesses because they have invested. More importantly, before you demolish, the county government or even the national Government has a mechanism to make sure that these people understand what is happening. The best thing is to identify alternative land for them in good time, so that if they are on land meant for a road bypass or road reserve, there is a proper discussion.

In the first place, counties do not even allow any construction without approval. At the approval level, you should be able to deny anyone other than approving for them, they build, put huge stock in their businesses and then you demolish. That is how you promote crime in the country, impunity and nastiness within people.

Similar to the issue in Isiolo, there is a lot of violence and lawlessness because people are hopeless and they have no way of earning. There is a growing population which needs to be safeguarded. So, let the small business people be protected. That should be the main theme of the country.

I thank you.

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Sen. Munyi Mundigi: Asante Bw. Naibu Spika. Naunga mkono taarifa ya Seneta wa Nyeri, Sen. Wamatinga, kuhusu mashamba ya KEVEVAPI.

Mimi ni naibu mwenyekiti wa Kamati ya Kilimo na ningeomba Kamati hii ipewe nguvu ya kuangalia vile mambo ya mashamba imeleta shida. Hii shida haipatikani kwa mashamba ya KEVEVAPI pekee, lakini ni Kenya nzima. Wale matajiri ambao wana hela nyingi, wanapopita mahali na waone shamba ya serikali, mtu binafsi ama ya familia ambayo haijiwezi, wanaleta shida.

Tume ya National Land Commission (NLC) haifanyi kazi vile inapaswa kufanya. Utapata kwamba kama koti imetoa uamuzi kwamba shamba ni ya KEVEVAPI, unapata NLC ikisema kuwa mambo hayo sio sawa.

Unapata kwamba Kenya nzima kuna mvutano wa hapa na pale. Ningeomba tutunge sheria ambayo itahakikisha kwamba mtu yeyote ambaye atavamia mashamba ya serikali, hata kama ametumia pesa zake kufanya hicho kitendo, apelekwe kotini na afungwe maisha.

Mambo ya mashamba katika Kenya nzima imeleta shida. Kwa hivyo, naunga mkono huu mjadala kuhusu mashamba ya KEVEVAPI. Kama mnavyojua, KEVEVAPI inahusikana na mambo ya mimea na vitu vingi na huku mashamba yao yanaendelea kuchukuliwa na matajiri.

Asante.

Sen Osotsi: Thank you, Mr. Deputy Speaker, Sir. Let me also support the statement by Sen. Cherarkey on demolition of stalls and shops belonging to small traders. This is a very serious issue. I encourage the Committee on Trade and Industrialization not just to look at Nandi County, but also consider all the other 47 counties because this problem is spread in all the 47 counties.

We also need to investigate the conflict between the national Government and county governments with regards to issues of markets. We have seen that some of these demolitions are arising because of lack of clear communication between the two levels of government. I remember when the national Government wanted to launch a market at a place called Luanda in Vihiga County, the county government was not aware. They came and just demolished stalls there. Clearly, you could see there was a lack of communication between the two arms of government.

As we talk about demolition of stalls, we have a serious issue regarding the management of markets in this country. This Senate should not allow the national Government to take over issues of management of markets in this country. Markets belong to county governments. How did we allow the national Government---

(Sen. Osotsi's microphone was switched off)

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

The Senate Majority Leader (Sen. Cheruiyot): Sorry, sorry.

The Deputy Speaker (Sen. Kathuri): Sen. Osotsi, next time, do not say, "Give me one minute" because that is what I will do.

Proceed, Senate Majority Leader.

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The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I just wanted to comment on this issue of KEVEVAPI, a very important institution that on many occasions, people do not appreciate its value to the country.

If it is true that there are parcels of land belonging to this institution that have been transferred to private hands, then this House must sanction the right authorities. It must be known who they are; for what interest and those titles must be cancelled and that institution must get back that which is rightfully its own.

Over the years, many public institutions continue to lose public property at the hands of unscrupulous dealers. For example, I went to my county referral hospital last month. To my utter shock, I realized that they do not even have a copy of their title. I have since written to the Cabinet Secretary and the Principal Secretary for Lands, who have assured me that they are processing it because they also did not have those records at the national Government. This is a conversation that we must have as a House on title deeds for public institutions. Otherwise, with this increasing population and the demand for land, many public institutions will lose out on their land and we must do something about it.

I hope that this statement will not just be about KEVEVAPI, but about all other public institutions whose land is under threat from such thieving individuals.

I thank you.

Sen. Chute: Thank you very much, Mr. Deputy Speaker, Sir. Very quickly, I want to support the statement by the Senator for Wajir County, Sen. Abass. The issue of cancer cases is not only prevalent in Wajir County. We have similar problems in Marsabit.

(Loud consultations)

Mr. Deputy Speaker, Sir, can you please protect me from this guy?

Mr. Speaker, Sir, the issue of cancer is prevalent in Marsabit, Wajir and Mandera counties. The committee should visit Marsabit, Wajir, Mandera, Samburu and Isiolo counties. This is an issue that requires the committee's attention. I wish the committee would visit Marsabit, Wajir and Mandera to address the matter.

Regarding the issue of KEVEVAPI, the institution has already lost acres of land. Very soon, they will lose KEVEVAPI itself. There are individuals coming from India and Asia attempting to take over KEVEVAPI. While the loss of land is troubling, the biggest worry is that they are trying to take over KEVEVAPI, similar to the Adani controversy. Therefore, the committee should even go further to investigate---

The Deputy Speaker (Sen. Kathuri): I believe your point has been heard sufficiently.

Sen. Veronica, proceed.

Sen. Veronica Maina: Thank you, Mr. Deputy Speaker, Sir. First, I wish to support the statement by Sen. Cherarkey from Nandi County regarding the exclusion of girls from certain sports or the imposition of restrictions based on age. Gender equality is a constitutional right enshrined in Article 27 of our Constitution. This Article affirms the

principle of equal treatment and opportunity for both males and females in all spheres, without discrimination on the basis of age, sex or gender.

Any policy directed to Junior Secondary Schools (JSS) or other institutions that discriminate against girls in certain sports or excludes students based on age would constitute a breach of Article 27(3) and (4) of the Constitution. In fact, the state is enjoined to develop strategies to address and eliminate any disadvantages faced by either boys or girls. These strategies should aim at ensuring equality of treatment for both genders. It is, therefore, sad to hear that schools or even school systems might be planning sports that exclude the girl child.

The Sports Act also aims at promoting sports development for both girls and boys. This is meant to address mental health issues, physical health---

The Deputy Speaker (Sen. Kathuri): That is the end of the 20 minutes I had allocated for Statements Hour. We can now move to the next Order.

MOTION

ADOPTION OF REPORT ON INQUIRY INTO THE LPG EXPLOSION IN MRADI, NAIROBI CITY COUNTY

THAT, the Senate adopts the Report of the Standing Committee on Energy on its inquiry into the Liquefied Petroleum Gas (LPG) explosion in Mradi Area, Embakasi, Nairobi City County, laid on the Table of the Senate on Thursday, 8th August, 2024.

(Sen. Sifuna on 3.4.2025)

(Resumption of debate interrupted on 3.4.2025)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I want to first assert that this matter does not affect counties. Secondly, I confirm that we have a quorum to put the question.

*(The Clerk-at-the-Table consulted
with the Deputy Speaker (Sen. Kathuri))*

Hon. Senators, I will put the question.

(Question put and agreed to)

Next Order.

BILL*Second Reading*THE STATUTORY INSTRUMENTS (AMENDMENT) BILL
(SENATE BILLS NO.10 OF 2024)*(The Senate Majority Leader (Sen. Cheruiyot) on 1.4.2025)**(Resumption of debate interrupted on 1.4.2025)*

Hon. Senators, we are proceeding to Division. Therefore, Serjeant-at-Arms, kindly ring the Division Bell for five minutes.

(The Division Bell was rung)

The Deputy Speaker (Sen. Kathuri): Kindly ring the Division Bell for another five minutes.

*(The Division Bell was rung)**(The Clerk-at-the-Table consulted with the Deputy Speaker (Sen. Kathuri))*

The Deputy Speaker (Sen. Kathuri): Order, Senators. I order that the doors be locked and the bars drawn.

*(The doors were locked and bars drawn)**(Question put)*

Senators you are voting electronically. I request that you log out. Serjeant-At-Arms check the delegate units. Log in and vote now.

*(Voting in progress)***BILL***Second Reading*THE STATUTORY INSTRUMENTS (AMENDMENT)
BILL (SENATE BILLS NO.10 OF 2024)

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DIVISION**ELECTRONIC VOTING**

*(Question, that the Statutory instruments (Amendment) Bill
(Senate Bills No.10 of 2024) be now read a second time,
put and the Senate proceeded to vote by County Delegations)*

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang, Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Mbugua, Nyandarua County; Sen. Mungatana, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Olekina, Narok County; Sen. Osotsi, Vihiga County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County; and, Sen. Wamatinga, Nyeri County.

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

AYES: 28

NOES: Nil

ABSENTIONS: Nil

The “Ayes” have it.

*(The Bill was read a second time and committed
to a Committee of the Whole tomorrow)*

The Deputy Speaker (Sen. Kathuri): Next Order.

MOTION

**ADOPTION OF REPORT OF THE MEDIATION COMMITTEE
ON THE CONFLICT OF INTEREST BILL (NATIONAL
ASSEMBLY BILLS NO.12 OF 2023)**

THAT, the Senate adopts the Report of the Mediation Committee on the Conflict of Interest Bill (National Assembly Bills No.12 of 2023), laid on the table of the Senate on Thursday, 5th December, 2024 and further that pursuant to Article 113 (2) of the Constitution and Standing Order 167 (3) of the Senate, approves the mediated version of the Bill.

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(Sen. Wakili Sigei on 25.2.2025)

(Resumption of debate interrupted on 27.2.2025)

The Deputy Speaker (Sen. Kathuri): We are still voting electronically. You can proceed to vote because you are already logged in.

(The Senate proceeded to vote by county delegations)

(Voting in progress)

Sen. Wafula, approach the Table. Sen. Madzayo ---

(Voting in progress)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate adopts the Report of the Mediation Committee on the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023), laid on the table of the Senate on Thursday, 5th December, 2024 and further that pursuant to Article 113 (2) of the Constitution and Standing Order 167 (3) of the Senate, approves the mediated version of the Bill.)

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang', Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Mbugua, Nyandarua County; Sen. Mungatana, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Olekina, Narok County; Sen. Osotsi, Vihiga County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County; and, Sen. Wamatinga, Nyeri County.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I want to announce the results of the Division.

The results of the Division are as follows-

NOES: Nil

AYES: 28

NOES: 0

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ABSECTIONS: Nil

The “Ayes” have it.

(Question carried by 28 votes to Nil)

Clerk, Order No. 11 to Order No. 17 are all Committees of the Whole. You can call them out.

