

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 3rd October, 2024

*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 a quorum?

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

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

(The Quorum Bell was rung)

The Speaker (Hon. Kingi): Hon. Senators, kindly, take your seats. We do have quorum now. So, I will allow the Clerk to call the first Order. Clerk, please, proceed.

(Loud consultations)

Order, Sen. Miraj and Sen. Chimera. If you want to hug, you can go and hug outside and not in the Chamber.

PAPERS LAID

Sen. (Dr.) Lelegwe: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, 3rd October, 2024-

REPORT ON ALL NEW LOANS CONTRACTED BY GOVERNMENT
BETWEEN 1ST MAY AND 31ST AUGUST, 2024

Report of the National Treasury and Economic Planning on all new loans contracted by Government of Kenya from 1st May, 2024, to 31st August, 2024.

REPORTS ON MSMEs CREDIT GUARANTEE
SCHEME FOR FY 2023/2024

Annual Performance Report by the National Treasury and Economic Planning for the Micro, Small and Medium Enterprises (MSMEs) Credit Guarantee Scheme for the Financial Year 2023/2024.

(Sen. (Dr.) Lelegwe laid the documents on the Table)

The Speaker (Hon. Kingi): The next one is by the Chairperson of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

REPORT ON DIVERSITY AND INCLUSIVITY
IN STAFFING OF STATE AGENCIES

Sen. Chimera: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 3rd October, 2024-

Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on an inquiry into the diversity and inclusivity in the staff composition of state agencies in Kenya.

(Sen. Chimera laid the document on the Table)

The Speaker (Hon. Kingi): Let us go to the next Order.

NOTICES OF MOTIONS

The Speaker (Hon. Kingi): The first Notice of Motion will be deferred to next week following instructions from the Senate Majority Leader.

ALTERATION OF DATES FOR SITTINGS
OF THE SENATE IN BUSIA COUNTY

THAT, AWARE that on 11th July, 2024, pursuant to Article 126 (1) of the Constitution, the Senate resolved to hold its Plenary and Committee sittings in Busia County, from 23rd to 27th September 2024 -

FURTHER AWARE THAT on 18th September, 2024, the Senate resolved to alter the dates for the *Senate Mashinani* in Busia County from 23rd to 27th September, 2024, to 28th October to 1st November, 2024;

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ACKNOWLEDGING THE recommendation of the Senate Business Committee to defer the holding of the sittings in Busia County;
NOW THEREFORE, the Senate resolves to defer its plenary and committee sittings (*Senate Mashinani*) in the counties until the Fourth Session in 2025.

(Notice of Motion deferred)

The Speaker (Hon. Kingi): Next is a Notice of Motion by the Chairperson of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration. I thought Sen. Chimera just laid the Paper on behalf of the Chairperson?

Sen. Joyce, you may proceed.

ADOPTION OF PROGRESS REPORT ON DIVERSITY AND
INCLUSIVITY IN STAFFING OF STATE AGENCIES

Sen. Korir: Mr. Speaker, Sir, I beg to give Notice of the following Motion-
THAT, the Senate adopts Progress Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration into an inquiry on the diversity and inclusivity in the staff composition of state agencies in Kenya, laid on the Table of the Senate on Thursday, 3rd October, 2024.

The Speaker (Hon. Kingi): Chairperson of the Standing Committee on County Public Investments and Special Funds, proceed.

ADOPTION OF REPORT ON CONSIDERATION OF AUDIT
REPORTS FOR VARIOUS WATER, SANITATION AND
SEWERAGE SERVICE COMPANIES

Sen. Osotsi: Mr. Speaker, Sir, I beg to give Notice of the following Motion-
THAT, the Senate adopts the Reports of the Select Committee on County Public Investments and Special Funds on its consideration of the Audit Reports for the Financial Years 2018/2019 (Volume VI), 2019/2020 (Volume VII) and 2020/2021 (Volume IX), for Eldama Ravine, Eldoret, Embu, Githunguri, Homa Bay, Kahuti, Kakamega Kapenguria, Kapsabet, Nandi, Karuri, Kericho, Kiambu, Kibwezi-Makindu, Kikuyu, Kitui, Lamu, Limuru, Mathira, Matungulu-Kangundo, Mbooni, Meru, Municipal Council of Machakos, Murang'a, Murang'a South, Naivasha, Nakuru Rural, Nakuru, Narok, Olkalou, Olkejuado, Othaya Mukurweini, Ruiru-Juja, Siboi, Tavevo, Tetu Aberdare and Wote Water, Sanitation and Sewerage Service Companies laid on the Table of the Senate on Wednesday, 2nd October, 2024.

The Speaker (Hon. Kingi): Before I allow the Clerk to call the next Order, I have the following Communication to make.

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COMMUNICATION FROM THE CHAIR**REPORTS ON ALL NEW LOANS CONTRACTED BY GOVERNMENT
BETWEEN 1ST MAY AND 31ST AUGUST, 2024 AND MSMEs
CREDIT GUARANTEE SCHEME FOR FY 2023/2024**

The Speaker (Hon. Kingi): Hon. Senators, as you may have noticed, the Senate Majority Leader laid on the Table of the Senate this afternoon the following reports-

A report by the National Treasury and Economic Planning on all new loans contracted by the Government of Kenya from 1st May, 2024, to 31st August, 2024, and a report on the MSMEs credit guarantee scheme performance for the period between 1st July, 2023, to 30th June, 2024.

The report on all new loans contracted by the Government of Kenya from 1st May, 2024, to 31st August, 2024, contains details on all new loans signed between the national Government and various creditors for the stated period.

Section 31(1) of the Public Finance Management (PFM) Act states as follows-

“The Cabinet Secretary shall submit to Parliament, every four months, a report of all loans made to the national Government, national Government entities and county governments, in accordance with Article 211(2) of the Constitution.”

Pursuant to Section 31(3) of the PFM Act, the report submitted to Parliament contains the following-

- “(a) the names of the parties to the loan;
- (b) the amount of the loan and the currency in which it is expressed and in which it is repayable;
- (c) the terms and conditions of the loan, including interest and other charges payable and the terms of repayment;
- (d) the amount of the loan advanced at the time the report is submitted;
- (e) the purpose for which the loan was used and the perceived benefits of the loan; and such other information as the Cabinet Secretary may consider appropriate.”

Hon. Senators, on the other hand, the report on the MSMEs credit guarantee scheme performance for the period between 1st July, 2023, to 30th June, 2024, contains credit guarantees issued to MSMEs for the stated period.

Section 59A of the PFM Act states as follows-

“(1) The Cabinet Secretary shall prepare a statement of the credit guarantees granted under section 58(5) and a summary thereon in such detail as the Cabinet Secretary may determine.

(2) The Cabinet Secretary shall, at least, once in every year, submit to Parliament the summary prepared under subsection (1) together with a report of—

- (a) the total value of credit guarantees given during that period;
- (b) the total value of credit guarantees liquidated during that period;
- (c) the total value of outstanding credit guarantees on the date of the report;
- (d) the risk assessment of the credit guarantees or classes of guarantees;

(e) information on the total value of credit guarantees, disaggregated into the number of enterprises owned by women, youth and persons with disabilities which have been guaranteed;

(f) information on the total value of credit guarantees, disaggregated into the number of micro, small and medium enterprises guaranteed and by the respective regions; and,

(g) any other relevant information prescribed by regulations for the purposes of this section.”

Hon. Senators, given the significance of the national debt in our public finance management framework, and further cognizant of the Motion passed by the Senate on 24th July, 2024, on the state of the nation, calling on the Government to take action to reduce the national debt, including undertaking an independent audit of the same by the Standing Committee on Finance and Budget, I hereby commit the Report by the National Treasury and Economic Planning on the new loans contracted by the Government of Kenya from 1st May, 2024, to 31st August, 2024, and the report on the MSMEs credit guarantee scheme performance for the period between 1st July, 2023, to 30th June, 2024, to the said Committee for consideration.

I thank you.

Let us go to the next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): We will begin by Statement pursuant to Standing Order No.53(1). The first one is by Sen. David Wakoli, but since he is not here, that Statement is dropped.

MANAGEMENT OF KITINDA DAIRY FARMERS
COOPERATIVE SOCIETY IN BUNGOMA COUNTY

(Statement dropped)

The Speaker (Hon. Kingi): Next is Sen. Hezena Lemaletian.

Sen. Lemaletian: Mr. Speaker, Sir, I have two Statements. I will begin with the first one.

MINING ACTIVITIES IN SAMBURU COUNTY

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding mining activities in Samburu County.

In the Statement, the Committee should-

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(1) Inquire on the ongoing mining activities in Samburu County, specifically determining whether adequate public participation was conducted prior to the commencement of these activities.

(2) Provide details of all local and foreign entities engaged in the mining operations and confirm whether they are licensed and compliant with mining strategic minerals, specifically Regulations of 2017.

(3) Assess the benefits accruing to the local community from these mining activities and establish whether individuals whose land is being utilised for mining purposes have been compensated.

The Speaker (Hon. Kingi): Proceed to the second Statement.

DILAPIDATED STATE OF ROADS IN SAMBURU COUNTY

Sen. Lemaletian: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the dilapidated state of roads and distribution of budget allocation towards road projects in Samburu County.

In the Statement, the Committee should-

(1) Provide a comprehensive report on the status of all roads within Samburu County under the jurisdiction of the county government, stating the challenges that have contributed to the dilapidated state of certain roads and enumerate areas most affected.

(2) Disclose the total budgetary allocation in the Financial Years 2023/2024 and 2024/2025 for road construction, repairs and maintenance by the County Government of Samburu, disclosing how the budget has been distributed among various road projects with details of specific allocations for different road segments, specifying how much has been utilised so far on new road construction projects and for maintenance of existing ones along with expected timelines for completion of such projects;

(3) Outline any plans by the county government to carry out maintenance on the deteriorating roads with specific focus on inspection frequency and criteria for prioritising repairs, including the expected timelines for repair and rehabilitation of dilapidated roads.

(4) State measures put in place to ensure transparency and accountability in the use of funds earmarked for road projects in Samburu County, explaining how the county government verifies progress and adherence to project timelines.

The Speaker (Hon. Kingi): Sen. Beth Syengo, proceed.

REGISTRATION AND LICENSING OF ECDE CENTRES

Sen. Tabitha Mutinda: Mr. Speaker, Sir, I request to read on behalf of Sen. Syengo. May I proceed?

The Speaker (Hon. Kingi): Proceed, hon. Senator.

Sen. Tabitha Mutinda: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding registration, licensing, governance and management of Early Childhood Development and Education (ECDE) centres across the country.

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Mr. Speaker, Sir, while county governments are responsible for primary education, the registration, licensing and management of Early Childhood Development Education (ECDE) centres remain under the national Government. These functions should be devolved, as provided for under Part 2 of the Fourth Schedule of the Constitution.

In the Statement, the Committee should-

(1) Examine the legality of certain sections of the Basic Education Act 2013, such as Section 17, which establishes county education boards as national Government agencies.

(2) Explain the reasons for the delay in devolving the registration, licensing, governance, and management of ECD centres to county governments.

(3) Outline any measures the national Government is taking in collaboration with the county governments to ensure the full devolution of these functions in line with the Constitution of Kenya 2010.

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

Sen. Chimera, you may proceed to read Sen. Wafula's request for a Statement.

MANAGEMENT OF KITINDA DAIRY FARMERS
COOPERATIVE SOCIETY IN BUNGOMA COUNTY

Sen. Chimera: Mr. Speaker, Sir, on behalf of Sen. David Wafula Wakoli, the Senator for Bungoma County, I wish to request a Statement on the management of Kitinda Dairy Farmers Cooperative Society.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Trade, Industrialization, and Tourism regarding the management of Kitinda Dairy Farmers Cooperative Society in Bungoma County.

In the Statement, the Committee should-

(i) Explain the governance structure of the Kitinda Dairy Farmers Cooperative Society, disclosing the names of the members of the Management and Supervisory committees, the respective number of shares held by these members, along the duration for which they have held the shares;

(ii) Provide a list of all members of the cooperative society, indicating the number of shares held by each member and when they were last paid dividends;

(iii) Table the minutes of the most recent special or Annual General Meeting (AGM) of the cooperative society, as well as the financial statements of the society for the last three years, specifying the respective incomes and expenditures;

(iv) Outline the reforms undertaken by the current management committee since assuming control of the cooperative society, indicating the current reserve, previous milk intake and debt portfolio; and,

(v) Explain why the current managing director was appointed to the position despite having been previously dismissed from the Society on fraud allegations.

The Speaker (Hon. Kingi): Sen. Tabitha Mutinda, you may proceed to read the Statement by Sen. Hamida Kibwana.

RISE OF ENTERTAINMENT JOINTS IN RESIDENTIAL
AREAS WITHIN NAIROBI CITY COUNTY

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. On behalf of Sen. Hamida Kibwana, I would like to read her Statement on the rise of entertainment joints and nightclubs in residential areas within Nairobi City County.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee of National Security, Defence and Foreign Relations regarding the increasing number of entertainment joints and nightclubs operating within residential areas in Nairobi County.

