

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 27th May, 2025

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

(The Quorum Bell was rung)

The Speaker (Hon. Kingi): Hon. Senators, let us take our seats. We now have quorum.

Clerk, you may proceed to call the first Order.

PAPERS LAID

THE COUNTY GOVERNMENTS (ADDITIONAL ALLOCATIONS) CASH DISBURSEMENT SCHEDULE FOR FY 2024/2025

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, I beg to lay the following Paper on the Table of the Senate, today, Tuesday, 27th May, 2025-

The County Governments (Additional Allocations) Cash Disbursement Schedule for the Financial Year 2024/2025.

(Sen. Cheruiyot laid the document on the Table)

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The Speaker (Hon. Kingi): Majority Leader, you laid your Paper, but the Chairperson of the Standing Committee on Finance and Budget also had a Paper to lay, unless you are saying that you did that on their behalf.

Let us proceed as the Committee on Finance and Budget get their act together.
Clerk, call out Order No.6 again.

NOTICES OF MOTIONS

SUSPENSION OF THE SENATE MORNING
SITTING ON WEDNESDAY 28TH MAY, 2025

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to give Notice of the following Motion-

Notwithstanding the resolution of the Senate made on 19th February, 2025, pursuant to Standing Order No.32, on approval of the Senate Calendar (Regular Sessions) for the Fourth Session 2025; and further notwithstanding the provision of Standing Order No.34(1), the Senate resolves to suspend its Morning Sitting on Wednesday, 28th May, 2025.

I thank you.

The Speaker (Hon. Kingi): The Chairperson of the Standing Committee on Finance and Budget is not here? That business is deferred.

REPORT ON COUNTY GOVERNMENTS (ADDITIONAL ALLOCATIONS)
CASH DISBURSEMENT SCHEDULE FOR FY2024/2025

(Notice of Motion deferred)

Sen. Thang'wa is not here? That business is dropped.

ESTABLISHMENT OF POLICY TO REGULATE
ARTIFICIAL INTELLIGENCE (AI) AND INNOVATION

(Notice of Motion dropped)

Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No.53(1). Is Sen. David Wafula not here? That Statement is dropped.

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DEPLORABLE CONDITION OF
BUNGOMA-MUMIAS ROAD

(Statement dropped)

EMPLOYMENT OF STAFF UNDER THE
SOCIAL HEALTH AUTHORITY

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health on a matter of grave national concern regarding the employment of the staff of the Social Health Authority (SHA).

The Secretary/CEO of the Public Service Commission (PSC), vide letter dated 21st November, 2024 and addressed to all individual former National Health Insurance Fund (NHIF) staff, required the said staff to acknowledge the receipt, immediately they got the letters and state whether they accept or reject the terms of their temporary deployment, something that caused a lot of anxiety, panic and confusion among members of staff.

Mr. Speaker, Sir, the six-month contract period outlined in the said letter under reference came to an end on 22nd May, 2025. In this regard, I request that the Committee addresses the following-

(1) The total number of staff that the Social Health Authority (SHA) plans to recruit to fill its approved staff establishment and whether the employees to be recruited will be entirely sourced from staff of the defunct NHIF.

(2) The approved exit package for those who will not be appointed by SHA and opt to retire from the public service.

(3) Give details of the redeployment plan for the staff who will not be appointed by SHA and who wish to be redeployed within the public service. These details should include the capacities or positions they will hold and whether they will retain the current terms of employment.

Thank you, Mr. Speaker, Sir.

STATUS OF IMPLEMENTATION OF THE EXTENDED PRODUCER
RESPONSIBILITY (EPR) BY MANUFACTURERS

Sen. Mbugua: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Trade, Industrialization and Tourism on a matter of national concern regarding the implementation status of the extended producer's responsibility by manufacturers.

Mr. Speaker, Sir, Section 51 of the Sustainable Waste Management Act, Cap.387C under the Sustainable Waste Management Extended Producer's Responsibility Regulations, 2024 outlines the obligations of the manufacturers under the EPR framework.

In the Statement, the Committee should address the following-

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(1) The current implementation status of Extended Producer's Responsibility (EPR) obligation by manufacturers across the country, including a comprehensive list of compliant and non-compliant manufacturers.

(2) The total amount of levies collected and penalties imposed on the manufacturers failing to comply with EPR obligations, along with a breakdown of the beneficiaries of the funds collected from these levies and the penalties.

(3) An explanation for the continued presence and proliferation of banned single-use plastics in the market, particularly in consumer packaging.

(4) The measures put in place to promote public awareness and sensitization on EPR obligations with specific focus on outreach to county governments.

I thank you.

EFFECTIVE OPERATIONALIZATION OF
THE VICTIM PROTECTION TRUST FUND

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget on a matter of national concern regarding the effective operationalization of the Victim Protection Trust Fund, which is closely linked to the Child Fund.

In the Statement, the Committee should address the following-

(1) The status and progress made in implementing public finance management regulations aimed at fast-tracking the finalization of the draft regulations governing the Trust Fund.

(2) The measures in place to enhance the effectiveness of the fund in response to all deserving cases while minimizing the risk of duplication or multiple benefits, considering that victim protection is currently spread across various legislations with differing mechanisms.

(3) Whether the Victim Protection Fund has considered developing a comprehensive funding needs assessment model to estimate the overall financial requirements important in informing budgetary engagements with the National Treasury and development partners.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, I will allow comments for 15 minutes. If you get an opportunity to speak, do it in not more than three minutes.

Proceed, Senator for Nandi.

Sen. Cherarkey: Thank you, Mr. Speaker. Sir, I want to support the Statement by Sen. (Dr.) Boni Khalwale on the issues of employment of staff under SHA. We need the NHIF staff to be given priority.

Mr. Speaker, Sir, it is unfair to subject them to a double recruitment process. I hope the Public Service Commission (PSC) and Social Health Authority (SHA) will look into that issue and ensure that there is proper transition. I think the humane way of doing things is to allow the staff that were in National Health Insurance Fund (NHIF) to move to their same job capacity and cadres, so that we can get value for them.

I assure the country that SHA is working. Over the weekend, I was in one of my local hospitals in Kapsabet, the Kapsabet County Referral Hospital. The naysayers have now changed tune; they are saying that it is working, it is not only just effective, we are doing very well. Everything has a challenge.

Mr. Speaker, Sir, I thank the Kikuyu artist, Karagu Muraya, who was with the Deputy President, Prof. Kithure Kindiki. He said that SHA is working. I ask the former Deputy President to stop profiling Kikuyu musicians for saying that SHA is working. They should look for other things to fight the Government on; there are a thousand other things. However, because of bitterness and hatred, they will never succeed.

Mr. Speaker, Sir, finally on the issue of Universal Health Coverage (UHC), we ask the Ministry of Health (MoH), the National Assembly, the Senate and the unions of health practitioners to come to the table. Let us ensure that there is a proper transition of UHC staff to permanent and pensionable terms and their gratuity is paid.

We are tired, we cannot concentrate. Every day, there is a lot of noise from the UHC staff who are demonstrating. With your indulgence and under Standing Order No.1, you should direct the Standing Committee on Health to give us a progress report on the ongoing UHC staff strike.

Mr. Speaker, Sir, thank you for your indulgence.

The Speaker (Hon. Kingi): Sen. Essy Okenyuri, proceed.

Sen. Okenyuri: Thank you, Mr. Speaker, Sir. I support the Statement by Sen. Tabitha Mutinda on the Protection Trust Fund. For your information, I think most Kenyans do not even know whether this Fund exists. After enacting, not so much was done to create awareness among members of the public who are victims of crimes perpetrated day in, day out; especially, the children. If we have no children, we have no future generations.

As a Senate, part of our oversight role is to participate and ensure we raise awareness, so that this Fund can adequately be contributed to and most of the victims of crime out there are beneficiaries. Since 2014 when this Act was put in place, very little has been done to ensure that this Fund is fully operational to assist the neediest elements in the society.

Mr. Speaker, Sir, the committee that is going to look into this matter should out of their own volition, go ahead and invite members to a public participation exercise to ensure that this matter is fully owned by the members and for us to communicate to members of the public what we have this in place. That as Members of Parliament (MP), we have not given a blind eye to victims of several crimes committed and we want to enact laws that can be used, not just gather dust on the shelves.

Thank you.

The Speaker (Hon. Kingi): Sen. Tabitha Mutinda, proceed.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. Since I cannot comment on my own Statement, I will briefly make a comment on Sen. Mbugua and Sen. (Dr.) Boni's statements.

Sen. Mbugua's Statement is in regards to the issue of the Extended Producer Responsibility (EPR) Regulations and more specific, the single-use plastics. In 2017, this

country banned the single use of plastic. However, as we speak and as the Senator puts it, there needs to be deeper clarification as far as the single use of plastic is concerned.

To be more specific, the agricultural industry is still using the plastic seedling bags instead of the alternatives in the market; the non-woven bags that replaced the single plastic use. When the National Environment Management Authority (NEMA) keeps on giving extensions and authorising institutions to use this single-plastics use, at what point do we put off the issue of single plastic use?

Mr. Speaker, Sir, on the matter of SHA employees, a few weeks ago, the Clerk allowed the SHA team to come to Parliament to assist us and other staff register. Personally, the staff that I met were very young people. As Sen. (Dr.) Boni put it, if they cannot be absorbed within the SHA system because the numbers available are too minimal, then where do we expect these young people with very young families to go? From where we sit, yes, SHA is working. However, for it to even continue working better, we need to ensure that the staff from NHIF are fully absorbed within the system. Where do we expect these young people to go?

This big and best SHA system that we have is continuing to work even though it has had some challenges. How do we ensure maximum output if we do not absorb these young people who have been working with NHIF?

As a Member of the Standing Committee on Health, we will take keen interest in ensuring that the issue is addressed, just like we have taken care of other issues such as the one concerning the UHC employees. We have pushed and as we speak, the budget is over Kshs 4 billion. We have also pushed for the doctors' arrears of Kshs1.7 billion; the Community Health Promoters (CHP) funds and many others that have allocations now.

The Speaker (Hon. Kingi): Sen. Kinyua, proceed.

Sen. Kinyua: Asante Bw. Spika, kwa kunipa fursa hii. Kwanza kabisa, naunga mkono Taarifa iliyoletwa na Kiranja wa Walio Wengi Bungeni kuhusu mfumo mpya wa afya wa SHA. Ni vizuri ijulikane ya kwamba, wakati tulipopata Katiba mpya, watu ambao walikuwa wakifanya kazi katika manispaa na gatuji zingine, walijumuishwa katika gatuji mpya.

Vile vile, itakuwa bora zaidi wafanyakazi ambao walikuwa wa NHIF wajumuishwe katika mfumo mpya wa SHA, ndiposa hawa wafanyakazi wawe na uzoefu na walete utaratibu mpya katika sehemu ambazo hazifanyi vizuri.

Kikatiba, itakuwa vibaya kuwadhulumu hawa wafanyakazi ambao wamefanya kazi na mfumo wa NHIF. Kisheria, wanapaswa kujumuishwa na kuendelea na kazi kwa sababu wamekuwa wakitegemea ile kazi na kuifanya kwa uzuri. Ni kwa sababu tu mambo yamebadilika na kumeletwa mfumo mpya. Ni vizuri wakumbukwe na wajumuishwe kwa sababu wana familia. Maisha yao yanapaswa kuendelea mbele na sisi tukiwa wawakilishi wao, na kitengo cha afya kikiwa kimepelekwa katika gatuji zetu, tunapaswa kuifuatilia kuona kwamba inafanya kazi. Itafanya tu kazi ikiwa kuna vifaa na vile vile wafanyakazi. Kwa hivyo, wafanyakazi ambao wana mazoea na wameboba katika ile kazi ni wale waliokuwa wa NHIF. Kwa hivyo, nakubaliana na hii Taarifa iliyoletwa na Sen. (Dr.) Boni ya kuweza kuwajumuisha wafanyakazi hao ili waweze kuendelea na kazi ambayo wamekuwa wakifanya.

Bw. Spika, nashukuru kwa kunipa fursa hii.

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The Speaker (Hon. Kingi): Sen. Mundigi, proceed.

Sen. Munyi Mundigi: Asante Bw. Spika kwa kunipa fursa hii ili niweze kuchangia hii Taarifa inayohusu SHA.

Kwa wakati huu, tunafaa kuwa tunaangalia vile gatu zetu zinaendela na *economic recovery* ya nchi yetu. Tuwache vita mingi. Hii Wizara ya Afya imekuwa na shida mingi za hapa na pale. Nikiwa Seneta wa Embu County, niko na ushuhuda kwamba SHA inafanya kazi vile inafaa katika kaunti nyingi. Hata sisi kama wajumbe, mambo ya kuchangisha katika *Harambee* inaendelea ikipungua.

Naomba wale wafanyakazi wa zamani wa NHIF wasitimuliwe. Wengine ni wachanga, hawajaajiriwa kwa muda mrefu na huenda hawakufanya kosa lolote. Naunga mkono waongezewe muda na wafunzwe vile watafanya kazi katika SHA.

Watu wengi wamekuwa wakilalamika kuhusu SHA lakini mtu yeyote akiwa mgojwa na alazwe hospitalini, pesa inalipwa vizuri. Kwa hivyo, kutimua hawa wafanyakazi sio kurekebisha; wako na ujuzi wa elimu. Naunga mkono kwamba waangaliwe ili warudishwe kazini; wasitimuliwe.

Kwa miaka mingi, tumeona watu wengine wakifutwa kazi wanafariki au familia zinazoroteka. *Agenda* ni kuangalia vile watarudishwa kazi ili SHA iendelee vizuri.

Bado kwa mambo ya SHA; tumesikia wanamziki waliokuwa wameitwa na *Deputy President* wa Kenya wakishuhudia na kusema kwamba wataimba vile SHA inafanya kazi. Ingawaje wengine walisema ni makosa, nashukuru Rais na Naibu wake. Wawaite wanamuziki wote ili waweze kuimba vile SHA inafanya kazi katika nchi yetu ya Kenya.

Bw. Spika, ni heri hao wafanyakazi ambao wanastahili kufutwa warudishwe ili waelimishwe. Najua wikipatiwa nafasi, watajitetea na mambo ya SHA itakuwa sawa.

Naunga mkono hii Taarifa iliyo letwa na Sen. (Dr.) Khalwale.

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

Sen. Mandago: Thank you, Mr. Speaker, Sir. I wish to make comments on the Statement by the Senator for Kakamega County, Sen. (Dr.) Boni Khalwale.

Indeed, I have seen this letter about the former NHIF staff, who were going to be deployed to various agencies in Government. As a Committee and as a House, when we crafted the laws that enabled the roll out of SHA and Social Health Insurance Fund (SHIF), we made it clear in our recommendation that no staff working under NHIF should lose their jobs. The uncertainty that is arising from the issuance of these letters is for the fact that the staff do not know exactly where they are being redeployed to and the terms of engagement.

Mr. Speaker, Sir, as the Chairperson of the Standing Committee on Health, my concern is that SHA is redeploying what they call the excess staff. However, the new agencies that we created to support the roll out of UHC, such as the digital agency, is recruiting. The MoH should first consider redeploying these officers within the Ministry, where there is shortage of staffing instead of recruiting new staff.

The staff that worked under NHIF were more than 2,000. Therefore, there is a pool of experienced staff that the agencies within the health sector can draw from instead of recruiting. I, therefore, agree with the sentiments of Sen. (Dr.) Boni Khalwale that there is need for the Ministry and SHA to clearly communicate in a manner that is not going to cause anxiety, but guarantee the workers that they are going to continue earning.

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We hope that as they do the deployments, their benefits in terms of remuneration and allowances that have already been conferred to the staff will not be lost or reduced because that is a right under the Employment Act and the International Labor Organization (ILO) requirements.

I support and second this Statement.

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

Sen. Sifuna: Asante Bw. Spika. Nilikuwa nimewaahidi wakenya kwamba leo tutazungumza kwa Kiswahili, maanake nilitarajia kwamba Mswada wangu wa kuzungumzia maswala ya vile ambavyo wakenya walidhalilishwa kule Tanzania utakuwepo leo. Hata hivyo, wacha nizungumzie Taarifa hii ambayo imeletwa na Sen. (Dr.) Boni Khalwale.

Nawasikia wenzangu wakizungumza na kujipiga kifua kwamba SHA inafanya kazi. Kwa mtazamo wangu, kama hiyo SHA inafanya ni wananchi watatuambia, sio nyinyi viongozi kwa sababu hapa hamna mtu yeyote ambaye anapokea matibabu akitumia SHA. Kwa hivyo, ukisimama hapa na useme kwamba SHA inafanya kazi, tuoneshe ni lini ulitibiwa na SHA.