COMMITTEE OF THE WHOLE

THE ENERGY (AMENDMENT) BILL (SENATE
BILLS No.42 OF 2023)

COMMITTEE OF THE WHOLE

THE NATIONAL ASSEMBLY AMENDMENTS TO THE PERSONS
WITH DISABILITIES BILL (SENATE BILLS No.7 OF 2023)

COMMITTEE OF THE WHOLE

THE COUNTY PUBLIC FINANCE LAWS (AMENDMENT) BILL
(SENATE BILLS No.39 OF 2023)

COMMITTEE OF THE WHOLE

THE COUNTY ASSEMBLY SERVICES (AMENDMENT) BILL
(SENATE BILLS No.34 OF 2023)

COMMITTEE OF THE WHOLE

THE COUNTY ASSEMBLIES PENSIONS SCHEME BILL
(SENATE BILLS No.14 OF 2024)

COMMITTEE OF THE WHOLE

THE NATIONAL DISASTER RISK MANAGEMENT BILL
(NATIONAL ASSEMBLY BILLS No.24 OF 2023)

COMMITTEE OF THE WHOLE

THE LAND (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILLS No.40 OF 2022)

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The Deputy Speaker (Sen. Kathuri): I hope the doors are open. Withdraw the bars and open the doors.

(The Bars were undrawn and doors opened)

(Loud consultations)

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE COUNTY PUBLIC FINANCE LAWS (AMENDMENT) BILL SENATE BILLS NO.39 OF 2023)

The Temporary Chairperson (Sen. Veronica Maina): Hon. Senators, this is the Committee of the Whole commencing right now. I will ask the Clerk to call out Order No. 13.

Clauses 3-5

(Question, that Clauses 3, 4, 5 be part of the Bill proposed)

Division will be at the end.

Clause 6

Sen. Tabitha Mutinda: Madam Temporary Chairperson, I beg to move-
THAT Clause 6 of the Bill be amended

(a) in the proposed new section 109A by-

(b)

(i) by deleting paragraph (b) and (d) appearing in subsection (2);

(ii) in subsection (7) by deleting the word “Service” appearing immediately after the words “County Assembly” in paragraph (b); and

(iii) by deleting subsection (10).

(c) in the proposed new section 109B by deleting paragraph (c)

(Question of the amendment proposed)

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The Temporary Chairperson (Sen. Veronica Maina): Division will be at the end.

Clause 7

(Question, that Clause 7 be part of the Bill proposed)

Division will be at the end.

Clause 8

Sen. Tabitha Mutinda: Madam Temporary Chairperson, I beg to move- THAT Clause 8 of the Bill be amended by deleting the word “Service” appearing immediately after the words “County Assembly”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Veronica Maina): Division will be at the end.

What is your point of order, Sen. Sifuna?

Sen. Sifuna: Madam Temporary Chairperson, it has been a practice that when the Mover is moving the amendments, they just state briefly for the House, the import of those amendments. I have not heard the Vice-Chairperson of the Senate Stading Committee on Finance and Budget talk to any of those amendments, so that we are all on the same page.

The Temporary Chairperson (Sen. Veronica Maina): Sen. Tabitha, that objection is in order. I propose that you assist the Senate to understand the import of those amendments to the Bill by explaining them briefly.

Sen. Tabitha Mutinda: Thank you, Madam Temporary Chairperson. In reference to the first amendment, which was on Clause 6, after our deliberations as a Committee, the word “service” seemed to be appearing, and we felt that it was narrow in terms of the responsibility of the County Assembly. That is why we are proposing that we remove the word “service” and leave the word “county assembly”. This is because, it is not like another entity in place, but rather it as a county assembly.

The Temporary Chairperson (Sen. Veronica Maina): Sen. Sifuna, I hope that throws light.

Next.

Clause 9

(Question, that Clause 9 be part of the Bill proposed)

Division will be at the end.

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Clause 2, The Title, and Clause 1

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

Division will be at the end.

Hon. Senators, the Report will be done later, So, let us move to the next Bill.

Clerk, please proceed to call out the next Order.

THE PERSONS WITH DISABILITIES BILL
(SENATE BILL NO.7 OF 2023)

(Consideration of National Assembly Amendments)

The Temporary Chairperson (Sen. Veronica Maina): I would request Sen. Asige to stand in for the Chairperson Standing Committee on Labour and Social Welfare.

In addition, in view of the fact that she is the Mover of this Bill, the Clerk will help you to give the amendment that you should be moving now.

Clerk, please assist Sen. Asige to have the amendment. Do you have the amendment, Sen. Asige?

Sen. Asige: Thank you, Madam Temporary Chairperson.

I do have the Chair's guide, but I do not have the amendments before me. Even if I did, it would be difficult for me to move through two different documents on one device.

The Temporary Chairperson (Sen. Veronica Maina): It is in the Order Paper. Perhaps you can assist her to approach the Chair.

Sen. Aaron, please, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Chairperson, she will need somebody else to check on the second document. She can do one, but not two documents at the same time. So, she will need somebody else to help on the second document.

The Temporary Chairperson (Sen. Veronica Maina): Sen. Miraj, you are also a Member of that Committee. You could assist.

Sen. Miraj, you will now stand in for the Chairperson of the Standing Committee on Labour and Social Welfare.

You may now proceed to move the amendments.

Sen. Crystal Asige, could you resume your seat and wait. We will guide you.

(Sen. Crystal Asige stood in her place)

Proceed, Sen. Asige.

Sen. Crystal Asige: Madam Temporary Chairperson, I just want to make a quick comment.

I wonder and need a clarification. Why is it that this particular Order has been in the Order Paper, but it has not been furnished to me, if I was supposed to Move?

I also want to inform the House that this is the precise reason many of the clauses of this particular Bill talk about access to information promptly for a person with disability, so that what we are experiencing now does not happen and become an embarrassment to myself and my office.

I can read the Chairperson's guide, I just requested that if, as it has been requested by the Senator for Nairobi City County, a justification needs to be made of the said clause. I cannot read that document at the same time as the Chairperson's guide. It would be great if accommodation can be made for me as a person with disability, so that we can exercise the very provisions that we are here to pass right now.

The Temporary Chairperson (Sen. Veronica Maina): Thank you, Sen. Crystal Asige. I can clarify that. The secretariat is making every effort always to make sure that you are not left out or excluded. This amendment was to be moved by the Chairperson, Standing Committee on Labour and Social Welfare.

You have only been called upon to take up that position because the Chairperson was not here, just like we have done with the Standing Committee on Finance and Budget.

(Sen. Murgor walked into the Chamber)

The Chairperson is now back!

Hon. Senator, nothing unusual has been done. You were only stepped in to fill a temporary gap, but now, we have the Chairperson on board. So, even Sen. Miraj is relieved from that responsibility. You will only step in at the point you are supposed to step in.

Nonetheless, let the Secretariat make additional effort to give you the Order Paper if you do not have it. The procedure is in the Order Paper, which I believe you already have.

Thank you.

Proceed, Chairperson, standing Committee on Labour and Social welfare.

Clause 4

Sen. Murgor: Madam Temporary Chairperson, I beg to move—
THAT Clause 4 of the Bill be amended—

- (a) in paragraph (a), by deleting the word “welfare” and substituting therefor the word “rights”;
- (b) in paragraph (e), by inserting the words “inclusion and” and immediately after the words “promote the”;
- (c) in paragraph (i), by inserting the words “and compulsory” immediately after the word “free”;
- (d) by inserting the following new paragraph immediately after paragraph (p)—

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(e) “(q)ensure inclusion of persons with disabilities in all mainstream programs and interventions”.

The Temporary Chairperson (Sen. Veronica Maina): Can you explain the import of that amendment? Why is it being introduced? Do you have the details?

Sen. Murgor: No, I do not have.

The Temporary Chairperson (Sen. Veronica Maina): Then you can just move.

(Question of the amendment proposed)

Division will be at the end.

Clause 5

Sen. Murgor: Madam Temporary Chairperson, I beg to move that –

THAT Clause 5 of the Bill be amended— (a) in sub-clause (1)—

(i) in paragraph (a), by deleting the word “welfare” and substituting therefor the word “rights”;

(ii) in paragraph (c), by inserting the words “and compulsory” immediately after the word “free”;

(iii) by inserting the following new paragraph immediately after paragraph (f)—

“(g)ensure inclusion of persons with disabilities in all mainstream programs and interventions”.

(b) in sub-clause (2), by inserting the words “responsible for matters relating to persons with disabilities” immediately after the words “committee member” appearing in the opening statement; and

(c) in sub-clause (4), by deleting paragraph (a) and substituting therefor the following new paragraph— (a) a person with disabilities who resides within the respective county;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Veronica Maina): Division will be at the end.

[The Temporary Chairperson (Sen. Veronica Maina) left the Chair]

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

Clause 6

Sen. Murgor: Mr. Temporary Chairperson, I beg to move that—

THAT Clause 6(1) of the Bill be amended by deleting the words “protection, benefit” appearing in paragraph (a) and substitute therefor the words “equal protection, equal benefit”.

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(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 8

Sen. Murgor: Mr. Temporary Chairperson, I beg to move—
THAT Clause 8 of the Bill be amended —

- (a) in sub-clause (1), by deleting the words “on free consent” and substituting therefor the words “on free and full consent”; and
- (b) in sub-clause (2), by deleting the word “sexuality” and substituting therefor the word “sexual”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 11

Sen. Murgor: Mr. Temporary Chairperson, I beg to move —

THAT clause 11(1)(f) of the Bill be amended by inserting the words “and inclusive” immediately after the word “quality”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 20

Sen. Murgor: Mr. Temporary Chairperson, I beg to move—

THAT Clause 20(8) of the Bill be amended by deleting the word “adoptive” appearing in paragraph (b) and substituting therefor the word “adaptive”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 21

Sen. Murgor: Mr. Temporary Chairperson, I beg to move—
THAT clause 21 of the Bill be amended—

- (a) in sub-clause (2), by inserting the words “where an employer has at least twenty employees” immediately before the word “reserve” in paragraph (a); and
- (b) in sub-clause (5)(e), by deleting the word “solely”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 25

Sen. Murgor: Mr. Temporary Chairperson, I beg to move –
THAT clause 25(e) of the Bill be amended by inserting the words “putting in place mechanisms for” immediately before the words “prompt attendance”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 26

Sen. Murgor: Mr. Temporary Chairperson, I beg to move –
THAT Clause 26 of the Bill be amended –

- (a) by deleting sub-clause (1) and substituting therefor the following new subclause –
 - (1) Every person with disability has the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas, and the right to access information, on an equal basis with others, in a timely manner and without additional cost”;
- (b) in sub-clause (2), by inserting the words “forms of” immediately after the words “and other”;
- (c) in sub-clause (7), by deleting the words “Media Council of Kenya” and substituting therefor the words “Communication Authority of Kenya in consultation with the Council”;
- (d) in sub-clause (8), by deleting the words “sub-titles” and substituting therefor the words “closed captioning”; and
- (e) in sub-clause (10), by inserting the words “and private” immediately after the word “public”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 28

Sen. Murgor: Mr. Temporary Chairperson, I beg to move –
THAT Clause 28(2) of the Bill be amended by deleting the word “Kenya” appearing in paragraph (b) and substituting therefor the word “Kenyan”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 29

Sen. Murgor: Mr. Temporary Chairperson, I beg to move—
THAT Clause 29(4) of the Bill be amended by deleting the word “Kenya” and substituting therefor the word “Kenyan”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 45