In the Statement, the Committee should-

- (i) Determine whether the rise of these establishments is due to a licensing or regulatory gap and whether the relevant authorities are enforcing zoning laws effectively;
- (ii) Provide details on the licensing process for nightclubs and entertainment joints in residential areas and whether specific guidelines exist to protect residential zones from such commercial activities;
- (iii) Investigate the impact of these establishments on children and teenagers particularly, in terms of exposure to noise, inappropriate behavior, and social vices like drugs and substance abuse;
- (iv) Recommend measures to mitigate the negative effects of these establishments with a focus on the protection of minors and their families and maintenance of peace and safety in communities; and,
- (v) Establish the role of county and national government authorities in regulating such establishments and identify policy gaps that need addressing to enhance enforcement of laws and protection of residential areas.

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

PLACEMENT OF STUDENTS IN PUBLIC AND PRIVATE UNIVERSITIES

Sen. Mandago: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the placement of students in public and private universities.

In the Statement, the Committee should-

- (1) Provide a status report on the number of students allocated to each public and private university in the last three intakes and the criteria used for such allocation outlining the declared capacity of each university versus the actual student enrolment.
- (2) State the criteria used to determine the cut-off points for each course and explain the variance of cut-off points for similar courses across different universities.
- (3) Disclose the budgeted and actual capitation disbursed to each university along with total funding to public universities over the last three years---

The Speaker (Hon. Kingi): Order, Hon. Senators.

Senate Majority Leaders, you should take a lead in the---

Sen. Mandago: Mr. Speaker, Sir, before I was interrupted, I was saying that the Committee should:

- (4) Report on the number of teaching staff in all public universities and confirm compliance with the approved lecturer-to-student ratio.

(5) Provide details of the number of students placed in private universities during the most recent intake, as well as policy documents, regulations, and approvals explaining the capacity and financial challenges faced by public universities as a result of this.

(6) Explain whether public participation was conducted before the decision by the Government to place students in private universities.

The Speaker (Hon. Kingi): What is the issue, Senate Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I want to bring it to your attention that--

The Speaker (Hon. Kingi): Sen Eddy Oketch, the Senator for Nandi County and Sen. Wakili Sigei, as you take your seats, kindly read Standing Order No.118. I will come back to you later.

Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I just want to make a humble request to you to. Maybe you indulge us, as a House, given that we have very important legislative business that we want to transact this afternoon at this Division of Revenue (Amendment) Bill, given that we have the requisite quorum in the House at this time.

If you may permit us in accordance with Standing Order No.1, that we conduct that particular exercise, then we can revert to the Statements immediately after we are done. This is important given that counties continue to await the decision of the Senate on this matter before, and there is still a long way out, especially given how the vote may turn out in the Senate, which may necessitate many other processes.

So, I want to humbly plead that we may do that right now.

The Speaker (Hon. Kingi): Very well.

Pursuant to Standing Order No.45(2) on the convenience of the House, I will move to re-arrange the sequence of today's Order Paper, so that we prosecute Order No.10 and thereafter, resume the normal flow as contained in today's Order Paper.

(Interruption of Statements)

Clerk, please, proceed.

BILL

Second Reading

THE DIVISION OF REVENUE (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.38 OF 2024)

(Sen. Cheruiyot on 19.9.2024)

(Resumption of debate interrupted on 25.9.2024 – Afternoon Sitting)

(Division)

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The Speaker (Hon. Kingi): Serjeant-at-Arms, can we ring the Division Bell for five minutes?

(The Division Bell was rung)

The Speaker (Hon. Kingi): Order, hon. Senators.

(Sen. Chimera consulted Sen. Korir)

Sen. Chimera, keep your distance.

(Laughter)

Serjeant-At-Arms, you may now close the Door and draw the Bar.

(The Bar was drawn and doors closed)

The Speaker (Hon. Kingi): Hon. Senators, we are going to Division on Order No.10. Kindly, pull out your card from the delegate unit. Serjeant-At-Arms, walk around and pick any card that is unattended.

(Sen. Nyamu stood in her place)

Sen. Nyamu, take your seat.

Serjeant-At-Arms, are we good to go?

Thank you.

Hon. Senators, you may now log back as I proceed to put the question.

You may proceed to vote.

(The Senators proceeded to vote)

Sen. Cheptumo, kindly proceed to the Dispatch Box and cast your vote.

(Sen Cheptumo walked to the Dispatch Box and voted manually)

(Sen. Munyi Mundigi and Sen. Osotsi consulted loudly)

Order, hon. Senators. Sen. Munyi Mundigi and Sen. Osotsi, as the Deputy Party Leader, you should show us a better way of doing this.

(Laughter)

DIVISION

ELECTRONIC VOTING

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*(Question, that the Division of Revenue (Amendment) Bill
(National Assembly Bills No.38 of 2024) be now read a Second Time put,
and the Senate proceeded to vote by County Delegations)*

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka-Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Oketch Gicheru, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang’wa, Kiambu County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

NOES: Nil.

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

AYES: 29

NOES: Nil

ABSTENTIONS: Nil

The “Ayes” have it.

(Question carried by 29 votes to Nil)

*(The Bill was read a Second Time and committed to a
Committee of the Whole today by leave of the House)*

Serjeant-At-Arms, you may now withdraw the Bar and open the doors.
(The Bar was undrawn and doors opened)

The Speaker (Hon. Kingi): Hon. Senators, before I allow the Clerk to call the next Order, I have the following Communication to make:

COMMUNICATION FROM THE CHAIR

THE CONDUCT OF SENATORS DURING THE IMPEACHMENT PROCESS OF THE DEPUTY PRESIDENT OF KENYA AND THE GOVERNOR OF KERICHO COUNTY

The Speaker (Hon. Kingi): Hon. Senators, as you may recall, at the sitting of the Senate held on Wednesday, 2nd October, 2024, the Senate Majority Leader rose on a point of order seeking the guidance of the Speaker on how Senators should conduct themselves

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pending the determination of a Motion in the National Assembly, which may find its way to the Senate. Two more Senators namely; Sen. Samson Cherarkey, MP, and Sen. Enoch Wambua, MP, rose in support of the point of order.

In the point of order, the Senate Majority Leader expressed concern that some Senators may have made utterances at various fora on the matter. Further, that some Senators may also have proceeded to express their view on the matter, one way or the other.

It is in the public domain that a Motion has been filed in the National Assembly on the proposed removal from office by impeachment of H.E. Rigathi Gachagua, EGH, the Deputy President of the Republic of Kenya. In accordance with Articles 145 and 150 of the Constitution, this is a matter that may be referred to the Senate for consideration and determination. However, as this matter is currently before the National Assembly, Standing Order No.101 (5) provides that it shall be out of order for a Senator to criticize or call to question the proceedings in the National Assembly. As such, therefore, I caution all Hon. Senators to desist on commenting on the proceedings in the National Assembly on this matter.

With respect to general comments of hon. Senators on the proposed removal from office by impeachment of the Deputy President, I refer hon. Senators to the requirements of Article 145 (2), which requires the Speaker of the National Assembly to notify the Speaker of the Senate, if a Motion to remove from office by impeachment of the Deputy President is supported by at least two-thirds of all members of the National Assembly. Action will be required of the Senate on the resolution pursuant to Article 145 (3) of the Constitution.

The Senate, being the trial Chamber on the proposed removal from office by impeachment of the Deputy President, will be sitting as a *quasi-judicial* body to hear and determine the matter. Comments made, whether written or spoken, may prejudice the just outcome of the process not only in the Senate, but also in the National Assembly, as this is a function undertaken by both Houses of Parliament.

Hon. Senators, earlier today, I received documents from the County Assembly of Kericho on the proposed removal from office, by impeachment of Hon. (Dr.) Erick Kipkoech Mutai, the Governor of Kericho County. At an appropriate time, I will communicate the Message received from the Kericho County Assembly on the proposed removal from office by impeachment of the Governor of Kericho County.

On the impeachment procedure of a county governor, this will be the sixth hearing that the Senate will undertake in the 13th Parliament. I expect that hon. Senators are familiar with the rules of procedure pursuant to Section 33 of the County Governments Act and Standing Order 80 of the Senate. Like the hearing and determination of the proposed removal of the Deputy President, the trial chamber for such removal of a governor is the Senate.

Similarly, comments made on the matter, whether written or spoken, in relation to the proposed removal from office of the Governor of Kericho County, may prejudice the just outcome of the process and the fair determination of the hearing.

Hon. Senators, I urge you to remain cognizant that comments on the impeachment process by hon. Senators may be relied on by parties here in the Senate and in courts of law, as was the case in High Court Petition E425 of 2020; *Mike Sonko Mbuvi Gideon Kioko vs Office of the Attorney General and the Independent Electoral and Boundaries*

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Commission and six others. In this instance, the petitioner sought to argue that remarks made by an Hon. Member of the Senate had eroded the capacity of the Senate as an adjudicating body in terms of Article 47 of the Constitution.

I cannot, therefore, emphasize enough that comments by Senators on matters that may come before the Senate or are already before the Senate will certainly attract some measure of scrutiny; some of which may be construed to mean that an outcome, one way or the other, has already been determined.

As such, therefore, during the pendency of these impeachment processes in Parliament and more particularly, in the Senate, I wish to caution Hon. Senators to desist from publicly commenting on the merits or demerits of the matters. Doing so would amount to anticipation of debate, which is an infringement of Standing Order No.99 of the Senate. It will also amount to grossly disorderly conduct within the meaning of Standing Order No.122(1) (a) of the Senate Standing Orders. Kindly, be guided accordingly.

I thank you.

Next Order.

COMMITTEE OF THE WHOLE

(Order for the Committee read)

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

IN THE COMMITTEE

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

THE DIVISION OF REVENUE (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.38 OF 2024)

(Several Senators stood up in their places)

The Temporary Chairperson (Wakili Sigei): Hon. Members, let us resume our seats.

(Loud Consultations)

Order, Hon. Members. We are now on the Committee of the Whole. Sen. Omogeni and Sen. Munyi Mundigi, resume your seats please.

Hon. Members, we are on the Committee of the Whole on The Division of Revenue (Amendment) Bill (National Assembly Bill No.38 of 2024).

Clerk, call out the relevant clauses.

Clause 2

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

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THAT the Bill be amended by deleting Clause 2 and substituting therefor the following new clause—

Object 2. The object of this Act is to amend the Division of Revenue Act (hereinafter referred to as the “principal Act”) to provide for the downward revision of projected ordinary revenue.

(Question of the amendment proposed)

The Temporary Chairperson (Wakili Sigei): Division will be at the end.

Clause 3

Sen. Tabitha Mutinda: Mr. Temporary Chairperson, I beg to move: -
THAT the Bill be amended by deleting Clause 3.

(Question of the amendment proposed)

The Temporary Chairperson (Wakili Sigei): Division will be at the end.

The Temporary Chairperson (Sen. Wakili Sigei): Sen. Osotsi, what is your point of order?

Sen. Osotsi: Mr. Temporary Chairman, Sir, this is an important piece of legislation. I would wish the Mover to also explain the import of the amendments. For example, the first amendment where it indicates; “to provide for a downward revision of the projected ordinary revenue.”

Can we be explained to so that we understand the import of this? I know the importance of passing this Bill, but I have been in this process before and the Mover has the responsibility to explain the justification of the amendment.

The Temporary Chairperson (Sen. Wakili Sigei): Sen. Osotsi, that point is taken. From Clause 4, going forward, the Mover may need to explain the import of some of those proposed amendments. However, for purposes of the House, Sen. Osotsi, remember, we have debated this. I recall you debated and raised the concerns you had. This led to the proposed amendments.

Sen. Ali Roba, proceed to move.

Clause 4

Sen. Ali Roba: Mr. Temporary Chairman, Sir, I beg to move:

THAT clause 4 of the Bill be amended by deleting the proposed new schedule and substituting therefor the following schedule-

SCHEDULE

(s.4)

ALLOCATION OF REVENUE RAISED NATIONALLY BETWEEN THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS FOR THE 2024/25 FINANCIAL YEAR.

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Type/Level of allocation	Amount in Ksh.	Percentage (%) of FY 2020/21 audited and approved Revenue i.e. Ksh. 1,570,562,945,014
A. Total Sharable Revenue	2,631,418,000,000	
B. National Government	2,223,301,211,853	
C. Equalization Fund	8,000,000,000	
<i>Of which: a). 0.5 Per Centum</i>	<i>7,852,814,725</i>	0.50%
<i>b). Arrears</i>	<i>147,185,275</i>	
D. County equitable share	400,116,788,147	25.48%

(Several Senators raised points of order)

The Temporary Chairperson (Sen. Wakili Sigei): Sen. Kiio, allow the Chairperson to run us through the proposed amendments.

Chairman, proceed.

I have given directions that you allow the Chairperson to speak.

(Sen. Wambua spoke off record)

I am ruling you out of order.

Proceed, Sen. Ali Roba.

Sen. Kiio, allow Sen. Roba to proceed.

(Sen. Wambua stood in his place and spoke off record)

Sen. Wambua, take your seat.

Sen. Ali Roba, proceed.

Sen. Ali Roba: Mr. Temporary Chairman, Sir, please, protect me.