Jambo la pili, wakati tulipokuwa tunazungumzia huu Mswada, tulisema kwamba tungependa kuwapa nafasi wale ambao walikuwa wanafanya kazi katika Shirika la NHIF ili wasifurushwe kazini. Mimi mwenyewe kama Seneta wa gatuji la Nairobi, nilileta mabadiliko katika Mswada ule unaosema kwamba wale ambao wako pale, wapewe nafasi za kwanza kufanya mahojiano tena. Lakini, hawa hawa viongozi ambao sasa wanajipiga kifua wakisema tuwalinde wale wafanyakazi, walipiga kura kuhakikisha kwamba mabadiliko hayo hayakufaulu. Ni unafiki mkubwa ninapo wasikia watu ambao walikuwa na fursa ya kuhakikisha kwamba wafanyakazi hawa watapata haki wakipiga kura njia nyingine, kisha leo wanapata sauti na kutuambia kwamba SHA inafanya kazi.

Bw. Spika, nina watu pale ndani ya Shirika la SHA wanaoniambia kwamba hata hizi *interviews* wanazofanya za kuwapa watu kazi, ni za bandia, maanake tayari wale ambao wanaenda kupewa hizi nafasi wanajulikana---

The Speaker (Hon. Kingi): Seneta wa Nairobi, tafadhali, ukichagua lugha moja, itumie hiyo lugha, usichanganye lugha.

Sen. Sifuna: Bw. Spika, nilikuwa nimetohoa lakini nimekosolewa na Mhe. Mwaruma, niuwie radhi.

Nilikuwa nasema kwamba hayo mahojiano yanayofanyika ni mahojiano bandia. Wale wa kupewa barua tayari wanajulikana. Jambo la kutamausha zaidi ni kwamba, hata hawa ambao wamechaguliwa juzi kama *directors* walikuwa kwenye tume ya maadili ya kupambana na ufisadi.

Sasa hivi, nitaleta hoja hapa ya ushahidi kwamba wale ambao wamepewa hizi nafasi tayari walikuwa na tuhuma za ufisadi na Shirika la *Ethics and Anti-Corruption Commission (EACC)* ambalo lilikuwa limetangaza ya kwamba wanafaa waende kujibu mashtaka ya ufisadi mahakamani. Itakuwaje tena leo wamekuwa wasafi wanapewa nafasi katika shirika la SHA?

Naomba hawa maseneta wenzangu, iwapo huna habari kamili, usije ukasema mambo ya uwongo ambayo huyaelewi---

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

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Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support the Statement by the distinguished Senator from Kakamega County.

It is imperative that we clarify this matter. The issue of uncertainty when you are an employee is not the best. I am sure most of us have gone through that process before the announcement of results is done by the Independent Electoral and Boundaries Commission (IEBC).

I call upon NHIF or SHA to make a determination of how many of the NHIF employees are going to be absorbed permanently. I know there are those who have requested to be transferred to other Government departments, it will be important to be clear.

As a Member of the Standing Committee on Health, I assure the employees that this is a matter that is not only dealt by the Standing Committee on Labour and Social Welfare, but also the Standing Committee on Health. There are certain things that must be clear.

Mr. Speaker, Sir, I hope that when the Standing Committees on Health and Labour and Social Protection will be looking at it, they will look at the terms of engagements. How different are they compared to the previous NHIF engagement? It is important also that right now, when we are all starved of resources, SHA looks into a process that will avoid serious legal battles. These people are uncertain, they do not know about their tomorrow. They were employed on a permanent basis in NHIF. Now, when transitioning into the new entity, SHA, they must also be based on the same terms. It is, therefore, imperative that we look at that to end the uncertainty.

I know there was a meeting between the Cabinet Secretary for Health, who attempted to clarify the matter that all those employees will be absorbed. I know the new Chief Executive Officer (CEO) is about to come on board, perhaps next week, and would like to call upon the Social Health Authority (SHA), that this will be the first thing that he will do. I have a lot of confidence in the Chairperson of SHA, Dr. Ali. I know that when they work together, they will see that we end this bickering and uncertainty.

Thank you.

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

The Senate Majority Leader (Hon. Cheruiyot): Mr. Speaker, Sir, I would like to comment on SHA. I do not know why people get offended or worked up when we say SHA is working. What else are we supposed to say? There is addiction to bad news in the country. Leaders must begin to live and know that they are dealers in hope.

I celebrate because I have visited four out of six sub-county hospitals in my county. For each of those hospitals that I have visited, the one thing that I ask all the patients is, "Were you registered with SHA before being admitted?" For all those who told me that they had registered before, SHA made part of their bill as any other insurance would. So, if we report back, we are only doing our duty because that is the work of a representative of the people.

The issue that has been brought by Sen. (Dr.) Boni Khalwale is serious and requires the keen attention of those that are addressing the matter. I voted against the amendment that had seen transitioning of all National Health Insurance Fund (NHIF) staff into SHA, fully aware why I did that. I know that 95 per cent to even 99 per cent of

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former NHIF staff are diligent Kenyans, who went about their duties, worked and served this country well. Those need to be considered. However, I am fully aware that in NHIF we had staff, who were approving the amputation of a human being four to six times, yet we know a human being has only two legs. Do you want us to take those ones to SHA as well? There must be a vetting process. I believe that process needs to be done in a way that no Kenyan ends up suffering unfairly. For that reason, I hope that when the Senate Standing Committee on Health considers this matter, they will guide---

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

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise under Standing Order No.105. You heard the Senator of Kericho County accuse the employees of NHIF of approving claims for people who have been amputated five times. Is he in order to mislead the country, when it is a fact that you can amputate one limb even 10 times? This is important.

People should not call Kenyans thieves when they do not have facts. For instance, this can happen in a case where a doctor is treating a patient who suffers from diabetes and the limb starts rotting. When the toes are rotten, you cut. When the hand rots, you cut. When the arm goes, you cut. When the limb goes, you cut. Why are we teaching people to think that there is no person who is clean? These clerks of NHIF are likely to be punished and I am afraid that some powerful people in the Government want to employ their relatives and people from their communities---

The Speaker (Hon. Kingi): Sen. (Dr.) Boni, your point of order is not sustained.

The Senate Majority Leader, proceed.

The Senate Majority Leader (Sen. Cheruiyot): The problem is that Sen. (Dr.) Khalwale was on his phone when I was making my point. That is why he completely misunderstood what I mentioned.

I was pursuing the point of fictitious claims, unless, Sen. (Dr.) Boni wants to mislead this House that NHIF did not have challenges of fictitious claims. That is in the open. Read from the report of the Auditor-General on operations in that institution. I have said, for your benefit, Sen. (Dr.) Boni Khalwale, that I am completely clear in my mind that 95 per cent to 99 per cent of the employees that worked in that institution are diligent Kenyans. Therefore, there must be a vetting process to establish that, if there is an employee who was found to be involved in the business of handling fictitious claims and brought down NHIF, then we need not transition such employees into SHA.

That was a simple point, Sen. (Dr.) Boni. I do not know why you would want to take issue with such a proposition, unless Sen. (Dr.) Boni has joined Sifuna's band, whose duty is to get excited and say there is absolutely nothing right in anything that I say---

The Speaker (Hon. Kingi): The Senate Majority Leader, that is uncalled for and I ask you to withdraw it.

The Senate Majority Leader (Sen. Cheruiyot): I said Sen. Sifuna's band, which never agrees with anything that I say.

Surely, Mr. Speaker, Sir, unless Sen. Sifuna wants to rise and say he agrees with the things I say---

The Speaker (Hon. Kingi): The Senate Majority Leader, just withdraw that.

The Senate Majority Leader (Sen. Cheruiyot): Okay, Mr. Speaker, Sir. For the record of the House, I withdraw that comment.

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

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir. I rise to make a comment on the SHA Statement that is before this House. On the question of employment, a number of people from Tana River County have come to see me and others have talked to me on phone about the same issue. There is a lot of worry on whether they will retain their employment positions.

Mr. Speaker, Sir, there is a case for equity. In the NHIF, there were very few employees from Tana River County. They are now feeling threatened that they might lose positions from NHIF in the new Social Health Authority. I request the Senate Committee on Health to also look at the question of equity when they are looking into this matter.

Mr. Speaker, Sir, equity in this country has not been operationalized on many occasions. Some people who have dominated employment opportunities, not just in SHA, but also in other places, feel so entitled that even when equity is being done, they claim it is against them. That sense of entitlement that has hit must be controlled. As they look at the question of employment in SHA, let them be fair to all counties, including Tana River County.

I thank you.

The Speaker (Hon. Kingi): Before I allow the Clerk to call the next Order, we had deferred Order No.5, in respect to the Chairperson of the Standing Committee on Finance and Budget tabling of a Paper, and thereafter proceeding to give notice on the same.

Proceed, Sen. Tabitha Mutinda.

PAPER LAID

REPORT ON COUNTY GOVERNMENTS (ADDITIONAL ALLOCATIONS) CASH DISBURSEMENT SCHEDULE FOR FY2024/2025

Sen. Tabitha Mutinda: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, the 27th of May, 2025-

Report of the Standing Committee on Finance and Budget on the County Government's County Allocations Cash Disbursement Schedule for the Financial Year 2024/2023.

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

The Speaker (Hon. Kingi): The Chairperson of the Standing Committee on Finance and Budget, you may proceed to give notice on the same.

NOTICE OF MOTION

ADOPTION OF REPORT ON COUNTY GOVERNMENTS
(ADDITIONAL ALLOCATIONS) CASH DISBURSEMENT
SCHEDULE FOR FY2024/2025

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I beg to give Notice of the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the County Governments (Additional Allocations) Cash Disbursement Schedule for the Financial Year 2024/2025, laid on the Table of the Senate, today, 27th May, 2025, and that pursuant to Section 17 (7) of the Public Finance Management Act, the Senate approves the County Governments (Additional Allocations) Cash Disbursement Schedule for Financial Year 2024/2025.

The Speaker (Hon. Kingi): Next Order.

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

MOTION

SUSPENSION OF THE SENATE MORNING
SITTING OF WEDNESDAY 28TH MAY, 2025

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I rise to move the following Motion-

THAT, notwithstanding the Resolutions of the Senate made on 19th February, 2025, pursuant to Standing Order 32 on the approval of the Senate Calendar (Regular Sessions) for the 4th Session 2025; further notwithstanding the provisions of Standing Order 34 (1), the Senate resolves to suspend its Morning Sitting on Wednesday 28th May, 2025.

Mr. Speaker, Sir, this is a fairly straightforward matter. Tomorrow morning, we have the National Prayer Breakfast that is organized by Parliament. Therefore, this is to pave way for that event. I, therefore, request the House to agree that we reschedule our events for tomorrow morning to another date, until we sit again at 2.30 p.m.

I beg to move and request the Senate Minority Whip, Sen. Ledama Olekina to second this Motion.

Sen. Olekina: Thank you, Mr. Speaker, Sir. If the Senate Majority Leader had not pointed at me, I would have had a different opinion. However, I do rise to second.

It is imperative that everything we do, we seek guidance from the Higher Almighty, given that we are going through difficult times. Difficult times require special prayers to allow us to navigate these challenges of either abductions or others. We just need to go and kneel before God and seek protection.

I, therefore, beg to second.

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(Question proposed)

The Speaker (Hon. Kingi): Hon. Senators, the Floor is open for debate, but this being a procedural Motion, with your concurrence, I may proceed to put the Question, so that we may vote.

Very well, hon. Senators, I will proceed to put the Question.

(Question put and agreed to)

The Speaker (Hon. Kingi): Next Order.

You may proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. To suspend the Sitting of the Senate is an extraordinary issue and we are doing this to appeal to God. I, therefore, want your direction on this. Is it possible for all the luminaries of the United Democratic Alliance (UDA), who will be at the prayer meeting tomorrow, to find it in their hearts to forgive Gloria because God is a God of second chances? I say this because---

The Speaker (Hon. Kingi): Sen. (Dr.) Boni, kindly take your seat.

Clerk, proceed to call the next Order, please.

Chairperson, Standing Committee on Finance and Budget, you may proceed.

MOTION

ADOPTION OF REPORT ON COUNTY GOVERNMENTS (ADDITIONAL ALLOCATIONS) CASH DISBURSEMENT SCHEDULE FOR FY2024/2025

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

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the County Governments (Additional Allocations) Cash Disbursement Schedule for the Financial Year 2024/2025 laid on the Table of the Senate on Tuesday, 27th May, 2025, and that pursuant to Section 17(7) of the Public Finance Management Act, the Senate approves the County Governments (Additional Allocations) Cash Disbursement Schedule for Financial Year 2024/2025.

Mr. Speaker, Sir, we passed the County Governments Additional Allocation Bill recently after a lot of controversy between ourselves and the National Assembly. Unfortunately, this has pushed us to the end of the Financial Year. The Committee on Finance and Budget has pushed to get the Cash Disbursement Schedule to guide the National Treasury to be able to release the funds approved within the current Financial Year.

In the report of the Committee, we are recommending for approval of the Cash Disbursement Schedule as contained in the County Additional Revenue Allocation Act

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(CARA). The National Treasury has accepted and presented that they will disburse the entire County Additional Allocation in May and June in order for them to comply within the current Financial Year, as we are already in the process of doing the same County Additional Allocation and other documents for the following Financial Year 2025/2026, including the Division of Revenue Act and other Instruments.

We are requesting the Senate to approve the Cash Disbursement Schedule because this is an issue that does not have much controversy. It is just an instrument meant for the facilitation of release of the funds of the Bill as approved by this House and concurred by the National Assembly through a mediation process.

If we get this Cash Disbursement Schedule for the County Additional Allocation approved in time, then we will have the opportunity for those funds to be sent to the counties in time before the closure of the Financial Year. Also, the county governments to factor in the current budget that they are proposing and the county governments will most definitely be unable to absorb within these less than 35 days left to the closure of the Financial Year.

Since most of these funds are going to a special-purpose account in the county governments because they are conditional and non-conditional grants allocated for specific purposes within the County Additional Allocation, the money will not go through the normal processes. However, appropriation of the same will require to be captured in the budgets of the county governments before the closure of the Financial Year. That necessitates the need for us to approve the disbursement schedule to facilitate the flow of funds to be released to county governments.

Mr. Speaker, Sir, I beg to move and request Sen. Sifuna to second. It is just a schedule.

Sen. Sifuna: Hon. Speaker, I rise to second. Of course, I was expecting that the Chairperson of the Budget and Finance Committee would say a few words about the fact that from the first day that we came to this House, we have passed a disbursement schedule every financial year.

The National Treasury has never complied with any of the disbursement schedules that we have passed. I do not know what confidence the Chairperson has that this ritual that we engage in every year has any meaning at all. County governors will tell you they have been receiving the disbursement of the share of revenue for February in May. Why do we engage in this ritual?

I hope that the people who have been here before or longer can explain to us. Really, do we need to do this? Look at the time that is remaining in the Financial Year. The Chairperson of the Committee on Budget and Finance has rightly indicated how we disburse in two tranches. I highly suspect that it will not even be done as he has proposed. My view would have been that the National Treasury must be told to send that money in one tranche in this month of May, so that we do not have those stories of capacity to absorb or the time to absorb these resources.

Otherwise, as I second, this ritual has never made sense to me because no one listens to us.

The Speaker (Hon. Kingi): Hon. Senators, we will now proceed to propose the question.

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(Question proposed)

Now the Floor is open for debate.

The Hon. Osotsi.

Sen. Osotsi: Thank you, Mr. Speaker, Sir. I echo the statement by Sen. Sifuna that this disbursement schedule that we pass for equitable share and also additional allocation has become a ritual. No one takes it seriously, especially at the National Treasury, not in terms of the amounts, but in terms of the time when the money is sent.

Something has to be done about this because it seems as if junior officers in the National Treasury are exercising powers that they do not have, and which the Senate has because when we pass this Schedule, it is like law, but it is never followed by the National Treasury. This is one issue that we really need to interrogate, to ensure that when we pass a disbursement schedule, the National Treasury must look for the money and get it to the counties.

Mr. Speaker, Sir, ideally, when we pass the Division of Revenue Bill in this House, that money should be sent in whole to the counties. Appreciating the fact that the Government has to have a way of collecting that money, that is why we decided that we send it in bits per month, but even that, they are not able to follow. We should either amend the law to make it mandatory that the Schedule must be complied with or stop this exercise altogether because it is not making sense.

On additional allocation, this month is ending this week and then we start the month of June. I wonder, even if this money is sent to the counties, whether they will have time to absorb it. That is why I support the sentiment that instead of sending this money in two tranches, it should just be sent in one tranche tomorrow, so that counties have at least a month to absorb it. Otherwise, we will be just creating an opportunity for this money to be plundered or taken back because it has not been spent.