Sen. Murgor: Mr. Temporary Chairperson, I beg to move—
THAT Clause 45(4) of the Bill be amended by deleting the word “five” and substituting therefor the word “three”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 50

Sen. Murgor: Mr. Temporary Chairperson, I beg to move—
THAT clause 50 of the Bill be amended—
(a) in sub-clause (1), by inserting the words “upon request by a member of the public or” immediately before the words “where it considers” appearing in paragraph (a);
(b) in sub-clause (3), by inserting the words “or a member of the public” immediately after the words “regulatory body”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

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Clause 56

Sen. Murgor: Mr. Temporary Chairperson, I beg to move-

THAT clause 56 of the Bill be amended—

(a) in sub-clause (1), by deleting the expression “Kshs. 150,000/=” and substituting therefor the words “of such amount as may be prescribed by the Cabinet Secretary”; and

(b) in sub-clause (2), by deleting the expression “Kshs. 10,000/=” and substituting therefor the words “such amount as may be prescribed by the Cabinet Secretary”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 62

Sen. Murgor: Mr. Temporary Chairperson, I beg to move-

THAT Clause 62 of the Bill be amended by deleting the words “one million” and substituting therefor the words “two million”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 63

Sen. Murgor: Mr. Temporary Chairperson, I beg to move-

THAT clause 63 of the Bill be amended—

(a) by renumbering the existing clause as sub-clause (1);

(b) by inserting the following new sub-clause immediately after sub-clause (1)—

“(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 65

Sen. Murgor: Mr. Temporary Chairperson, I beg to move -

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THAT Clause 65 of the Bill be amended by deleting the words “two hundred thousand shillings” and substituting therefore the words “two million shillings”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 66

Sen. Murgor: Mr. Temporary Chairperson, I beg to move-

THAT Clause 66 of the Bill be amended by deleting the words “two hundred thousand shillings” and substituting therefore the words “one million shillings”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 72

Sen. Murgor: Mr. Temporary Chairperson, I beg to move -

THAT Clause 72 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)—

“(c) ensuring that bus-stops are barrier-free”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 74

Sen. Murgor: Mr. Temporary Chairperson, I beg to move-

THAT Clause 74 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “alone” appearing in the opening statement; and

(b) in sub-clause (2) by deleting the word “alone”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

(The Clerk-at-the-Table consulted with the Temporary Chairperson)

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Chairperson, could you, please, approach the Dispatch Box?

(Sen. Murgor approached the Dispatch Box)

New Clause 36A

Sen. Murgor: Mr. Temporary Chairperson, I beg to move—
THAT the Bill be amended by inserting the following New Clause immediately after Clause 36—

Headquarters and	36A.(1) The headquarters of the Council shall be in Nairobi.
other offices	(2) The Council shall establish other offices and decentralize its services to such
of the	other parts of the country as it considers necessary in accordance with Article
Council.	6(3) of the Constitution.

(Question of the New Clause 36A proposed)

(New Clause 36A read the First Time)

*(Question, that the New Clause 36A be read a
Second Time proposed)*

*(Question, that the New Clause 36A be part of the
Bill proposed)*

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

New Clause 66A

Sen. Murgor: Mr. Temporary Chairperson, I beg to move—
THAT the Bill be amended by inserting the following New Clause immediately after Clause 66—

Begging	and 66A. A person who causes, procures, encourages or solicits a child or an adult
receiving alms.	with disabilities to engage in begging or receiving alms commits an offence
	and shall be liable on conviction to a fine not exceeding two million shillings
	or imprisonment for a term not exceeding two years, or to both.

(Question of the New Clause 66A proposed)

(New Clause 66A read the First Time)

*(Question, that the New Clause 66A be read a
Second Time proposed)*

(Question, that the New Clause 66A be part of the

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Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

New Clause 73A

Sen. Murgor: Mr. Temporary Chairperson, I beg to move-
THAT the Bill be amended by inserting the following New Clause immediately
after Clause 73—

Housing. 73A. Every Government agency putting up residential and commercial buildings shall reserve at least five percent of the said residential and commercial buildings for acquisition by persons with disabilities and the terms and conditions of such acquisition to persons with disabilities shall include interest free and longer periods of repayment.

(Question of the New Clause 73A proposed)

(New Clause 73A read the First Time)

*(Question, that the New Clause 73A be read a
Second Time proposed)*

*(Question, that the New Clause 73A be part of the
Bill proposed)*

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.
Hon. Senators, we will defer the division and proceed to the next Order.

(Division on the Bill deferred)

THE COUNTY ASSEMBLY SERVICES (AMENDMENT) BILL
(SENATE BILLS NO.34 OF 2023)

Clauses 2 and 3

(Question, that Clauses 2 and 3 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 4

The Temporary Chairperson (Sen. Abdul Haji): Chairperson, Standing Committee on Devolution and Intergovernmental Relations, proceed to move the amendment.

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Sen. Abass: Mr. Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting the Clause 4.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 5

Sen. Abass: Mr. Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting the Clause 4.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 6-10

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

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

The Title and Clause 1

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

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.
Hon. Senators, we will defer the Consideration of the Report and proceed to the next Order.

(Consideration of the Report deferred)

The Temporary Chairperson (Sen. Abdul Haji): Sen. Murgor, the Chairperson of the Committee on Labour and Social Welfare, please, approach the Chair.

(Sen. Murgor consulted with the Temporary Chairperson)

THE COUNTY ASSEMBLIES PENSIONS SCHEME BILL
(SENATE BILLS NO.14 OF 2024)

Clause 3

(Question, that Clause 3 be part of the Bill proposed)

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The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 4

Sen. Murgor: Mr. Temporary Chairman, Sir, I beg to move—
THAT Clause 4 of the Bill be amended by deleting—

- (a) subclause (2); and
- (b) the words “social security benefits including” appearing at the end of the introductory clause to subclause (3).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 5

Sen. Murgor: Mr. Temporary Chairman, Sir, I beg to move—
THAT Clause 5 of the Bill be amended by deleting—

- (a) the words “and members of staff of county assemblies” appearing at the end of subclause (1); and
- (b) deleting the words “and staff” appearing immediately after the word “assemblies” in subclause (2).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 6

Sen. Murgor: Mr. Temporary Chairman, Sir, I beg to move—
THAT Clause 6 of the Bill be amended—

- (a) by inserting the following new subclause immediately after subclause (1)—
(1A) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—
 - (a) suing and being sued;
 - (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
 - (c) entering into contracts; and
 - (d) doing or performing all other things or acts for the furtherance of the provisions of this Act which may be lawfully done or performed by a body corporate.
- (b) in clause (2) by—
 - (i) deleting the word “two” appearing at the beginning of paragraph (c) and substituting therefor the word “three”;

- (ii) deleting the word “two” appearing at the beginning of subparagraph (d) (i) and substituting therefor the word “three”; and
- (iii) deleting paragraph (e).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 7 and 8

(Question, that Clauses 7 and 8 be part of the Bill proposed)

Clause 9

Sen. Murgor: Mr. Temporary Chairman, Sir, I beg to move—
THAT Clause 9 of the Bill be amended—

- (a) by deleting subclause (2); and
- (b) in subclause (3) by deleting the words “The Board” appearing at the beginning of the subclause and substituting therefor the words “The Cabinet Secretary”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 10

(Question, that Clause 10 be part of the Bill, proposed)

Clause 11

Sen. Murgor: Mr. Temporary Chairman, Sir, I beg to move—
THAT Clause 11 of the Bill be amended by inserting the following new paragraph immediately after paragraph (g)—
(h) term expires;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 12

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

Clause 13

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Sen. Murgor: Mr. Temporary Chairman, Sir, I beg to move—
THAT Clause 13 of the Bill be amended by deleting paragraph (g).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 14-22

*(Question, that Clauses 14, 15, 16, 17, 18, 19,
20, 21 and 22 be part of the Bill proposed)*

Clause 23

Sen. Murgor: Mr. Temporary Chairman, Sir, I beg to move—
THAT Clause 23 of the Bill be amended by deleting subclause (2).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 24

Sen. Murgor: Mr. Temporary Chairman, Sir, I beg to move—
THAT Clause 24 of the Bill be amended by deleting—

(a) subclause (4);

(b) subclause (6) and substituting therefor the following new subclause—

(6) Any contribution not paid to the scheme by a sponsor within ten days after the last day of the calendar month to which the contributions relate, shall attract interest which shall not be less than the interest declared during the period the contribution remains unremitted.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 25

(Question that Clause 25 be part of the Bill, proposed)

Clause 26

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

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THAT Clause 26 of the Bill be amended—

(a) by deleting the words “or a staff of a county assembly” appearing at the end of subclause (1);

(b) in subclause (3)—

(i) by deleting paragraph (a);

(ii) in paragraph (b) -

(a) by deleting the introductory phrase to paragraph (b) and substituting therefor the following new phrase—

(b) where a member ceases being a member of a county assembly before attaining the early retirement age, that member may opt for payment of—

(b) by deleting sub paragraph (i) and substituting therefor the following new sub paragraph—

(i) not more than fifty percent of his total accrued benefits and the investments income that has accrued in respect of those contributions provided that a member may withdraw any additional voluntary contributions made into the scheme and accrued interest in full;

(iii) in the introductory phrase to paragraph (c) by deleting the words “before attaining the early retirement age” appearing at the end of the paragraph.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 27 and 28

(Question, that Clauses 27 and 28 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 29

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

THAT Clause 29 of the Bill be amended by deleting the words “Despite the provisions of any other written law” appearing at the introductory part of subclause (2) and substituting therefor the words “Subject to the Retirement Benefits Act”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 30-40

*(Question, that Clauses 30, 31, 32, 33, 34, 35, 36,
37, 38, 39 and 40 be part of the Bill proposed)*

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The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 41-48

*(Question, that Clauses 41, 42, 43, 44, 45, 46,
47 and 48 be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 49

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

THAT Clause 49 of the Bill be amended by deleting subclause (4) and substituting therefor the following new subclause—

(4) Without prejudice to any proceedings instituted under the provisions of this section, a sponsor who makes a deduction from a member's emoluments for remittance to the Scheme and fails to remit the contribution to the Scheme within fifteen days commits an offence and shall on conviction be liable to a fine not exceeding five million shillings or in the case of a natural person to imprisonment for a term not exceeding two years or to both.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 50 and 51

*(Question, that Clauses 50 and 51
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 52

Sen. Murgor: Mr. Temporary Chairman, Sir, I beg to move-
THAT the Bill be amended by deleting Clause 52.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 53

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Sen. Murgor: Mr. Temporary Chairperson Sir, I beg to move—
THAT the Bill be amended by deleting clause 53 and substituting therefor the following new clause—
Transition of members of
County assemblies to the Scheme

53. (1) A member of a county assembly who is a member of the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund shall be transitioned into the Scheme within one year upon the commencement of this Act.

(2) The funds, assets and other movable or immovable property which immediately before the commencement date were held by or on behalf of the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund for the members of county assemblies shall vest in the Scheme.

(3) All the records of members of county assemblies held by the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund shall be transferred to the Scheme administrator.

