

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

TUESDAY, 8TH APRIL, 2025

Afternoon Sitting

COUNTY ASSEMBLY OF BUNGOMA

THE DAILY HANSARD

TUESDAY, 8TH APRIL, 2025

The House met at the County Assembly Chamber at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

PRAAYER

PAPERS

1. Report by Budget and Appropriations Committee on the Bungoma County First Supplementary Budget

Mr. Speaker: Yes, Hon. Caleb.

Hon. Caleb: Thank you, Hon. Speaker. I rise to table the report on the Bungoma County Government First Supplementary Budget financial year 2024-2025.

Mr. Speaker: Honourable Members the report by the Budget and Appropriations Committee on the Bungoma County Government First Supplementary Budget for the year 2024-2025 is hereby tabled and formally it becomes the property of the House accordingly.

2. Report by the Budget and Appropriations Committee on the County Fiscal Strategy Paper 2025.

Mr. Speaker: If it's not here, we will not adjourn and set it aside. Tell your members it must be tabled. It is not here, I don't have a copy. HBC sat and the Chairperson Budget Committee and other Members decided that the report must be tabled today. I will go to other matters but it must be tabled. Let us go to the item number four.

3. Report by the Sectoral Committee on Roads, Transport, Infrastructure and Public Works.

Mr. Speaker: Chairperson Roads.

Hon. Franklyn Simotwo (Chairperson, Roads): Thank you, Mr. Speaker. I rise to table a report on the status of the completion of the Misiku Brigadier Road in Bungoma. Thank you.

Mr. Speaker: Honourable Members a report by the Sectoral Committee on Roads, Transport, Infrastructure and Public Works on the status of the completion of the Misiku-Naitiri Brigadier Road in Bungoma County is hereby tabled and formally becomes the property of the House.

NOTICES OF MOTION

Mr. Speaker: You leave out number one, two, three and go to number four. I will revisit because as you are sitting here there is no single member of the Budget Committee in this House now.

1. Report by the Sectoral Committee on Roads, Transport, Infrastructure and Public Works.

Mr. Speaker: Hon. Simotwo you proceed to issue a notice.

Hon. Franklyn Simotwo (Chairperson Roads): Thank you, Mr. Speaker. I rise to issue a notice of motion of the Sectoral Committee on Roads and Public Works on the status of the completion of Misiku Brigadier Road in Bungoma County. Thank you

Mr. Speaker: Honourable Members a notice of motion has been duly issued that this House adopts the report by the Sectoral Committee on Roads, Transport, Infrastructure and Public Works on the status of the completion of the Misiku/ Naitiri Brigadier Road in Bungoma County.

I urge the Clerks at the table to share this report with the Honourable MCAs. The same will come up as a motion on our Order Paper in the course of the week.

2. Formation of an 11-member Ad Hoc Committee

Mr. Speaker: Honorable Ipara it is your motion. Issue a notice, please.

Hon. Johnston Ipara: Hon. Speaker, sir, I rise to issue a notice that this House resolves to form an 11-member Ad Hoc Committee to investigate and scrutinize the collection, waivers and utilization of all revenue collected from agricultural produce sales across the county.

Mr. Speaker: Honorable Members at the appropriate time a notice having been issued, this House will resolve to form an 11-member Ad Hoc Committee to investigate and scrutinize the collection, waiver and utilization of all revenue collected from agricultural produce sales across the county. At the appropriate time we will ask the leadership and the mover of the motion that we form the Ad Hoc Committee over the same.

We proceed to the next item.

QUESTIONS AND STATEMENTS

1. House business committee

Mr. Speaker: Yes Hon. Ipara you have the honor of sharing.

Hon. Johnston Ipara: Thank you Hon. Speaker. I have the privilege to share the weekly program of the Business of the County Assembly for the week commencing Tuesday 8th to Thursday 10th, April 2025.

On Tuesday 8th, April, 2025 at 2.30 p.m.

Papers

- i. Report by the Budget and Appropriation Committee on the Bungoma County Government for supplementary budget for the financial year 2024-2025.
- ii. Report by the Budget and Appropriation Committee on the county fiscal strategy paper 2025.
- iii. Report by the Budget and Appropriation Committee on the medium-term debt management paper 2025-2026, 2027-2028. It will be done by the Chairperson Budget and Appropriation Committee.
- iv. Report by the Sectoral Committee on Roads, Transport, Infrastructure, and Public Works on the status of completion of the Misihi-Naitiri Brigadier Road in Bungoma County. It will be done by the Chairperson Sectoral Committee.