I support with that addition; that maybe the Committee should insist that this money should be sent in one tranche at a go.

Sen. Mandago: Thank you, Mr. Speaker, Sir. I support the sending of money to counties for this conditional allocation. However, I want to agree with Sen. Osotsi that it is time we amend the law to make it compulsory for the National Treasury to send the money to counties, as has been allocated per the Schedule.

Hon. Speaker, we may also want to amend the Public Finance Management (PFM) Act, so that we separate the National Treasury from the business of managing finances of the national Government. This is because there is confusion in the National Treasury, where it seems to behave as if it is a treasury of the national Government and county governments have to go there and beg.

The National Treasury is supposed to serve the two levels of government in an equal measure. It is saddening to note that sometimes salaries for workers in county governments delay, but the salaries in national Government agencies and the public service are on time. The delay is because the Disbursement Schedule is not being followed by the National Treasury.

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As we support the passage of this Schedule, we are concerned that the National Treasury has continuously failed to honour the Schedule that this House has developed, putting service delivery in counties into jeopardy. By failing to follow the Disbursement Schedule, the National Treasury is continuously accumulating pending bills in counties and creating a situation where businesses are collapsing.

One of the purposes of government is to create employment. If we continue creating pending bills, we are destroying businesses that are employers of other Kenyans. Not all Kenyans will be employed by the Government or work in the public service. There are Kenyans who are employed by Kenyan entrepreneurs who are running businesses. Therefore, when the National Treasury delays or fails to follow that Disbursement Schedule, they are not only creating a problem for county governments, but also generally in the economy.

I suggest to the Senator for Mandera and the Chairperson of Budget and Finance Committee that they consider bringing amendments to the PFM Act, so that we can streamline this process and ensure that funds go to county on a timely manner.

I support.

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir. I also rise to support Motion on the Disbursement Schedule because we have had issues with counties.

Every time we have an opportunity to meet governors or people who work for county governments in our counties sometimes they take us to task. We always tell people in our counties that we are the people that pass the Division of Revenue Bill and, therefore, affording our counties cash resources which they spend. Sometimes the disbursement of funds takes months and, therefore, service delivery is affected in a negative way. As we support this Motion, it is also important to emphasize that the National Treasury follows strictly the Disbursement Schedule that we are going to pass, so that our counties can plan.

Mr. Speaker, Sir, when you do not know when funds will be available to you, it is very hard for you to plan. For the counties to offer services, they have to do proper planning in good time. It is only through following this Disbursement Schedule in this Motion that we are going to pass that counties can plan and deliver services to our people.

We have had many problems with delayed salaries for those that work for county governments and, sometimes, counties are forced to borrow money from banks to their employees, and this attracts interest. When counties borrow money on interest and pay interest on the same, then that means that the counties, which have limited resources continue wasting funds on paying interest and yet, these funds would have gone to better use and to offer services to our people.

Mr. Speaker, Sir, the National Treasury should and must follow strictly this Disbursement Schedule and disburse money at the right time and as per the Schedule, in order for counties to continue offering services in the right way. Also, we will be able to oversight. If we know that counties have received funds on time, then we will be able to ask those very important questions as to why services have not been delivered or why there are delays in delivery of the same.

Mr. Speaker, Sir, I support this Motion that this Disbursement Schedule be approved, so that we can continue doing the service that we are supposed to do to our counties.

I thank you.

The Speaker (Hon. Kingi): The Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I rise to support this Motion by the Chairperson of our Committee on Finance and Budget. This is what has been termed as a ritual. I believe someone referred to it as a ritual, which no one adheres to. This should be of concern to us. I am, however, concerned with what is prescribed as a solution, eventually, to this problem. I have listened to colleagues try to figure out what exactly we can do to ensure that the National Treasury complies with this Disbursement Schedule that we pass.

It is important to bring to the attention of colleagues that while we do this ritual every year, there is no record for the years that devolution has been in existence, that there has been compliance with the Schedule to the exact date and time.

Mr. Speaker, Sir, much as people may not agree to it, this is the closest we have ever come to a disbursement schedule because many counties are either catching up with March or April. We have had instances in the past where we have gotten to June and counties have not received their December disbursements.

Mr. Speaker, Sir, I know you know this for a fact. You have served as a county governor. This problem does not seem to be going away anytime soon. Therefore, as the Senate of the Republic, we must think creatively and find ways that are practical that will eventually make our counties economically viable. As they are today, this is not possible. Look at what we are passing in this Disbursement Schedule. We are passing additional resources, Kshs2.9 billion for the CAIPs.

Sen. Roba must convince us that in the next Division of Revenue or when he does CARRA, 2025, those counties that are yet to receive their counter-matching funds for CAIPs will be considered. Otherwise, we will suffer the prejudice of having passed resources to other counties to the detriment of other counties.

There is Kshs3.24 billion that is being passed to CHPs. How unfair? It is either you have a job or you do not. If we are sending resources in the month of May to pay these people that have been working throughout the year, are we being fair to these Community Health Promoters? I just wish that we were plain and honest and told them that they do not have a salary. I know it is a stipend, but even that stipend must be timely.

As much as Kshs5,000 may look like nothing to many people, if it comes in a timely manner, it could help people get by, but we are sending it at the end of the financial year. There is even an extra Kshs1.8 billion, which is basic salary arrears for health workers across our counties. I told the House last week or two months ago that we must reflect and begin to feel embarrassed that every time you hear there is a demonstration outside the Senate; nine out of 10 times, it will be health workers and it is for one reason or the other. We must confront this issue of remuneration to health workers at the county level. It is clear that there was no elaborate plan and everybody keeps pussyfooting about it. No one is clear and certain of when and how their matters will eventually be resolved. That situation cannot continue to obtain.

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Mr. Speaker, Sir, I hope Sen. Mandago together with the Members who serve in the Committee on Health, including Sen. Omogeni, will lead us home. They must at some point lead this House into making the right decision. They should feel bad on behalf of all Kenyans who watch doctors, nurses, health workers and all these health professionals who come outside the Senate each and every year. Today, they were there in the morning. They may be back tomorrow and maybe they are still there. It is not fair. This Committee must lead us, as a House, into making certain decisions that will resolve these issues.

Mr. Speaker, Sir, previously, we were told about the challenges that were there and the reason they could not be considered jointly is that healthcare is devolved. Therefore, they would be handled by their individual governors depending on how they would manage their politics. That cannot be allowed to obtain for too long.

Mr. Speaker, Sir, lastly, I leave this as food for thought for Sen. Roba, Sen. Tabitha Mutinda and my good friend, Sen. (Dr.) Boni Khalwale, as well as the Members who serve in the Committee on Finance and Budget. I was before their Committee this morning on a certain matter. Perhaps, it has reached a time where we may want to lead the country into issuing a devolution bond, the same way we issue infrastructure bonds. I raised this two years ago. It was not picked up, but I still insist that we may want to consider that because we know on average how much we consume per year.

We can project based on what we have consumed in the last 10 years and what the annual increment usually looks like. It will make more sense because I hear people say that we should separate the Treasury or we should do this or the other. However, if the resources are not there, they are not there. We must find ways, just the same way the Ministry of Youth Affairs, Creative Economy and Sports and the Ministry of Roads and Transport have figured out how to fund their roads and find ways through securitization.

Mr. Speaker, Sir, we can as well issue a devolution bond through which the National Treasury pays back in the subsequent month on a yearly basis, so that we know for a fact that this pool of resources is purely dedicated to devolved units. At a date and agreed time of the month, counties receive that which is owed to them. Otherwise, many businesses will continue to crash on account of supplying to a county government that you know will never pay you. People will go without salaries. Counties will be forced to borrow to pay and meet the day-to-day subsistence obligations, therefore, incurring additional costs.

I, therefore, plead with the Committee on Finance and Budget to lead us into a better solution other than this one of having to wait for Exchequer releases and waiting for resources to be collected. When you have a shock in the system like we had last year with the Gen Z protests and the court decisions with regard to the Finance Bill, when counties stayed up to almost December without receiving any significant funding, then that cannot be the way and the basis upon which you run a county government.

Mr. Speaker, Sir, something must give and I believe as a House, it is not beyond us to think what will be a better solution than the current system. At least, we are all in agreement that this current system does not work in the way that it was envisioned.

With those remarks, I beg to support and hope that we can conclude on this matter as well as the other business that is before us. I am also happy that there are many Members who are back in the House right now, as opposed to earlier in the day. As we

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speak, I hope the Senate Majority and Minority Whips are whipping the Members for us to conclude on this today.

I thank you.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I hear the Senate Majority side is whipping their Members from the comfort of their chairs.

I rise in support of the Disbursement Schedule and I will make a few comments on this. I have looked at the First Schedule and I associate myself fully with the comments by the Senate Majority Leader. We are headed towards end of May. This is when we are trying to approve this Schedule for certain cadres of public servants in our counties to begin receiving their pay yet they have worked for this number of months. Something must happen. A decision has to be made and this Senate has a role to play in making that firm decision led by the Senate Majority Leader.

The issue of Community Health Promoters (CHPs) is becoming a national nuisance. We cannot live in a country where people who have been contracted to offer a service must take to the streets for them to be paid for the services which they were hired and contracted. A solution to the CHPs must be found. We must not sit pretty in the Senate knowing, as it were, that health is a devolved function. I want to challenge the Senate Committee on Health, which is led by Senator Mandago. I know they have tried to do what they have tried to do, but I want to challenge them to draw the line in the sand. They should say enough is enough. We cannot have these demonstrations outside Parliament, in the streets of Nairobi, every day, every week, of people just demanding the same thing, which is their right. They have a right to be paid this money. Something must happen for us to get done with this matter.

The next issue under the same First Schedule is on the County Aggregation and Industrial Parks (CAIPs). I do not know the reason or wisdom that was used to phase out the allocation of the national Government share to county governments to construct the industrial parks. I know of two phases: phase one and phase two.

My county, Kitui, did not make to the list for the first phase. However, due to its desire to create jobs and push forward the manufacturing agenda in our county, the County Executive of Kitui approached the County Assembly of Kitui, which approved the share of the County Government of Kshs250 million for the construction of CAIP at a place called Kanyonyo in Kitui Rural Constituency.

The last time I checked, that construction had been done up to around 40 per cent. However, some counties have already received the Government share for CAIP yet they have not even done five per cent of those constructions. My appeal to the decision-makers and policy-makers in relation to the CAIP, is that those counties that have demonstrated a willingness and even committed their funds for the construction of these CAIPs be fast-tracked to get their share of the Government funding to complete their CAIPs.

If you look at the Schedule for Kitui County, it is blank all through. This means that in the entirety of this financial year, Kitui County will not receive a cent from the Government share yet we have committed our own resources for the construction of the CAIP at Kanyonyo. As I said, this is a non-discriminatory expenditure where the County Government of Kitui and all other county governments have no discretion. It is a decision

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that was taken at the national level that they should be constructing. The least that we can do is to match the amount of money that counties have spent on these CAIPs to ensure completion and utilization of the facilities.

Secondly, in the Second Schedule is the issue of court fines. I do not know whether this reputation is right. I request Sen. Roba to help me with this. I do not know whether there is a correlation between the level of crime in a county and the amount of money that is allocated to those counties as part of the share from court fines. If there is a correlation, then I must thank the people of Kitui profusely because for the entire financial year, the only money accruing from court fines is only Kshs100,000.

The Senator for Kakamega County is wondering which heaven this is. If there is a correlation between crime and the amount of money that accrues from court fines, then the people of Kitui County are doing extremely well. I cannot compare them with the people from other counties that I do not want to mention. This money is very little money. It is realized revenue and I do not see why we should stagger this amount of money through the Committee. Money that is as little as this should be disbursed once. It is realized revenue and not money that one will be looking for. It is money that they have contributed to the Exchequer. It will be better if they can get this money and use it in the right way to deal with it.

Mr. Speaker, Sir, with those many remarks, I support the Schedule. I thank you.

The Speaker (Hon. Kingi): Allow me to make this communication before I allow more comments on this Motion.

(Interruption of debate on Motion)

COMMUNICATIONS FROM THE CHAIR

VISITING TEACHERS AND STUDENTS FROM TENGECHA BOYS' HIGH SCHOOL IN KERICHO COUNTY

I would like to acknowledge the presence, in the public gallery, this afternoon, of visiting teachers and students from Tengecha Boys High School in Kericho County. The delegation comprises three teachers and 57 students who are in the Senate for a one-day academic exposition.

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

VISITING DELEGATION OF LEGAL OFFICERS FROM THE PARLIAMENT OF GHANA

I would also like to acknowledge the presence, in the Speaker's Gallery, this afternoon, of a visiting delegation of legal officers from the Parliament of Ghana who are undertaking a benchmarking visit in collaboration with the legal officers in the Directorate of Legal Services in the Senate.

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Hon. Senators, I request each member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition.

- (1) Ms. Doreen Asante;
- (2) Ms. Mary Wendy Yeboah; and,
- (3) Mr. Edwin Tuffour.

Hon. Senators, on behalf of the Senate and on my own behalf, I extend a warm welcome to them and wish them a fruitful visit.

I will call upon the Senate Majority Leader to extend a warm welcome to both delegations.

You may proceed, the Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I join you, on behalf of my colleagues in the House this afternoon, to welcome the visiting delegation from Tengecha High School. Tengecha High School is one of the top performing schools in our County.

I hope they will get full value of the time that they took out of school to come and interact with Members. I have watched them and seen that they are patiently and keenly following the discussions in the House this afternoon.

I did not know that they were from my county. I am, however, proud of them for the journey they have traveled in making this institution a great one. I wish them well for the remainder of the day and even as they travel back home to Kericho. I will step out briefly to meet them and share one or two things.

Lastly, I would like to welcome the visiting delegation from the Parliament of Ghana. Our staff in Parliament rank among the very best you can find globally. I say this because I have served as the Chairperson of the Staff Welfare Committee. I know the dedication and competence of our staff. Each year, we receive delegations from across the globe who come to interact, learn, share knowledge and transfer skills from various parliaments around the world.

I, therefore, hope that this delegation will receive nothing less than the opportunity to interact, learn and share knowledge together with our staff. I wish them well for the remainder of their time here in Kenya and as they travel back home.

I thank you.

The Speaker (Hon. Kingi): Sen. Mungatana, you may proceed with the debate.

(Resumption of debate on Motion)

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir. I rise in support of the Motion that is before us. The Constitution of Kenya in Article 202 states that revenue will be raised nationally and shared between the two levels of Government; the national and the county governments. One of the problems I have identified since joining this Senate is that the National Treasury seems to advocate only for the national Government and, in many ways, does not consider the county governments as part and parcel of it.

It is time we seriously consider how the Senate can pass legislation in our capacity as protectors of the counties, to create a separate treasury or a division within the National Treasury specifically dedicated to serving the county governments.

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The problem with this Cash Disbursement Schedule is that when it comes to Exchequer releases to our counties, the National Treasury tends to lump the responsibility of county disbursements together with all other national responsibilities. Consequently, the timely disbursement of funds to counties is relegated to the back burner. This implies that they will be favoring the national Government while disadvantaging county governments.

This is a challenge I would like to present to the Chairperson of the Committee on Finance and Budget at the Senate. The time has come for us to sincerely examine how we can utilize Article 202, which states that revenues are raised nationally and shared equitably between the national and county governments. We must develop legislation within this framework to create a department within the National Treasury dedicated to county governments. If monies are being raised by the Kenya Revenue Authority (KRA), they should be equitably divided, so that there are two sets of consolidated accounts. One set for the national Government and another for the county governments. This way, when there are delays in Exchequer releases, it will be clear that the treasury for county governments is not releasing the funds in good time.

If this is not done, then, as colleagues have stated in the past or even in this debate, it will become a mere ritual, where we pass a schedule that is then disregarded. This is because the national Government operates as if the National Treasury exists only to service the national Government and not the county governments. I believe this is one area that we need to examine and determine whether, going forward, we could have a clear constitutional amendment that creates a treasury dedicated only to county governments. This would ensure that there is a treasury to serve county governments and another to serve the national Government.

If this is done in a technically sound and effective manner, then we would no longer need to debate schedules, as funds would be disbursed on time and within the approved timelines. Once the Senate has given its approval, the funds would then be processed from the treasury dedicated to serving county governments.

Mr. Speaker, Sir, I support this Motion and pray that the Constitution will be upheld in this manner. I thank you.

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

Sen. Thang'wa: Mr. Speaker, Sir, thank you very much for the opportunity to support this Cash Disbursement Schedule for the counties. I have noted and Sen. Wambua has also mentioned, the issue of the disbursement of unconditional additional allocations from court fines.