(4) All rights, liabilities and duties whether arising under any written law or otherwise, which immediately before the commencement date were accruing, imposed or enforceable by or against the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund with regard to members of county assemblies shall vest in, be imposed on, or be enforceable against the Scheme.

(Question of the amendment proposed)

Clause 54

(Question, that Clause 54 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

New Clause 46A

Sen. Murgor: Mr. Temporary Chairperson Sir, I beg to move that New Clause 46 A be now read a second time.

THAT the Bill be amended by inserting the following new clause immediately after Clause 46—

46A. The Cabinet Secretary may, by order in the *Gazette*—

- (a) exempt any person or class of persons from compliance with any specified provisions of this Act; or

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- (b) extend the time for compliance by any person or class of persons with any specified provisions of this Act provided that nothing in this section shall apply in respect of payment of retirement benefits.

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

(Question of the New Clause 46A proposed)

(New Clause 46A read the First Time)

(Question, that the New Clause 46A be read a Second Time proposed)

(Question, that the New Clause 46A be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

New Clause 46 B

Sen. Murgor: Mr. Temporary Chairperson Sir, I beg to move that New Clause 46 B be now read a Second Time.

Provisions of the Retirement Benefits Act	46B. The provisions of the Retirement Benefits Act (Cap. 197) and regulations thereunder shall apply to the Fund.
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(Question of the New Clause 46B proposed)

(New Clause 46B read the First Time)

(Question, that the New Clause 46B be read a Second Time proposed)

(Question, that the New Clause 46B be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 2

Sen. Murgor: Mr. Temporary Chairperson Sir, I beg to move-

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THAT clause 2 of the Bill be amended by—

(a) inserting the definition of the term “beneficiary” immediately after the definition of the term “Authority”—

“beneficiary” means a dependant, a person nominated by the member in writing or any other person other than a member entitled to receive a benefit;

(b) deleting the definition of the term—

(i) “existing schemes” and inserting therefor the following new definition—

“existing scheme” means the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund;

(ii) “income drawdown” and inserting therefor the following new definition—

“income drawdown” means an arrangement that allows a member of a retirement benefits scheme to access his or her accumulated retirement benefits as a regular income through reinvesting his or her benefits from an income drawdown fund registered by the Retirement Benefits Authority;

(iii) “member” and inserting therefor the following new definition—
“member” means an eligible member of a county assembly who has become a member of the Scheme and includes a person entitled to or receiving a benefit under the Scheme;

(iv) “normal retirement age” and inserting therefor the following new definition—

“normal retirement age” means the age of sixty years or such other age set out in written law or applicable policy;

(v) “spouse” and inserting therefor the following new definition—

“spouse” means a husband or a wife;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Long Title

Sen. Murgor: Mr. Temporary Chairperson Sir, I beg to move—

THAT the Bill be amended by deleting the long title and substituting therefor the following new long title—

AN ACT of Parliament to provide for a contributory pension scheme for members of county assemblies; establish a county assemblies’ pensions fund for the payment or granting of pensions or retirement benefits to members of county assemblies; and for connected purposes.

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(Question of the amendment proposed)

Clause 1

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

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.
Hon. Senators, we shall defer the reporting and proceed to the Next Order.

(Reporting of Progress on the Bill deferred)

THE LAND (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILLS NO. 40 OF 2022)

Clause 3

Sen. Nyamu: Mr. Temporary Chairman Sir, I beg to move-
THAT Clause 3 of the Bill be amended in the introductory phrase to the proposed sub-section (16) by inserting the words “publish a notice in the *Gazette* specifying the particulars of the registration and” immediately after the words “the Registrar shall”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 2, the Title and Clause 1

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

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.
Hon. Senators, we shall defer the reporting and proceed to the next Order.

(Reporting of Progress on the Bill deferred)

Sen. Dullo, please, approach the Chair.

(Sen. Dullo approached the Temporary Chairperson)

THE NATIONAL DISASTER RISK MANAGEMENT BILL
(NATIONAL ASSEMBLY BILLS NO. 24 OF 2023)

The Temporary Chairperson (Sen. Abdul Haji): Hon. Senators, we are now on the National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023).

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Clause 3

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Mbugua who is standing in for Sen. Chute?

Sen. Mbugua: Mr. Temporary Chairperson, I beg to move-

THAT Clause 3 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (b) –

(ba) provide for appropriate and dignified assistance and relief to victims and casualties of disasters;

(bb) promote inclusiveness and a multidisciplinary and multisectoral approach to disaster management.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clause 4

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Mbugua?

Sen. Mbugua: Mr. Temporary Chairperson, I beg to move-

THAT Clause 4 of the Bill be amended by deleting paragraph (e) and substituting therefor the following new paragraph-

(e) the national values and principles of governance under Article 10 of the Constitution.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clause 5

(Question, that Clause 5 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 6

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move-

THAT Clause 6 of the Bill be amended by deleting subclause (2) and substituting therefor, the following new subclause –

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(2) The Authority shall collaborate with the County Disaster Risk Management Committees in all counties in the discharge of its functions.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 7

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move—

THAT Clause 7 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (m)—

(ma) develop climate change adaptation strategies to prevent, respond and mitigate the effects of disasters arising as a result of climate change;

(mb) carry out and coordinate national damage and loss assessment in respect to disasters;

(mc) carry out bi-annual national drill exercises as part of disaster risk management preparedness.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clause 8

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

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 9

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move—

THAT Clause 9(1) of the Bill be amended in paragraph (f) by deleting the word “Governors” appearing immediately after the words “Council of” and substituting therefor the words “County Governors or a representative designated in writing”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clause 10

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The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move-

THAT clause 10 of the Bill be amended in subclause (2) by deleting paragraph (g).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clauses 11-26

(Question, that Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 27

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move-

THAT Clause 27(1) of the Bill be amended in the introductory clause by inserting the words “in consultation with County Governments” immediately after the words “The Authority shall”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clause 28

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move-

THAT Clause 28 of the Bill be amended in subclause (1) by inserting the following new paragraph immediately after paragraph (d) —

(b) develop a national multi-hazard early warning system and guidelines for its implementation.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clause 29

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move-

THAT Clause 29 of the of the Bill be amended in subclause (8) by inserting the words “in consultation with the Council of County Governors” immediately after the words “Cabinet Secretary shall”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clauses 30 and 31

(Question, that Clauses 30 and 31 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 32

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move-

THAT Clause 32(1) of the Bill be amended-

- (a) by deleting paragraph (b);
- (b) in paragraph (c) by inserting the words “in collaboration with the County Disaster Risk Management Centers,” immediately before the word “formulate”;
- (c) in paragraph (h) by inserting the words “in collaboration with the County Disaster Risk Management Centre and the Authority,” immediately after the word “oversee”; and
- (d) in paragraph (m) by inserting the words “and the respective county assembly” immediately after the words “to the Authority”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clauses 33-51

(Question, that Clauses 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 52

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Mbugua?

Sen. Mbugua: Mr. Temporary Chairperson, I beg to move-

THAT Clause 52 of the Bill be amended-

- (a) by deleting the heading to Part VII and substituting therefor the following new heading –

PART VII – MISCELLANEOUS PROVISIONS

- (b) in subclause (2) by inserting the following new paragraph immediately after paragraph (h) —

(ha) protection of emergency responders during emergency and disaster response.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

Clauses 53 and 54

(Question, that Clauses 53 and 54 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

New Clause 41A

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move-

THAT the Bill be amended by inserting the following new clauses immediately after clause 41—

Establishment of the Disaster Management Fund.

Cap 412A.

41A. (1) There is established the Disaster Risk Management Fund which shall be administered in accordance with section 24 of the Public Finance Management Act.

(2) The Director-General of the Authority shall be the administrator of the Fund.

(Question of the New Clause 41A proposed)

(New Clause 41A read the First Time)

(Question, that the New Clause 41A be read a Second Time proposed)

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(Question, that the New Clause 41A be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

New Clause 41B

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move—
Sources of the **41B.** The Fund shall consist of —
Fund

- (a) such moneys as may be appropriated by the National Assembly;
- (b) grants or donations for the purposes of the Fund;
- (c) income generated from the proceeds of the Fund; and
- (d) any moneys accruing to or received by the Fund from any other lawful source, as may be approved by the Cabinet Secretary for the time being responsible for finance.

(Question of the New Clause 41B proposed)

(New Clause 41B read the First Time)

(Question, that the New Clause 41B be read a Second Time proposed)

(Question, that the New Clause 41B be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

New Clause 41C

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move—
Objects of the **41C.** The Fund shall —
Fund

- (a) be utilized towards the provision of funds for disaster prevention, preparedness, mitigation, response and recovery measures;
- (b) provide a common basket for receipt and disbursement of funds for disaster management;
- (c) support capacity development of county governments

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- and other institutions mandated with disaster management;
- (d) support agencies dealing with early warning systems for disaster management;
 - (e) support the implementation of programmes, projects or activities to further the objectives of this Act; and
 - (f) support any other purpose approved by the Board that would enhance the development and promotion of prudent disaster management in the country.

(Question of the New Clause 41C proposed)

(New Clause 41C read the First Time)

(Question, that the New Clause 41C be read a Second Time proposed)

(Question, that the New Clause 41C be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

New Clause 41D

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move—
Consolidation of **41D.** All public funds established for the purpose of disaster
Public funds management prior to the commencement of this Act shall be
related to disaster consolidated into the Fund, except funds —
management

- (a) established to support institutions created under an Act of Parliament; or
- (b) established by county governments.

(Question of the New Clause 41D proposed)

(New Clause 41D read the First Time)

(Question, that the New Clause 41D be read a Second Time proposed)

(Question, that the New Clause 41D be part of the

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Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

New Clause 41E

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move-

Tax Exemptions on Disaster Management Assistance.	41E The Cabinet Secretary responsible for finance may, by regulation, exempt all materials, articles, goods or equipment intended for the use of disaster management activities from import duty, value added tax, demurrage charges, port charges and any other tax as may be determined.
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(Question of the New Clause 41E proposed)

(New Clause 41E read the First Time)

*(Question, that the New Clause 41E be read a
Second Time proposed)*

*(Question, that the New Clause 41E be part of the
Bill proposed)*

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

New Clause 52A

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Mbugua?

Sen. Mbugua: Mr. Temporary Chairperson, I beg to move-

THAT the Bill be amended by inserting the following new clauses immediately after Clause 52—

Amendment Cap. 412A.	to 52A. The Public Finance Management Act is amended – (a) in section 2 by inserting the following new definitions in their proper alphabetical order – “emergency” has the meaning assigned to it under section 2 of the National Disaster Risk Management Act; and “Disaster” has the meaning assigned to it under section 2 of the National Disaster Risk Management Act; (b) in section 110 by – deleting the word “may” appearing immediately after the words
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“Executive Committee” and substituting therefor the word “shall” in the marginal note; and deleting the word “may” appearing immediately after the words “Executive Committee” and substituting therefor the word “shall” in subsection (1);

(c) in section 112 by deleting subsection (2) and substituting therefor the following new subsection –

(2) For the purposes of subsection (1), there is an urgent and unforeseen need for expenditure if –

(a) the expenditure is required to respond to an emergency or disaster in accordance with the National Disaster Risk Management Act;

(b) the emergency or disaster could not have been foreseen through the normal planning and budgeting process; and

(c) delay in making the expenditure would result in significant harm to life and property.