Notices of motion

- i. That this House notes the report by the Budget and Appropriation Committee on the Bungoma County Government first supplementary budget for the financial year 2024-2025
- ii. That this House adopts the report by the Budget and Appropriation Committee on the county fiscal strategy paper 2025.
- iii. That this House adopts a report by the Budget and Appropriation Committee on the medium-term debt management paper 2025-2026, 2027-2028. It will be done by the Chairperson.

- iv. That this House adopts the report by the Sectoral Committee on Roads, Transport, Infrastructure, and Public Works on the status of completion of the Misihi-Naitiri Brigadier Road in Bungoma County, Chairperson Sectoral Committee on Roads.
- v. That this House resolves to form an 11-member ad hoc committee to investigate and scrutinize the collection, waivers, and utilization of all revenue collected from agriculture produce sales across the county.

Questions and statements

- i. Statement number four of 2025, a member of the House Business Committee, pass one to provisions of the standing order 47-2A, will inform the County Assembly of the weekly business coming before the House from Tuesday 8th to Thursday 10th April 2025. It is what I am doing, Honorable Speaker.
- ii. It is notified that pass one to standing order 49, the following member will ask a question for reply before the House. Question number one of 2025, member from Musikoma Ward, Hon. George Makari, MCA to seek a response from the County Public Service Board in relation to the employment of the current county valuer in the Department of Lands, Housing and Fiscal Planning.

Motion

A report by the Public Accounts and Investment Committee on the Bungoma County Assembly Honorable Members' Car Loan and Mortgage Scheme Fund for the year ended 30th June 2023 and the report of the Auditor General on the financial statements of the Bungoma County Assembly for the year ended 30th June 2023.

On Wednesday 9th April, 2025 at 9.30 a.m.

Motion

- i. Report by the Budget and Appropriations Committee on the Bungoma County Government for Supplementary Budget for the financial year 2024-2025. It will be done by the Chairperson Budget Committee.
- ii. Formation of Ad Hoc Committee to scrutinize the collection, waivers and utilization of sales money. This will be done by Hon. Johnstone Okasida-Ipara.

On Wednesday 9th April, 2025 at 2.30 p.m.

Bills

The Bungoma County for Supplementary Appropriations Bill financial year 2024-2025(Chairperson Budget Committee)

Committee of the Whole House

Committee on Supply on the Bungoma County for Supplementary Appropriations Bill financial year 2024-2025

Bills

The Bungoma County for Supplementary Appropriations Bill financial year 2024-2025. It will be done by the Chairperson Budget Committee.

On Thursday 10th April, 2025 at 2.30 p.m.

Question and Statement

A member of the House Business Committee pursuant to the provisions of the Standing Order 47-2A, will inform the County Assembly of the weekly business coming before the House from Tuesday 15th to Thursday 17th April, 2025.

Motions

Report by the Budget and Appropriations Committee on the County Fiscal Strategy Paper 2025. It will be done by the Chairperson Budget.

That is the tentative program for next week, Hon. Speaker. Thank you.

Mr. Speaker: Just correct what you've said. Tentative program...

Hon. Johnston Ipara: Hon. Speaker, this is a tentative program for this week. I submit.

Mr. Speaker: Thank you. Now, we are able to proceed but as we do so the Committee of Budget Item No. 2 and No. 3 must be tabled today. We were in HBC, all those members are in HBC and HBC agreed to have them tabled. So I think Membership of Budget Committee do the necessary. So that one there is nothing further to debate. Table them. Leave them for the members here to make the decision.

Item No. 2 and No. 3 must be tabled today. Last time, there was a request to withdraw to go and consult. Then the word went that speaker has refused to pass the budget. So I will not allow that one to be withdrawn. If the situation is failing you people don't worry, I will replace all of them on that Budget Committee. Next item on the Order Paper.

MOTION

REPORT BY THE PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE ON THE BUNGOMA COUNTY ASSEMBLY HONORABLE MEMBERS' CAR LOAN AND MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30TH JUNE, 2023 AND THE REPORT OF THE AUDITOR GENERAL AND THE REPORT OF FINANCIAL STATEMENTS OF BUNGOMA COUNTY ASSEMBLY FOR THE YEAR ENDED 30TH JUNE, 2023

Mr. Speaker: Yes, Hon. George Makari.

Hon. George Makari: Information, Hon. Speaker.

Mr. Speaker: Yes.

Hon. George Makari: Clerk at the Table is going to number eight. He is skipping No. 7.