According to the Schedule, Kshs116 million is going to only 10 counties. These court fines, in my understanding, are fines imposed on individuals from these counties, likely for breaking county laws within specific jurisdictions. Kiambu County is receiving about Kshs10 million from these fines, while Nairobi, which is getting the largest share, is receiving Kshs70,740,842.

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

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

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Mr. Temporary Speaker, Sir, while this is considered an allocation, I believe the Senate should examine this issue further to understand why certain counties are accumulating these large sums while others, such as Kakamega County, despite being comparable to Kiambu County in terms of its 12 constituencies, 60 wards, and a similar budget, are receiving nothing. This suggests that, perhaps, no fines were imposed in Kakamega. Therefore, I propose that we take this as a case study to better understand the reasoning behind these allocations.

As we pass this allocation, we must also request the Controller of Budgets (CoB) and the Executive to ensure the timely release of these funds. This morning, we were sitting in the Senate Committee on Devolution and Intergovernmental Relations, where we met Members of the County Assembly (MCAs) of Machakos County and their Speaker. We were informed that the MCAs of Machakos and their staff have not been paid for the last three months. I believe this issue is not unique to Machakos County, as several other counties are also experiencing delays in receiving their funds.

We must, therefore, urge the Executive to ensure these funds are disbursed on time, so that money is allocated where it is due. The reason the trust and confidence in this Government may not be in tandem with public expectations is that counties do not have money. The funds have not been disbursed yet, we see the Government initiating programmes that have not been budgeted for under the guise of economic forums. They go to every county giving handouts to individuals. Somebody might ask why these programmes that are not budgeted for are happening. There are not within any law and no Motion was passed, yet the monies that the Senate has allocated and approved is not being disbursed to the counties. This is an issue we need to look into, even if we were to summon whoever is not disbursing the monies to the counties, so that they explain. It should not be normal for the Senate to pass these kinds of laws, the allocations and the disbursement schedules, but the Executive is not doing its part and we just keep quiet and look at it that way.

I urge the Executive to make sure that they disburse the monies to the county governments. If they do not have the money or they have not collected enough, why is it that only the counties are suffering? The offices of the President and the Deputy President have all the money to an extent that they are now dishing it out to anyone who asks for it.

Mr. Temporary Speaker, Sir, I support this because it is an issue we need to look into.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Next is Sen. Olekina.

Sen. Olekina: Mr. Temporary Speaker, Sir, I am not ready.

The Temporary Speaker (Sen. Wakili Sigei): If Sen. Olekina is not ready to contribute, let us have Sen. Omogeni.

Sen. Omogeni: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to also make my comments.

First, I want to appreciate the good work by the Chairperson of the Committee on Finance and Budget, who is the Senator for Mandera, Sen. Ali Roba. I wish to make a few comments.

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For some of us who come from counties that were privileged to get the County Aggregation and Industrial Parks (CAIPs) projects, we are happy that we are sending money to our counties that will jumpstart construction of CAIPs. However, that dream will not be realised unless there is fiscal responsibility in our counties. I have had the privilege of going around as a Member of a committee. There are counties that have made good progress in construction of CAIPs, while some are lagging behind. There is no explanation other than attributing it to the effective management by our counties.

I am happy to tell my people of Nyamira that we will send them Kshs52 million. I hope that the construction that is ongoing at Sironga will pick a better pace than what we have seen before because we want those parks to be finalised, so that people start utilising them for us to say there is transformation. Otherwise, if we just have CAIPs on paper, but we see nothing, that adds no value to our people.

I hope that our counties are going to make good use of the money that will be sent there, so that we see good progress in construction of CAIPs. Curse be upon you if you are a governor who receives money that is meant to transform our lives, but you divert it to your pocket. I urge the watchdog bodies like the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) to be on the lookout. What happens is that the moment that money hits some of our counties accounts, those who have a good appetite for public money start announcing that money has arrived and it gets diverted.

Mr. Temporary Speaker, Sir, secondly is the issue of the Community Health Promoters (CHPs). I fully associate myself with the sentiments made by colleague Senators who have spoken before me. Let us not dehumanise people who are trying to assist the sickly in our society. There are people who have told me that they have not been paid their paltry Kshs2,500 for the past six months. How unfair can we be? As Senators and other state officers, we receive our salaries timely every month. If you are in arrears, it cannot exceed five days.

In my County of Nyamira - I do not know about Kakamega - there are CHPs who wait for the arrears up to five or six months. We are being unfair. I am told that is what happens in the counties and not just Nyamira. That is something we cannot be proud of. I hope that we will find a solution, even if it requires taking us to a classroom to brainstorm. We are not being fair to those Kenyans who have put their lives on the line to serve the sick and the needy in the society. Their contribution does not deserve the mistreatment they are getting. They should be getting their stipend monthly.

When we were passing this law, I remember last time we said that the idea of making people to be casuals is not good. Perhaps we should have them brought on board on a contractual basis, so that they earn a salary every month. Why keep them if you do not appreciate their services? If we appreciate the services of CHPs, we should pay them monthly. We know and live with them in the villages in the counties where we come from. We need to do better.

Sen. (Dr.) Khalwale, it is now becoming a ritual. Every day, people who are supposed to be in our health centres or hospitals are always outside here picketing for a simple matter, which is to absorb them on permanent and pensionable terms. When you look at the statistics, we do not have enough professionals in that field. For how long will

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that continue? We are the people's representatives. That is why they come here every day. Ask yourself why they do not go to picket at the bus stop. They come to picket here because they know that the people's representatives can find a solution. Those people are from our counties. Therefore, we should not allow that to happen.

In the last Parliament, when we had a problem in the security sector, we summoned the Director of DCI and the Inspector-General of Police (IGP) and they came here. We should summon everybody in the health sector, so that they come and tell us what they want us to do to get a solution once and for all for the doctors, nurses and the likes. We cannot continue that way. We must get a solution.

Mr. Temporary Speaker, Sir, in conclusion, I want to emphasise on fiscal responsibility. Senate Majority Leader, even if we sit here every year and disburse money to the counties, unless we deal with the issue of money that ends up in people's pockets, we will never transform the lives of the people we represent. As long as counties remain to be employment bureaus, we will never transform the lives of the people that we represent.

My neighbour, I heard you welcoming students from Tengecha. You should have emphasised that Sen. Omogeni went to one of the best schools in Kericho; that is Kabianga High School. You should have mentioned to them that I went to one of the best schools in Kericho that used to compete with the Alliances of this world.

Mr. Temporary Speaker, Sir, as I support, I hope that the Chief Executive Officers (CEOs) of our counties will continue making good use of the money. We applaud those who exercise fiscal---

(Loud consultations)

The Temporary Speaker (Sen. Wakili Sigei): Order, Sen. Cherarkey, the Senate Majority Leader and Sen. Eddy. Please, allow Sen. Omogeni to conclude his submissions in peace.

Sen. Omogeni: Mr. Temporary Speaker, Sir, with those many remarks, and under the coercion of my neighbour, the Senator for Kericho, I beg to support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mundigi, you have the Floor.

Sen. Munyi Mundigi: Asante, Bw. Spika wa Muda---

(Sen. Cheruiyot spoke off record)

The Temporary Speaker (Sen. Wakili Sigei): Order, Sen. Cheruiyot. Allow Sen. Mundigi to be heard in silence.

Sen. Munyi Mundigi: Asante, Bw. Spika wa Muda, kwa kunipa ruhusa kuchangia mjadala ambao unaendelea kuhusu pesa ambazo ninaunga mkono. Ningependa tuweze kusaidia kaunti zetu kwa sababu zina shida za wafanyakazi wa afya kama vile madaktari na CHPs na mambo mengine kama vile ukosefu wa maji.

Nafurahia sana kwa sababu katika mgao wa pesa wa mwaka ujao, Kaunti ya Embu itapata Shilingi 279 milioni. The Danish International Development Agency (DANIDA), County Health Promoters (CHPs) na madaktari watapata Shilingi 400

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milioni. Hata hivyo, ningeomba tufuatilie na kusaidia kwa sababu mara nyingi kaunti zinaateseka ilhali inaonekana ni kama magavana hawafanyi kazi. Kwa hivyo, tunapoongea na kupitisha miswada ya pesa, ningeomba Mwenye kiti wa Kamati ya Seneti ya Fedha na Bajeti awe akiongea na the National Treasury ili magavana wawe wakipata pesa.

Nikimaliza, hata ule mgawo wa pesa tunaotarajia kuwa kaunti zitapata pesa nyingi, ningeomba tukipitisha kila kaunti ipate Shilingi bilioni sita ili magavana waweze kusaidia *counties* na *devolution* na *department* zile zingine.

Ni lazima *the National Treasury* iheshimu Seneti ili Seneti iheshimike mashinani. Kama Seneta wa Embu County, naunga mkono.

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

Sen. Olekina Ledama, please proceed.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. I rise to make some brief comments. Noting that you are seated there, I would like to let the people of Bomet County know that you have done a good job in making sure that approximately Kshs74 million will be going to Bomet County for the Community Health Promoters (CHPs), and approximately Kshs21 million towards the doctors' arrears.

Mr. Temporary Speaker, Sir, Narok County is equally---

(Loud consultations)

The Temporary Speaker (Sen. Wakili Sigei): Order, hon. Senators!

Sen. Olekina: Mr. Temporary Speaker, Sir, I am trying to do my job here despite the fact that my voice is gone, but it is fine. I still have to come back and work. It is important that all of us should be here, because this is our primary goal as Senators.

(Loud consultations)

Mr. Temporary Speaker, Sir, can you, please, protect me from your colleague and also my brother, who wants the National Government Constituencies Development Fund (NG-CDF) and I do not want it? I will not mention his name.

The issue here is that it is important for all of us to be here because this is what brought us here; to fight for money to go to our counties. Every single day, doctors are protesting outside Parliament. They are demonstrating, asking for their money. I am sad that it has taken us almost to the end of the financial year to pass this additional allocations, just because we had a big fight with the National Assembly on the issue of the Road Maintenance Levy Fund (RMLF). This is the point where we should divide all these things completely. You will find that Narok County is going to receive about Kshs325 million in loans and other disbursements from the World Bank and other donors like DANIDA. However, will one month allow them to be able to absorb all that money? We need to think seriously on the importance of disbursing this money when that money is due. Coming to the tail end of the financial year to discuss additional allocation of revenue or cash schedule, to me, defeats the purpose of what we do here.

It is important also that all counties receive a share of all the court fines. Narok Court normally collects a lot of fines. Why should we not calculate such that whatever

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amount each county receives, they get that money back to develop that county? Why is it that only 10 counties are receiving the court fines?

Secondly, Mr. Temporary Speaker, Sir, and I wish the Chairperson of the Senate Committee of Finance and Budget was here. I have not seen the royalties from minerals. We produce a lot of gold in Narok County. Why have we not received the money from royalties? The only thing you are giving Narok County is money to pay the Community Health Promoters, which is little, around Kshs49 million, and Kshs21 million in arrears to pay their doctors. Where is our money when it comes to the royalties?

The Chinese and other people who subscribe to that arena of mining are trooping Narok County. They are in Loita Hills illegally. They are in the border of Narok and Migori counties in Transmara District. Sometimes while going through the news, you find that the company Kilimapesa, which is mining in Narok County, is listed in the London Stock Exchange. You also hear that they have discovered a huge piece of gold, which costs a lot of money. Where is our money? Those are the things that we ask. That is why I want to beseech all of us here, that, when we are here, we continue fighting for our counties to get this money. So that we do not delay this, let us do away with this RMLF. If we cannot send RMLF to our counties, let us put it aside and develop another piece of legislation to work on just that RMLF.

Some of us feel like we should not have the Kenya Urban Roads Authority (KURA) and that, that money should go to the counties. However, today, we are sending this money, in May, yet the financial year is coming to an end in June, because of our sibling rivalry between the National Assembly and the Senate. Really, are we not just joking? There is nothing we are doing here.

Mr. Temporary Speaker, Sir, as I support this, I hope that all of us can be comprehensive in terms of looking at this document and see how much is going to your county. If there is any mining in Bomet, Kericho, Migori and Narok counties, they should get royalties. Unfortunately, we are not getting that money. Every county should get court fines, unless you are telling us that Narok County courts should never charge any court fines. Then we will be fine. If it is crime which is being committed, it is being committed in Narok County.

We have no street lights, because it costs so much to be able for our county government to pay for the street lights. That fine can help us offset that expense. So, as I support this, in my opinion, we should not be in a rush just to pass it. We should ask questions.

The Senate Committee on the Finance and Budget should try to advocate, and encourage equity. I know we can never be equal, but some form of equity would help us. We are fighting for devolution, but we cannot say that when people of Narok County commit crimes and the courts in Narok charge fees, it should only support people in Nairobi City County. Nairobi City County should collect the money from their courts and use it. I urge the Senate Majority Leader that this is a matter that we need to sit down and think about.

Otherwise, I support.

The Temporary Speaker (Sen. Wakili Sigei): The Hon. Sen. Samson Cherarkey, please proceed.

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Sen. Cherarkey: Thank you, Mr. Temporary Speaker, Sir. I will make my comments in five minutes.

Before I make a comment, allow me, on my behalf and that of my family, and on behalf of the great people of Nandi County, to pass my deepest condolences to the family of the late Father Alois Cheruiyot Bett, who was unfortunately killed in Tot area. He was the parish priest of St. Matthias Mulumba Parish in Tot, Elgeyo, Marakwet County. I condole with the family, the Catholic Diocese of Eldoret, led by Bishop Dominic Mengich, the Catholic Church, and the entire region, especially Nandi County and Kilibwoni Area.

I hope justice will not only be done to him, but also to his family and all of us, so that we know who the killers are. I would like to assure the people of Nandi County and the family that I will not sit until justice is done following the killing of Father Alois Cheruiyot Bett, who was unfortunately killed by criminals. I hope peace will return to Kerio Valley.

Mr. Temporary Speaker, Sir, the second point that I would like to make is that I am surprised that in Nandi County, we have Karebe Gold Mining Limited. Mines. Some of the owners of Karebe Gold Mining Limited are based in Germany and Britain, yet there are no royalties that Nandi County has gotten.

Mr. Temporary Speaker, Sir, are you aware that Karebe Gold Mining Limited is listed in the United States of America (USA), that they are paying \$200 million. However, we are not seeing that on the principle of local content, 50-20-10. It is not here. I, therefore, would like to challenge the Chairperson of the Senate Committee on Finance and Budget that, it is not fair to the people of Chemelil, Chemase, Tinderet and the great people of Nandi, because we have gold.

The Senate Majority Leader, if you are not aware, I will organize a visit, so that you see where we have gold at the Karebe gold mines.

The Senate Majority Leader (Sen. Cheruiyot): I know.

Sen. Cherarkey: I am happy he knows. They are paying Kshs200 million on tax to the Keya Revenue Authority (KRA).

Mr. Temporary Speaker, Sir, we need to be told why we are getting zero. I do not know if Migori County has minerals, but imagine Narok County has no royalties. I have seen it in Kakamega though. Where is the Chairperson of the Standing Committee on Finance and Budget? We must be told.

Secondly, we are saying that the gold mines of Nandi must benefit the people of Nandi. The people of Narok must benefit. They must benefit the people of Kakamega and Migori counties and we must see. Therefore, I want to challenge all these mining royalties. I support this. We must look at the issue of mining royalties, otherwise we will move to other forums to pursue justice.

On the issue of court fines, why would you fine people in Kapsabet and give it to Nairobi? We are not being fair. Let the court fines that we get in Nandi County be used in Nandi and the ones from Nyamira be used in Nyamira. Let the people in Nairobi City County use their court fines to do their things. We cannot get zero.

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

Sen. Cherarkey: Mr. Temporary Speaker, Sir, for the first time, I can allow Sifuna to inform me.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, the Chair has not allowed Sen. Sifuna to inform you. Now that you want to allow him to inform you, Sen. Sifuna, please proceed to inform Sen. Cherarkey.

Sen. Sifuna: Mr. Temporary Speaker, I just wanted to inform the Senator for Nandi County that the people of Nairobi City County do not get an allocation for court fines imposed in Nandi. If you look at the schedule here, every county has a specified figure for the amount that comes from the national Government, which is collected as court fines in the specific county.

So, please, do not make it appear like we take money from courts outside the Nairobi City County. The Nairobi allocation is for courts in the Nairobi City County and there is a unique situation in Nairobi where we agreed with the Judiciary that the city courts here will be manned and managed by the County Government of Nairobi City County and that all the fines that are collected there should go back to the people of Nairobi.

The problem, Sen. Cheruiyot--- Oh no, Sen. Cherarkey. I think they are the same people.

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

The Temporary Speaker (Sen. Wakili Sigei): Sen. Sifuna, I think your information is wrong. You are digressing.