(d) in section 113 by–

(i) renumbering the existing provision as subsection (1); and

(ii) inserting the following new subsection immediately after subsection (1) –

(2) Notwithstanding subsection (1), the County Executive Committee member may, in order to effectively respond to an emergency or disaster and with the approval of the county assembly, exceed the limit prescribed under subsection (1) provided that —

(a) the total payment does not exceed five percent of the total county government revenue as shown in that county government’s audited financial statements for the previous financial year; and

(b) the additional amount is used solely for emergency or disaster response and recovery.

(Question of the New Clause 52A proposed)

(New Clause 52A read the First Time)

*(Question, that the New Clause 52A be read a
Second Time proposed)*

*(Question, that the New Clause 52A be part of the
Bill proposed)*

The Temporary Chairperson (Sen. Abdul Haji): The Division will be at the end.

The Schedule

(Question, that the Schedule be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 2

The Temporary Chairperson (Sen. Abdul Haji): Can we hear from Sen. Dullo?

Sen. Dullo: Mr. Temporary Chairperson, I beg to move-

THAT clause 2 of the Bill be amended by inserting the following definitions in their proper alphabetical order –

“emergency” means an actual or imminent situation that arises suddenly, poses immediate threat to life, health, property, environment, infrastructure, economic stability or public order and that –

- (a) requires prompt coordinated action to protect life and property and restore essential services;
- (b) may be caused by natural, technological, human-induced, health or industrial incidents; and
- (c) exceeds normal response capabilities requiring multi-agency intervention;

“emergency responder” refers to a person involved in an organized response to a potential, actual or impending emergency, including but not limited to firefighters, police officers, emergency medical personnel, county government emergency management personnel, national government emergency management personnel, military personnel or an officer of a recognized humanitarian organization dealing with disaster response.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Sen. Chute has an amendment to Clause 2. The two amendments do not conflict. Sen. Mbugua, if you could, please, propose.

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

THAT the Bill be amended in Clause 2 by inserting the following new definition immediately after the definition of the words “climate change”—

“climate change adaptation” means adjustments to ecological, social or economic systems in response to actual or expected climatic impacts, in order to moderate potential damages or to benefit from opportunities associated with climate change.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

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The Title, and Clause 1

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

Division will be at the end.

Hon. Senators, we are now at Division. We shall ring the bell for five minutes, and proceed to Division.

(Division Bell was rung)

Hon. Senators, we are unable to raise the numbers for the Division. So we shall proceed to report progress.

THE ENERGY AMENDMENT BILL (SENATE
BILL NO.42 OF 2023)

The Temporary Chairperson (Sen. Abdul Haji): We will start with the Energy Amendment Bill (Senate Bill No. 42 of 2023). The Mover is Sen. Sifuna.

Sen. Sifuna: Thank you, Hon. Temporary Chairman, Sir. I beg to move that the Committee do report to the Senate its consideration of the Energy Amendment Bill (Senate Bill No. 42 of 2023), and its approval thereof without amendments.

The Temporary Chairperson (Sen. Abdul Haji): Approach the Dispatch Desk.

Sen. Sifuna: Just a minute.

(Sen. Sifuna approached the Dispatch Box)

Sen. Sifuna: Mr. Temporary Chairperson, Sir, apologies and thank you for that guidance.

Pursuant to Standing Order No.153, I beg to move that the Committee of the Whole do report to the Senate its consideration of the Energy (Amendment) Bill (Senate Bills No.42 of 2023) and seeks leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Abdul Haji): The next one is consideration of the National Assembly (Amendments) to the Persons with Disabilities Bill (Senate Bills No.7 of 2023).

THE PERSONS WITH DISABILITIES BILL
(SENATE BILL NO.7 OF 2023)

Sen. Crystal Asige: Mr. Temporary Chairperson, Sir, pursuant to Standing Order No.153, I beg to move that the Committee of the Whole do report to the Senate its consideration of the National Assembly Amendment to the Persons with Disabilities Bill (Senate Bill No.7 of 2023) and seeks leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Abdul Haji): The next Bill is the County Public Finance Laws (Amendment) Bill (Senate Bills No.39 of 2023)

THE COUNTY PUBLIC FINANCE LAWS (AMENDMENT)
BILL (SENATE BILLS NO.39 OF 2023)

Sen. Miraj: Mr. Temporary Chairperson, Sir, pursuant to Standing Order No.153, I beg to move that the Committee of the Whole do report to the Senate on its consideration of the Public Finance Laws (Amendment) Bill (Senate Bills No.39 of 2023) and seeks leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Abdul Haji): Now, we go to the County Assembly Services (Amendment) Bill (Senate Bills No.34 of 2023)

THE COUNTY ASSEMBLY SERVICES (AMENDMENT)
BILL, SENATE BILLS NO.34 OF 2023

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Chairperson, Sir, pursuant to Standing Order No.153, I beg to move that the Committee of the Whole do report progress on its consideration of the County Assembly Services (Amendment) Bill (Senate Bill No.34 of 2023) and seeks leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(A mobile phone rang)

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The Temporary Chairperson (Sen. Abdul Haji): Whose mobile phone is that?
Hon. Senators, we are now proceeding to the County Assemblies Pensions Scheme Bill (Senate Bills No.14 of 2024).

THE COUNTY ASSEMBLIES PENSIONS SCHEME
BILL, (SENATE BILLS NO.14 OF 2024)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Chairperson, pursuant to Standing Order No.153, I beg to move that the Committee of the Whole do report progress on its consideration of the County Assemblies Pension Scheme Bill (Senate Bills No.14 of 2024) and seeks leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Abdul Haji): Hon. Senators, we are now proceeding to the National Disaster Risk Management Bill (National Assembly Bills No.24 of 2023)

THE NATIONAL DISASTER RISK MANAGEMENT BILL
(NATIONAL ASSEMBLY BILLS NO.24 OF 2023)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Chairperson, Sir, pursuant to Standing Order No.153, I beg to move that the Committee of the Whole do report progress on its consideration of the National Disaster Risk Management Bill (National Assembly Bills No.24 of 2023) and seeks leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Abdul Haji): Hon. Senators, we are now proceeding to the Land (Amendment) Bill (National Assembly Bills No.40 of 2022).

THE LAND (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILLS NO.40 OF 2022)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Chairperson, Sir, pursuant to Standing Order No.153, I beg to move that the Committee of the Whole do report progress on its consideration of the Land (Amendment) Bill (National Assembly Bills No.40 of 2022) and seeks leave to sit again tomorrow.

(Question proposed)

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(Question put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, we are resuming this session for the reporting of the Bills by the chairpersons of the respective committees.

I want to call out the Chairperson of the Standing Committee on Energy to tackle the Energy (Amendment) Bill (Senate Bill No.42 of 2023). The Chairperson to report on this.

Sen. Abdul Haji, you may proceed.

Sen. Abdul Haji: Mr. Temporary Speaker, I beg to report that the Committee of the Whole has considered the Energy (Amendment) Bill (Senate Bill No.42 of 2023) and seeks leave to sit again tomorrow.

The Temporary Speaker (Sen. Veronica Maina): I call upon the Mover.

Sen. Sifuna: Thank you, Madam Temporary Speaker. I beg to move that the House do agree with the Committee in the said report.

The Temporary Speaker (Sen. Veronica Maina): Who is seconding?

Sen. Sifuna: The Vice-Chairperson of the Committee.

The Temporary Speaker (Sen. Veronica Maina): The Vice-Chairperson is here. Do you still want to second?

Sen. Kisang: Madam Temporary Speaker, the sponsor of the Bill is Sen. Sifuna and I just want to second. I thought he wanted to give my powers to his boss.

I second.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Kisang, for that.

(Question proposed)

(Question put and agreed to)

THE PERSONS WITH DISABILITIES BILL (SENATE BILLS NO.7 OF 2023)

(Consideration of National Assembly amendments)

The Temporary Speaker (Sen. Veronica Maina): I would like to call upon the Chairperson to Report Progress on the Consideration of the National Assembly Amendments to the Persons with Disabilities Bill (Senate Bill No.7 of 2023).

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Sen. Abdul Haji: Madam Temporary Speaker, pursuant to Standing Order No.153, I beg to report that the Committee of the Whole has considered the National Assembly amendments to the Persons with Disabilities Bill (Senate Bills No.7 of 2023) and has instructed me to seek leave to sit again tomorrow.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. I would like to call upon the Mover, the Chairperson of this Committee, Sen. Murgor to report.

Well, this was Sen. Asige's Bill. So, Sen. Asige, can you move the report?

Sen. Crytal Asige: Thank you, Madam Temporary Speaker. I thought I would not get the opportunity to move my own Bill.

I beg to move that the House do agree with the Committee of the Whole in the said report.

I request Sen. Mbugua to second.

Sen. Mbugua: Madam. Temporary Speaker, I second.

(Question proposed)

(Question put and agreed to)

THE COUNTY PUBLIC FINANCE LAWS AMENDMENT BILL
(SENATE BILLS NO.39 OF 2023)

The Temporary Speaker (Sen. Veronica Maina): I call upon the Temporary Chairperson to report on the progress.

Sen. Abdul Haji: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered the County Public Finance Laws Amendment Bill (Senate Bill No.39 of 2023) and seeks leave to sit again tomorrow.

The Temporary Speaker (Sen. Veronica Maina): I call upon the Mover.

Sen. Miraj, do you have instructions?

Sen. Miraj: Madam Temporary Speaker, I beg to move that the House do agree with the Committee of the Whole in the said report.

I ask Sen. Wakili Sigei to second.

Sen. Wakili Sigei: Madam Temporary Speaker, I second.

(Question proposed)

(Question put and agreed to)

THE COUNTY ASSEMBLY SERVICES AMENDMENT BILL
(SENATE BILL NO.34 OF 2023)

The Temporary Speaker (Sen. Veronica Maina): Chairperson, proceed to report.

Sen. Abdul Haji: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered the County Assembly Services Amendment Bill (Senate Bill No.34 of 2023) and seeks leave to sit again tomorrow.

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The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I beg to move that the House do agree with the Committee of the Whole on the said report. I request Sen. Karen Nyamu to second.

Sen. Nyamu: Madam Temporary Speaker, I second.

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

(Question proposed)

(Question put and agreed to)

THE COUNTY ASSEMBLY PENSIONS SCHEME BILL
SENATE BILL NO.14 OF 2024

Sen. Abdul Haji: Madam Temporary Speaker, I beg to report that the Committee of the whole has considered the County Assembly Pensions Scheme Bill (Senate Bill No.14 of 2024) and seeks leave to sit again tomorrow.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I beg to move that the House do agree with the Committee of the Whole in the said report. I request Sen. Crystal Asige to second.

Sen. Crystal Asige: Madam Temporary Speaker, I second.

The Temporary Speaker (Sen. Veronica Maina): Thank you Sen. Asige.