The Temporary Chairperson (Sen. Wakili Sigei): Sen. Wambua, please, allow Sen. Roba to be heard in silence.

Sen. Sifuna, allow the Chairperson to proceed.

Proceed, Sen. Ali Roba.

(Loud consultations)

Sen. Eddy and Sen. Wambua!

Sen. Ali Roba: Mr. Temporary Chairman, Sir, when the National Assembly amended the DORA, they introduced a clause that has not been practiced for the last 10 years that we have passed DORA, such that, whenever there is a projection of any shortfall, that necessitates amendments where the county governments and the national Government will share funds proportionately.

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We have deleted that provision because it is not tenable. That is what is being deleted.

(Applause)

For Clause 4, the Schedule is presented, but it only covers a reduction on shareable revenue because the situation discussed by the memorandum sent, necessitates the reduction of the shareable revenue. It proposes the reduction of shareable revenue from almost Kshs3 trillion to Kshs2.631 trillion for overall shareable revenue.

It then proposes a further reduction for the national Government to Kshs2.223 trillion, while maintaining the county governments' share of revenue at Kshs400.116 billion as passed in the previous DORA enacted.

(Applause)

I thank you, Mr. Temporary Chairman, Sir.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end. Sen. Cherarkey, let us allow this process to progress. Hon. Members, the most unfortunate thing is that you have had all these documents for the last couple of weeks, but you do not read them, hence the explanations. Sen. Roba, the Title and Clause 1.

The Title and Clause 1

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

The Temporary Chairperson (Sen. Wakili Sigei): Division at the end. Hon. Members, we are now reporting on the Bill and I call upon the Mover, the Senate Majority Leader to move.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Chairman, Sir, I beg to move that The Committee do report to the Senate on its consideration of the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024) and its approval thereof, with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

The Deputy Speaker (Sen. Kathuri): Order, hon. Senators. Have your seats. I highly discourage the exchange between the two sides.

(Several Senators consulted loudly across the aisle)

Therefore, let us have some order.
Hon. Chairperson?

CONSIDERATION OF REPORT

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024) and its approval thereof with amendments.

The Deputy Speaker (Sen. Kathuri): Thank you. Mover?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said report.

I request Sen. Eddy Oketch to second.

The Deputy Speaker (Sen. Kathuri): Sen. Eddy Oketch. Give Sen. Eddy the microphone.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I second.

The Deputy Speaker (Sen. Kathuri): I am sorry. Our officer misguided the Chairperson of the Committee of the Whole. What we have done is not right. We will go back to the division on the clauses by resuming the Committee of the Whole.

Serjeant-at-Arms, we are going back to the Committee of the Whole.

COMMITTEE OF THE WHOLE

(Order for the Committee read)

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

IN THE COMMITTEE

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

THE DIVISION OF REVENUE (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.38 OF 2024)

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Senators, let us resume our seats. Serjeant-at-Arms, ring the Quorum Bell for five minutes.

(The Quorum Bell was rung)

Hon. Members, we have a quorum, and we will proceed. We have dealt with the title and clauses. Now, we will proceed to division. We will begin with the clauses for deletion.

I now put the Question that Clause 3 be deleted.

We will vote electronically. We will deal with the division for Clause 3 and then proceed to the clauses without amendments.

Hon. Members, log out and then log in. Serjeant-at-Arms to pull out unattended cards.

Members, you may log in and vote. Start voting now.

(The Senators proceeded to vote)

Sen. Boy and Sen. Cherarkey, please, approach the Dispatch Box.

(Sen. Boy and Sen. Cherarkey approached the Dispatch Box and registered their votes)

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Senators, we will proceed to the next vote then announce the results of the Division later. We are dealing with clauses with amendments.

Log out from your delegates, then log in and proceed to vote for Clauses 2 and 4.

(The Senators proceeded to vote)

Hon. Senators, we are done with clauses with amendments; that was Clauses 2 and 4. We are now on all clauses.

(Question, that Clause 2 as amended, Clause 4 as amended, the Title and Clause 1 be part of the Bill, proposed)

You may now proceed to vote.

(The Senators proceeded to vote)

Sen. Nyamu, you are in the Chamber. Resume your seat and recall the directions given previously by the Speaker on conduct of Members in the Chamber with regard to their phones.

DIVISION

ELECTRONIC VOTING

(Question, that Clause 3 be deleted, put and the Senators proceeded to vote by County Delegations)

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AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka-Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Oketch Gicheru, Migori County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

NOES: Nil

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Members these are the results of the Division are as follows-

AYES: 28

NOES: Nil

ABSENTIONS: Nil

The "Ayes" have it.

(Question carried by 28 votes to Nil)

(Clause 3 deleted)

DIVISION

ELECTRONIC VOTING

*(Question, that Clause 2 and 4 be amended as proposed,
put and the Senators proceeded to vote by County Delegations)*

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka-Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Oketch Gicheru, Migori County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

NOES: Nil

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Members these are the results of the Division are as follows-

AYES: 28

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NOES: Nil
ABSENTIONS: Nil
The “Ayes” have it.

(Question carried by 28 votes to Nil)

DIVISION

ELECTRONIC VOTING

*(Question, that Clause 2 (as amended), Clause 4 (as amended),
the Title and Clause 1 be part of the Bill, put and the
Senators proceeded to vote by County Delegations)*

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka-Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Madzayo, Kilifi County; Sen. Mbugua, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Oketch Gicheru, Migori County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang’wa, Kiambu County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

NOES: Nil

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Members these are the results of the Division are as follows-

AYES: 28

NOES: Nil

ABSENTIONS: Nil

The “Ayes” have it.

(Question carried by 28 votes to Nil)

The Temporary Speaker (Sen. Wakili Sigei): Senate Majority Leader kindly proceed to move.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Temporary Chairperson. I beg to Move that the Committee do report to the Senate its consideration of the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

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(The House resumed)

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

The Deputy Speaker (Sen. Kathuri): Hon. Senators, kindly do not leave the Chamber as we have another Division, which is the last one. Chairperson of the Committee of the Whole?

CONSIDERATION OF REPORT

THE DIVISION OF REVENUE (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.38 OF 2024)

Sen. Wakili Sigei: Thank you, Mr. Deputy Speaker, Sir. I beg to report that the Committee of the Whole has considered the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024) and its approval thereof with amendments.

The Deputy Speaker (Sen. Kathuri): I now call upon the Mover. The Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said report.

I request Sen. Oketch Gicheru to second.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Deputy Speaker (Sen. Kathuri): Mover?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to move that the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024) be now read a Third time.

I request the Senator of Nairobi City County, Sen. Sifuna, to second.

(A mobile phone rung)

The Deputy Speaker (Sen. Kathuri): Order! Before you second, if there is a Senator using his phone speaker--- Who is that?

Hon. Members: Sen. Gataya Mo Fire.

The Deputy Speaker (Sen. Kathuri): Serjeant-at-Arms, can you frisk that Senator and take away the phone.

The Senate Majority Leader (Sen. Cheruiyot): We mzee---

(Laughter)

The Deputy Speaker (Sen. Kathuri): Let him switch it off! You are out of order, Sen. Gataya Mo Fire.

The Senate Majority Leader (Sen. Cheruiyot): You are watching funny movies in the afternoon.

The Deputy Speaker (Sen. Kathuri): Proceed to request your seconder.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, the people of Tharaka-Nithi County had previously sent a very serious Senator.

I beg to move that The Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024) be now read a Third time.

I request the Senator for Nairobi City County, Sen. Sifuna, to second.

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna?

Sen. Sifuna: Mr. Deputy Speaker, Sir, I second.

The Deputy Speaker (Sen. Kathuri): On the question that I put earlier, I remember that I said the 'Ayes' have it. If I did not, then I confirm that the 'Ayes' have it. I will now put the question. Proceed to vote. We are voting electronically.

(The Senators proceeded to vote)

THIRD READING

THE DIVISION OF REVENUE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.38 OF 2024)

DIVISION

ELECTRONIC VOTING

(Question that the Division of Revenue (Amendment) Bill (National Assembly Bills No. 38 of 2024), be read a Third Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka-Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Oketch Gicheru, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi County; Sen. Thang'wa, Kiambu County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; and Sen. Wambua, Kitui County.

NOES: Nil.

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

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The results of the Division are as follows:

AYES: 29

NOES: 0

ABSENTION: Nil.

The 'Ayes' have it.

(Question carried by 29 votes to Nil)

(The Bill was accordingly read a Third Time and passed)

Serjeant-at-Arms, you can withdraw the Bar and open the Doors.

(The Bar was undrawn and doors opened)

Before any movement in or out of the Chamber, let us move to Orders No.8 and No.9.

Next Order.

MOTION

NOTING OF REPORT OF SENATE DELEGATION TO 66TH
COMMONWEALTH PARLIAMENTARY CONFERENCE
HELD IN ACCRA

THAT, the Senate notes the Report of the 66th Commonwealth Parliamentary Conference held in Accra, Ghana from 30th September – 6th October, 2023 laid on the Table of the Senate on 15th February, 2024.

(Sen. (Prof.) Kamar on 15.2.2024)

(Resumption of debate interrupted on 2.10.2024 – Morning Sitting)

(Question put and agreed to)

Next Order.

MOTION

ADOPTION OF JOINT REPORT ON THE APPROVAL HEARING
FOR APPOINTMENT OF MR. DAVID KIBET KEMEI TO
THE POSITION OF DG, CAK

THAT, the Senate adopts the Report of the Joint Sitzings of the Departmental Committee on Finance and National Planning of the National

Assembly and the Standing Committee on Finance and Budget of the Senate, on the approval hearing of Mr. David Kibet Kemei, nominee for appointment as the Director-General of the Competition Authority, laid on the Table of the Senate on Thursday, 26th September 2024; and that pursuant to Section 12(1) of the Competition Act and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, the Senate approves the nomination of Mr. David Kibet Kemei for appointment as the Director-General of the Competition Authority.

(Sen. Ali Roba on 26.9.2024)

(Resumption of debate interrupted on 26.9.2024)

(Question put and agreed to)

(Resumption of Statements)

STATEMENTS

The Deputy Speaker (Sen. Kathuri): Hon. Senators, we will go back to the Statements under Standing Order No.56(1)(A).

Chairperson of Justice, Legal Affairs and Human Rights Committee (JLAHRC).

STATEMENT OF JLAHRC ON AMENDMENTS PROPOSED BY THE
COMMITTEE TO THE HOUSES OF PARLIAMENT (BICAMERAL RELATIONS)
BILL 2023, (NATIONAL ASSEMBLY BILLS NO.44 OF 2023)

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, I thank you for giving me the opportunity to read the Statement from the Committee on Justice, Legal Affairs and Human Rights on the amendments proposed by the Committee to The Houses of Parliament (Bicameral Relations) Bill, 2023, (National Assembly Bills No.44 of 2023).

(Sen. Munyi Mundigi consulted loudly)

The Deputy Speaker (Sen. Kathuri): Order, Hon. Senators! Sen. Mundigi, consult in low tones. Standing Order No.118 has given clear directions on how to behave in the Chamber.

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, thank you for that protection.

I rise pursuant to Standing Order No.56(1) to make a Statement relating to a matter for which the Committee is responsible, namely, the proposed amendments to The Houses of Parliament (Bicameral Relations) Bill, 2023, (National Assembly Bill No.44 of 2023).

The Houses of Parliament (Bicameral Relations) Bill, 2023, (National Assembly Bills No.44 of 2023) seeks to provide for how a joint resolution of a question relating to the nature of a Bill under Article 110(3) of the Constitution is to be made.

The Bill also deals with matters relating to the co-sponsoring of Bills and the conduct of joint proceedings, including joint sittings of the Houses, joint committees and mediation committees. The Bill was published on 28th July, 2023 and introduced in the National Assembly on 17th August, 2023. It was considered by the National Assembly and passed with amendments on 21st March, 2024, following which it was referred to the Senate for its consideration.

(Sen. Methu and Sen. Wafula consulted loudly)

Mr. Deputy Speaker, Sir, could you kindly protect me from Sen. Methu?

The Deputy Speaker (Sen. Kathuri): Order, Sen. Methu and Sen. Wakoli. Sen. Methu, you have caused a lot of confusion and problems in this Chamber this afternoon. Allow the Chairperson JLAHRC to be heard in silence.

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, this is a very important Statement. The reason for reading this Bill is to acquaint the members of the proposed amendments leading to the amendments to protect the mandate of this House from the law that was pushed and passed by the National Assembly.

The Deputy Speaker (Sen. Kathuri): You now have enough protection.

Sen. Wakili Sigei: Thank you. Mr. Deputy Speaker, Sir, in the Senate, the Bill was read the First Time on 28th March 2024 and stood committed to the Standing Committee on JLAHRC. The committee proceeded to consider the Bill extensively, where upon it made several observations.

Among these include: If the Bill is passed as it was passed from the National Assembly, which would fundamentally restrict the legislative and representative mandate of the Senate as provided under Articles 96, 94, 109, 110, 112, and 114 of the Constitution of Kenya.