Sen. Sifuna: Mr. Temporary Speaker, I just want to conclude that we in Nairobi City County feel that this figure of Kshs87 million is still very low. If you put into perspective the number of times Nairobians are arrested, harassed and taken to court by the Nairobi City County Council askaris, our figure should actually be higher. However, it is putting into perspective the population and the situation in the city.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Proceed to conclude, Sen. Cherarkey.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, this is the first time Sen. Sifuna has given useful information to this House. I am proud of him.

(Sen. Sifuna spoke off record.)

I appreciate you and that is why I am saying this is useful information---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, you allowed Sen. Sifuna to inform you.

Sen. Cherarkey: Yes. I am just saying it is useful information.

The Temporary Speaker (Sen. Wakili Sigei): You are almost being disorderly by alluding to the fact that it is the first time that he is giving any useful information. It is appropriate that you acknowledge and---

Sen. Cherarkey: Mr. Temporary Speaker, Sir, with your indulgence, this is one of the rare occasions that I have gotten useful information from Sen. Sifuna. I hope he keeps up the good spirit.

My final point is on salary. I want to agree with my colleagues. I said this before when you gave me a chance. Why do you allow these Universal Health Coverage (UHC) staff to demonstrate daily? Senate Majority and Senate Minority Leaders, you have led us. Even last week with the consultation with the former Prime Minister. Why can you not call to order the Committee of the Whole, the Cabinet Secretary for Health and his Ministry, the Council of Governors (GoG) and stakeholders of UHC through your powers, we sit here as the whole House and resolve this UHC issue? This is our legacy.

I want to challenge the leadership of this House, led by Sen. Sifuna, Sen. Wambua and Sen. Cheruiyot, please, call the whole House, so that we resolve this issue of UHC. We are tired. We are tired!

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Senate Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, two weeks ago, I said that there is an emerging trend of content creators in the House, instead of legislators. People want to do things for the gallery, but know very well that is not where the solution lies.

Sen. Cherarkey, I would have wished to help with the UHC challenge that we have, but you know for a fact that the solution lies in the National Assembly. All UHC staff are calling for is the budgeting of their allocation for their salaries and absorption into the counties. Unfortunately, this is not the budget-making House. In the Division of Revenue Bill, we only consider resources that are divided vertically between the two levels of Government. The final solution lies with our colleagues in the National Assembly.

Today, when the UHC staff were outside here in the Senate, I sent a Serjeant-at-Arms to whisper to them that this is the wrong gate. The right gate to demonstrate is where they are now, because they are presently before the National Assembly. So, is it in order for Sen. Cherarkey to mislead UHC staff that their solution lies in the leadership of yours truly and I do not know which other Senator, while he knows for a fact that our powers are limited to the Division of Revenue Bill with regards to county allocation only?

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senate Majority Leader. He referred to the leadership of the House comprising Sen. Sifuna, Sen. Wambua and you.

Sen. Cherarkey, take note of the comments by the Senate Majority Leader, particularly with regard to the mandate of this House. What other point do you want to share, Sen. Sifuna?

Sen. Sifuna: Now, Mr. Temporary Speaker, Sir, I wanted first to join the Senate Majority Leader in saying that we, as the leadership of this House, have done our best for the UHC workers. The stage at which we are right now is not about stories or petitions. They want money; money to be allocated from the budget for their absorption on a permanent and pensionable basis.

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I must say I was very offended that the person who is responsible for that, the Chairperson of the Standing Committee on Finance and Budget, while at a church on Sunday in Nairobi, instead of telling the UHC workers how much money he has put in the budget, he attacked Sen. Sifuna for being the person championing for the UHC staff workers.

As a House, the leadership here has done its best. Let the Chairperson of the Standing Committee on Finance and Budget, the Member of Parliament for Alego, put money aside for UHC workers.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Sifuna, I want to stop you there. You are already referring to a Member of Parliament who is not available in this House.

Sen. Sifuna: No. Mr. Temporary Speaker, Sir. I just wanted to send the UHC workers to the right---

The Temporary Speaker (Sen. Wakili Sigei): You have made your point.

Sen. Sifuna: Just a moment, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Take your seat, Sen. Sifuna.

Sen. Sifuna: Mr. Temporary Speaker, Sir, just let me conclude. Just a small point.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Sifuna, take your seat.

Sen. Sifuna: Mr. Temporary Speaker, Sir, just a small point.

The Temporary Speaker (Sen. Wakili Sigei): Take your seat, Sen. Sifuna.

Sen. Sifuna: I wanted the UHC workers to know that as Secretary General (SG) of Orange Democratic Movement (ODM), I have Hon. Atandi's number. The messages they are sending to us in this House should be directed to Hon. Atandi. That is all.

The Temporary Speaker (Sen. Wakili Sigei): Your point is made, Sen. Sifuna. Take your seat.

Sen. Cherarkey, can you conclude as you also correct the position that you made as regards the leadership of this House?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, there is a principle of the Constitution. When you read the Fourth Schedule, County Health Services are devolved. I want to ask the Senate Majority Leader to read the Constitution of Kenya 2010 closely together with Article 10 and Part II of the Fourth Schedule. What I was saying is that they should provide leadership because the National Assembly has scarcity of leadership. That was what I was requesting. Was it too much to ask, Sen. Sifuna? In fact, Sen. Sifuna, you should call Hon. Atandi to order because he is your member of ODM and tell him to allocate money. That is what I was requesting. I did not request a lot.

I had a discussion about UHC with the Chairperson of the Standing Committee on Health, Sen. Mandago. I want to appeal to the Senate Majority Leader; he has ears and eyes for who is who in this country. Whisper, so that this issue of UHC can be resolved once and for all. Is it too much to ask on behalf of UHC? It is not too much? That is what I am only requesting. On this issue of salaries and therefore leadership of this House, including yourself, Mr. Temporary Speaker, Sir, let us come out and provide leadership.

Mr. Temporary Speaker, Sir, you can see the Senate Majority Leader is whispering "a nurse" "a nurse". The person who knows the nurse is Sen. Sifuna. He said in public that he has "a nurse" by name.

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I do not want to mention the name, was it Cindy or somebody? He said it on record in Migori, in the presence of Sen. Eddy. I do not know, maybe you will ask him why. In fact, that is why Sen. Sifuna is my greatest supporter today because when you talk about anything around health, he remembers one nurse that changed his life.

Mr. Temporary Speaker, Sir, the issue of salaries that will come to Nandi is Kshs176 million plus. This will go to the Community Health Promoters (CHPs). It will go to the industrial park and the health sector. I expect us to get value for this money. I agree with Majority Leader here.

I said, service is not about brick and mortar. Hospitals in Nandi are coming down. If you want to visit the dirtiest hospital in Kenya, just go to Kapsabet County Referral Hospital, presided over by Governor Sang maladministration. I have several times challenged the Chairperson of the Committee on Health to come to Nandi. Kapsangere is stalled. Kobujoi Health Centre is stalled yet, it has consumed Kshs100 million. I know the governor is your friend. God forbid if he gets an emergency medical condition.

I hope that doctors, nurses and healthcare practitioners in Nandi will get value. Finally, on the issue of the World Bank and Danish International Development Agency (DANIDA), Nandi is going to get over Kshs480 million, almost close to 1 billion. We need to see value for this money. I have seen my project in Mosoriot Township has stalled, yet this money has been released, Kshs485 million. The footpaths constructed by the County Government of Nandi, by Governor Sang, cannot even be used by two dogs because it is too narrow. Two people cannot even pass each other. We must be told what the value is and Kshs480 million loan from the World Bank. It is not a gift or *sadaka*. It is money meant to transform the lives of the people of Nandi.

I call upon the Committee on Finance and Budget--- Let us sit on royalties and court fines.

With those many remarks, I beg to support and let us vote.

Sen. Oketch Gicheru: I thank you, Mr. Temporary Speaker, for giving me this opportunity to make a comment on this. There are some clarifications that I would like to make here that are very important.

We share revenue in two forms. Number one is the revenue that we share from equitable shares required under Article 202. Where there is money we share between the national and county governments. That informed our Division of Revenue Bill, which we discussed last time.

Secondly, we fight here for additional allocation to counties. Regarding additional allocation to counties, there are four areas where this money comes from. One has been contentious. I will go back to it because my Chairperson has been implicated in this. I need to explain to the House why it was important for the Chairperson perhaps not to put it on his talking notes.

The counties must note that as a House, we fought for this and ensured that out of what the national Government gives us as share under Article 202, they can put additional money to counties. In total, we are sending to counties Kshs8.4 billion out of the additional shares from the national Government. Apart from that, we then have additional allocation from unconditional allocation from court fines. That would mean monies that come as a result of offenses that people have violated of respective county

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laws. On that, we are scheduling today Kshs116 million that is supposed to go to the counties.

Lastly, there are those additional allocations that come from loans as well as grants from other development partners as a country. In this Third Schedule, we are sending Kshs37 billion.

It is important that I report to the people of Migori that apart from our equitable share that we sent to Migori that had now passed Kshs8.6 billion on the national Government share, we are scheduling that Migori gets Kshs186 million that is meant for the County Aggregated Industrial Parks (CAIPs), which have commenced and are taking root in Migori.

The status is still wanting. The Governor must take note and ensure that this Kshs186 million we are sending does the rightful job. The second thing we are sending to Migori here is money for the CHPs who used to be community health volunteers, sometimes past. Of course, they were incorporated. These CHPs are a key component of our healthcare system in Migori County, and we are giving an additional Kshs88.4 million in this Schedule.

Mr. Temporary Speaker, Sir, lastly, on that national Government share, we are sending an additional allocation for doctors' salary arrears that are in Migori, Kshs 27.7 million. In that category alone, we are adding a whopping Kshs302 million to Migori County. I think this is commendable. As it has been seen and it affects Migori and other counties, I wish the National Assembly, in passing this schedule, would have added under the national Government share, a portion for the Universal Health Coverage (UHC) workers. This is the portion that they should have added, so that we can deal with this issue of moving the entire payroll of UHC workers from national payroll and then putting them on county payroll, yet there is no money to follow that.

I think it is going to be problematic that we might face a situation where we will have a total collapse of primary health care. This is because if that payroll is transferred to counties and there is no allocation under this additional allocation bracket, those workers will go to counties and then they will not work because there is no money. Before we realize, they will drop out and all hospitals as well as all other health care facilities will not function.

This is a responsibility of the National Assembly to allocate money under this docket that will have gone to the UHC workers. Senators have said so here. Sen. Cheruiyot and Sen. Sifuna have talked about it very passionately. We will still fight for that and make sure that the national Government share must be able to take care of this.

Migori County seems not to have so many offenders to the county laws because, checking on this, we are scheduling under court fines as additional allocation, just about Kshs974,000. We are further scheduling to Migori County an additional Kshs371 million under loans and grants that includes money from Financing Locally-Led Climate Action (FLLoCA), DANIDA and the World Bank. In all this total basket, we are adding Migori County an additional Kshs674.8 million. This is money that if put to good use, should be able to transform the life of the people of Migori County. I urge the leadership of Migori County, that after doing all this work here, we must make sure that these

monies are put to good use and are put in a place that they can be able to serve our people.

Lastly, Mr. Speaker, I said I wanted to bring a recourse to a conversation that has implicated the Chairperson of the Committee on Finance and Budget on the issue of mineral and royalties. It is not comprehensive here because, ordinarily, that amount of money should also feature as an additional allocation to counties in this conversation. This is because there are counties like Migori that has got a lot of gold and this money sometimes leaves our communities. It does not go back to Nyatike, Osiri-Matanda and Masara.

Mr. Temporary Speaker, Sir, if you look at Kehancha today, you will see an emerging mining population bigger than some quarters known for mining. Therefore, mineral royalties must go back to our counties. I also would also like to say that the reason perhaps, my leader in the Committee on Finance and Budget did not talk about this is because, mineral royalties is guided---

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Mandago? Sen. Eddy, take your seat.

Sen. Mandago: Mr. Temporary Speaker, Sir, I would like Sen. Eddy to clarify something I have heard because English can sometimes be confusing. In his statement on minerals, he has said that the Chairperson of the Committee on Finance and Budget is implicated. The people of Mandera might think that their Senator has begun some mining business and yet, in my understanding and perception, he was referring to the Committee on the role of minerals. This is a House of record, let it be clear.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Gicheru, proceed to make that clarification.

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, it is 4.51 p.m. and Sen. Mandago has just walked in and, therefore, I understand his plight. I said that when one of the Senators was speaking here, he accused the Chairperson of the Committee on Finance and Budget for fighting for the inclusion of mineral royalties in this disbursement schedule as an additional allocation; which is true. However, I wanted to give clarity as to why that did not feature here. That is where I was going. The next time, Sen. Mandago should try to come to the House early.

Mineral royalties are guided by the Mining Act, 2016. That allocation is under Section 181. The Act is further guided by the Mining (Mineral Royalty Sharing) Regulations, 2023 which we passed here in this House. If you further look at the PFM Act under Section 28, you will see that it requires mineral royalties after the collections are first put into a Mineral Royalties Collection Account, then, under Section 75 of the PFM Act, that collection account must be transferred to the Consolidated Fund Account.

Mr. Temporary Speaker, Sir, where does the sharing element come into? Under those Regulations, Section 5 says-

“(1) The accounting officer of the State Department shall prepare and submit to the National Treasury, by the 15th day after every quarter, a schedule of royalties on amounts—

(a) of royalties received from holders of mineral rights;

(b) payable to the National Government, County Governments and communities respectively.”

Mr. Speaker, Sir, I will not bore you with much, but it goes further to share the apportionment in terms of percentages that must go to the national Government, county governments as well as local communities. That schedule is already there and is established by law and subsequent Regulations.

It is not that the Chairperson of the Committee on Finance and Budget was not aware of this. We canvassed on this and he is well informed. I am also well informed as a Member of that Committee. Sen. (Dr.) Boni Khalwale and other Members are just as informed. It is only that this schedule is already prescribed for by law and that is why it did not feature on this.

With that, I support this Schedule and encourage that we keep on fighting hard, so that the National Treasury does not only share these schedules for us to pass, but they must honour these schedules as well in order to ensure that those monies go to counties on time and reach our people in the same spirit as the equitable share; which is fathered by Article 219 which provides for money to reach those counties in time, without undue delays and in the measures that have been passed in this House.

Mr. Temporary Speaker, Sir, I hope that we will go into a good ride with the National Assembly and the National Treasury in making sure that in future schedules and county additional allocation of resources, money will be allocated to the UHC workers for them to be included in this kind of schedule so that they get their money.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Abass Mohamed.

Sen. Abass: Thank you, Mr. Temporary Speaker, Sir. I join my colleagues in support of the Cash Disbursement Schedule for the Financial Year 2024/2025. This schedule is coming in too late at the end of May. We only have one month for these funds.

I was a Member of the mediation committee and every year, whenever we have talked about additional funds, we always had a mediation committee. This is unfortunate. It is time that this House discussed on how best to handle this money independent of the National Assembly because every time, this money always delays and at times, the National Treasury releases these funds late.

Mr. Temporary Speaker, Sir, money may not get released for three months and workers do not get paid. The issue of releasing funds to the counties must be discussed in this Senate and we must come up with a way to disburse monies on time, like in other institutions in the national Government.

In the Schedule, my County has received almost Kshs265 million, some of it is for CAIPs. I have seen many buildings coming up in Wajir County. I am asking myself whether this is a priority for me. We do not have many cottage industries and when we start with these big buildings, I fear that we will be having white elephants after completing them. We do not even have the products for those places. I do not know whether we will use them as cereal boards.

There is money allocated to CHPs who are poorly paid, which is a small token. It is Kshs5,000 per month and this money is not received on time. These people do a very

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important job, especially in my area, which is 56,000 square kilometres. Then someone is told to go work, there is no transport, any support or public means to go to those farfetched places.

Therefore, I urge the Committee on Finance and Budget to look into this issue of CHPs, so that we can at least improve their allowances. As it is, it is an abuse of human rights. You cannot send someone to work for you and not give them the necessary support. Even the little Kshs5,000 delays. We need to have a standing allowance payment for these health promoters.

Mr. Temporary Speaker, Sir, on doctors' salaries, it has been said by my colleagues that every morning, we have doctors wearing uniforms, loitering in the streets and making noise. That is unprofessional. This happens in this country. These are not hawkers, but people who have gone to school for seven years. They got good grades and then they walk on the streets everyday demanding for their rights. This should not happen anymore.

This Senate has to intervene and come up with a way where these doctors can be helped. The UHC workers are not only doctors, there are nurses, technicians and every other cadre. We must find a solution to this problem once and for all.