(Question proposed)

(Question put and agreed to)

THE NATIONAL DISASTER RISK MANAGEMENT BILL
NATIONAL ASSEMBLY BILLS NO.24 OF 2023.

Sen. Abdul Haji: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered the National Disaster Risk Management Bill (National Assembly Bills No.24 of 2023) and seeks leave to sit again tomorrow.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I beg to move that the House do agree with the Committee of the Whole in the said report. I request Sen. Edwin Sifuna to second.

Sen. Sifuna: Thank you, Madam Temporary Speaker. I second.

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

(Question proposed)

(Question put and agreed to)

THE LAND AMENDMENT BILL (NATIONAL
ASSEMBLY BILLS NO.40 OF 2022)

Sen. Abdul Haji: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered the Land Amendment Bill (National Assembly Bills No. 40 of 2022) and seeks leave to sit again tomorrow.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I beg to move that the Senate do agree with the Committee of the Whole in the said report.

I request Sen. Murgor to second.

Sen. Murgor: Madam Temporary Speaker, I second.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Veronica Maina): We have concluded that section and will now proceed to the next Order.

MOTION

ADOPTION OF REPORT ON PETITION ON RESTRAINING COUNTY
GOVERNMENTS FROM HIRING LAW FIRMS TO
REPRESENT THEM IN COURT CASES

Sen. Wakili Sigei: Thank you, Madam Temporary Speaker. I will Move the Motion on behalf of my Co-Chair, Sen. Abass.

I beg to move-

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations and the Standing Committee on Justice, Legal Affairs and Human Rights on a Petition to the Senate by Mr. Laban Omusundi concerning restraining county governments from hiring law firms to represent them in court cases, laid on the Table of the Senate on Thursday, 3rd April, 2025.

This report is a product of a Joint Sitting of two committees, convened following a petition by Mr. Laban Omusundi, a resident of Nakuru County. The petition was submitted to this House addressing concerns over restraining county government from hiring law firms to represent them in legal cases or provide legal services.

The basis of Mr. Omusundi's Petition is that we have in the county governments departments headed by county attorneys. According to him, those departments ordinarily should be expected to manage and deal with all legal issues that are subjects of legal challenges by county governments.

Madam Temporary Speaker, the issues raised by Mr. Omusundi in his petition are that billions of shillings in form of taxpayers' money are paid by county governments to law firms for representing such county governments in courts on legal issues, yet they

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have offices of county attorneys and several lawyers who are supposed to be obligated to represent county governments in such matters.

When this report was tabled, the Speaker directed that the two committees convene and deal with this particular Petition. In this Petition, Mr. Omusundi made several prayers, which, according to him, can be handled by this House. One of them was to restrain county governments from hiring law firms in civil cases by establishing a legal framework to protect public funds. Secondly, he requested that the House recalls any subject that is already commissioned to law firms other than county attorneys.

Thirdly, he requested that we put in place measures that will deter deliberate and erroneous administrative decisions and ensure that everybody is held responsible personally for any administrative decision they make that may end in courts and therefore requiring services of law firms by county governments. Lastly, he asked us to provide any other relief that this House deems necessary.

Madam Temporary Speaker, upon setting up of the Joint Committee, we invited various stakeholders. The following are the stakeholders that committed reports and recommendations. We had a total of six stakeholders that included the Kenya National Commission on Human Rights (KNCHR), the Controller of Budget (CoB), the Office of the Auditor-General (OAG), the Law Society of Kenya (LSK), the Council of Governors (CoG) and the County Attorneys Forum (CAF).

One of the major stakeholders that we expected to submit a report to the Joint Committee was the Office of the Attorney-General. Unfortunately, they did not send us any response. They did not also present themselves, despite the invites that were made by the Joint Committee.

The KNCHR and the CAF did submit their reports which were generally agreeable to the objective of Mr. Omusundi's on protection of public funds, whereas the LSK, upon submitting a written memorandum, also appeared before the Joint Committee on 1st July, 2024, where they sought for more time to submit additional information and also engage so that they submit more upon deliberating with members of the society as well as other stakeholders relevant to this particular petition. The CoG appeared before the Joint Committee on 8th July, 2024 and presented their memorandum.

The analysis that were conducted by the Joint Committee were with regard to the several submissions by various stakeholders, particularly with regard to the relevance of the skills by the personnel in offices of the county attorneys in various counties for purposes of handling complex issues, which is one of the reasons the CoG said justifies their retention of external law firms when complex cases are filed against county governments.

The other major issue that was raised was the aspect of remuneration of all the county attorneys and employees within the county governments. In most cases, they claimed that they are underpaid and therefore not properly motivated to engage in supporting county governments in legal matters.

The other aspect which was specifically argued by a number of stakeholders was insufficiency of the funds allocated to the Office of the County Attorney that hampers service delivery and by extension requires that services from external law firms are

engaged by a county government. Lastly was the aspect of inadequate staff allowed to be hired by county attorneys.

The issues that the Joint Committee picked out for purposes of consideration that formed the flesh to this particular report are; the provisions of the Constitution of Kenya, the County Governments Act, the Office of the County Attorney Act, the Public Procurement and Asset Disposal Act, as well as the Advocates Remuneration Order, which generally regulates the amount of legal fees charged by law firms for services rendered to any other client not necessary limited to county governments. These are the laws and regulations that guided the Joint Committee in coming up with the recommendations that were made.

The other critical consideration by the Joint Committee was the expenditure which we noted that was captured by a number of reports by the Auditor-General as well as county governments pending bills which were high when it came to matters of legal services. There was also the aspect of irregularities in terms of instructions being given out to warrant the ballooning expenditure that has been reported by counties with regards to legal services.

The Joint Committee noted that there is need for counties to comply with the Public Procurement and Asset Disposal Act, 2015, especially when they are seeking to outsource legal services. They should also ensure that the fees which lawyers charge county governments are also within the provisions of the Advocates Remunerations Order and other relevant statutes, including an engagement where prior to getting instructions, requests of proposals for legal fees and quotations are made by county governments, so that the lowest bidders are considered. By doing that, county governments will be using resources efficiently by making sure that they do not just do it for the sake of hiring lawyers.

On the basis of our findings and reports that we got from various stakeholders and the observations made by the Joint Committee, the following recommendations were made. I urge Members to go through them. This is a report with five chapters. Therefore, it is important for Members to look at the recommendations made and also submissions by various stakeholders that guided the Joint Committee in coming up with these recommendations.

The recommendations made by the Joint Committee included the following. Firstly, county governments are encouraged to build capacity of employees under the Office of the County Attorney. By doing so, it will help them to ensure that complex cases which they made reference to as a basis of hiring lawyers from outside are justified.

Secondly, county governments are encouraged to strictly adhere to the regulations, legal framework, the Public Procurement and Asset Disposal Act, as well as the Advocates Remuneration Order when approving payments for legal services. When they adhere to that, definitely they will charge within the scale. That will ensure that public resources are managed well and also the expenditure on legal services generally is managed.

Thirdly, whenever county governments seek representation from external lawyers, that should only be limited to occasionally complex cases that would be justified because

of the expertise generally available within county governments. By doing that they are expected to ensure they comply with the process of procuring such services.

Madam Temporary Speaker, this is provided for by the Office of the County Attorney Act where the procedure of procuring services is provided for and this also. The same act provides for the limits within which this amount should be charged.

As we make these proposals we are alive to the fact that they are also entitled to make certain decisions. This is because they are the people who would largely be affected by whatever decision that is taken when it comes to matters legal that have either been filed before court or matters which are supposed to be dealt with within the county government.

The committee was alive to also the fact that this is a service industry and, therefore, it is regulated in law. Entitlement by law to the services of a lawyer cannot be limited particularly because of the cost. The cost can be managed because the law provides on how to bill and also limits under the advocates remuneration order the amount of legal fees that one is expected to charge.

Madam Temporary Speaker, that is forming the basis of the recommendations made. As we do this recommendation, I take note of the fact that the joint committee was expected to engage particularly at the level of the county governments. The committee relevant to deal with this petition was the committee on devolution and inter-governmental Relations. Since the aspect of legal fees dealt with the Committee on Justice, Legal Affairs and Human Rights committee, that informed the position that was agreed in a consensus mode.

Lastly, I appreciate the fact that the office of the Clerk of the Senate and the office of the Speaker of the Senate supplied this committee with relevant services. I take this early opportunity to appreciate and thank the offices for the support that was extended to this Joint Committee in undertaking this very important petition.

The various stakeholders who are key players in this sector indeed supplied us with very important information that fed into this report. The unfortunate thing was the absence of any interest from the office of the Attorney-General that should have created more interest.

I take this early opportunity to encourage the Attorney-General and the office of the Solicitor General to take serious the summons and also the requisitions that would go out of this House. Without their input we lose a lot of public interest aspect that would be taken care of by the office of the Attorney-General.

As to whether or not this can speak to the commitment and the respect that the office of the AG takes to this House, I leave that to the judgment of the office of the AG. They cannot claim not to have been notified or to have had personnel to ensure that they give their input to this very critical aspect.

This is something that has a lot of public interest and it was expected that the office of the AG would have played a role in supporting or to give a guide in terms of the recommendations, which would be very relevant to this particular petition.

Madam Temporary Speaker therefore I now submit this report and ask the honorable Members to support. I request the honourable Senator for Nairobi City County, my good friend, Sen. Edwin Sifuna, to second.

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Sen. Sifuna: Madam Temporary Speaker I rise to second. First, I take this opportunity to thank the committees, the joint committees of JLAC and the committee on Devolution and Inter-Governmental Relations for the good work they have done. We were just having this discussion with Senator for Narok. I wish that the recommendations of the committee were stricter than what have been recommended.

Yesterday we woke up to a headline story that there is one lawyer who represented the Nairobi City County Government in a suit involving a land squabble between the county and the military. That lawyer has been awarded Kshs1.3 billion as legal fees for a case that was involving the military and which is one section of government and a county government.

The most interesting bit is that that case was withdrawn by consent, which tells you the county government sat down with the military and agreed to withdraw the case on certain terms. Now the court is telling the Nairobi City County government to pay that Kshs1.3 billion within 60 days.

We, as Senators, here know for a fact we pass the disbursement schedule for monies to come from the national government to go to counties. In the disbursement schedule for Nairobi City that is the equivalent of one month's disbursement from Exchequer to the Nairobi City County Government and then the court is telling us to pay this one individual Kshs1.3 billion in 60 days. When I was in law school we learned that the court should not issue orders in vain. My senior hear - retired Justice Madzayo - you know for a fact it does not matter what you do. There is no way Nairobi City County can pay Kshs1.3 billion in 60 days. It is not possible.

Madam Temporary Speaker I was saying the committee should have gone further because if you look at the total pending bills for Nairobi, which stand over Kshs100 billion, Kshs20 billion is pending bills owed to advocates. I can say here without fear or favour that although I am an advocate myself, lawyers in this country have abused this legal fee system in our counties to siphon money from county governments and from the people of the country and especially the people of Nairobi.

It is unconscionable because when the committee says that the bill should be charged according to the remuneration order, the remuneration order says you use the value of the property to calculate your fees. If a matter involves land of half an acre or 300 acres though the value of land varies, the issues involved in that particular legal case are not different. It is the same law and the same dispute. The good thing is here being that Madam Temporary Speaker, you are also a lawyer.