Mr. Speaker: There is a statement by Hon. George Makari coming at 7.2. Why are you people leaving it out?

QUESTION AND STATEMENT

2. A statement by the Hon. George Makari Member for Musikoma Ward

Mr. Speaker: Yes, Hon. Makari.

Hon. George Makari: Thank you, Hon. Speaker. Before I go to my statement, allow me to think aloud why the Budget Committee led by my good friend Hon. Jack is fumbling around when the order of business is shared with us almost two to three hours before business. Again looking in the House we only have one member of that Committee. The Chairperson has just walked in now. I think we will need...

Mr. Speaker: Honourable Members just for clarity the Order Paper is prepared and approved by HBC. Not even a clerk can evaluate it apart from the Speaker himself. So when we agreed in the HBC on the documents to be tabled today, it stands. If a Deputy Clerk was trying to change the Order Paper he has no such powers. Let's proceed Hon. Makari.

Hon. George Makari: Thank you, Speaker. Now back to my statement. When I was looking at this statement I didn't want just a response from the County Public Service Board. I wanted

by the powers bestowed upon this House and you in particular, the Speaker that these people are invited to this House to answer this substantive question.

You will realize that they have messed us many times before and even this is almost the fourth time they are doing the same thing. It is my prayer that, even as I go through this statement use your powers to have them come and sit here and face the House to respond to this issue.

Hon. Speaker I rise to seek a response in relation to the employment of the current County Valuer in the Department of Lands, Housing and Physical Planning. The Board, to respond to the following

1. Give an elaborate explanation on the selection criteria used by the County Public Service Board to hire the officer who did not possess the requisite qualifications for that position as outlined in the letter of intent presented to the Board by the Department.
2. Explain why the CPSB initiated the recruitment process and went ahead to shortlist the candidate despite his non registration with the Valuers Registration Board which was a requisite requirement.
3. Despite the candidate's credentials having been reviewed and confirmed that he met the academic and other requirements as provided in the advert, the CECM should give an explanation as to why there is no evidence to the effect that ISK membership was provided at the time of the interview for verification by the interviewing panel.
4. Shed light on whether it is justifiable to conclude that, both the process and the appointment violated statutory provisions under the surveyors Act and the values and principles of public service as provided under Article 232 of the Constitution.
5. Taking into account the provisions of Section 75 of the County Governments Act, 2012 and the red flag raised by the Department vide a letter dated 7th October, 2024, the CECM to inquire and give an explanation on the corrective action taken so far by the authorities concerned.
6. Provide any other information which the CECM deems relevant to the subject matter

Thank you.

Mr. Speaker. Now, before I am able to give the directions do you want information to come from the board or the CECM? Because look at your prayer number five and six are talking about the Service Board and the CECM.

Hon. George Makari: I think there was an error in typing. My intention was the board not the CECM. My draft copy the original one I drafted with my own hands is talking about the County Public Service Board. Now somebody wants to take my mind and put it on paper which I do not intend. My intention was the County Public Service Board not the CECM.

The CECM does not come anywhere in this.

Mr. Speaker: So the issue is the Service Board?

Hon. George Makari: The Service Board.

Mr. Speaker: So the relevant committee Public administration when can you respond? Vice Chairperson?

Hon. Caleb Wanjala (Vice Chairperson PA): Thank you, Hon. Speaker. I request that we are given 14 days to give the substantive answer for the questions asked by the honourable Member.

Mr. Speaker: You will be given 14 days. The CEO and the Chairman will appear in person with a report. So they will send the statement sort but officers to appear here is the CEO and the Chairman of the Board to explain these issues before us here. 14 days takes us to which date? Honourable Member recess starts in May, don't worry. The long recess starts in the first week of May.

You people are looking at this document as if it's... We count next Tuesday, leave it out the following Tuesday. It should be around 22nd of April at 2 p.m. Delete the CECM so that the document is addressed to the County Public Service Board. Next.

MOTION

1. REPORT BY THE PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE ON THE BUNGOMA COUNTY ASSEMBLY HONORABLE MEMBERS CAR LOAN AND MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30TH JUNE, 2023 AND THE REPORT OF THE EDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF BUNGOMA COUNTY ASSEMBLY FOR THE YEAR ENDED 30TH JUNE, 2023

Mr. Speaker: Yes, Hon. Chikati, are you the one having the honor of moving the report? As you do so, I hope you are aware of the agreement we made in Liaison Committee meeting? You are a committee of 11 Members there you must be 5 plus one before you are allowed to move this report.