Mr. Speaker, the Bill violates the Constitution by derogating from provisions of the Constitution and judicial pronouncements on the procedure for the introduction and processing of legislation in the two Houses of Parliament.

Thirdly, the Bill violates Article 118 of the Constitution by proposing that a committee of the second House of Parliament can elect not to conduct public participation on account of public participation having been conducted by a committee of the other House of Parliament.

The Bill further contains provisions that would restrict access to judicial intervention as well as punish State officers and public officers, including Members of this Hon. House, by introducing fetters and punitive measures to officers who would be deemed to have advised a House to pursue judicial intervention in a matter and this is contrary to Article 236 of the Constitution.

Consequently, by way of a report tabled in the Senate on Tuesday, 14th May, 2024, the committee recommended that the Senate reject the Bill at the Second Reading stage to pave the way for mediation on the Bill as contemplated under Article 113 of the Constitution of Kenya 2010.

This would allow the two Houses a time-bound window within which to agree on a version of the Bill that may be passed by both Houses of Parliament. Arising from this, the committee did not propose any amendments to the Bill at that particular stage.

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Now, the Senate debated the Houses of Parliament (Bicameral Relations) Bill, 2023, (National Assembly Bill No.44 of 2023), at the Second Reading stage on various dates in May, following which it voted on 30th July 2024 to have the Bill read a Second Time.

The import of this is that the Bill will proceed to the Committee of the Whole stage where it will be considered clause by clause. This is also where amendments to the Bill may be introduced and considered before it proceeds to its Third Reading.

Noting this, the committee resolved to revisit the Bill, with a view to proposing amendments to the Bill for consideration by the House at the Committee of the Whole House stage.

In doing so, the committee reviewed previous Bills on the procedure for processing legislation between the two Houses of Parliament as passed by the Senate and referred to the National Assembly as well as judicial pronouncements on the concurrence process on a Bill as provided under Article 110(3) of the Constitution of Kenya.

I am happy to report that the committee has now tabled proposed amendments to the Bill for consideration by the Senate at the Committee of the Whole House stage. I take this opportunity to commend Members of the Committee for their devotion and commitment to duty which made the reconsideration of the Bill a success.

I also wish to thank the Office of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this very important assignment.

Mr. Deputy Speaker, Sir, it is now my pleasure and duty pursuant to Standing Order No.148(1) of the Senate Standing Orders to present proposed Committee Stage amendments on The Houses of Parliament (Bicameral Relations) Bill, 2023, (National Assembly Bill No.44 of 2023), by the Standing Committee on JLAHRC of this House.

Mr. Deputy Speaker, Sir, thank you. I encourage Members to read on these proposed amendments. They are very critical before the amendments are made.

The Deputy Speaker (Sen. Kathuri): Thank you. Members have been well advised.

Let us go now to Statements pursuant to Standing Order 56(1)(b). The Chairperson of the Senate Committee on Delegated Legislation has a personal issue he wants to attend.

Sen. Karungo Thang'wa, you are the first on this Order, but allow Sen. Gataya Mo Fire to read his Statement. He has lost his sister. So, he is running up and down to organize for the funeral.

Sen. Gataya Mo Fire, please, receive our condolences.

ACTIVITIES OF THE COMMITTEE ON DELEGATED LEGISLATION

Sen. Gataya Mo Fire: Thank you, Mr. Deputy Speaker, Sir, for intervening on my behalf and allowing me to read a statement on Activities of the Standing Committee on Delegated Legislation.

I rise pursuant to Standing Order No.56(1)(b) of the Senate Standing Orders to make a statement relating to the Standing Committee on Delegated Legislation for the Period, 1st April 2024 to 30th August 2024.

During the period under reference, the Committee held a total of 41 sittings at which it considered various statutory instruments and held stakeholder engagements.

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Committee benchmarking and stakeholder engagements: The committee did not undertake any benchmarking activities, but engaged with 10 stakeholders in the consideration of various statutory instruments.

In processing statutory instruments, the committee considered and adhered to the following statutory instruments -

- (i) The Revision of Laws Order 2023;
- (ii) The National Building Code 2024;
- (iii) The Fisheries Management and Regulations, Legal Notice No.49, 56 of 2024;
- (iv) The Survey Electronic Contrast to Transactions Amendments Regulation 2024, Legal Notice No.70 of 2024;
- (v) The Community Land Amendments Regulations Legal Notice No.73 of 2024;
- (vi) The Land Registration Revocation Regulations Legal Notice No.75 of 2024; and,
- (vii) The Climate Change Carbon Markets Regulations Legal Notice No.84 of 2024.

The committee concluded on the following statutory instruments -

- (vi) The Social Area Insurance Fund Regulations;
- (vii) The Social Area Insurance Tribunal Procedure Laws;
- (viii) The Physical Land Use Regulations Planning Fees Amendments;
- (ix) The Land Amendments Regulations Legal Notice No.74 of 2024, and,
- (x) The Land Registration General Amendments Regulations Legal Notice No. 77 of 2024.

The committee, through a Motion, sought an extension for three statutory instruments on land matters, namely:

- (vi) The Valuables Forms and Fees Amendments Rules Legal Notice No. 69 of 2024;
- (vii) The Land Adjudication Amendments Regulations Legal Notice No. 76 of 2024; and,
- (viii) The Survey Amendments Regulations Legal Notice No.71 of 2024.

These regulations later came into operation during a period of review.

The Committee firmed its resolution on the Draft Water Sector Trust Fund Project funding criteria formulated under Section 116 of the Water Act No.43 of 2016. The committee communicated to the Ministry of Water Sanitation and Irrigation for adoption prior to the publication of the said legislation.

During the period under review, the committee also considered the Draft Affordable Housing Regulations 2024 and made several inputs prior to their publication by the Cabinet Secretary for Land, Housing and Urban Development.

During the period under review, the committee also resolved to have the Cabinet Secretary for Land, Housing and Urban Development withdraw and republish three statutory instruments that were amended and expired statutory instruments.

During the remainder of the Third Session, the committee has prioritized the conclusion of the consideration of statutory instruments before the committee. The

committee also intends to engage with counterpart committees of the County Assemblies for Capacity Building.

As I conclude, I wish to thank the Office of the Speaker and the Clerk of the Senate for their steadfast support and their support of this committee as well as members of the committee for their dedication, commitment and duty.

The Deputy Speaker (Sen. Kathuri): I thank you, Sen. Gataya Mo Fire, the Chairperson of the Senate Standing Committee on Delegated Legislation.

Let us now go to the Chairperson, Standing Committee on Roads, Transportation and Housing, Kiambu Senator, Sen. Karungo Thang'wa.

ACTIVITIES OF THE COMMITTEE ON
ROADS, TRANSPORTATION AND HOUSING

Sen. Thang'wa: Thank you very much, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.56(1)(b) to make a Statement on the activities of the Standing Committee on Roads, Transportation and Housing for the period commencing 1st April, 2024 to 30th June 2024.

The Standing Committee on Roads, Transportation and Housing is established under Standing Order No.228(3) of the Senate Standing Orders and is mandated to consider all matters relating to transport, roads, public works, housing, construction and maintenance of roads, rails and buildings, seaports and communication.

Mr. Deputy Speaker, Sir, during the period under consideration, the committee held 18 sittings, considered two Bills, one legislative proposal, one Petition and 17 Statements.

Attached to the Statement is a schedule of legislative business considered by the committee, which I will table.

During the period under review, seven statements that have been referred to the committee in the previous reporting periods were considered, but not concluded because the committee sought supplementary information from the respective Government agencies. However, the committee has received several responses to statements to which it intends to consider during a retreat of the committee.

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

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

Madam Temporary Speaker, the Committee adopted a methodology of consideration of statements where it invites Senators who request for statements referred to the committee before seeking a response from the relevant Government agencies.

The purpose of this methodology is to apprise the Committee on the nature of the statement, information gathering, policy review or intervention, deviation of law or processes that would call for oversight on the part of the committee. It reduced the number of supplementary issues that are sought from the statements and provide clarity to an issue before the committee seeks for a response to the statements.

Madam Temporary Speaker, if you allow me, what I am trying to say is that once we receive the statement from the Speaker, before we direct it to the Government agencies

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to get a response, first of all, we invite the Senator who sought it, so that he can give us more information and understand it.

In the reporting period, the Committee held the following two consultative meetings—

One, with the Ministry of Lands, Public Works, Housing and Urban Development to deliberate on conditional grants to counties on the Kenya Urban Support Programme, KUSP 2, and the Kenya Informational Informal Settlement Improvement Project, that is KIISIP 2.

The Committee will be further engaging the Ministry of Lands, Public Works, Housing and Urban Development to ensure that eligible counties are prepared to absorb the funds from the grants. However, we noted most counties are not prepared to absorb these funds.

Two, with the Ministry of Roads and Transport to deliberate on the conditional grant to counties on the Roads Maintenance Levy Fund (RMLF). The committee established that the Ministry of Roads and Transport was not willing to disburse the RMLF funds to counties in pretext of being required not to do so by the National Assembly through a resolution of 28th September, 2023.

The same is evidenced by the failure of the National Assembly to include the RMLF share to counties in the County Government Additional Allocation Bill, 2024. On this one, we hope the new Cabinet Secretary, Hon. Chirchir, will agree with the committee on how to give these funds to the counties.

Madam Temporary Speaker, in this period, the committee visited the Roads and Transport Authority of the United Arab Emirates, so as to enhance the capacity of the committee on policy framework and operations in the areas of bus rapid transit system and road tolling system.

The Committee experienced the following challenges –

(1) Delayed response to statements, petitions and enquiries by Government agencies. The committee experienced cases of delayed response to information sought partly because some statements were not clear as to where to seek the information between the national Government agencies and the county governments.

(2) Non-attendance of the meetings to consider responses to statement by Senators who requested the statements. This delayed conclusion of the statements. Therefore, the committee also adopted another methodology by inviting the Senators to our committee through letters. We can file those letters and whenever they are needed, we can produce to the Senate to show that so-and-so failed to appear before the committee. Once we consider the statement without the Senator in question, nobody would blame the committee,

Madam Temporary Speaker, with that, I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Thang’wa. I believe the next statement was to be issued by the Senate Majority Leader, but he is not here.

Next Order.

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

I think we still have two more reports. The Chairperson Standing Committee on Land, Environment and Natural Resources to make a statement relating to the activities of the Committee for the period April to August 2024.

Proceed, Sen. Methu.

ACTIVITIES OF THE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES

Sen. Methu: Thank you very much, Madam Temporary Speaker. I rise pursuant to Standing Order No.56(1)(b) of the Senate Standing Orders, to make a statement relating to the activities of the Standing Committee on Land, Environment and Natural Resources during the period of April to August, 2024.

During the period of review, the committee held a total of 18 sittings, which it considered five Bills, six Petitions and 24 Statements.

Attached to this statement is a schedule of the legislative business considered by the committee.

In the reporting period, the committee held meetings with the Ministry of Tourism and Wildlife, the National Land Commission (NLC) on three different Bills and further sought written responses on petitions and statements. In addition, written responses were sought with some responses still pending from the following stakeholders –

The Ministry of Land, Housing and Urban Development; the Ministry of Environment, Climate Change and Forestry; the Ministry of Water, Sanitation, and Irrigation; the Ministry of Mining, Blue Economy and Maritime Affairs; the Ministry of Tourism, Wildlife and Heritage; and, the National Land Commission.

The committee considered and tabled three reports on the following three Bills –

The Wildlife Conservation and Management (Amendment) Bill, (Senate Bills No.46 of 2023); the Wildlife Conservation and Management (Amendment) Bill, (Senate Bills No.49 of 2023); and the National Rating Bill, 2022, (National Assembly Bills No.55 of 2022).

The committee intends to table its report on the Land (Amendment) Bill 2022, (National Assembly Bills No.40 of 2022), following the conclusion of the consideration of the Bill.

Additionally, the committee is currently considering three Bills under mediation. The committee has eight petitions committed to it that are pending and under consideration, having tabled one report of the petition by the Siany residents on the destruction of the 41 hectares of Siany Wetland, during the period under review.

The committee has since managed to consider six of the petitions during the reporting period, and following the receipt of the written submissions from various stakeholders.

Three of the aforementioned petitions require a county visit by the committee to enable the conclusion of the consideration of the petitions. The committee endeavours to ensure the completion of the remainder of the Petitions that are pending by the next reporting period, as it pursues the response from the relevant stakeholders.

Cumulatively, the committee has received a total of 132 statements, out of which 92 have been concluded and 40 are pending. This translates to a completion rate of 70 per

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cent. During the period under review, seven statements were considered by the committee and dispatched to the relevant Senators.

In conclusion, I wish to thank your office and that of the Clerk of the Senate for the continuous support that has been accorded to the committee in undertaking its work. I also wish to thank the Members of the committee for their commitment and diligence and contributions during the committee activities.

I thank you.

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

The next Statement is by the Chairperson, Select Committee on County Public Investments and Special Funds.

Sen. Osotsi, proceed.

ACTIVITIES OF THE COMMITTEE ON COUNTY
PUBLIC INVESTMENTS AND SPECIAL FUNDS

Sen. Osotsi: Thank you, Madam Temporary Speaker. I rise pursuant to Standing Order No.56 (1) (b) to make a statement on the activities of the County Public Investments and Special Funds Committee (CPISFC) for the period commencing April to September, 2024, which is the last five months.