It is unconscionable for us as legal practitioners to do what is happening in our counties. The first time I was ever elected to anything was to the Council of the Law Society of Kenya in 2016. I am a former council member of the LSK.

Although the conversation there is that we should not shrink the practice areas for lawyers or that we should not try and limit the amount of money that lawyers can charge for as long as it is legal, we are abusing this system. I do not think even the LSK itself can accept what is happening in our counties when it comes to legal fees.

For me this petition is solid. If you look at the feedback that has come from the county governments, they are saying that the internal lawyers that are supposed to be deployed under the county attorney office sometimes these matters are of a complex

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nature that require special expertise. I can assure you that the matter that was handled by this so-called expert lawyer that is being paid Kshs1.3 billion can very well be handled by a young lawyer who would not demand the same fees especially where the matter is resolved in the manner in which this one was resolved.

The question of expertise is being abused. I have every faith in every advocate who was qualified to be able to handle any matter. Although we do not discount the value of experience, I insist that this thing called expertise is being misused and it is the reason you find counties justifying the need to hire external counsel.

They are saying there is low remuneration for the in-house counsel working in counties and insufficient budget to the office of the county attorney. If we took the Kshs1.3 billion that we are supposed to pay this external lawyer and put it in the office of the county attorney, I am sure this insufficiency of budget and the other issues would not arise.

Madam Temporary Speaker I would have loved for us to agree in total with the petitioner, but of course they will say, oh you are cutting out external legal practitioners from business that it is unconstitutional and unfair. I hope that the JLAC committee and even the committee of Devolution and Inter governmental Relations will sit down with the Law Society of Kenya.

It is a good thing that we have a very good President now at the Law Society of Kenya (LSK). There are things that are happening in our counties that are not acceptable. You will find that the lawyer resides in Nairobi and is always complaining about the state of roads in his estate yet he is taking Kshs1.3 billion for himself. Nairobi City County gets Kshs20 billion Kenya every year in terms of Exchequer. How can you, as one person, take Kshs1 billion out of Kshs20 billion then you want to complain about the roads in Karen? It is not fair. It is absolutely unfair and the LSK should have a conversation with its members. Whereas we do not want to lock them out of county business, it is unconscionable for one person to take such an amount from a county that is struggling to buy drugs for its residents.

I am a Member of the County Public Accounts Committee (CPAC). Nairobi City County has the bulk of the pending bills when it comes to legal bills at Kshs20 billion, but this question is repeated in all counties. We have instances where county governors have paid lawyers for simple and straightforward matters. We have often asked them for justification of paying external lawyers instead of using the capacity that they have at the county government. There are questions of how those lawyers are procured.

If you look at Nairobi, for instance, once the lawyers have gotten execution orders, the chief officer of finance in Nairobi is always in the cells. They always get orders to arrest her every Friday to force the County Government to pay, yet the County Government has no money to pay these people. Even if they jail the Chief Officer of Finance for three or six months, their money will not be paid.

We have this specter of Kshs20 billion in unpaid legal bills and it is unmanageable. I know that many counties have set up task forces to look into the veracity of some of these claims but court in Kitale said that only the Auditor General can tell us which pending bills are payable and which ones are not payable. It stated that the task forces established by counties were illegal. In Nairobi City County, we had a pending

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bills verification task force led by Kamotho Waiganjo and the entire work that they did to tell us which bills are payable and which ones are not was trashed by the courts.

So, the county governments are increasingly finding themselves in a very difficult situation. If you look at the veracity of these bills, you will note that some of them are admittedly not payable because of the manner in which the procurement was done. You will also note that the amount of work that was done is not commensurate to what these lawyers are asking for. After the enactment of the County Attorney's Law, many counties have now employed legal staff in their ranks. The Senate also has its own lawyers who go to court to defend this institution.

There should be a sunset clause. If the Council of Governors (CoG) feel that the capacity is not where it needs to be, in that it is not at optimum, I propose to the Chairperson for the Committee on Justice, Legal Affairs and Human Rights, that we set a sunset clause. We should state that in the next five years, all counties must have developed that capacity so that they do not give us as an excuse that they have inadequate staffing or do not have capacity to handle complex legal matters.

With those many remarks, I second the Motion, but with the rider that we should have made more far-reaching recommendations to stop this practice in our counties.

I thank you, Madam Temporary Speaker.

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

(Question proposed)

My dashboard is not showing me any Senator who wants to contribute.

(Loud consultations)

Sen. Olekina: Thank you, Madam Temporary Speaker. I rise to make comments on this important Petition. Allow me thank Laban for having really thought about the expenditures. Some of those expenditures end up being nugatory expenditures in county governments.

Why do county governments choose to hire services of lawyers instead of using in-house counsel? We have over 20,000 lawyers in this country and probably 11,000 who are practicing. I am looking at the recommendations which the Committee came up with. Earlier on, we discussed the issue of conflict of interest. I think the first thing that the Committee Members would have done is to declare a conflict of interest and maybe recuse themselves from having to consider this matter because that Committee is made up of lawyers. Of course, lawyers will protect themselves because they are the ones who want to get brief from county governments.

In Narok County, we have a matter that has been dragging in court for the last 30 years. It has to do with Ol Kiombo land. To be honest, I do not foresee the county government winning that matter. What will happen is that it will be a pit for lawyers to collect fees. About four lawyers have already benefited from that matter. Two of them, who are senior counsels in this House, have collected not less than Kshs100 million. That

matter has gone and the owner of the land who is being challenged by the county government won the matter and he was awarded Kshs30 billion by the courts.

I was just having a simple conversation with three lawyers in this House; the retired judge, Sen. Sifuna and Sen. Wakili Sigei on terms of legal fees for an award of Kshs30 billion if it has to be cancelled. Sen. Wakili Sigei said, “give me an instruction, just in terms of instructions, of Kshs400 million then let us talk about disbursements.” So, in total it would end up being almost Kshs1.2 billion. You then ask yourself if our county governments have Kshs1.2 billion to pay for a matter that a court has awarded Kshs30 billion? The answer is that we do not have it. One simple lawyer!

(An hon. Member spoke off record)

I am looking at this recommendation and I think that we have not done a service to that petitioner. Previously, we never used to debate these petitions. However, it is important that we debate them, so that we can poke holes to the recommendations that have been given. The recommendations should have been far more reaching by capping the amount of money that county government can spend on outsourcing legal services. We should cap them to a maximum of Kshs100 million. The county governments should then use in-house lawyers or hire in-house lawyers if they do not have them.

Does it mean that we cannot have lawyers who can argue cases better in a country where we have over 20,000 lawyers? In fact, when you look at it, most senior lawyers use junior lawyers to do all the dirty work just for the senior lawyers to be paid.

(An hon. Member spoke off record)

Not necessarily the dirty work, but they do the groundwork. I have corrected myself. They do the heavy lifting.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, Sen. Madzayo has an urgent urge to inform you. Would you wish to be informed?

Sen. Olekina: Madam Temporary Speaker, I would definitely love him to inform me. He is my senior.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Madzayo.

The Senate Minority Leader (Sen. Madzayo): Thank you, Madam Temporary Speaker. It is not dirty. I just wanted to say that it might not appear to be clean, but that word ‘dirty’ does not exist legally. He can use another language.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, you are requested to use a tidier word than ‘dirty.’

Sen. Olekina: Thank you, Madam Temporary Speaker. You know, Senator Madzayo is my senior and leader. I respect his corrections. Let me use the words ‘heavy lifting.’

(Sen. Orwoba spoke off the record)

Thank you, Sen. Orwoba.

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They are the ones who carry out due diligence and discoveries on a matter. They spend hours and hours trying to make sense of any brief that they are given. However, you will find that senior lawyers are the ones who end up getting paid Kshs100 million for a brief.

As a former member of the Senate Public Accounts Committee and the Public Investments Account Committee, I came across all these legal bills and how much they are. I do not know whether we have room for that because of our Standing Orders. However, this is a matter that I feel that we have not done justice to the Petitioner.

The recommendation ought to have been that we cap the amount of money that any county government can spend in outsourcing legal services. That is the first recommendation. These are some of my biggest pet peeves, and Sen. Sigei should listen to this, because if I was a Chairperson of that Committee and someone brings me such a recommendation, I would throw it back. How can you say, “the County Government should prioritize capacity building program for legal counsel, ensuring competitive remuneration and timely payment of allowances allocated to sufficient budgetary resources, and recruit adequate staff to enhance the performance and effectiveness of office of the County Attorney?”

Madam Temporary Speaker, when you hire someone to be a county attorney, you go through a vigorous process of hiring a qualified lawyer, who is trained by the Kenya School of Law, who understand matters, if it is litigation, conveyancing and tax laws. They have gone through different processes, and they do continuous legal training. So, you cannot have that recommendation. A petitioner has come and said, please, Senate of Kenya, stop county governments from outsourcing legal services. Stop them. You cannot say, “build up the capacity.”

In my opinion, here, the Senate Committee on Justice, Legal Affairs, and Human Rights (JLAHRC) failed. I do not know whether this Petition can be resubmitted, because we have not done justice to it. What are we going to be implementing here? After the Petition, it is sent to the implementing agencies. They are going to implement a capacity training for their legal practitioners. Have they turned into a law school? Certain recommendations should have some merit and meat into it.

“County governments should strictly adhere to the legal framework governing the outsourcing of legal services and implementing strong oversight and accountability measures”

Can you just read that again, Sen. Sigei, by yourself, even before you come here and submit it? Seriously, we have the Advocates Remuneration Act, which clearly sets how much should be paid for, for instance conveyancing or litigation. How then do you come up with a recommendation and say-

“County governments should strictly adhere to legal framework governing the outsourcing of legal services”?

They are already doing it. That is why they give the big cases. If a case is worth Kshs1 billion shillings, what we need to do to give justice to this Petition is to say, based on the brief, it should be capped to a maximum of this. If that lawyer cannot get it, get another lawyer. Out of the 20,000 lawyers that we have in Kenya, they are those ones who care about the resources that we have.

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Madam Temporary Speaker, the amount of money we spend outsourcing for legal services in this country is ridiculous. We talk about government efficiency and making sure that we stop wastages of resources, but we are not doing it. Governors, left, right and centre, are using law firms to divert resources. It is that simple. You see a simple brief. We go through all these matters when we are looking at them.

In my view, during the budget making process, county assemblies must be able to limit the amount of money that can be spent by the county government to outsource legal services. Spend more money with in-house counsel. I feel like this Petition has not been given the time that it required, and that it will not solve anything.

In future, when a matter comes and it directly affects the members of the Committee who are dealing with it, they should just recuse themselves and say, please let us set up an ad hoc committee to deal with this matter. Lawyers did not give this matter any service. They did not.

Madam Temporary Speaker, we look like jokes when we send out these recommendations. I do not agree with them at all. Perhaps, the Secretariat should advise us, because of the time limit of 60 days, whether there is a way for us to relook at this matter, because it will come back here. Let us set up an ad hoc committee to look at these matters diligently so that when we give out recommendations...