Mr. Temporary Speaker, Sir, I would like to tell the Committee on Finance and Budget that if you go to our counties, the ECDEs do not have any money allocated to them. They are at the mercy of counties. These are the people we are depending on in future. They are young children and they have no proper classes, materials and some have no desks. In my county, children sit down and the classes are overcrowded. Therefore, there is no allocation of funds for Early Childhood Development and Education (ECDEs). The additional funds should also have money for the ECDE classes and pupils for us to have better learning environment for those young girls and boys. Those young boys and girls are the future doctors of this country.

We have the other issue which is the court fines. I think this is not fair. Every county must get their realities of the court fines. We know that Kenyans from all corners go to the High Court or the Court of Appeal, which are in Nairobi. The money should not only go to Nairobi or a few counties. That money must go to all counties, however little it will be.

Finally, we have the money from donors and it is a lot of money. My county is currently receiving Kshs1.7 billion, which is a lot of money. They have been getting that money even in the previous years. Unfortunately, what is on the ground is too little. The other issues is health. I think the Social Health Authority (SHA) has improved the operations of institutions like the dispensaries and health centers. However, the problem with SHA is that there is no proper accountability. The money is being used at source. A lot of money has been collected, but there is no proper accountability or where it has been put in place.

This country must come up with proper auditing and accountability. We have a lot of money coming to various--- SHA has really changed things because the health centers and dispensaries are now receiving a lot of money, but that money is not being used prudently. I am worried that this money will be lost if there will be no accountability.

Mr. Temporary Speaker, Sir, we cannot continue crying like babies for money to be allocated to the counties. The National Treasury must have a section for the counties in order for them to have an independent institution that will take care of their funding and budgets.

With those few remarks, I beg to support it.

The Temporary Speaker (Sen. Wakili Sigei): Finally, we will hear from Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I have two general comments. The first one is that we have to carry the country with us. There is so much arrogance amongst governors. They think that this money can just find its way in the county revenue fund without the legislation that we are doing right now.

We want the people, to whom lies are sold by these governors, to hear what we are doing this afternoon. They should know that in the Financial Year 2024/2025, there was a balance when we shared money between the national Government and the county governments. It is that money that the Senators have been pushing the national Government to add to the counties. It is called an additional money from shareable revenue of the government.

The second issue in this particular Bill that I want the members of the public to understand is the money, which is supposed to be given to counties. They are proceeds of payments made at our local courts. The members of the public should also know this Bill ensures that counties that mine various minerals get royalties through their governors.

Finally, but not least, this Bill ensures that the loans and grants from the World Bank, IDA (International Development Association), Financing Locally Led Climate Action (FLLoCA) and other international communities are now shared by the National Treasury with each county. That is the first general comment.

Mr. Temporary Speaker, Sir, I must apologize because we want to pass this quickly because we have run out of time. We are not doing that because this Bill is not important. We are also doing that because governors and Members of the National Assembly have taken each other to court. We were forced to remove an amount meant for the Road Maintenance Fuel Levy from this Bill. Otherwise, we would not have realized it this financial year.

We have come to the end of the financial year and we have left that out. We are now releasing this money. I want to appeal to governors and the Members of the National Assembly (MPs) in our counties. When it comes to sharing contracts and tenders, governors and MPs are friends. When it comes to hurling insults at the Senators, the governors and MPs are always friends. However, when it comes to people's issue where Kshs10.5 billion is to be released to maintain roads in our counties, we suddenly see that the governors and MPs do not want to agree.

The President of the Republic of Kenya who is also the party leader of UDA has a strong 158 MPs. Hon. Raila Amollo Odinga, former Prime Minister, has another 88 MPs in that National Assembly. What stops the two of them, having agreed at the top about broad-based Government, from whipping the MPs to withdraw the little cases they have in court that delays the members of the public from enjoying good feeder roads?

Mr. Temporary Speaker, Sir, I will not get to the specifics of this Bill. Arising from what I have said above, I want the people of Kakamega County to know that Fernandes Barasa will receive Kshs711,709,892 because of this industry. I want to inform the doctors of Kakamega County, who are owed salary arrears, that in this Bill, there is Kshs44,529,977. The doctors of Kakamega County should expect Hon. Barasa to pay them these millions next week. If he does not do so, I will lead them to the office of the Governor. We will throw him out until he has paid them. That is when he will understand that we are not playing games in Nairobi.

I also want to appeal for calm amongst the Community Health Promoters (CHP) of Kakamega County. In this Bill, we have brought home Kshs127,500,000. I am appealing to all the CHPs in Likuyani, Lugari, Malava, Navakholo, Shinyalu, Ikolomani, Lurambi, Mumias East, Matungu, Mumias West, Butere and Khwisero. I want them to take the nearest *boda boda*, next week, and go to the Governor's Office. They will find me there. He must pay them this money.

He has exported to Kakamega County the theft he used to practice at the Kenya Electricity Transmission Company (Ketraco). He will chew this money if we do not force him. They will, therefore, have nothing to eat. Because of this Bill---

Sen. Faki: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Faki?

Sen. Faki: Mr. Temporary Speaker, Sir, I usually do not like interrupting a colleague's thoughts during his presentation in this House, but I heard Sen. (Dr.) Khalwale talk of the theft at Ketraco. He is casting aspersions on the person of the Governor of Kakamega County. I do not think that is right because there are no accusations levelled against that Governor in this House to warrant such blatant attack and violation of our Standing Orders.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, you are a senior Member of this House. Let me remind you of the provisions of Standing Order No. 121---

Sen. (Dr.) Khalwale: Exactly, Mr. Temporary Speaker, Sir. It is because of that seniority---

The Temporary Speaker (Sen. Wakili Sigei): The Chair is not yet done.

Sen. (Dr.) Khalwale: Eddy, Barasa's puppy, we are talking about the people of Kakamega.

The Temporary Speaker (Sen. Wakili Sigei): Order, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker sir, it is because of that seniority that I want to appeal to the distinguished Senator from Mombasa---

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

The Temporary Speaker (Sen. Wakili Sigei): I will deal with your point of order, but let me conclude.

I indicated to you that the Chair had not concluded directing you to the provisions of Standing Orders No.s105 and 121 regarding the nature of statements you can make and order in this House. As you proceed, please remember those particular provisions of

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the Standing Orders. The Chair is aware that you are a senior Member of this House. However, I will not hesitate to apply the provisions of these Standing Orders.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. Indeed, it is because of the seniority you are alluding to that I would like to appeal to my younger brother, who is my junior in this Parliament by many years, that I am alive to the facts. It is due to the ongoing case of Kshs18 billion by KETRACO for which the governor was arrested by the Ethics and Anti-Corruption Commission (EACC) that I have opened my mouth. Therefore, if you had challenged me to substantiate my claim, I would have done so using that case.

I want to take this opportunity to appeal to the Governor of Kakamega County not to look far. He should take a walk and visit Bungoma County to speak with his brother, Governor Lusaka, and then go to Kitale County to speak to his brother, Hon. George Ntembeya. Both of them are doing a sterling job to the extent that the Governor of Bungoma County has secured funding for the construction of the County Aggregated Integrated Park (CAIP). Governor Ntembeya has also received funding. However, Governor Barasa has not because he has not convinced the national Government that he has fulfilled his responsibilities. He should learn from the performing governors of our region.

Having said that, I want to speak to the issue of court fines. It is very unfortunate that Hon. John Mbadi has signed this schedule and declared that Kakamega County does not deserve even a single shilling from court fines. In a county of 2.5 million people, Kakamega, court cases occur all the time. Where is the reimbursement for Kakamega County from the National Treasury, Hon. Mbadi?

Mr. Temporary Speaker, Sir, I want to draw the attention of Members to the fact that the little money being allocated here is merely a sweetener. There is no audit to tell us how much money was collected countrywide. This is arbitrary. In fact, this is budgeted corruption that members of the public have been raising on social media and other fora.

(Sen. Wambua spoke off record)

Yes, I would like to be informed by the Senator for Kitui County.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Boni, I have not heard Sen. Wambua requesting the Chair to allow him to speak.

Proceed.

Sen. (Dr.) Khalwale: I am sorry, Mr. Temporary Speaker, Sir. I will proceed.

Since these funds have not been audited, we do not know what we deserve from the Consolidated Fund. This is the reason I propose to this House that we introduce the necessary legislation or amendments to the Public Finance Management (PFM) Act to establish a clear-cut structure that separates Appropriation-in-Aid (A-in-A) at the courts, distinguishing cases arising from county legislation from those due to national legislation.

The A-in-A is very straightforward. Just as we have a county attorney, we can also provide in law for a county magistrate's court dedicated specifically to cases arising from county legislation. Funds from these cases should not be deposited into the Consolidated Fund, but instead paid directly into the County Revenue Fund (CRF). By

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doing this, Kitui County will receive its rightful share. Kakamega County will get its allocation and Nairobi City County will access its billions because there is a substantial amount of money involved. The theft at the National Treasury that we are allowing must be addressed through necessary legislation.

If there is an issue related to crime, then it is tied to royalties. Kakamega County has vast gold reserves. In his wisdom, His Excellency the President has led his Cabinet in recognizing this resource by initiating the construction of the first and only gold refining factory in East Africa in Kakamega. This factory is currently under construction at Mwitambiza Market in Ikolomani.

We want members---

(Sen. Cherarkey spoke off record)

You will have your time to debate. Let me flow. I have already been offended by the rude interruptions from your side.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Boni Khalwale, as you continue, I have just been notified by the HANSARD that---

(Sen. Cherarkey consulted loudly)

Order, Sen. Cherarkey.

Sen. (Dr.) Boni, the HANSARD has just confirmed Sen. Eddy's intervention that you referred to him as not being Governor Barasa's puppy. As you proceed, you must withdraw and apologize for that reference.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, indeed, I used the word, "puppy". However, because sometimes I attempt to speak clear English, I said---

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Boni Khalwale, the Chair has directed that you withdraw and apologise for that reference before you proceed with your submission.

Sen. (Dr.) Khalwale: Yes, I want to do that, but I want to clarify what I said.

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

The Temporary Speaker (Sen. Wakili Sigei): Order, Sen. Cherarkey.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I will not kill by explaining what I said and then I apologise.

The Temporary Speaker (Sen. Wakili Sigei): You may proceed.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I am not so unreasonable to call a colleague a puppy. I said, "You are not Governor Barasa's puppy." That is what I said. If that word means in English that I call him a puppy, I withdraw and apologise. I would never call a colleague a puppy.

Mr. Temporary Speaker, Sir, it is because of this abundance of gold in Kakamega that the President has afforded us with his Cabinet and Government to construct a gold refinery at Mwitambiza Market in Ikolomani Constituency. This being the case, how can the National Treasury possibly claim that Kakamega County did not deserve a single cent from mineral revenues this year? As I speak, mining operations continue non-stop in

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Rostaman, Mwilitsa Village in Shinyalu, Isulu, Malinya, Shikoe, Lirembe and Masiyenze.

Sen. Osotsi: On a point of information, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Boni, would you like to be informed by Sen. Osotsi?

Sen. (Dr.) Khalwale: Yes, Sen. Osotsi is my younger brother.

Sen. Osotsi: Mr. Temporary Speaker, Sir, I was listening to my senior and neighbour, Sen. (Dr.) Khalwale, very keenly. This weekend, I had an opportunity to visit the place where the refinery is being constructed. It is a big complex. At that place, all the gold in this country, including from my own county, will be refined there. However, our counties, including Kakamega, are not getting any royalty.

It is important that we get an explanation. The Ministry of Mining, Blue Economy and Maritime Affairs has been entertaining illegal dealers in gold in our region. Therefore, money for their gold goes into people's pockets and not the Government. Therefore, we cannot get royalties. Something has to be done about it.

Sen. (Dr.) Khalwale: That is true and I thank you for that reminder.

Mr. Temporary Speaker, Sir, these matters are so serious to some of us because the resources that God gave particular counties are meant to help them come out of poverty.

Today if you go to River Lukose, which downstream becomes River Yala, you will see the Chinese mining using a boat. When the villagers complain, the provincial administration fights them. I had kept quiet because I am tired of fighting those people since they get protection from the Government. Armed Administration Police (AP) officers are also there.

Sen. Cherarkey: On a point of order, Mr. Temporary Speaker, Sir. I rise under Standing Order No.105 on responsibility for statement of fact. The Senator who is my good neighbour has stated that the Government protects them. What does he mean by that?

I agree that issues of minerals are emotive, but could he substantiate what he means? If the Government is protecting an illegality, then it is unfortunate. We need evidence of the same, so that we know who in the Government is protecting those individuals who are frustrating his people in terms of getting value for their minerals.

Is that in order, Mr. Temporary Speaker, Sir? He knows how to speak good English. He should have used the term "may" and not "shall".

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, you have raised your point of order. Yes, Sen. Boni Khalwale.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, my time has been taken by points of order.

The Temporary Speaker (Sen. Wakili Sigei): Definitely your time will lapse upon the lights going off. Spend the remainder of your time to conclude.

Sen. (Dr.) Khalwale: I was just appealing, so that I conclude this very important point.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Boni, spend the remainder of your time to conclude.

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Sen. (Dr.) Khalwale: Thank you. Mr. Temporary Speaker, Sir, I stand by that statement because I have been tear gassed several times in Kakamega as the Senator for Kakamega and the Senate Majority Whip. I was tear gassed when we were fighting the police to protect Shanta Gold from the Chinese.

As I speak, the Chinese have finished eating all our dogs. I arrested one of them two weeks ago---

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Boni, your time is up.

(Sen. (Dr.) Khalwale spoke off record)

Order, Sen. (Dr.) Khalwale. Your time is up. I will allow the last person to contribute. That is Sen. Faki before I call the Mover to reply.

Sen. Faki: Asante, Bw. Spika wa Muda, kwa kunipa fursa hii pia kuchangia kuhusu Hoja ya kupeleka fedha katika kaunti zetu. Yangu yatakuwa mafupi kwa sababu wengi wamechangia. Kwa hivyo, singependa kurudia.

Jambo la kwanza ni kwamba ipo haja kuwa na sheria ambayo itasaidia kaunti zetu kupata fedha ambazo zinapelekwa kwa Serikali ya Kitaifa na baadaye zinarudi kwa kaunti. Kwa mfano, faini zinazotowwa katika mahakama zetu kwa makosa kuhusiana na sheria ambazo zinasimamiwa na kaunti.

Kuna sheria kuhusu ujenzi, wale wanaouza bidhaa kwa rejareja bila vibali na sheria nyingine kama hizo. Pesa hizo zinalipwa kwa Serikali ya Kitaifa inayokaa nazo kwa zaidi ya mwaka kisha baadaye inaleta Mswada Bungeni ili upitishwe. Kwa mfano, pesa zitakazopelekwa mwaka huu zilikusanywa mwaka 2022. Ipo haja ya kuhakikisha kuwa pesa hizo zinaenda moja kwa moja katika akaunti za kaunti zetu ili ziweze kutumika katika mwaka ambao zimekusanywa.

Jambo la pili ni kuhusu *royalties* zinazolipwa katika kaunti zetu. Nitatoa mfano wa *base titanium*. Walienda Kwale wakachimba madini na sasa wamefunga. Hata hivyo, pesa zilizolipwa kwa Serikali ya Kitaifa hazijaenda katika Serikali ya Kaunti ya Kwale ili kufaidi jamii ambapo uchimbaji huo ulikuwa ukifanyika.

Kaunti ya Kwale inadai karibu shilingi bilioni moja. Hizi ni pesa ambazo ni *royalties* ambazo zilienda kwa Serikali ya Kitaifa lakini hazijalipwa kwa Serikali ya Kaunti ya Kwale. Vile vile, karibu Shilingi milioni 700 zinastahili kulipwa kwa kamati katika maeneo ambapo uchimbaji ulikuwa unaendelea. Hata hivyo, pesa hizo hazijalipwa na Serikali ya Kitaifa.

Bw. Spika wa Muda, tutapendekeza katika Mswada wa Marekebisho ya Sheria ya Uchimbaji wa Madini kwamba Serikali ya Kitaifa, serikali za kaunti na jamii zinazoathirika zipokee royalties zao kando kando.

Kwa hayo mengi, Bw. Spika wa Muda, asante kwa kunipa fursa hii.

The Temporary Speaker (Sen. Wakili Sigei): I can see a request on the dashboard by Sen. Olekina who already contributed to this Bill.

Hon. Senators, there being no other Member to contribute on this, I now call upon the Mover, who is the Chairperson of the Committee on Finance and Budget to reply.

Sen. Ali Roba: Mr. Temporary Speaker, Sir, I rise to reply. I want to extend my appreciation to hon. Senators who have contributed to the Motion on this schedule. I

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share the concerns that have been raised, particularly on the discipline by the National Treasury adhering to the disbursement schedule as approved by this Senate, which has not happened.