During the period under review, the committee held a total of 65 meetings within and outside the precincts of Parliament to consider matters within its mandate.

The committee concluded interrogations of Reports of the Auditor-General on the financial public funds in counties for financial years 2018/2019, 2019/2020 and 2020/2021 where it met with 44 County Executives. During the said interrogations, numerous crosscutting issues affecting the operations of the funds were identified and various recommendations will be provided in the report we are going to table. We noted a lot of anomalies in the funds, including multiplicity of funds doing the same function, non-compliance to the law, governance and many other issues. All these issues will be detailed in our reports.

Having concluded the consideration of county funds, the committee embarked on the interrogations of the audit reports of county hospitals, county corporations and county municipalities.

On county hospitals, 47 county governments managed community health facilities (Level 1), Health Dispensaries (Level 2), Health Centres (Level 3), County Hospitals (Level 4) and County Referral Hospitals (Level 5) whereby 358 are Level 4 hospitals and fourteen 14 are Level 5 hospitals in the country.

This is a significant step by the Senate because it had not been considering audit report for hospitals. The Auditor-General had also not been issuing an audit report for hospitals. An audit report for hospitals is a significant step because hospitals are key own-source revenue centres in our counties.

For the financial year ended 30th June, 2022, only 50 Level 4 hospitals and 8 Level 5 hospitals submitted their financial statements to the Auditor-General for audit. While in the financial year 2022/2023, 209 comprising of 195 or 54 per cent of Level 4 hospitals and all the 14 Level 5 hospitals submitted their financial statements for audit.

Hospitals not submitting their financial statements to the Auditor-General for audit points to a wanting level of compliance with the reporting requirements as stipulated in the Public Finance Management (PFM) Act, 2017.

Madam Temporary Speaker, we have noted a number of counties, which have not been submitting reports financial report to the Auditor-General. This includes Nairobi City and Narok counties and others. As a committee, we have agreed to invite these counties to explain to us why they have not been submitting financial statement for their hospitals because it is contrary to the Public Audit Act, 2015 and the PFM Act, 2017.

From the reports of the Auditor-General on hospitals, the committee observed that nearly all hospitals in counties were ill-equipped and ill-prepared for Universal Health Care (UHC) as they were understaffed to offer critical services required such as radiology, dialysis and other specialized medical care.

We broke new grounds by starting to investigate the reports for municipalities. This was new to the Senate, which had not been looking at municipalities. The data available indicates that there are 110 gazetted municipalities established by 45 counties with Nairobi and Mombasa cities deemed to be Nairobi and Mombasa counties as stipulated by Sections 6 and 27 of the Urban Areas and Cities Act, Cap 275.

Kiambu County records the highest number of municipalities with 12 municipalities.

The committee noted that most of municipalities lacked autonomy in terms of their functions, management and finances. That adversely affect the performance of various municipalities in service delivery in our counties.

We noted that the Department of Lands and Physical Planning has been running most of these municipalities contrary to the law. We will be coming up with the financial audit report for all the municipalities in the country. We hope that this will be another major source of own-source revenue in our counties. With proper governance, we will see a rise in the level of own-source revenue.

During the period under review, the committee met with key stakeholders, including the Attorney General and Auditor-General to deliberate on various matters affecting counties.

The Committee has also adopted 108 reports of all the water companies in Kenya. We have processed them for tabling and debate in the House. This is the first level of audit reports for these water companies. From next year, the committee will be starting the second level of review of the audit report for water companies, which includes the current reports up to the year ended 2023.

The Committee plans to conduct fact-finding visits to various counties subject to availability of funds, to inspect the water companies, do report writings and continue to interrogate audit reports of hospitals, municipalities and corporations in counties.

In conclusion, Madam Temporary Speaker, from the interactions with different county executives, the committee continues to observe that there is an apparent wastage and misappropriation of public resources in our counties, particularly the public funds established in our counties.

Of concern is the bursary funds in our counties. Bursary funds in our counties have been misappropriated. This House has to take a stand that it is high time we abolished

bursary funds in our counties. This is because that is not a devolved function and the funds continue to be misused.

I, therefore, implore individual senators to enhance the oversight role through the Senate oversight function and ensure that the funds established in our counties and other entities are adequately monitored and observed to ensure that we get value for money for our people.

I further wish to implore the House and its committees to hold governors to account for public resources under their control, noting that governors are the Chief Executive Officers (CEOs) of counties as per Article 179 of the Constitution. They are responsible and the buck stops with them.

Madam Temporary Speaker, with those remarks, I submit.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Osotsi. We will now receive a statement pursuant to Standing Order 57(1) from the Senate Majority Leader. He will issue a statement on the business of the Senate for the week commencing Tuesday, 8th of October, 2024.

Sen. Aaron Cheruiyot.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 8TH OCTOBER, 2024

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker.

This is a Statement by the Majority Leader on the business of the Senate for the week commencing Tuesday, 8th October, 2024, which is pursuant to Standing Order number 57(1). With respect to the business of the Senate, the status of legislative business is as follows.

There are 60 Bills that are pending conclusion. Of which, 47 are at the Second Reading stage while 13 are at the Committee of the Whole stage. Thirty Motions, including the ones in the Order Paper for today under Notices of Motion are pending conclusion and 21 Petitions are due for reporting in their respective Standing Committees. There are 419 Statements pending before Standing Committees.

On Tuesday, 8th October, 2024, the Senate Business Committee (SBC) will meet to consider the business for the week. Tentative business for that day will include business not concluded from the Order Paper as well as business indicated in the notice appended to the Order Paper.

The tentative business for the Morning Sitting of Wednesday, 9th October, 2024 will include a schedule of questions to Cabinet Secretaries as approved by the SBC as well as Motions. The summary of questions are as follows.

There is a question to the Cabinet Secretary for ASAL by Sen. Richard Murgor and another one to the Prime Cabinet Secretary of Diaspora and Foreign Affairs by Sen. Edwin Sifuna. There is Question No. 49 by Sen. George Mbugua to the Cabinet Secretary for Health. Question No.75 to the Cabinet Secretary for Health from Sen. Peris Tobiko. There is a Question by Sen. Jackson Mandago to the Cabinet Secretary for Health.

There is another one to the Cabinet Secretary for Health as well by Senator Agnes Kavindu. Another one by Sen. Joyce Korir and, lastly, by Sen. Hamida Kibwana to the same Cabinet Secretary for Health.

The business for the Afternoon Sitting on Wednesday, 9th October, 2024, will include business now concluded in the Order Paper for Tuesday, 8th October, 2024 and the following:

- (a) The following are the Bills that are at the Second Reading stage.
 - (i) The Narcotic Drugs and Psychotropic Substances Control (Amendment) Bill.
 - (ii) The County Government's Election Laws, (Amendment) Bill;
 - (iii) The County Oversight and Accountability Bill;
 - (iv) County Civic Education Bill;
 - (v) County Statistics Bill;
 - (vi) Provisions of Sanitary Towels Bill;
 - (vii) and the Statutory Instruments Amendment Bill.
- (b) Bills at the Committee of the Whole:
 - (i) The Houses of Parliament Bicameral Relations Bill;
 - (ii) The Nuts and Oil Crops Development Bill;
 - (iii) The Public Transport Motorcycle Regulation Bill;
 - (iv) The Street Vendors Protection of Livelihood Bill;
 - (v) The Fire and Rescue Services Professionals Bill;
 - (vi) Local Content Bill;
 - (vii) Early Childhood Education Bill;
 - (viii) Land Amendment Bill;
 - (ix) Intergovernmental Relations Bill
 - (xi) Energy Amendment Bill;
 - (xii) National Disaster Risk Management Bill; and,
 - (xiv) The Cooperative Societies Bill.

Reports of the Standing Committee on Labour and Social Welfare on enquiring to the welfare of workers in EPZs in Mombasa and Kilifi counties.

There is a report also on the Standing Committee on Devolution on the Intergovernmental Relations into the enquiry of the personal Security concerns raised by Hon. Philomena Kapkory the Deputy Governor of Trans Nzoia. Reports of the Standing Committee on Devolution and Intergovernmental Relations on its enquiry into the state of markets in Vihiga and Bungoma counties visits arising from a statement sought by Sen. Godfrey Osotsi and Sen. David Wakoli.

There is also a Motion on the report of the CPISFC on its consideration of audit report of the various water services company for Financial Year 2018/2019, Vol. 6, 2019/2020 Vol. 7, Financial Year 2021 Vol.9.

There is also a Motion on the development of policy and law for social risk management in infrastructure development projects in Kenya as a consolidation of bursary funds for equitable access to education in Kenya and steps to effective management in cities, towns and urban areas in the country.

The projected business for Thursday, 10th October 2024 will include business not included in the Order Papers for Tuesday, 8th October 2024 and Wednesday, 9th October, 2024 and any other business scheduled by the SBC.

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Madam Temporary Speaker, I thank you and hereby do lay the statement on the Table of the Senate.

(Sen. Cheruiyot laid document on the Table)

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senate Majority Leader.

There are Senators who would wish to comment on the statements that have been brought before the Table of the House. Senator Cherarkey Samson Kiprotich.

Sen. Cherarkey: Madam Temporary Speaker, I want to make a few comments. The first one is on the Statement by Sen. Hezena Lemaltian on the status of roads in Samburu, and I concur with her. I would have expected the Chairperson of Roads, Transport and Housing, Sen. Karungo Thang'wa to tell the House how many roads have stalled in Kenya.

In Nandi County, we have a number of stalled roads like Chemuswa-Kimondi-Danger, Kurgung Chepteruwa-Chepterwai-Chepsaita-Kapkatembu Road, Kopere-Maraba-Timboroa Road, Selia-Kaiboi-Chepkober Road in Talai, Nandi Hills-Himaki Road, Nandi Hills-Mugundoi, Moi University Resource Centre- Kilibwoni Junction Road.

I would like the committee to give us a breakdown of stalled roads in all the six constituencies in Nandi. Most of them were rated to bitumen standards; have either stalled or they are yet to be started. Therefore, we need guidance from the Committee that these roads must be fixed.

In Nandi County, just like in Kericho, Bomet, Uasin Gishu, Meru up to Nyandarua, Murang'a, the roads are in a very pathetic situation because our counties are rainy. You will find farmers are unable to transport perishable things like milk, coffee, tea, maize and sugarcane.

Madam Temporary Speaker, I am happy that the Member of Kisumu is here, Sen. (Prof.) Ojienda, SC. We both suffer because we share the transportation. I am happy that in the Bill under mediation, we are proposing another Sugar Development Levy Fund to put into the Sugar Board in order to ensure that the cess that is paid for within the sugar-growing area can maintain those roads. In Nandi, we are hoping that these roads can be fixed into the future to allow our economy to thrive.

Madam Temporary Speaker, I would expect the Senate Majority Leader to be listening. While I appreciate that Sen. Olekina is now part of the Government, I would have expected him to give us the status of the House's functionality.

Madam Temporary Speaker, you remember a few weeks ago, we were told the operations of the Senate, including Senate *Mashinani*, were likely to be affected because we have a pending bill of around Kshs500 million. I want to appeal to the Senate Majority Leader, even if he does not state it on the Floor of the House, he should at least call us for a *Kamukunji* with your office, so that we can iron out some of these challenges.

I can see my Law lecturer, Sen. (Prof.) Tom Odhiambo Ojienda, SC, who taught me the principles of conveyancing, is excited. He arrived in Government before us and I am told he has been serving tea at the State House.

I wish to comment on Sen. Kibwana's Statement about nightclubs. I have seen the Chief Officer of Nairobi City County walking around, closing clubs like Quiver, churches and mosques.

I saw the Cabinet Secretary in charge of the environment, Hon. Aden Duale, the lion of Garissa, who was sent to the forests, as per the report, saying there is too much noise from clubs and churches. He forgot that he should ask the mosques to stop the noise pollution, so that we do not appear discriminative.

So, as he moves out to control the noise pollution across the City, guided by the Alcoholic and Drinks Controls Act 2010, a club in Eldoret is only 100 metres from a school. It looks like Sen. Methu has been a patron of that club. That club is only 100 metres to 50 metres from the school.

Unless he has been compromised, I want to challenge the County Commissioner of Uasin Gishu County, Dr. Edison Nyale; why would he allow a club to operate next to a school? We must be told the law we are applying. Why are the clubs far from the school in other areas? What is special about this club, that is nearer to the school? The owners can argue that they have put soundproofing in. Churches and clubs in Nairobi say that they have implemented soundproofing measures. I want to ask the Uasin Gishu County security team not to apply the law selectively.

We cannot use the principles of *Shamba la Wanyama*, which state that some animals are more equal than others. We are all equal before the law. So, I challenge the Deputy County Commissioner in charge of the area where Nova School resides. I challenge the Uasin Gishu County security team led by the County Commissioner and the County Commander to follow the law.