These recommendations are too many. I will read another one, which I totally do not agree with-

“County governments are advised to seek representation from external legal firms occasionally when handling complex and special legal services.”

What is complex? You have gone to law school. You have been trained and graduated. You have been trained to be able to deal with complex, simple, and even cantankerous matters. So, it is not that there is a cabal, or a group of lawyers out there, who are trained to deal with complex matters. Seriously, do not make us look like we are a bunch of kangaroo House, that just goes with the flow.

Madam Temporary Speaker, I am sorry that I am poking a lot of holes in these recommendations, but I just find them very shallow. Another recommendation says-

“The Office of the Auditor-General should audit the County Government expenditures to identify the specific counties with exorbitant fees spent on legal services as at the time of adopting this report.”

Give me a break.

Madam Temporary Speaker, we already know. That report is already out. Why are we trying to write things for the sake of it? We already know the amount of legal fees for all 47 counties, starting from Nairobi City County. The Auditor-General has already done it. So, if the Auditor-General gets this, she will just say, okay, give me those reports, cut and paste, *boom, boom*, Senate, here is the report.

What are we going to do? Then what? When the Petitioner submitted this Petition to this House, he expected us to say, county government, put a cap, of for instance, maximum Kshs50 million, a year. So, we know if we spend any money, it is probably about Kshs200 million. We need to relook at this.

I am going to take about two more minutes to finish.

The report says-

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“Noting that some counties like Nairobi and Kitui counties have established a County Pending Bills Review Committee to verify all bills owed by the County Government and ascertain their real value, the Committee recommends that the county emulates the practice as a step towards management of clearing of pending bills.”

Madam Temporary Speaker, all 47 counties have established pending bills committees. We know that. It is not going to help this Petitioner. I am sorry to say this, but I feel like the Committee did not do a good job in this matter, and that, this Petition has not been given the time and diligence that it requires.

Let me stop there because my dear brother, Sen. Sigei, is looking at me and saying, this is very bad. I rest my case. I do not support this recommendation.

I thank you.

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

Sen. Mungatana Danson Mbuya, please proceed.

Sen. Mungatana, MGH: Thank you, Madam Temporary Speaker, for giving me the floor.

First, I would like to commend Mr. Laban Omusundi. I have never met him in person, but I know that he has been raising extremely deep questions in Nakuru County. I commend him for bringing this issue that is affecting all the 47 counties, to the Senate.

Madam Temporary Speaker, I am just going to make about three points on this. The first thing is that this report has exposed three counties that have not yet appointed county attorneys by the end of the audit of 2024. The three counties are Tana River, Lamu and Uasin Gishu Counties.

Let me not speak about the other two, but speak about my county. According to Section 16 of the Office of the County Attorneys Act, 2020, it is the only Act that empowers a county to venture out and get legal services.

According to this Act, you are supposed to get legal services with the permission of the county executive. If you look at Tana River County, it has been paying fees to lawyers, some of whom sit in this House. Neither do they have a county attorney's office nor consent from the county executive to pay. So, if the counties of Tana River, Uasin Gishu, and Lamu have paid any legal fees, the legal fee is recoverable. The highest-ranking person in a county is the governor. He is the Chief Executive Officer (CEO) of the county. These people must find the money to refund the counties.

In the meantime, there should be a very strong warning that they cannot continue to contract external lawyers. Tana River County has no county attorney and it should not be able to contract outside lawyers. What they are doing is illegal and it must be called for that. It is not only illegal, it is also corrupt.

The law requires that they have a county attorney and a county solicitor general. So, this is the first thing that has exposed the three counties. It is wrong that they continue to get legal services from external lawyers. This is wrong and the governors who are the CEOs in these counties must be accountable. The big question is, Mr. Laban Omusundi, in his petition, does not want legal services to be contracted out at all. He wants all the legal services from all the counties to be done with the legal expertise that is within the counties. I will not support that because it should not be lawyers because services that are

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required within the counties include architectural services, road building contractors and others like water engineers and electrical engineers, who do not exist within the county's capacities. So, it should not be limited to lawyers. I think it should cut across if this petition were to succeed the way Mr. Laban wanted.

Madam Temporary Speaker, how do we deal with excessive legal fees, such as the Kshs1.3 billion quoted in Nairobi, which the courts agreed to award to a single advocate? How do we address such issues? I believe the executives in counties facing problems with legal fees and audit queries have been complicit in allowing the charging of excessive legal fees. The solution is not to target all lawyers. Even the recommendations in this report acknowledge that, in some cases, complex legal matters may require the expertise of external lawyers. We should not debate that point, as it is a given.

My colleague mentioned that, as an advocate or lawyer, one is trained to handle both simple and complex matters. However, the truth is that individuals who have dealt with land cases over an extended period often acquire specialized knowledge, experience and expertise in that area. Some of these cases can be very complex.

Therefore, I believe it is important for the country to understand that there should be provisions for agreements on the legal fees that can be charged for any case. You do not have to adhere strictly to the remuneration order. You can always establish an agreement on legal fees. For instance, the advocate who charged Kshs1.3 billion for work that ended in a consent judgment, a consent reached between Nairobi County and the military. They could also have an agreement on the legal fees in the same manner they agreed on the consent to resolve and finalize the matter.

The real question is, are the executives, the Council of Governors (COG) and the governors in this country being honest? Why can we not agree that for every case, there should be a proper legal fee agreement that does not surpass a certain percentage of the budget allocated for that particular year?

A previous speaker made a very good point, that you cannot contract what you cannot manage. It is unreasonable to commit to paying Kshs1.3 billion to one law firm when only Kshs20 billion available for essential services such as water, housing, salaries and other needs in Nairobi County. You cannot claim that Kshs1.3 billion will go to a single lawyer.

I believe contracts must be clear and aligned with the budgets available. Legal fees contracts must be agreeable to both the lawyers and the executive. If the instructions come from a county assembly, there should be a well-drafted legal fee agreement. Moreover, this principle should be standard across all professions, whether engineers, architects, land surveyors or any other services that require external contracting.

People should not be allowed to submit their fee notes arbitrarily. There should be an agreement in place that reflects the funds allocated to the county by this Senate. Lawyers should not be permitted to present fee notes as they please, based solely on the remuneration order. It should not be acceptable for architects to simply present their fees based on the Architects Act, or for land surveyors to do the same. There must be a clear agreement in place.

This is where the problem lies, county executives and governors have been complicit in allowing this lack of accountability. They consistently encourage huge fee notes because they receive kickbacks through the back door. That is why Laban Omusundi complained in this Petition that excessive fee notes are being made.

Madam Temporary Speaker, it is unfair for the counties in this country that so much money is being paid to very few people. We are saying that it is wrong but the governors are in the middle of it because they agree with lawyers and architects. We sat here and agreed that to construct an entire governor's residence, a figure was given and it is standard. Designs were drawn and we agreed all of us what was going to happen. Why should that not be done for law firms and land surveyors? Why can agreements not be done that are reflective of the capacities of the amounts of money available to our counties? I think that has gone on for too long and it should be stopped.

To the extent that Laban Omusundi has raised this matter through this Petition, I support him. What we need to do as a Senate is to relook at the Office of the County Attorney Act, 2020, so that we bring amendments. It was good at the beginning because it set up these offices. We must require that they must follow procurement processes for us to get not just proper legal but all the services.

We should look at that Act and make it compulsory in the Act that all agreements for external services must be filed with the County Attorney and approved by both the county executive and the county assembly because it is the county assembly that gives those monies out. After we have passed the equitable share and other monies to the counties, it is the county assemblies that approve.

I am sure that if such a process was adopted, there is no way a bill for Kshs1.3 billion for a lawyer would have passed through Nairobi City County Assembly and there is no way a county attorney would have sat down to sign an agreement that commits the Nairobi City County for Kshs1.3 billion, and as the court said, to be paid in 60 days. How is that going to happen?

This is a good Petition which has raised pertinent issues. The way forward for us is to amend the Office of the County Attorney Act, 2020, so that we deal with this matter, not just for legal fees but also all services that are contracted outside from the capacities within the counties. That way, we shall help our 47 counties.

Madam Temporary Speaker, I beg to support.

The Temporary Speaker (Sen. Pareno): Thank you. Next is Sen. Osotsi.

Sen. Osotsi: Madam Temporary Speaker, I would like to support this Motion. We must have a system of restraining county governments from hiring external law firms to represent them in courts.

Last week, we were taken through a report by the County Public Accounts Committee (CPAC) that indicated that we have a serious fiduciary risk in our counties on the matter of external law firms that have charged our counties exorbitant amount of money. That is a problem because 22 counties, excluding Nairobi City County, are supposed to pay a whopping Kshs30.6 billion to law firms. Nairobi City County alone is supposed to pay Kshs21.4 billion. That is just money that is supposed to be paid to law firms.

If it was invested in infrastructure or any kind of development, it would do a lot more to the economies of our counties.

I support Mr. Laban Omusundi on the fact that this matter has to be handled in some way. I disagree with the fact that we try and restrain counties seeking expert legal services outside their county attorney office. That would be against the Constitution; against the Public Procurement and Disposal Act, which provides that there must be competitive procurement where counties, for some reason, want to engage in competitive procurement.

Madam Temporary Speaker, even as we say that this is a case of open violation of the law, if there is any county that is engaged in an illegal activity of paying exorbitant amounts of money to law firms, it should be handled on a case-by-case basis, because the law is there.

We have the Office of the County Attorney Act that provides various provisions on how such a matter is handled. The Public Procurement and Asset Disposal Act is very clear on the process of procurement of services. The Advocates Remuneration Order is very clear on what needs to be charged.

If there is a law firm or county that goes outside this framework, then the law should apply to that particular county or law firm. We cannot come and say that now, because some counties are involved in irregularity, and because those who are supposed to enforce the law are not enforcing the law, we now put a restraint on this. I think that would be unconstitutional, and not the right thing to do.

As a Senate we need to ensure that offices which have a responsibility to guard against misuse of funds are doing their job. I am surprised the Controller of Budget (CoB) is also crying in this report, in her submission. The CoB is the one who approves requisitions. How is she approving requisitions, which are against the law, the County Attorney Act, the Advocate's Remuneration Order and the Public Procurement and Asset Disposal Act?

So, I think we will be over-legislating if we start now telling people that we want to amend the law to manage these things administratively. I am of the view that we let those who process these payments follow the law. If it is the finance departments in counties, the CoB or those who processes requisitions, let them follow the law. That way we will be able to deal with this problem. Whereas I support the fact that counties have high legal liabilities which are not well managed, and something has to be done about it, I disagree that we restrain counties from accessing external legal services when they genuinely need them. That would be against the law.

Madam Temporary Speaker, for that purpose, I commend the Justice and Legal Affairs Committee. I want to disagree with my colleague, Sen. Olekina that they did a shoddy job. I have read the report and they did a wonderful job. They made balanced recommendations. They agreed on some issues raised by the petitioner, but also gave direction on what needs to be done. Let the officers who are supposed to do their job do so. Let us not over-legislate on some of these things.

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, when we resume this Motion, you will have a balance of 13 minutes.

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 9th April 2025, at 9.30 a.m.

The Senate rose at 6.30 p.m.