Hon. Timothy Chikati: Yes, we are five plus one.

Mr. Speaker: I am not disputing, just confirm for compliance.

(Applause)

Hon. Timothy Chikati: We are five plus one Speaker. Members, we are even six. We are more than enough, six.

(Loud consultations)

Speaker we are okay.

Mr. Speaker: Honorable Members PAC has 11 Members, the threshold is basically six. Five plus one. They have achieved. Proceed.

(Applause)

Hon. Timothy Chikati (Mover): Thank you, Speaker, for this opportunity to move a report for Public Accounts and Investment Committee. Report of the Auditor General on the Bungoma Account Assembly, Honorable Members, Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2023 and the second report will be a report of the Auditor General on the financial statements of Bungoma Account Assembly for the financial year ended 30th June, 2023.

Honorable Speaker, allow me to skip chapter one since it is the preface and the mandate of the committee as per the standing orders and allow me to move all the way to page four which are the guiding principles Audit of Public Accounts.

Guiding Principles

AUDIT OF PUBLIC ACCOUNTS

According to Article 229(4) (b) of the Constitution of Kenya, within six months after the end of each financial year, the Auditor General is required to examine the Financial Report on the Accounts of all funds and authorities of the National and County Governments and express an opinion on the report on whether money appropriated by Parliament or the relevant County Assembly and disbursed;

- (i) has been applied for the purpose for which it was appropriated or raised;
- (ii) was expended in conformity with the authority that governs it; and
- (iii) was expended economically, efficiently and effectively.

The Audit report shall then be submitted to Parliament or the relevant County Assembly for debate and consideration.

Obligations of accounting officers

Section 149(1), of the PFM Act, 2012 stipulates that: “An accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized; effective, efficient, economical and transparent.”

Direct Personal Liability

Article 226(5) of the Constitution of Kenya, 2010 is emphatic that “If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”.

Section 116(1) of the Public Finance Management Act, 2012 provides that, the County Executive Committee Member for Finance may, with the approval of the County Executive Committee and the County Assembly, establish Public Funds.

Section 116 (7)(a) (b) (c) of the same Act directs that “The administrator of a County Public Fund shall prepare accounts for the fund for each financial year and not later than three months after the end of each financial year, submit the financial statements relating to those accounts to the Auditor-General and the County Assembly.”

Furthermore, the Public Audit Act, No. 34 of 2015, more specifically section 32 of the Act provides that;

- 1) All reports of an Audit shall be submitted to Parliament or the relevant County Assembly.
- 2) Within seven days of receiving the report, Parliament shall publicize it on its official website and other public spaces.
- 3) Within fourteen days after submitting the report to Parliament or the relevant County Assembly, the Auditor-General shall publicize the report on the official website and other public spaces.

Further, Section 35 of the same Act states that, the Auditor-General shall conduct audits of financial statements under Article 229 of the Constitution for State Organs and public entities and report annually to Parliament and the relevant County Assembly.

Section 36(1) provides, that the Auditor-General shall conduct performance audit to examine the economy, efficiency and effectiveness with which public money has been expended pursuant to Article 229 of the Constitution.

The Public Accounts and Investments Committee strongly holds the view that these provisions of the law were meant to ensure prudent and responsible use of public funds. The Committee has accordingly applied these provisions to recommend varying actions. The committee also places a premium on these principles, among others, and has been guided by them in the entire process that has culminated into the preparation and production of this report.

Confidentiality Undertaking by the Committee

To enhance the integrity of the Committee and its work, Members of the Public Accounts and Investments Committee have signed a confidentiality undertaking in accordance with Bungoma County Assembly Standing Order No 98. In relation to the provisions of the said Standing Order; Members have undertaken that in relation to this report, no Member of the Committee shall refer to the substance of the proceedings touching on the subject matter which shall include any evidence or documents presented to the Committee and any information under discussion or deliberation at its meetings before it is tabled in the County Assembly.

Methodology

Mr. Speaker Sir,

The Reports of the Auditor General on Bungoma County Assembly Honorable Members' Car Loan and Mortgage scheme fund for the year ended 30th June, 2023, and the report of the Auditor General on the financial statements of Bungoma County Assembly for the year ended 30th June 2023 were tabled in the County Assembly on the 4th Day of March 2024.

The reports were committed to the Public Accounts and Investments Committee for consideration under the Committee's mandate.

The Committee carried out an analysis of the queries raised by the Auditor General in the two reports and wrote to the Accounting officer who provided responses and subsequently appeared before the Committee for interrogation on the 10th day of February, 2025 in the presence of officers from the office of the Auditor General from Kakamega.