Considering that we are approaching the end of the financial year, the proposal in the county additional allocations disbursement schedule is that once passed, they will disburse the funds in two tranches. That is 50 per cent before end of May and the remaining 50 per cent in June.

Mr. Temporary Speaker, Sir, I have also heard concerns by some colleagues about mineral royalties. It is important for hon. Senators to understand that for mineral royalties to be shared, the Government must have collected them through formal channels, so that you pay mineral royalties from mining of minerals.

Once you mine and it goes through the Government channels, the Government will collect some royalties. Eventually, in accordance with the law as passed, the percentage that is supposed to be shared will be given to the county government. Even if you have unlimited mining taking place that is happening without documentation, that is without that mining going through the Government system, you cannot expect to get a share of mineral royalties. For example, Migori has gold. If mining and selling happen in the black market without going through the formal channels of the Government in terms of payment of mineral royalties for mineral extraction in quantities that are documented and values that are collected, then a percentage of that cannot be shared with the county government because the Government would have collected nothing. So, it does not matter whether it is in your record and you know there is too much gold, or this or that mineral in your county. If the Government system has no visibility of that in terms of collection, recording, payment of royalty in the stipulated rates, then the Government will not have any record to be able to say we have collected from Mandera County.

If the quantity of gypsum that is mined in Mandera County is not documented to through the formal system and royalties paid for, then the Government will not be able to give you---

Sen. Osotsi: On a point of order, Mr. Temporary Speaker, Sir.

Sen. Ali Roba: Yes, you can give your point of order if you are given.

Mr. Temporary Speaker, Sir, mineral royalties are shared only on the basis of royalties collected by the Government. It is not on the basis of minerals that you know, the mining is taking place in your county. That is the important information that needed to be shared.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi, what is your point of order? Take your seat, Sen. Roba.

Sen. Osotsi: Mr. Temporary Speaker, Sir, I rise under Standing Order No.105. The Chairperson has indicated that the counties do not get money because the minerals that are mined in those counties are mined in informal arrangements.

I would like to say that in my county, the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs has visited some of the mining sites. He has also visited Migori County inspecting those mines. Does it mean that the Cabinet Secretary, who is a Government official and is supposed to know the right channels in which minerals should be mined, is condoning the practice of mining through informal arrangements?

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The Temporary Speaker (Sen. Wakili Sigei): I am sure the Chairperson did not specifically make reference to those particular ones, unless I did not listen to him. He made reference to general mining areas where royalties do not go through the proper channels that would entitle a payment of the royalties. However, Chairperson, kindly clarify that as you reply.

Sen. Ali Roba: Thank you, Mr. Temporary Speaker, Sir. I would like to inform my colleague that the money being shared in the name of royalty will only happen through royalties collected by the Government in the stipulated rates. If the Government has no collection of raw minerals, being the mining that is taking place in, for instance, Mandera County and it has not gone through the formal channels--- Even if we know there are minerals mining that is taking place, unless there is evidence of collection of royalty, expecting a share is not entirely reasonable. This is because what is being shared is money collected by the Government, then a portion of it under the law, as shared by Sen. Eddy, in specific terms, the different sections of the law, the percentages stipulated is what is being shared. That is all I have said. I cannot respond on behalf of the Cabinet Secretary or anybody else. However, I am only stating with authority that royalties being shared are royalties collected by the Government. That is just a basic principle.

Mr. Temporary Speaker, Sir, the Disbursement Schedule we are seeking to pass today is an amount of Kshs50 billion that will go to our counties in the form of county additional allocation. These are amounts in just a few key categories.

The First Schedule of the Disbursement Schedule is carrying allocation financed by the national Government as a share of Kshs8.42 billion, comprising of conditional allocation for construction of county governments, the few counties that were promised to the amount of Kshs523 billion, Kshs2.9 billion conditional allocation for County Aggregation Industrial Parks (CAIPs), Kshs3.234 billion for Community Health Promoters (CHP) and Kshs1.759 billion conditional allocation for basic salary areas for county government health workers.

The Second Schedule carries disbursement of Kshs116.1 million as court fines. I would also like to clarify something on the issue of court fines. Unless your county legislation imposes a fine for which the courts will collect on your behalf, then you are entitled to a share, but you cannot expect a general collection. It does not mean, necessarily, you have a lower crime rate or a higher crime rate. It just means that the legislation in that county may not have carried the penalties required for the courts to be able to collect that on your behalf.

Mr. Temporary Speaker, Sir, the Third Schedule carries Kshs37.9 billion as conditional allocation from loans and grants from development partners. I am extremely happy to acknowledge the contributions and support from the Senators. In my response, I want to emphasize the onus is upon the Senate to fulfil its responsibility. This gives us the moral authority to criticize our county governments for not doing this or that after we have executed our mandate as the Senate.

The controversy between the Senate and the National Assembly regarding the issue of the County Additional Allocation was resolved at a much later date in the year. We will only do a lot of diligence by way of approving this County Additional Allocation Cash Disbursement Schedule.

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I know that because these are conditional grants, most of these grants are covered under a special-purpose account, differently for each donor-funded unit. So, the money will not be lost even if the county governments cannot absorb it. The money will go into the special-purpose account for the specific grant. Thereafter, they will be able to include it into their budgets by the end of June, 2025 and be able to use it now as appropriated, but the money will be with them for them to spend in line with the conditions that are given.

Mr. Temporary Speaker, Sir, I beg to reply.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, we are moving to Division.

Serjeant-at-Arms, could you please ring the quorum bell for five minutes?

(The Quorum bell was rung)

Hon. Senators, we have not been able to attain the quorum to undertake the division. Chairperson Committee on Finance and Budget, go back and comply with the orders. You cannot cross the Floor the way you have done.

Sen. Ali Roba: Mr. Temporary Speaker, Sir, I beg to reply and request that putting of the question on the Motion be deferred to a later date pursuant to Standing Order No.66(3).

(Putting of the question on the Motion deferred)

Next Order.

MOTION

ADOPTION OF REPORT ON THE FOURTH BASIS FOR ALLOCATING SHARE OF NATIONAL REVENUE AMONG COUNTIES

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Fourth Basis for Allocating the Share of National Revenue Among the Counties, laid on the Table of the Senate on Thursday, 17th April, 2025, and that pursuant to Article 217(1) of the Constitution, approves the Fourth Basis for Allocating the Share of National Revenue Among the Counties for the Financial Years 2025/2026 to 2029/2030 as follows-

County Allocation = (Baseline Allocation Ratio*Ksh.387.425 billion) + {[(0.45*Population Index) + (0.35*Equal Share Index) + (0.12*Poverty Index) + (0.08*Geographical Size Index)] *Additional County Equal Share above the baseline}.

Where –

i. Baseline =Ksh.387.425 billion being the equitable share for the Financial Year 2024/2025;

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ii. *Baseline Allocation Ratio* = The allocation factor derived from each County's allocation for the Financial Year 2024/2025;

iii. *The Population Index* is based on the 2019 Kenya Population and Housing Census (KPHC);

iv. *The Poverty Index* is based on the 2022 Kenya Poverty Report by the Kenya National Bureau of Statistics (KNBS);

v. *Geographical Size* is capped at 10 per cent.

Sen. Omogeni: On a point of order, Mr. Temporary Speaker, Sir. With regard to that Order, we had had a discussion with the Senate Majority Leader and the Chairperson of the Committee on Finance and Budget to allow that we do further consultation before that Motion is moved. I am saying so because the last time we were holding a *kamukunji*, we were disrupted in the middle when the Right Hon. Prime Minister Raila Odinga walked into the Chamber to address the Senators.

We, therefore, did not conclude. I would like us to get more time. We have a framework where we can go back to our deliberations in order to conclude. The Chairman was in the *kamukunji* and he knows that our *kamukunji* was disrupted and we never concluded the engagement. I am asking that in line with the discussion that we had with the Senate Majority Leader, that Order be stepped down to allow us conclude the discussions we had during the *kamukunji*.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Okongó Omogeni, I have listened to the intervention you have made. I would like to give the Chairperson of Standing Committee on Finance and Budget to give a comment, then I give a ruling considering the fact that we have had a *kamukunji* on this matter.

(Sen. Cherarkey spoke off record)

Sen. Cherarkey, on the same matter? Then go ahead.

Sen. Cherarkey: Thank you, Mr. Temporary Speaker, Sir. In the history of revenue formula in this House, I agree with Sen. Okongó Omogeni. We had not concluded the last time we had a *kamukunji* under your guidance.

Mr. Temporary Speaker, Sir, it would be important if we can take time off, defer this matter and then come when we have concluded. We do not want a protracted process. You know some of us were there during the last term - Sen. Wambua, Sen. Faki, Sen. Omogeni and I. The fight was very protracted until some colleagues were arrested and detained. Some got intimidated and were blackmailed. There was division in this House which was very unfortunate. It even divided the country.

I know the former Governor of Mandera and the current Senator is fully aware because he was also in the mix. I, therefore, challenge and request him with indulgence to let us have a common ground. I know there are smaller counties that feel that they still need to be part of the conversation like Vihiga, Elgeyo Marakwet, Nyamira and Isiolo. Then there will have a convergence point.

Mr. Temporary Speaker, Sir, I request the Chairperson of the Committee on Finance and Budget, a man with a big heart, a principal and the United Democratic Movement (UDM) party leader, to cede ground and allow us to have a conversation.

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When it comes to the Floor of the House, we will have a consensus. If he moves it today, I will have a contrary view and he will have a contrary view. Therefore, can we request deferral so that we can take it?

(Sen. Cheruiyot spoke off record)

Mr. Temporary Speaker, Sir, can you rule the Senate Majority Leader out of order? He should be thrown out. He is walking like he is in Chebin, Kapchebet or Belgut in Kabianga.

I am requesting that we defer and conclude on the *kamukunji* we had on the revenue formula. Come back to the house and have a convergence point, so that we can agree and carry along. I remember the last time, there was team Kenya and another team. We do not want to start those teams on the Floor of the House.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Omogeni, please take your seat.

Hon. Members, I want to give directions on this one. I allowed---

(Loud consultations)

Order, Members. The Chair will give directions.

(Loud consultations)

Order, Members. Were you done, Sen. Cherarkey? Let us hear from Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I want to make a disclosure. The disclosure is that I come from Kakamega County and just the other day, when I was old enough to see with my eyes, there was no place called Vihiga in Kakamega. Vihiga was just one of the divisions in Kakamega. It then became a district and then a county. We were all happy, but today, we realise the folly of separating Vihiga from Kakamega. This is because it has been left with no opportunity to access development funds, which is exactly what is being pushed by Sen. Omogeni and the ten other Senators.

If you allow me, I want to suggest that we stand down this debate and consult further. I will say something that has run through my mind for a while. It is true that the formula must confine to the Constitution; the Constitution speaks to equity and not equality. The only way to bring up the 11 other counties that are affected adversely by the formula is increasing the equal share. If you increase it too much, then you will have negated the Constitution, which speaks to equity and not equality amongst counties.

We always divide money between counties in the County Allocation of Revenue Bill (CARA). If by happenstance, we allow this formula or some other improved formula to go through, we should remember that we have got 11 counties that require to be supported when legislating CARA. That is my proposal of how to unlock this discomfort.

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What do I mean by that Mr. Temporary Speaker, Sir? If the shareable revenue will be Kshs465 billion, nothing stops us from pulling out and ring-fencing Kshs11 billion. With that, we can have Kshs1 billion for each of those 11 counties. They will then all start above Kshs6 billion then we share. It is doable through legislation. If we go through the formula, we will be challenged in court because we shall have attacked the principle of equity, which is not equality.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Wambua, you must be comfortable when the Chair says he will give you an opportunity to speak. You can now speak.

Sen. Wambua: I am comfortable, Mr. Temporary Speaker, Sir. A bit of institutional memory---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Wambua, take your seat. Allow me to say this for purposes of the Members who are ventilating on this issue. Let us not debate the Motion. Let us give our comments on whether we should give more time to defer our Motion.

Sen. Wambua: Well guided, Mr. Temporary Speaker, Sir. I will leave the institutional memory thing out and just go straight to this matter. There is a reason we had agreed on a *kamukunji*. We wanted to consult amongst ourselves informally and take a position. After which, we would move the Motion and fast-track its passage. We were doing well on the day that we had our *kamukunji*. However, we had other business. We received a visitor and it took the entire morning. Therefore, we did not return to where we had stopped when the visitor arrived in order to conclude the informal consultation.

Mr. Temporary Speaker, Sir, my view, taking up from where Sen. (Dr.) Khalwale left is that we should take a little more time, not just to idle around, but to consult. Let us be purposeful about consulting and agreeing on the best way forward. This will ensure when we meet, we will not have divisions and people coalescing around different teams such as Team Kenya and other team. We do not want those teams anymore; we just want to have one team.

(Sen. Cheruiyot spoke off record)

Yes, there is a team for devolution. It even got to a point where people had to buy specific ties for purposes of identity. Sen. Cheruiyot was the one who went to shop for those ties. He brought ties for people who are now calling themselves Team Kenya. Let us just take a little more time so we can agree on this.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Aaron Cheruiyot, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, the drafters of this Constitution were very mean to the Senate. Extremely mean. When we eventually get to know the truth about what really happened, we would wish to look them in the face and ask, why did you hate devolution this much? You gave the country a very good proposal in the form of devolution, but provided an extremely weak Senate to

protect its interests. However, I am still proud that, at least on this account, they made the Senate so powerful.

[The Temporary Speaker (Sen. Wakili Sigei) left the Chair]

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

Are you aware Members that this is the only dictate of the Constitution where once the Senate has made a decision, the National Assembly must raise a two-thirds majority to overturn it?

Madam Temporary Speaker, it is a power that we must use judiciously and with great wisdom. I know Sen. Ali Roba has prepared himself well and is ready to convince us. That is a good thing because a good chair must always be prepared at all times. However, we must also appreciate that this matter is highly emotional as it speaks to the very foundation of why one is elected as a Senator.

We pride ourselves in public gatherings every now and then in our counties, saying, "I have brought you this amount." Sen. (Dr.) Boni, that long lecture that you give to Governor Fernandes is a product of this formula. It is out of your intellectual input during this season that you shall be able to ensure you succeed in giving sufficient funds to Kakamega County.

Madam Temporary Speaker, the first church service I attended this year was conducted by a very special Kenyan, Fr. Alois Cheruyiot Bett who was shot last week by bandits in Elgeyo Marakwet. I remember my speech to the people of Elgeyo Marakwet. I promised them that when we finally consider the formula this year, we shall be mindful of all the 47 of counties. We shall also consider counties that are not economically viable, given the formula and the way we arranged it last time. I made a commitment. For your benefit, let it be known that those are my in-laws. My wife comes from Elgeyo Marakwet. Therefore, I do not want to run the deep risk of having misled my in-laws.

Sen. Omogeni and Senator for Vihiga County, these are our colleagues. Unfortunately, as Sen. Wambua has narrated, on the day Sen. Ali Roba was supposed to convince all of us, we had a very important guest whom we could not turn away. I take the blame as leadership for scheduling two very important events on the same day.

Madam Temporary Speaker, it is not too much to request that we schedule another *kamukunji* next week, either on Tuesday, Wednesday or Thursday, so that Sen. Roba and his team gets sufficient time to listen to colleagues who are raising very serious concerns about the proposal they are making and answer them before the House makes a decision.

We may not eventually agree with our colleagues, but at the very least, we should listen to them. It is not a must that we will eventually agree, but at least we should grant them an opportunity to try to convince us, as a House, that if we were to follow this process, eventually their people will feel sufficiently represented and also feel that the Senate of the Republic of Kenya listened to their plea.

Lastly, Madam Temporary Speaker, when we are sworn in here each term as Senators, we swear to defend and protect this Constitution. This Constitution serves all

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the 47 counties. That is why even last time, many of us took a very firm position and said your county gaining or losing is not the sole basis why you exist as a Senator. You serve a greater call of protecting devolution, which includes ensuring that all our 47 county governments are viable.

Madam Temporary Speaker, I want to plead with Sen. Roba. I know he is ready and willing to move. Permit that there be another session of consultation because we did not conclude that which we wanted to do on that particular day.

I thank you.

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

Sen. Osotsi, please endeavour to take two minutes, so that we have a few more contributors by Senators.

Sen. Osotsi: Madam Temporary Speaker, I support colleagues who are of the view that we take time for more consultation on this matter. I belong to one of the so-called small counties that do not get enough sharable revenue. We thought that we have a lot of issues that we need to address the committee and Members in general because it is becoming untenable to manage small counties.

Even as we say that, the Constitution is very clear. Article 203(1) highlights factors that must be considered when designing the formula. It states that there must be no economic disparities within and among the counties. That is a very important factor. It also talks about the need for affirmative action in respect of disadvantaged areas and groups. On that basis, we need to listen to the 11 or so counties, which have this challenge.