If we allow those issues to function, we breed impunity in this country. We will not allow this. So, I am challenging this move. Let us close that club by the end of next week. We cannot be applying double standards in this country. For example, why would you close Club Quiver? Why would you close the one near the school or Parliament? Let everybody operate without following the law. Even as noise pollution is being controlled, we must follow the law equally in the future.

With those many remarks, I submit and support all the statements, including the statement by the Chairperson on Land, Environment and Natural Resources. However, the Chairperson is on borrowed time. He is yet to invite me to his committee on the statement I requested on the status of construction of dams.

Sen. Methu: Madam Temporary Speaker, on a point of order. Rather, I am seeking clarification.

The Temporary Speaker (Sen. Veronica Maina): Sen. Methu, what clarification are you seeking?

Sen. Methu: Madam Temporary Speaker, I have a lot of respect for the Senator for Nandi. In 1969, a distinguished legislator called Tom Mboya met Kenyatta operatives and was told that he was living on borrowed time. Afterwards, he did not live long.

So, I want a clarification on what exactly Senator for Nandi means when he says that 'I am living on borrowed time.'

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, where is the time borrowed from?

Sen. Cherarkey: Madam Temporary Speaker, I meant he is living on borrowed time because my statement has taken over a year. So, that is what I meant.

I did not mean any other thing. Sen. Methu should relax because he sits beside the Senate Majority Leader or the Deep State. He should worry less. It is good that the Senate Majority Leader is in the House. Some statements have taken over two years to respond to and events have already overtaken some.

Through the Liaison Committee, the Senate Majority Leader should call some Members to order. However, the guilty are always afraid. The Bible states that the guilty are always afraid.

Sen. Methu is a fine young man. One of these fine days, we might need to call for a harambee to buy him some grooming equipment like *kichana*, so that he can improve.

With those many remarks, I support the Statement.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, you have gone beyond the topic and the clarification comment.

Sen. (Prof.) Tom Ojienda, proceed.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Madam Temporary Speaker, my contribution was to second or ride on the statement by Sen. Lemaletian on the transport question that my colleague, Senator for Nandi, has ably dealt with.

The Chairperson Committee on Roads, Transportation and Housing, Sen. Thang'wa, must address the transportation question. It is true that the road network in the sugar belt, the sugar growing areas, is pathetic.

It is pathetic to the extent that farmers are not able to get value for money for the product that they deliver because of tractors breaking down every so often because of the difficulty in transporting produce, in this case, sugarcane and other crops. We know that the road network goes into inputs because if you have a poor road network, you spend more on transport than you should.

Further, the statement is important because it does not limit itself to just one county. It is a problem that all counties experience.

I will urge the committee Chairperson to have an engagement with the Cabinet Secretary Ministry of Roads and Transport, who was here last week and with whom we engage. The new Cabinet Secretary for Roads and Transport, Hon. Chirchir, undertook to engage on outstanding projects, including the road network in Muhoroni. The road connecting Muhoroni and Kisumu is 30 per cent complete. There was a question on the allocation of funds and we have spoken to their allocation.

Overall, the assessment of the road network takes into account the roads that were spoiled due to the El Nino rains and that have not been brought to the level that they should be. Do also an assessment all bridges that were broken because of the heavy rains during the April cycle.

This afternoon, it is important for the Senate to ensure that we process all the outstanding questions on roads and the bad road network in most counties.

I support this.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, proceed to contribute for a few minutes.

Sen. Olekina: Thank you, Madam Temporary Speaker. I rise to support Sen. Kibwana's Statement on the rise of entertainment joints and nightclubs in residential areas within Nairobi City County.

This is a menace. We should support the Governor of Nairobi City County in trying to control it. This Statement has been brought to the National Security, Defence and Foreign Relations Committee. While I stand here, this problem is in Nairobi and countrywide.

With this problem being countrywide, I want to speak about what is happening in Narok County. Because of all these nightclubs and night joints closer to residential areas, from January of this year, we have lost 22 people in Narok County who were butchered at night.

Yesterday, I called the Inspector-General (IG) of Police and I requested him to take measures to control this thing. When I was travelling out of the country, I was called and told that one of my friends, who was also seeking voters to support him come to this House, his name is Olaldapash; his son was killed that night. Those people who killed him in Narok Town butchered him; I do not know whether they mutilated his body. It is just because of this issue of allowing these entrepreneurs to be all over.

I think it is about time that we now zone our county headquarters. Nairobi County has got to be zoned. We do not need to have clubs everywhere. We can have a beer street for those people who like drinking. If you go to Nairobi West, there is a whole street which is a beer street. Why do we not just put everything there?

Yesterday, I heard the Cabinet Secretary for Environment, Climate Change and Forestry, Hon. Duale, talking about the noise. It is not only about the noise, but people are taking advantage. It is very difficult now to survive in this country because of how expensive things are.

I want to request that when the Committee on National Security, Defence and Foreign Relations will be dealing with this Statement by Sen. Hamida, I would like them to also deal with the menace in Narok County. We cannot lose 22 young men. They are butchered at night while the security operators are there. This matter is reported to security and nothing is being done.

I am grateful that yesterday when I spoke to the IG, he promised that he is going to take measures to ensure that he either changes the entire security people in Narok Town or at least gets to the bottom of this matter.

This Statement is very important. We need to zone our cities. Clubs are normally associated with sinners and all that crazy stuff. We should just excise out a section in the City, zone it and call it Sinners Club or Sinners Area, so that we can go and do everything there. If you go and kill yourself there, *shauri yenu*. However, in residential areas, it is something that really hurts me.

I support this Statement and hope that the IG and the Security Committee of this House will take action.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, I will now reorganize the Order Paper to defer Order Nos.12, 13, 14 15, 16 and 17 partly because the chairpersons of the respective committees are not here and partly because of quorum matters. I will now request the Clerk to call out Order No.20.

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COMMITTEE OF THE WHOLE

THE GAMBLING CONTROL BILL
(NATIONAL ASSEMBLY BILLS NO.70 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE MATERNAL, NEWBORN AND CHILD HEALTH BILL
(SENATE BILLS NO.17 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE METEOROLOGY BILL
(SENATE BILLS NO.45 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE NATIONAL CONSTRUCTION AUTHORITY (AMENDMENT)
BILL (NATIONAL ASSEMBLY BILLS NO.59 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE CANCER PREVENTION AND CONTROL (AMENDMENT) (NO.2)
BILL (NATIONAL ASSEMBLY BILLS NO.45 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL
(SENATE BILLS NO.40 OF 2023)

(Committee of the Whole deferred)

Next Order.

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BILL*Second Reading*THE POLITICAL PARTIES (AMENDMENT) (NO.2) BILL
(SENATE BILLS NO.26 OF 2024)

The Temporary Speaker (Sen. Veronica Maina): The Senate Majority Leader, you may proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I beg to move that The Political Parties (Amendment) (No.2) Bill (Senate Bills No.26 of 2024) be now read a Second time.

The Political Parties Amendment Bill, Bill No. 26, sorry, I had mentioned earlier that it is Bill No.2. It is the second one of quite several Political Parties Amendment Bill. There is one and two. However, in terms of its sequencing in the Senate, it is Bill No.26 of 2024. This Bill was published in the Kenya Gazette Supplement No. 96 of 2024, dated 7th of May, 2024.

The principal object of this Bill is to amend the Political Parties Act of 2011 and replace the office of the Registrar of Political Parties with the Independent Political Parties Regulatory Commission.

This Bill also seeks to delete any reference to a coalition political party in the Act. It also seeks to give effect to some of the recommendations and views of the public that were submitted during the NADCO process.

This is one of the famous NADCO Bills where everybody knows the history of how we got to the NADCO process among many other Bills. We have since passed the Independent Electoral and Boundaries Commission (IEBC) Bill and this is one of the three that are remaining before the Senate, including now, later on, a Constitutional Amendment Bill that is before the Justice, Legal Affairs and Human Rights Committee (JLAHRC) of which you are a Member.

As I have pointed out, this Bill seeks to replace the office of the Registrar of Political Parties with an Independent Commission of Registrar of Political Parties. You know very well that there has been contention about how independent the office of the Registrar of Political Parties is.

Madam Temporary Speaker, somebody like you has served on two occasions which is a fete that is not known to any other Kenyan. The only secretary general who has delivered two ruling parties in subsequent elections is none other than yours truly.

That is a serious decoration in terms of political contribution to the country. I know in 2017, you were secretary general of the Jubilee Alliance Party (JAB) which morphed into the Jubilee Coalition and in the last general election, you served as the secretary general of the ruling party, the United Democratic Alliance (UDA).

Anybody that has been within the circles of political parties knows how crucial this office is. Sometimes the difference between keeping an official, losing an office, losing a party and not losing it, depends on the decisions that are made there at the political parties. A very powerful office, especially when you are getting near to election time.

Despite this, the stakeholders that appeared before us in the NADCO process spoke to us and felt that this office has not been granted the stature of the importance of the work that it does.

Therefore, they felt that there was a need to re-modify this office from being just an office created under the Independent Electoral and Boundaries Commission (IEBC) to an independent entity that has independent commissioners who, by statute, are appointed into office through a competitive political process and end up serving the interest of all political parties equally.

You know one of the biggest struggles that this country continues to have today is independent institutions; institutions that can withstand even the men who are in power. I use the title men intentionally, because rarely is it women that abuse power. Most of the time it is the male folk that do that.

We need credible institutions that can rule even against Presidents, Vice Presidents, Senators, Members of Parliament, Members of the County Assembly and senior civil servants in a dispute and grant orders of favourable judgment or favourable hearing in a pleading against the ordinary citizens.

That is the hallmark of a great country where all are equal before the law. This is one such attempt because listening to the members of the public as they appeared before us, there was a yearning and a desire that we need to reform this office so that when they make certain decisions, it does not appear as if there are hands that are pulling the Registrar like a marionette and forcing them to make decisions this way or the other.

Therefore, I will go to the specifics of the Bill. Clause 1 is the short title of the Bill. Clause 2 provides for the definition of the commission. I have laid the basis for this commission. Clause 3 provides for the deletion of reference to the Registrar.

Remember, we are replacing the simple office of a Registrar with an independent institution.

Madam Temporary Speaker, Clause 4, provides for the principal Act by repealing section 14 of the Political Parties Act of 2011. Clause 5, establishes the responsibilities of the Independent Political Parties Regulatory Commission (IPPRC) which include-

- (a) to register political parties and their office holder.
- (b) the management of Political Parties' fund established under this Act;
- (c) ensuring that publication of audited annual accounts of political parties;

Madam Temporary Speaker, party members deserve to know how much was raised in our political parties through contribution from members, deduction from elected officials, donations, and monies that have been sent from the Political Parties' Fund.

If we want to build strong political parties in this country, then being transparent in their financial transaction is part of what this office needs to encourage them to do. I know it is done, but this law is calling for more detail.

There is also a duty to maintain a register of political parties and the symbol of political parties. These are basically responsibilities that are present in law and done by the political parties.

Clause 8 of the Bill provides for the saving provisions indicating that a person who immediately before the commitment of this Act was a member of the staff or Office of Registrar of Political Parties shall be deemed to be a member of staff to the Commission and shall continue to serve under the same terms and conditions.

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Madam Temporary Speaker, when you do legislation, Social Health Insurance Fund (SHIF) is one such example, part of the hurdles that we continue to face is that people imagine that once you replace, then they lose their job and you create them for others. We have provided this in the transition clauses.

I will say something later about a conversation and further proposals that I have since received, including from the present Registrar on how this institution can be made better. This is something for engagement at the Committee of the Whole stage and once we have listened and been informed by debate from members we shall be making the final determination. Remember, and this is something that I mentioned earlier, this is a bipartisan Bill in which you have to carry the views of everybody with you.

The Bill further states that the Regulatory Commission in performance of its function shall be independent office and not be under the direction and control of any person or authority. Just by law, it is in practice, but Kenyans are Kenyans. They believe that the big man in office--- For example, Article 249 of our Constitution speaks of the police. Let me just cite it as an example.

That-

“The Inspector -General (IG) of Police shall exercise independent command of the National Police Service (NPS).”

However, I see many times Hon. Members, including even the so-called learned fellows, speak to the microphone demanding for answers from the Executive led by the President on actions by the IG of police in this or the other way. This concept of independence of office is still alien to our minds.

Until we begin to accept and believe that it is possible to have independent offices that can rule even against government by saying that certain requests by the Executive are turned down because of certain reasons, that is when people will believe it is possible.

Additionally, this Bill states that the Regulatory Commission shall have five Commissioners appointed by the President with the approval of the National Assembly.

The Temporary Speaker (Sen. Veronica Maina): Who is playing that video or what is it that is playing?

The Senate Majority Leader (Sen. Cheruiyot): I do not know. Madam Temporary Speaker, additionally, the Bill states that that Commission shall be approved by the National Assembly. I have said times without number that for any laws that we pass in this House; when the committee gets to a clause that proposes such, it is good of them to recognize that we have an institution called Parliament that has two Houses. It is for them to amend accordingly. I expect that later on that the Standing Committee on Justice Legal Affairs and Human Rights (JLAHR) will do justice as they lead us towards amending.