The Committee hereby provides this report having considered the responses provided by the Accounting Officer of The County Assembly of Bungoma and the guidance provided by the Officers from the Office of the Auditor General who were the prosecutors of the reports during the interrogation exercise.

MEMBERS OF THE PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

- | | | |
|-----|------------------------|-------------|
| 1. | Hon. Everton Nganga | Chairperson |
| 2. | Hon. Timothy Chikati | Vice Chair |
| 3. | Hon. Stephen Wamalwa | Member |
| 4. | Hon. Joseph Juma | Member |
| 5. | Hon. Anthony Lusenaka | Member |
| 6. | Hon. Everlyne Mutiembu | Member |
| 7. | Hon. Alfred Mukhanya | Member |
| 8. | Hon. Stephen Kaiser | Member |
| 9. | Hon. Jerusa Aleu | Member |
| 10. | Hon. Godfrey Mukhwana | Member |
| 11. | Hon. Jeremiah Kuloba | Member |

Acknowledgment

Honorable Speaker Sir,

The Committee wishes to express its gratitude to your office for allowing it to sit outside the precincts of the County Assembly to prepare this report, further the committee's great thanks goes to the office of the Clerk for facilitating the committee to execute its mandate and for appearing before the Committee for interrogation and lastly the secretariat of the committee and the officers from the office of the Auditor General for exemplary technical and logistical support that led to the production of this report.

Hon. Speaker Sir,

On behalf of the Public Accounts and Investments Committee, I now wish to table this report and urge the Honorable House to adopt it with the recommendations therein.

Signed by Hon. Everton S Nganga, MCA- East San'galo Ward, Chair Public Accounts and Investment Committee

CHAPTER TWO

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF BUNGOMA COUNTY ASSEMBLY FOR THE YEAR ENDED 30TH JUNE, 2023

Unqualified Opinion

Audit query

1. Pending Bills.

Note 1 and 3 in Other Disclosures reflects a balance of Kshs.34,746,187 and Kshs.91,160,014 in respect of pending accounts payable and other pending payables respectively all totalling Kshs.125,906,201 which were not settled as at 30 June, 2023 but were carried forward to 2023/2024 financial year. No plausible explanation was provided for non-payment of the pending bills before the end of the financial year.

Management Response

The accounting officer in his written response submitted that;

The Management agrees with the audit findings that at the time of Audit, the total outstanding pending accounts payable were Kshs. 34,746,187. The County Assembly has paid a total of Kshs. 20,046,187. The current pending accounts payable balance was Ksh. 14,700,000 being outstanding subscriptions payable to County Assemblies Forum (CAF) which the Office of the Auditor General and the Public Accounts committee of the Senate has questioned its legality. (Appendix 1)

On other pending payables totaling to Kshs.91, 160,014; the management is working on a plan to repay the amount.

Oral submission by the Accounting Officer

Paying subscriptions to CAF would still result to audit queries since the Senate and the Office of the Auditor General have questioned the legality of County Assemblies Forum (CAF).The accounting officer urges the committee to help ensure its legality since the forum allows discussions on pertinent matters within the County Assemblies. Recommendations from the Senate should be sought with regards to the issue of CAF.

Committee Observation

- i. The County Assembly has made payments to the pending Accounts payables of Kshs. 20,046,187 leaving out Kshs. 14,700,000 due to the County Assemblies Forum (CAF). This amount has not been paid since the Office of the Auditor General and the Public Accounts committee of the Senate has questioned the legality of the CAF.
- ii. There is an outstanding amount of other accounts payables of Kshs.91,160,014 due to the Car and Mortgage Funds not yet repaid by the Assembly.

Committee Recommendation

The Accounting officer to budget for the outstanding payables due to the Car and Mortgage funds of Kshs. 91,160,014 and clear within a year from the date of adoption of this report.

The Assembly should make provisions for the amounts payables to CAF to be repaid once the body is legally established since there are ongoing procedures for its legal establishment.

2. Lack of Ethnic diversity in staff establishment

Review of the County Assembly's staff records for the month of June, 2023 indicated that out of the one hundred and twenty-five (125) permanent employees, one hundred and ten (110) or 88% were from the same ethnic community contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public entity shall have more than one-third of its staff from the same ethnic community.

Management Response

The management disagrees with the Audit findings that at the time of Audit, most employees in the County assembly were from the dominant ethnic community.