Secondly, Madam Temporary Speaker, there are two formulas that we are discussing. There is a formula by the Commission on Revenue Allocation (CRA), which bad as it is, gives an advantage to smaller counties compared to the formula proposed by the committee. We would like to look at these issues critically. For example, the CRA formula gives my county Kshs609 million while the committee formula gives my county Kshs263 million. Therefore, there is a loss of about Kshs340 million. On that basis, we need more consultation.

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, are you debating the Motion?

Sen. Osotsi: We are just agreeing on the need to have more consultation.

The Temporary Speaker (Sen. Veronica Maina): Then do not dwell on the merits and demerits.

Sen. Osotsi: Madam Temporary Speaker, I am simply giving reasons why we need to consult more.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Next is Sen. Mandago.

Sen. Mandago: Madam Temporary Speaker, I wish to add my voice on this matter. I agree with colleagues that we need time to ventilate on this matter. Since we did not discuss the matters to conclusion in our *kamkunji*, these being important and urgent matters as we go towards the end of the financial year and a new financial year will be beginning, I believe the decision of this House will affect the performance of

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counties in the next financial year. I would request the leadership of this House to consider if it could be possible for us to have the *kamukunji* on Thursday, so that we can conclude on this matter. In the following week before we break for recess, we should be able to debate and adopt the allocation of revenues to counties.

Madam Temporary Speaker, this is critical. I agree with Sen. Aaron Cheruiyot, the Senate Majority Leader, that for the 11 counties, unless the allocation reaches a minimum of Kshs6 billion, we might not see any meaningful development in those counties. There can be arguments that those counties are small. However, take an example of Elgeyo-Marakwet or a Lamu County. For the people of Lamu County to cross the ocean to be on the island, they have unique challenges and that is why they qualify to be a county. To construct a one-kilometre road in Elgeyo Marakwet County, a county that is 98 per cent hills and valleys, would cost close to Kshs5 million, while to construct one kilometre of road in Uasin Gishu will cost a maximum of Kshs1.5 million.

So, Madam Temporary Speaker, it is critical that this *kamukunji* happens the soonest, so that we are able to discuss and dispense all of this matter. This being an ‘upper’ House, which easily agrees because we are a House of reasonable men and women, I think with a *kamukunji* we should be able to resolve these matters.

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

Sen. Mungatana Danson, please proceed.

Sen. Mungatana, MGH: Madam Temporary Speaker, in Tana River County, in our Pokomo custom, we say that if you sharpen a *panga*, you are likely to bring down the tree in a shorter time. If you take time to sharpen your knife properly, you will skin a crocodile in the shortest time possible.

Similarly, if we take time to negotiate outside this formality and hear what in our custom we say, “listening to the stomachs of each other”, loosely translated, it means you are feeling what that person is saying on the other side, negotiation, will help us to sharpen our thinking and when we come here, we will skin the crocodile and fell the tree without a problem. We will agree. However, if we try to rush, there will be a lot of acrimony which we do not want.

Madam Temporary Speaker, I beg to support that we take more time.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Let us have Sen. Mundigi on the Floor and thereafter, Sen. Roba respond. After which, we shall close the matter.

Sen. Munyi Mundigi: Asante, Bi. Spika wa Muda. Hata mimi, naunga mkono. Sio mambo ya kupigania kelele, wala kukosana. Walakini, ni jambo ya kuja pamoja na *dialogue*.

Embu County ni mojawapo ya kaunti nyingi zilizotajwa hapa. Ni maombi yangu kuwa wakati tutakapokaa pamoja tuelewane na kaunti zote zipewe shilingi bilioni sita halafu mambo ya kuelewana ianze hapo. Hii ni njia mojawapo ya kuinua kaunti kutoka kwa ule mgawo wa pesa kwa sababu tunajua wakati *devolution* ilianza, kulikuwa na mazungumzo ya kuwa kaunti ambazo hazikuwa zinajiweza zipewe hela nyingi. Ni maombi yangu kaunti zote zielewane ili uchumi wao uimarike.

Kwa hivo, kama Seneta wa Embu County, naomba tuweze kuelewana ili tulete kaunti zote 47 pamoja kimaendeleo. Tuanze na mgao wa shilingi bilioni sita kwa kila

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kaunti. Kwa hivo, mimi, Seneta wa Embu, Alexander Munyi Mundigi, naunga mkono mambo ya kuelewana.

Asante.

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

Sen. Ali Roba, please proceed.

Sen. Ali Roba: Thank you, Madam Temporary Speaker. Having listened to the input of my colleagues and the wisdom to consult more, I believe that there is no harm in us consulting.

(Sen. Olekina consulted loudly)

My brother, Sen. Olekina, is rudely interrupting me.

I have just listened to my colleagues. There is no harm in consulting. The only issue I want to share, which is very critical, is that, first, I propose we have another consultative meeting. A breakfast meeting here in the Chamber on Tuesday morning at 8.00 a.m. We will go through the whole process again.

Secondly, hon. Senators, all the documents we presented are in our gadgets. I want to request that between now and that Tuesday, please, thoroughly familiarise yourself or request for a printout of the presentation we did. By the time we are coming to engage, you have also thoroughly familiarised yourself with this engagement.

The last issue that I want to request is, please, if we are rescheduling our moving of the Motion today to create consultation time, then let us commit to making sure that hon. Senators turn up on time on Tuesday and they stay through until we make sense of what we are discussing.

The challenge we have is that we will reschedule and come for Tuesday breakfast meeting, maybe a few people would have turned up for that engagement and then when we come to moving the Motion, people will say we still need to get more engagement time.

You must commit to coming on that Tuesday at 8.00 o'clock. You must also have thoroughly familiarised yourself with the report of the committee and what we presented and you must also sit in to the logical conclusion. This is a very critical function of the Senate, for us to get the Fourth Basis of Revenue Sharing formula that is least controversial and generally acceptable to everybody.

I am sure we cannot get a formula that is perfect for Mandera County, Narok or Kitui, but we can carry in a less harmful approach in terms of what we are proposing. I beg to support the discussion that has come forth. There is no harm in our brother Sen. Olekina also giving us a one-minute input before you can guide further.

The Temporary Speaker (Sen. Veronica Maina): Sen. Ali Roba, since you have donated one minute, I will give Sen. Olekina the one minute, so that I can give direction and we proceed.

Sen. Olekina: Madam Temporary Speaker, I just thought that I must remind the House that during the last revenue formula debate, we benefited a lot by engaging our budget office here as well as the Commission on Revenue Allocation (CRA).

The reason I am saying that all of us need to be on part and parcel and also understand the science behind this revenue formula, is so that when we are sitting here, we do not go through the 11 Motions like we did the last time.

Madam Temporary Speaker, I would like to seek your indulgence, in as far as the Standing Committee on Finance and Budget is inviting all the Senators. In my view, it is important. Just listen to my two cents. The Senators need to understand this scientifically.

Some of us are talking about population, others are talking about poverty and there is also a basis. Not all of us understand this. I truly understand because I went through it. Sen. Wambua also went through it in the last Parliament. So, having all of us sit here and debate, others might even trivialise the matter or might just make it as simple as my county needs X amount of money.

In the last debate, there was one county; it did not matter whether you denied that county money, it was still gaining. This is a county of Sen. Cherarkey. That county is still gaining. We were shocked. Why was it that whatever formula we came up with the county continued gaining?

If we do not engage the Commission on Revenue Allocation (CRA) we sit with our Parliamentary Budget Office, let them walk us through. That was what we did. We had a team of 11 Members who finally cracked a formula. I was one of the Members.

Madam Temporary Speaker, let us not take this thing to be light because we may not be able to pass that formula. We need 24 Senators. If Narok County will lose or fail to gain, I will not support it. I want to make sure that if I am not going to support, at least, I will have been convinced in terms of the scientific method being used.

Now it is about equity. I know there is no way all us will be equal. Small counties such as Vihiga, Samburu, Elgeyo Marakwet, Embu, Tharaka Nithi were losing money in the last formula. If we were to go with the formula that was being proposed by CRA, Mandera will lose a lot of Money same case with Garissa, Turkana, Kitui and even Nairobi City County.

All figures are not equal. There are people who understand Finance and those who do not. This is quite wise that we consult. Once we are fully in agreement and Narok County is gaining money, then by all means we shorten the debate and this Senate will go down in history as the first that has passed the formula of revenue sharing without lot of back and forth.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, in view of the prevailing mood in the House and the fact that the Mover of this Motion Sen. Ali Roba has conceded that it would be advantageous to have consensus; this Motion is deferred to the next sitting of the House as after negotiations are done.

It could be Tuesday afternoon. You could have the agenda included in the *kamukunji*, which is coming on Thursday or any other arrangement you would wish to have to arrive at a consensus.

Sen. Ali Roba has proposed a Tuesday morning breakfast meeting. He will organise for the logistics and then serve the Senate in the appropriate communication channels where Senators can engage on how that meeting will take place.

(Motion deferred)

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Hon. Senators, I also will reorganize the Order Paper and request the Clerk to call out order No.20.

MOTION

ADOPTION OF REPORT ON PETITION : DEATH OF MS. ANNITA JEPKORIR AT MTRH DUE TO ALLEGED MEDICAL NEGLIGENCE

Sen. Mandago: Madam Temporary Speaker, I beg to move-
THAT, the Senate adopts the Report of the Standing Committee on Health on a Petition to the Senate by Ms. Mercy Jepchirchir regarding alleged medical negligence and staff incompetence which led to the death of Ms. Annita Jepkorir at the Moi Teaching and Referral Hospital, laid on the Table of the Senate on Wednesday, 7th May, 2025.

The Petition was submitted by Ms. Mercy Cherono and reported to the Senate on 10th July, 2024. This Petition highlights critical issues in healthcare delivery and patient safety that demand urgent attention and action.

The key issues raised in the Petition included failure to locate and remove the foreign body despite repeated procedures. There was also lack of proper consent for certain surgical procedures, poor communication and record keeping, delayed and inadequate follow-up care and lack of transparency and fairness in the dispute resolution process.

Madam Temporary Speaker, the Committee on Health undertook a thorough inquiry into the matters raised in the Petition and held meetings with the petitioners and the key stakeholders, including the Moi Teaching and Referral Hospital (MTRH) and the Kenya Medical Practitioners and Dentists Council (KMPDC). The committee further sought written submission from the Cabinet Secretary of Health. These submissions were analysed during committee meetings leading to the preparation of this report.

Madam Temporary Speaker, medical negligence is a human rights issue that affects the right to life and the right to healthcare. Medical negligence complaints are usually received by the KMPDC and a complaint may also be filed with the police. Such grievances are emotional expressions of customers due to mismatches in the acceptance of the quality of services or products offered and are good momentum as input customers due to mismatches in the acceptance of the quality of services or products offered. They are also a good momentum as input because they create an opportunity for organisations to identify deficiencies that exist so as to develop immediate strategies to improve the quality of service.

The Petitioner informed the committee that she faced frustrations from the MTRH when she sought information about the procedure and the missing feet. She narrated how she was asked to tone down by medical staff or her daughter would not be attended as expected.

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Madam Temporary Speaker, the petitioner filed a complaint with the KMPDC and enumerated particulars in support of an allegation of medical negligence; patience, mismanagement, intimidation and failure to follow up on second admission. However, during the process of lodging the complaint with KMPDC, they felt subjected to humiliation, harassment and intimidation by individuals; some of whom work for KMPDC.

This report underscores the importance of accountability, transparency and adherence to the professional standards in healthcare institutions. The committee observes that the untimely death of Ms. Anita Jepkorir, was largely caused by medical negligence by medical personnel at MTRH where she sought medical attention after ingesting a black seed.

The failure of medical procedures to locate or remove the ingested foreign body later confirmed at post-mortem reflects a critical diagnostic error and a significant breach of duty of care. This is further compounded by systemic failures and adherence to clinical guidelines and standard operating procedures; a clear contravention of both College of Surgeons of East Africa, Central and Southern Africa (COSECSA) and the KMPDC guidelines.

Madam Temporary Speaker, the committee further observes that the misplaced food was a distraction by the medical practitioners from the failure to retrieve the actual foreign body. The failure by the operating medical personnel to revisit the CT scan results to confirm retrieval of the foreign object led to misdiagnosis, delayed outcomes and contributed to the demise of Ms. Anita Jepkorir.

The post-operative briefings were done by the medical practitioners who were not the lead surgeon nor an anesthesiologist in violation of good medical practice, professional standards and guidelines. The concerned medical practitioners and the MTRH did not document information shared during the different briefings with the patient. In the patient's records for continuity of care, no other procedures to locate the ingested foreign body recorded to allow for post-operative reviews to identify areas of complication.

Madam Temporary Speaker, it is in the finding of the committee that the petitioner was denied a fair hearing and their voice suppressed during dispute resolution. The MTRH and the KMDPC delayed in addressing the concerns raised in the matter as characterized by the extended and inordinate delay between the case when the case was filed and when the decision was rendered. The performance of the MTRH and the KMPDC during the dispute resolution was inefficient and unprofessional. The KMPDC appears to have violated the principles of confidentiality by sharing essential information and data received during investigation with third parties.

With the foregoing, the committee recommends that the MTRH and the medical practitioners involved in the medical procedures related to the late Ms. Anita Jepkorir should be held liable for the untimely death of Ms. Jepkorir. Consequently, the family of the late Ms. Jepkorir should be compensated for the damages caused by the negligent acts of both medical practitioners and the MTRH from the medical indemnity insurance.

Two, that the MTRH should, within three months of tabling this Report, establish clear protocols for surgical procedures that ensure all operations and critical medical

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procedures are conducted under the supervision of the qualified medical specialist. All post-operative briefings should be conducted by the lead surgeons to ensure accurate communication with patients and their families about the procedures and outcomes.

Three, the KMPDC should, within three months of tabling this Report, issue a caution or reprimand in writing to all medical practitioners involved in the untimely death of Ms. Anita Jepkorir in line with the provisions of Section 26(a). It should also investigate the professional conduct of the officers in its legal department who are responsible for mismanaging and delaying investigations of the issues raised in this Petition. It should report on the disciplinary and or administrative actions, if any, that will be taken to hold those culpable accountable.

Fourthly, the KMPDC should review its disciplinary procedures to ensure full compliance with Section 26(g) of the Medical Practitioners and Dentists Act, which requires fines to be imposed in addition to other appropriate disciplinary measures and create a formal patient advocacy programme within the healthcare facilities to assist families in navigating complaints and grievances related to medical care. It should also provide support in understanding medical procedures, rights, and available records in cases of perceived negligence.

Fifthly, the KMPDC should develop standardized protocols and mechanisms for investigating reported medical negligence cases that outline the steps to be taken, timelines for investigation and the criteria for evaluating evidence. Further, that the decision of such cases should be rendered within six months of reporting and investigations should involve independent oversight and families of the victims to ensure transparency and accountability.

On behalf of the committee, I extend my gratitude to the committee Members for their diligence, commitment and insightful contributions throughout this inquiry. I also thank the petitioner and all other stakeholders who provided valuable input during our investigation. It is my hope that this report will serve as a catalyst for meaningful reforms in the healthcare delivery and inspire confidence among citizens in the institution entrusted with our health and well-being.

As I conclude, I wish to sincerely thank the office of the Speaker and office of the Clerk of the Senate for the support they extended to the committee during execution of this mandate. This report has also informed and I we will advise the healthcare---

The Temporary Speaker (Sen. Veronica Maina): Hon. Senator, I do not think you have a right debate on it.

Sen. Mandago: Madam Temporary Speaker, I beg to move and request Sen. Muniy Mundigi to second.

Sen. Muniy Mundigi: Bi. Spika, muda umeyoyoma kwa hivyo sita sema mengi bali kuunga mkono kazi ya Kamati hii. Wamefanya kazi nzuri. Yule mama wa mtoto alipwe pesa na mambo ya madaktari ichukuliwe hatua vile inafaa ili iwe funzo kwa madaktari wengine.

Ninaunga mkono kwa sababu Kamati hii imefanya kazi mzuri.

The Temporary Speaker (Sen. Veronica Maina): Can you second the report.

Sen. Muniy Mundigi: Bi. Spika, kwa lugha ya Kiswahili, tunasema kuunga mkono. Nina 'second.'

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The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Munyi Mundigi. It is duly seconded.

(Several Senators stood up in their places)

Resume your seats, Hon. Senators.

(Question proposed)

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 afternoon, Wednesday, 28th May, 2025 at 2.30 p.m. This is pursuant to a resolution made earlier today, suspending the morning session to pave way for the National Prayer Breakfast taking place at Safari Park at 7.00 a.m.

The Senate rose at 6.30 p.m.