This is a political process. Why do you want it to be approved by only one House? Both Houses need to approve the same. I know it is “my Bill” supposedly, but that is an amendment that must be moved and we must state the same. This is an important Bill. I have listened to submissions later even after its publication from many concerned players, including comparable jurisdictions.

There are jurisdictions that have gone this way establishing an independent Register of Political Parties and have challenges that arose. I have also listened to the present Registrar and I know there is a memorandum that they have sent to this House.

We need to listen to them as the users of this law. They have prepared some good proposals on how this can be made better. I have noted and stated, that this was a bipartisan Bill and therefore, even in seeking amendments, the same has to be considered.

However, this is good progress. I hope we can conclude on this and ensure that it becomes law so that we have sanity in our political parties.

There are too many political parties and that is why I have a problem with the present Registrar's laws. Even on account of one clause of what a political party is, it fails 99 per cent of many of these so-called briefcase political parties. Even just along the requirements of having an office in at least more than half of the counties, which is 24.

How many political parties have more than 24 offices across our counties in this country? This includes so many others. We must build a strong culture so as to stop this business of people having briefcase political parties that are transactional only during election time.

In established older democracies, there are no more than two political formations. If you move maybe to Europe, they have even gone further and are moving towards political coalitions. I must happily note that part of what we are also doing here is a deletion of that very non-conventional creation by statute that passed here during very difficult times towards the 2022 general election; something called a coalition political party.

Members hurriedly passed this then within months or a few weeks later, they all gathered at the Kenyatta International Convention Center (KICC) and realized that it was not possible to have candidates run on something called, for example, Azimio coalition party. They have since realized how impractical that is. We are seeking the deletion of the existence of a coalition political party as described in that particular law.

Madam Temporary Speaker, I was speaking to the need to provide sanity in our political parties, so that you have functional political parties that do elections regularly, have elected officials; transcend beyond one party leader to the next and have people take ownership of that particular party. The proper beginning is to have an independent political party so that people can argue on ideals and things that they believe.

Yesterday or the day before that the young people who have been on the street calling for more accountability have since registered a political party. That is a welcome move. It is better than tweeting insults and doing the kind of things that I see some of them do.

We have a Constitution. At the end of the day, you may not like Sen. (Prof.) Tom Ojienda Odhiambo, SC, but between now and 2027, he remains to be the Senator of Kisumu County. If you do not agree with his ideals and what he professes in his political practice, the proper thing to do is either join a political party or run independently and come and do a better job. That is the essence of democracy.

I do not see why people want to create enmity out of political processes. It is important that we have an office that will expand our democratic space by ensuring that we have sanity in our political parties and they have a fair, competing environment.

With those very many remarks, I beg to move and request the Senator for Kisumu County, Sen. (Prof.) Tom Ojienda Odhiambo, SC, to second.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Cheruiyot. Proceed Sen. (Prof.) Tom Ojienda Odhiambo, SC.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Madam Temporary Speaker, the Political Parties (Amendment) (No.2) Bill (Senate Bills No.26 of 2024) could not have come at a better time because it seeks to democratise political space by introducing an independent commission to replace the Office of the Registrar of Political Parties (ORPP).

From the outset, it is clear that an independent commission would fall within the rubric of commissions regulated under Article 251. Therefore, it will be independent not only in execution of duty but also in ensuring that oversight and the framework of political parties is governed by five individuals who will be appointed in accordance with the proposals under New Clause 33B.

Clause 33B requires appointment of a commission of five appointed by the President after nomination by the National Assembly. The five shall consist of a man and a woman nominated by the majority party and another man and woman nominated by the minority party. The fifth person will be nominated by the Public Service Commission.

Madam Temporary Speaker, this is a move in the right direction. The commission will not only operate independently but also it will reflect the principles of democracy. It shall no longer be business as usual for one single-handed Registrar to make decisions on the composition and registration of political parties.

When the Azimio la Umoja-One Kenya Coalition was born--- I am glad that when moving this Bill, the Senate Majority Leader spoke of briefcase political parties.

Of concern is that there were about 26 political parties forming the Azimio la Umoja-One Kenya Coalition. Out of those 26, the real ones were about 10, with others being briefcase parties. Members or owners of those parties used to carry briefcases with all the documents and disappeared in thin air after the signing of the coalition agreement.

These amendments will lead to a proper framework that mirrors what they have in the United State of America (USA), where there are members of the blues and the reds. We will have convergence of strong political parties going forward.

We will have parties that are well regulated that will benefit from the Political Parties Fund established under Section 23. That will truly be a mirror of the country. It will also reflect political ideology and shades of political creativity. We will have what is called political horticulture, where there will be shades of opinions of different leaders.

For this country to move to the next level, we want to see strong political parties and not parties being registered by night and they are dead by day. We want to see some longevity in the life of political parties and that is what this Act intends to achieve.

Madam Temporary Speaker, let me mention this. This is one of the Bills that arose out of the national dialogue discourse. It was a bipartisan proposal both by minority and majority sides in a framework that was brought into life after the earlier *maandamano* that we had. In this case, both the majority and minority sides are acting in respect of the people who presented their views during the national dialogue discourse on issues of electoral justice and related matters.

Madam Temporary Speaker, this Bill would not have come at a better time when we have had some form of restructuring in governance and moved from the shareholding narrative to a broad-based narrative where we have every Kenyan as a shareholder in government.

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It is, therefore, important that we move to the next level of ensuring that the next election in 2027 shall be fought based on credible political parties and based on performance by leaders whom we have elected, not based on other irrelevant matters. That is why I strongly support the adoption of this Bill.

This Bill is reflective of the intentions of the people of this country. Public participation shall be undertaken for this Bill. This public participation shall go to the question of dealing with the age-old problem of one individual, the Registrar of Political Parties, controlling political parties to a level where we have five commissioners, an independent commission, and a framework that disperses political power to different individuals for control so that; in 2027 we do not have questions that bedevilled us in 2022 so that we settle to a true democracy after the 2027 elections.

Madam Temporary Speaker, I beg to Second.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. (Prof.) Tom Ojienda.

(Question proposed)

The Temporary Speaker (Sen. Veronica Maina): This Bill is now open for debate and I want to invite Sen. Chararkey to take the Floor.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. I would have expected you to be among the top contributors because you have a history of running the defunct moribund, our former beloved party, Jubilee, and also you are the midwife of the United Democratic Alliance (UDA) Party as the Secretary-General (SG). I hope you will get time to contribute.

I am happy the deputy party leader of the Orange Democratic Movement (ODM), my brother and neighbour, Sen. Godfrey Osotsi, a former Secretary General of one of the coalitions of the Kenya-Kwanza Government, the Amani National Congress (ANC). I hope we will learn from you because you will be debating on something that you have already gone through and you know the challenges that political parties face.

We need strong political parties, we need a strong government, and we need the rule of democracy. The beauty of democracy as my Law lecturer, Sen. (Prof.) Tom Ojienda, my neighbour has indicated that we need a political horticulture, but *hicho ni Kiingereza kikubwa kabisa*.

I have seen people growing excited. I was told there is a party called INJECT that had been registered by some young people, and people continue. That is the freedom we want. We want that independence so that as we grow, we grow with the political parties that we have.

I am making this with the cognizant fact that Nandi County, at the moment, we are facing a labour crisis. As we talk, in our hospitals and health centres, there is industrial action or a strike by health workers in Nandi, and it is a sad situation. I want to appeal to your office that the Senate Standing Committee on Health, led by Sen. Jackson Mandago, intervene because we are having a serious crisis in terms of healthcare provision.

I have said before that the issue of Health is a big concern. So, I thought I should mention it because; even people from Nandi County are following the discourse of political parties.

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I am reliably informed that the Ethics and Anti-Corruption Commission (EACC) has already done a raid in Kapsabet County Offices. We hope that with the ongoing investigation, we shall be able to be told who bears the greatest responsibility for the corruption allegations that we are facing.

Going into the future, we have agreed with the people of Nandi and have directed our Members of County Assembly (MCAs) to commence impeachment proceedings against the sitting governor.

Madam Temporary Speaker, let me mention a few things. One is that as of 2022, we had 90 political parties and others are more like briefcase political parties. It is time as a country we embrace party democracy.

I agree with many people that the presence of 90 political parties plus- because people continue to register even as of now- does not mean that we are democratic. It means we have reduced ourselves to religion, region, tribal, class, among other factors.

Therefore, by 2022, more than 90 political parties have been registered by the Office of the Registrar of Political Parties (ORPP). When you look at this amendment Bill, we want to establish independent political parties regulatory commission, to replace the ORPP. I expected all of us to say something on this, because we are the consumers of this office.

Madam Temporary Speaker, I think over 99 per cent of Members of Parliament (MPs) who are sitting here, are either sponsored by a political party or any political formation, except for a few who are elected through independent tickets as prescribed by the law.

As we speak today, we are the greatest consumers of political parties. We must ensure there is hygiene in terms of running political parties in this country.

Under Article 91 and 92 of the Constitution of Kenya, the characteristics and design of political parties in this Republic should and must reflect the national outlook. One of the characteristics of political parties, is that it must reflect national unity. That is the essence of any political party.

I can tell you out of 90 political parties plus as of 2022, that are registered by political parties, only half within 25 counties have an office. If you look at those offices nowadays, they have even changed colour, because we have used political parties as vehicles. You reach your destination and you abandon it, yet, in the wisdom and design of this Constitution, we had even allocated political parties fund to assist political parties to run by creating an independent office.

We should ask ourselves, now that political parties were funded and rightfully so within the Constitution of the Republic of Kenya, what is the essence of giving political parties funds?

Currently, it is hot as we head to elections in the United States of America (USA). We are having Donald Trump of the Republican Party and of course Kamala Harris of the Democratic Party, and there are many other small parties like Tea Party among others.

When you go there and they call for the National Delegates Conference (NDC), you wonder how those people are well organised yet there are two political parties with different ideologies that must be respected. As we approach November, some of us are great supporters of Donald Trump, and we hope he wins because the economy will look much better as opposed to other ideologies.

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Madam Temporary Speaker, I know as a Speaker, and as a former Secretary General (SG), you want women empowerment. If you go to China, the Communist Party is operated in a military style, with military precision and concision, with an eye of military maxima.

If you go to Chama Cha Mapinduzi (CCM), their organisational structure led by our beloved sister, the President of the Republic of Tanzania Mhe. Samia Suluhu Hassan is impressive. They are organised from the grassroots to the national level is so meticulous. We, as a country, we must build political parties on ideology. We should avoid political tyranny and that is why some parties cannibalize others.

Madam Temporary Speaker, I saw what happened to Tundu Lissu. I saw allegations where a party official was removed from a moving bus and was cannibalized.

As we preach for political ideology, we should not allow political parties' tyranny. Even if you are the massive political party, you do not need to cannibalize other political parties. We hope we will build a party like the Communist Party, the Republican Party, the Democratic Party, Chama Cha Mapinduzi and the National Resistance Movement by H.E. Yoweri Museveni, the President of Uganda.

We have also seen the National Unity Party platform by Bobi Wine. If you go to South Africa, we have the African National Congress (ANC), although it is becoming weak. We saw that Umkhonto We Sizwe Party by the former President, President Jacob Zuma. Our brother, Julius Malema, who was fiery the other day did not have numbers when came to this republic.

We want to see party ideology. When you go to ANC, you should know the ideology. They are the people who liberated South Africa from the white minority rule. The Economic Freedom Fighters (EFF) Party of Julius Malema is pushing for the agenda of nationalization and fairness of the majority who are the black men. The Democratic Alliance Party (DAP) by Stephen Hazen have an ideology they are pursuing. Even Umkhonto We Sizwe led by Jacob Zuma, the former President of the Republic of South Africa, has an ideology. That is the essence we want to identify with.

Madam Temporary Speaker, this office will ensure there is neatness and hygiene by ensuring that the registration of political parties. There will also be management of political parties' fund. Know no one has ever disclosed the use of the fund we contribute. We contribute to the United Democratic Alliance (UDA) Party. The Deputy Party Leader of the Orange Democratic Movement (ODM) is aware that we contribute monthly subscription.

The Deputy President and Members of the County Assembly (MCAs) also contribute. I do not know whether Hon. Raila Odinga is contributing since he is not an elected member nor is he serving. Maybe the Deputy Party Leader will tell us whether he is contributing.

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

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, Sen. Osotsi would like to inform you.

Sen. Cherarkey: He can inform me.

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, proceed.

Sen. Osotsi: Madam Temporary Speaker, I want to inform Sen. Cherarkey that the contribution of the Rt. hon. Raila Amolo Odinga is immeasurable. His contribution cannot be quantified in financial terms or any other manner. It is beyond quantification.

(Applause)

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, while I do not want to wade into the debate, I am sure Sen. Cherarkey was talking about the quantifiable contribution. However, I will let it rest. He appears happy with your point of information.

Sen. Cherarkey: Madam Temporary Speaker, you have to appreciate Sen. Osotsi. He needs to be careful with his wording now that he is Deputy Party Leader. I agree with him, but I was talking about quantifiable contribution. For example, you and I pay Kshs50,000 monthly to UDA party. Maybe the MCAs pay Kshs20,000 and there are others that pay Kshs10,000. That is what I meant. We need accountability of the party fund. It is very critical.