It's worth to note that the dominant ethnic group in the county assembly is Bukusu at 84 in number. This translates to 67%. A total of 41 employees translating to 33% are not from the dominant Bukusu ethnic community which is within the provisions of section 65(1)(e) of the County Governments Act 2012.

Oral Submission

Job adverts are published in newspapers for accessibility by everyone. However, most applications received are from those that reside in localities close to the County Assembly, of which majority are Luhyas. This makes it difficult to meet with the requirements of section 7 (2) of the National Cohesion and Integration Act, 2008. The County Assembly has, however, ensured distribution of job opportunities among different sub-tribes. A total of 84 staff are from the Bukusu sub tribe- which is the dominant. This translates to 67%; meaning 33% are not from the dominant sub-tribe.

Committee Observations

Job adverts are always published by the County Assembly in newspapers/print media for accessibility by everyone.

The County Assembly failed to comply with requirements of the National Cohesion on employees in service since more than one third are from the local dominant community of Luhya however the Luhya community has several sub-tribes which were well distributed in the employment.

Committee Recommendation

The County Assembly Service Board should always comply with Section 7(2) of the National Cohesion and Integration Act, 2008 when selecting candidates for appointment.

3. Failure to adhere to the One-third Basic Pay Rule

Review of the payroll revealed that employees' salary deductions exceeded two-thirds (2/3) of their basic salary contrary to Section C.I (3) of the Public Service Commission Human Resource Policies, 2016 and Section 19(3) of the Employment Act, 2007 which require that deductions made by an employer from the wages of his employees at any one time shall not exceed two-thirds of such wages

Management Response

The Management agrees with the Audit findings that at the time of audit, some of the employee's salary deductions exceeded two thirds of their basic salary in various months during the year. This was as a result of the affected staff having taken commercial loans that led to deductions exceeding two thirds of their basic salaries.

Currently, the management ensures compliance that no staff can have salary deductions exceed two thirds of their basic salary.

Committee Observations

An Internal Memo from the clerk of county assembly dated 24 June 2024 directing for compliance with Section 19(3) of the Employment Act, 2007 which require that deductions made by an employer from the wages of his employees at any one time shall not exceed two-thirds of such wages was provided and verified by the Committee.

Data concerning the staff payroll was provided to the Committee and it was evident that there is compliance with Section 19(3) of the Employment Act, 2007.

Committee Recommendation

The Audit query is hereby resolved

4. Poor Information Technology (ICT) Control Environment

Review of documents provided for audit and physical verification revealed that the server room doors were being opened inwards contrary to the requirements of Section 8.0.2(a) of Government ICT Networks Standards ICTA.2.002:2019 that requires doors of the telecommunication/equipment room to open outward, slide sideways, or be removable. In the circumstances, the internal controls were not up to the standards required for a government entity

Management Response

Management agrees with the audit findings that at the time of audit the server room doors were being opened inwards. The doors have since been rectified to adhere to the requirements of Section 8.0.2(a) of Government ICT Networks Standards ICTA.2.002:2019.

Committee Observation

The management has adhered to the ICT networks standards, the server room doors were being opened outwards and slide sideways as under Paragraph 8.0.2(a) of Government ICT 2019 Networks Standards

Committee Recommendation

The Audit query is hereby resolved

CHAPTER THREE

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF BUNGOMA COUNTY ASSEMBLY HONORABLE MEMBERS CAR LOAN AND MORTGAGE FUND FOR THE YEAR ENDED 30TH JUNE, 2023

Qualified Opinion

1. Unsupported Prior Year Adjustments

The statement of financial assets and liabilities as at 30 June 2023 reflects a nil balance in respect of prior year adjustment which, as disclosed in Note 7 to the financial statements, comprises of a balance brought forward of Kshs.45, 625,458 and two negative balances of Kshs.366, 600 and Kshs.9, 025,458 relating to reversal of entry of tax on car grant paid by County Assembly Service Board and variations in interest on loans from first assembly. However, no documentary evidences provided to support the amounts. In the circumstances, the accuracy and completeness of the nil prior year adjustment balance could not be confirmed.

Management response

The management agrees with the audit findings as at the time of audit, prior year adjustments had not been properly supported but the same has been done.

Committee Observations

Prior year adjustments were done and journals provided as under Regulation 42(1) of the PFM (County Government) regulation, 2015 on ensuring correctness of the Financial Statements before being signed by the Accounting officer.

Committee Recommendation

The Audit query is resolved.

2. Doubtful Long-term Receivable

The statement of financial position reflects a balance of Kshs.292,379,746 in respect of current portion of long-term receivables from exchange transactions which, as disclosed in Note 4B to the financial statements includes Kshs.21,457,620 relating to loans advanced to members of the first and Second County Assemblies who were not subsequently re-elected. No explanation was provided on why the former Members were advance loans that were not confined to the lives of their respective terms of five years. In addition, the log books and title deeds were not jointly registered between the Members and the County Assembly as required by Regulation 8(2) of the Public Finance Management (Bungoma County Assembly Member's Car Loan Scheme Fund) Regulation, 2022 that requires that logbooks of the motor vehicles financed by the Fund be registered jointly between the County Assembly and the Member. Further, the beneficiaries received cash instead of settlement of property price being directly with the vendor. In the circumstances, Management was in breach of the law and the

recoverability of the long outstanding loans of Kshs.21, 457,620 issued to the former Members of County Assembly is doubtful.

Management Response

The management agrees with the Audit findings that as at the time of Audit, some honorable Members of 1st and 2nd Assembly had not serviced their loans. The Assembly has initiated a recovery plan by issuing demand notices to defaulting members of the first and Second Assembly whose securities were submitted. Currently loans are issued and repaid within the term of service of Hon. Members as per the approved amended regulations.

Oral Submission

That first Assembly Members did not serve all the full term, there was a court case but the case was not ruled in favor of the Members and the management has ensured that a caution has been put on the properties acquired via the Assembly loan and mortgage scheme; therefore the properties cannot be transferred.

Demand notices have been issued and the management is in the process of recovery.

Currently, the regulations were amended and approved for Members to clear their loans at the end of their terms of service as opposed to the previously stipulated five years. The accounting officer requested for support from the committee to ensure compliance to the regulations, for prosperity of the fund

Committee Observation

The management is in the process of recovering the loans as initiated via demand notices.

Charges for co-ownership of property acquired through the car loan and mortgage scheme have been initiated with those who already submitted the ownership documents.

Committee Recommendation

Regulation 8(2) of the Public Finance Management (Bungoma County Assembly Member's Car Loan Scheme Fund) Regulation, 2022 requires that logbooks and title deeds of the motor vehicles financed by the Fund be registered jointly between the County Assembly and the Member;

Therefore Hon. Members who are yet to abide by the regulation as approved by the County Assembly should purpose to make the process seamless by providing the title deeds and log books for property acquired through the fund for co-ownership registration within six months from the adoption of this report.

3. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on comparable basis of Kshs. 5,000,000 and Kshs. 3,144,956 respectively, resulting to underfunding of Kshs.1,855,044, or 37% of the budget. Similarly, the fund expended kshs. 1,144,640 against an approved budget of Kshs. 4,000,000 resulting to underperformance of Kshs. 2,855,360 or 71% of the budget. The underfunding and

underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

The interest was not fully earned because most of the Honorable members received their loans towards the end of the financial year hence the loans did not earn maximum interest. Included in the budget amount are legal expenses towards charging of the log books and title deeds which was not done during the financial year leading to underperformance.

Oral Submission

Delayed exchequer releases resulted to some members receiving their loans towards the end of the Fiscal period resulting to minimal interest earned.

Legal expenses towards charging of the log books and title deeds which was not done during the financial year also resulted to underperformance.

Committee Observation

There was underfunding and underperformance of the budgeted expenditures which affected implementation of planned activities.

Committee Recommendation.

Management should enforce compliance to Regulation 41.(1) (b) of the Public Finance Management (County Governments) Regulations, 2015 in overall control of budget execution through strict application of rules, which apply to all transactions with the specific exception of debt service payments , total payments for a detailed budget line in a given fiscal year should not exceed the reallocations issued against the budget line.

4. Failure to Provide Jointly Registered Ownership Documents

The statement of financial position reflects a balance of Kshs. 292,379,747 in respect of long term receivables from exchange transactions which, as disclosed in Note 4B to the financial statements, includes Kshs.128,000,000 and Kshs.169,560,000 totaling to Kshs.297,560,000 relating to car loan and mortgage disbursements respectively, during the year. However, Management did not produce logbooks and title deeds jointly registered between the County Assembly and loanee as required by Regulation 8(2) of the Public Finance Management (Bungoma County Assembly Member's Car Loan Scheme Fund) Regulation, 2022 which provides that jointly registered ownership documents of property financed by the Fund should be kept in custody of the officer administering the fund. In the circumstances, Management was in breach of the law.