Madam Temporary Speaker, you have been a Secretary General of the ruling political party. You sign cheques and run the accounting of the political party. In future, some of the Secretary General of political parties must appear before Parliament and tell us what the money we contribute through subscription is used for.

I hope Sen. Osotsi is taking this seriously because we are using public funds. Members of the party contribute and you are also given money by the Exchequer. So, you need to tell us how you are using that money.

Madam Temporary Speaker, I hope you get back as the Secretary General of UDA party. Some people do not understand what it means to be a Secretary-General of a ruling party.

As a level-headed person and a sober leader, you need to get back to be the SG to fix a few things here and there, Madam Temporary Speaker. That is the point and I am happy to see you are excited about it and God willing, you need to be in that position again.

We need accountability and the financial statements from these offices to be tabled in Parliament, to tell us on the exchequer money and member subscriptions. We need transparency and accountability from political parties, so that we kill briefcase parties and to also not suffocate political parties who want to grow and expand in our country.

Some of us have ran a number of elections but for my law lecturer Sen. (Prof.) Tom Ojienda, this was his maiden stab. Some of us *ni chuma ya kitambo kidogo*. You can see the frustration of members as you go to a general election. People run with any political party. That is why you see political merchants running around in Parliament and others get nominations through the bedroom while for others, nominations are given on the streets. We need to create a clean-up on management.

I agree on the public audited verification and the availability of list of all members of political parties. You remember the chaos we had some time back but I thank you for assisting us. We migrated *en masse* like wildebeests crossing from Tanzania to Kenya. We heard Tanzania's President, Samia Suluhu Hassan saying that wildebeests from Kenya go to Tanzania to get pregnant and then come back.

Madam Temporary Speaker, you assisted us when we were migrating. We had to sign many letters. We went to the Office of the Registrar of Political Parties (ORPP), Ms.

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Anne Nderitu and deposited. We were moving from Jubilee to the United Democratic Alliance (UDA). We need seamless movement.

I am proposing that in the management of political parties, when I go to the website of this Regulation, we are amending of creating a commission, I can be able to tell members of a certain political party. You and I who are in UDA can go to the website and know the number of members in our party and this will account for transparency and accountability.

We wanted to prevent the issue of party hopping but we never succeeded. Nowadays, people lose the nomination of a political party, they party hop to another political party. Party hopping is common and the country must decide on what to do about it. This is so that we guard the reason of why you are in UDA, the Orange Democratic Party (ODM), Maendeleo Chap Chap, Amani National Congress (ANC) and Injection of National justice, Economic and Civic Transformation (INJECT). At the end of the day, one must have ideological principles that they follow. That is point (h).

Madam Temporary Speaker, even the names and symbols are also issues that you understand about because you are a senior lawyer in this Republic. I propose that we amend No. 4 is as Clause 33(b). It says:

The Commission shall comprise of five commissioners appointed by the President with the approval of the National Assembly.

Why are we legislating ourselves out of business? What is this and what is happening? Under Article 93, Parliament is both Senate and the National Assembly. We must amend this. Political parties are the business of politicians and we are in Parliament.

You cannot tell me that the National Assembly can approve commissioners and leave the Senate out of it and yet we are political animals. Sorry to use that word in its sense. We are also in political parties. Why would we legislate ourselves out and give somebody else a different mandate? I am proposing that Clause 33(b) be amended.

Madam Temporary Speaker, I do not have a problem on the composition. I am happy they have said six years. This will allow staggering, going into the future.

On the Public Service Commission (PSC) and the Salaries and Remuneration Council (SRC), I agree with PSC.

The reading of Article 91, we must agree that we need parties that reflect the face of Kenya. We should kill tribal political parties and regional political parties so that we follow the basic requirements. We are one nation, one people under God.

I wanted to make a critical point. The Constitution recognises the role of the marginalised and minorities. I have yet to see a political party with a minority or a marginalised in its senior position, as in the leadership of the political parties, yet our constitution has a future. I want to see the political party leader of the Orange Democratic Movement (ODM) being a Pokomo one day, and I will be happy to see the United Democratic Alliance (UDA) political party leader being a Turkana.

So that we do not bring this tribal dominance and tyranny of the big tribes, the big five, I can equate it to the wildlife. Let us ensure we inculcate the minority and majority communities, as well as the Gen Z, youth, and women.

I saw my sister, the Minority Whip of the National Assembly, launching her book the other day. I have seen, and I do not know whether it is good for the country, that the issue of any representation, both appointive and elective, they are discussing women only. I have not heard somebody talking about the youth. Some of us, young, had to fight to be

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where we are today. We need a support system for our young people and People with Disability (PWDs); we need them on the table.

I am happy women are receiving much attention, but where will youth go? The youth have come up strongly out of their own energy and zeal. What about the PWDs? What will we do to them? What about the minorities and the marginalised?

As a political party, we must be deliberate, so we proposed that we ring-fence or create protected constituencies for only women to give them chances of winning seats.

While I agree that could work, how long will it last? Like the women's representative seat, it has a sunset clause. You and I know that. What will we do to ensure more women are in leadership, elective and appointive positions, in cabinet, the presidency, and the Senate?

In the future, we must have either a speaker or a deputy speaker who is a woman of substance. We don't see you through the lenses of gender.

I am happy, but I want to ask women leaders who should champion their rights together with those of minorities, marginalised youth and PWDs in the future. I agree that political parties should be registered, and there should be regulation, functions, supervision, and management of political parties and accounting restrictions.

I still have a few minutes to conclude. With the use of public resources, many by-elections are coming up. Some of us are political party leaders here; please fast-track the issue of the appointment of substantive Independent Electoral and Boundaries Commission (IEBC) commissioners. So that places like Banisa constituency and wards that do not have Members of County Assemblies (MCAs), can have the opportunity to elect MCAs and Members of Parliament.

I appeal that, as a nation, it is the right time to put IEBC in place so that by-elections can happen. However, I also want to appeal that we also become hard against using public resources, both at the county and national level, so that we protect the integrity of our offices. When elected, we are not elected to represent the interests of individuals, organisations or entities.

Madam Temporary Speaker, as you know, corporations are so powerful in some countries that they even sponsor—kindly add me 30 seconds.

The Temporary Speaker (Sen. Veronica Maina): You have one minute.

Sen. Cherarkey: Some corporations even sponsor candidates because of their interests. Even in counties, there are business people who sponsor candidates. So, how do we protect the public resources from abuse? Political parties are managed within the Republic of Kenya by establishing and replacing the IEBC.

With those many remarks, I thank you for your indulgence. I beg to support The Political Parties (Amendment) (No.2) Bill (Senate Bills No.26 of 2024), with amendments specifically to Clause 33(b).

Thank you. I hope to see you become the Secretary General of our party. We need you there so that some things can start working.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Cherarkey, for the support.

Sen. Osotsi, proceed.

Sen. Osotsi: Thank you very much, Madam Temporary Speaker and all the Members who have contributed to this very important Bill. As you are aware, this is one

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of the Bills that emanated from the NADCO Report that was a product of bipartisan negotiation between Kenya Kwanza and Azimio.

This is the right step and I hope all the other Bills which are pending before this House are also fast-tracked so that we avoid the mischief that is beginning to show itself out, where people are now coming up with amendments, even proposed amendments to the Constitution, on matters which are already included in the NADCO Report.

I know Sen. Cherarkey has just left the chamber, but I want to tell him that the proposed amendments he is bringing to the Constitution are some of the issues that have been processed in the NADCO Report. I think it is important for him to consult more and wait for the full implementation of the NADCO Report, rather than jumping the gun, as we have seen in his amendments.

This Political Parties Bill, (Amendment Bill) (No. 2) of 2024, seeks to do one thing, to entrench the Independent Political Party Regulatory Commission in the Political Parties Act.

I find this to be very progressive because in the current arrangement, we have the Registrar of Political Parties, who is supposed to make decisions but most of the time, the Registrar is not independent at all. She is not independent at all.

I want to say this without fear of any contradiction, that I have been a victim of that office. You have been the secretary general of Jubilee Party. The decisions that are made by the Registrar of Political Parties are politically motivated.

We cannot have a scenario where we have one individual who is there as the Registrar, but in most cases, does not follow the law. He follows the political dictates of the day and also the directions he is given.

In the last Parliament, I served as a nominated Member of Parliament and as the secretary general of the Amani National Congress (ANC) Party. However, when I started having trouble with the ANC party for my stand on issues, I was taken through a very rigorous, sad and straining process of having to go to court seven times largely because the Registrar of Political Parties was not following the law. He was following the political direction that he was given. Luckily, in all those seven cases, I won.

I am happy that because of my need to survive then, I have now been cited in very important jurisprudence on matters of political parties in this country. Even Sen. (Prof.) Ojienda is a beneficiary of that and many others. It is good that we are now having a commission of five people.

It is not going to be an issue of one woman or one man making the decision on who to expel, which party to deregister, or what form of punishment to give to a member. It is now going to be a panel of five people and that panel is going to consist of two members from the Majority party two members from the Minority party and one member from the non-parliamentary parties; in other words, the small political parties.

This is progressive. A lot of things which have been going wrong are going to be sorted out through this very important amendment. My colleagues have talked about political parties and registration of political parties which is going to be one of the functions of this Commission.

I am talking as a proud deputy party leader of Orange Democratic Movement (ODM). Last week I saw a report which stated that ODM is the only political party that is fully compliant to the Political Parties Act.

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The other parties, including the party where Sen. Cherarkey belongs are all non-compliant. If the Registrar of Political Parties was serious, those parties that should be de-registered, so that we only remain with one political party in this country, ODM.

He was talking about foreign parties such like the Chama Cha Mapinduzi (CCM) and the African National Congress (ANC) of South Africa. However, if there is a party that has elaborate structures that other parties can copy from in Kenya it is the ODM.

If you go to every village, you will find an ODM committee. Even in the most politically hostile areas, you will find someone wearing an orange cap and saying that they are a member of ODM. How I wish that all the other political parties were like ODM. They need to come and learn from us.

We have very good examples on how to run a political party. I hope that the Commission will start by auditing the political parties that we have in this country, because we have an excess of 70 political.

Some of them are not even in existence anywhere. Before the inspectors from the Office of the Registrar of Political Parties register a political party, they must ascertain that the political party has an office in a particular county. I saw someone had put a branding for a political party in a functional butchery and it had been cleared as an office of a political party.

We hope that this new Commission is not going to acquire the bad manners of the current Office of the Registrar of Political Parties, where they are clearing briefcase parties, which have no offices or members and have ended up being registered as political parties. We want proper function of political parties with offices in at least 24 counties of this country.

Madam Temporary Speaker, on the issue of membership. I do not think that the membership data at the office of the Registrar of Political Parties is any more reliable. If you go there, you may even find that you belong to five political parties. You are an elected member, but the records show you belong to another party. How did it happen?

One of the things that this Commission needs to audit once they assume office is to have a look at the membership data for political parties in this country and harmonize it, so that we have a person belonging to one political party at a time.

Madam Temporary Speaker, Political Parties Fund was a good idea. However, but I think the National Treasury is violating the law. The Political Parties Act is very clear, that a certain percentage of the national revenue should go to political parties.

Right now, the National Treasury or the Kenyan Government owes the Orange Democratic Party Kshs11 billion. Since Jubilee is still new, maybe it is in the range of Kshs5 billion. This is a lot of money which if it went to these parties, would make them even stronger.

I disagree with those who say that all political parties in Kenya should be funded. I can only agree with that analogy if those parties are properly regulated. If you have functional offices in 24 counties, a membership register, complying with the Political Parties Act and have your members elected in positions, then you can qualify. However, we cannot say all political parties, including briefcase parties to get money from the Political Parties Fund.

This fund must also be looked at so that only deserving political parties get funding which must be properly audited.

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The Temporary Speaker (Sen. Veronica Maina): Hold on, Sen. Osotsi.

QUORUM

Prof. Ojienda Odhiambo Tom, what is your point of order?

Sen. (Prof.) Tom Odhiambo Ojienda: Madam Temporary Speaker, under Standing Order No.41, I note that there is no quorum. Perhaps, it is time that the House adjourn so that the debate on this issue can continue.

Sen. Osotsi can have time to continue. He has very good ideas, especially his sharing that the Orange Democratic Movement (ODM) is the only compliant party. This is a submission that should be made when we have more of our brothers in the House. I know he is a party leader and I know there are other party leaders from other regions of the country, so that Sen. Cherarkey can listen to him.

Madam Temporary Speaker, I believe that this is the time when we should adjourn. We will come back and Sen. Osotsi can continue with his submissions that are very erudite, on point and refreshing. He comes to the party with the strength of a real party leader.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Prof. Tom. Clerk, can you confirm whether we have quorum?

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

There is no quorum. I would request the Serjeant-at-Arms to ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, having failed to attain a quorum at the expiry of 10 minutes, the Senate stands adjourned pursuant to Standing Order No.41(2)(a) until Tuesday, 8th October, 2024, at 2.30 p.m.

Sen. Osotsi, you will have a balance of 10 minutes.

The Senate rose at 6:17 p.m.