Management Response

The management agrees with the Audit findings. Currently the log books and title deeds have been submitted and are in the process of being jointly co-owned between the beneficiary

and the County Assembly. Attached is the forwarding letter to Ndalila & company Advocates subject matter being, securities to be charged.

Oral Submission

That Charges for core ownership of property acquired through the car loan and mortgage scheme have been initiated with those who already submitted the ownership documents as evidenced by the forwarding letter to Ndalila & company Advocates for securities to be charged.

Committee Observation

The regulations governing the Bungoma County Assembly Member's Car Loan Scheme Fund as approved by the County Assembly require the beneficiaries to submit the title deeds and Logbooks for property acquired within the timelines of ninety (90) days after loan advancement.

Some Honorable Members are yet to submit the ownership documents for joint-ownership registration for security purposes of the fund by management.

Committee Recommendation

Regulation 8(2) of the Public Finance Management (Bungoma County Assembly Member's Car Loan Scheme Fund) Regulation, 2022 requires that logbooks of the motor vehicles financed by the Fund be registered jointly between the County Assembly and the Member to whom the loan is advanced.

Hon. Members who are yet to submit the ownership documents for joint-ownership should do so to enable management clear the query within 90 days from adoption of this report.

Going forward the ninety (90) days' timelines should strictly be adhered to.

CONCLUSION

Hon. Speaker, The audit reports on financial statements of the Bungoma County Assembly Honorable Members' Car Loan and Mortgage scheme fund for the year ended 30th June, 2023 achieved a qualified opinion and currently with only one unresolved issue and two partially resolved issues. Report of the auditor general on the financial statements of Bungoma county assembly for the year ended 30th June 2023 achieved an unqualified opinion from the Auditor General, representing a fair position of financial performance for the County Assembly of Bungoma, and an improvement which saw the County Assembly of Bungoma emerge Position one during the 2024 Fire awards.

Hon. Speaker, I urge this honorable House to adopt this report with the contents therein.

Hon. Speaker, we have the adoption schedule signed by all the eleven Honorable members of the Public Accounts and Investment Committee and also the annexures supporting this report. At this juncture, with your...

Mr. Speaker: Your annexures are not complete! Which page is the letter for Ndalila and company advocates forwarding the logbook? From the report you are reading because the one I am having is not there.

Hon. Timothy Chikati: Ndalila and Advocates?

Mr. Speaker: Yes, the one forwarding the documents for joining registration of the Honorable Members and the Assembly.

Hon. Timothy Chikati: Rama, do we have it?

Mr. Speaker: You ought to be the one telling us because you are the one reading the report.

Hon. Timothy Chikati: I am not the one who compiled it Hon. Speaker.

Mr. Speaker: No, you are the one moving the report.

Hon. Timothy Chikati: May be it was just an oversight. Our clerk is here with us...

Mr. Speaker: Hon. Chikati, when he is here he is not your clerk he is a Table Clerk.

Hon. Timothy Chikati: Yes, it's missing Hon. Speaker

Mr. Speaker: Do not say all the annexures are attached herein.

Hon. Timothy Chikati: I had not gone through the annexures but...

Mr. Speaker: What I am saying, your last statement that all the annexures are attached here in.

Hon. Timothy Chikati: I withdraw that statement. The annexures are attached but not all of them...

(Laughter)

(Applause)

Mr. Speaker: Kindly, can you call your seconder to assist you do the necessary!

Hon. Timothy Chikati: Thank you Hon. Speaker. At this juncture, let me call the Deputy Speaker to second the report.

Mr. Speaker: Hon. Stephen Wamalwa, you have the honor to second the report moved by Hon. Chikati!

Hon. Stephen Wamalwa: Thank you Hon. Speaker for according me this opportunity to second this report of the Public Accounts and Investments committee as ably moved by Honorable Timothy Chikati, Member for Ndaluta/Tabani Ward.

Allow me also laud him for the eloquence and speed that he has taken us through. I was actually doing a following. He was so fast and very eloquent and with proper diction. I want to comment you Hon. Chikati for that.

Hon. Speaker, our County Assembly just received unqualified opinion and this being the auditor's opinion which puts our institution in good standing means that we are actually on the right trajectory. This report brings out those few areas that need to be improved on so that our County Assembly can stand tall and be counted. As we are aware Honorable Members, our Assembly was rated second in financial reporting across the country which is a good indication which gives other players confidence in this institution. Therefore, the few areas observed by this committee are those ones that with concerted efforts of all of us we can now make Bungoma County Assembly to be rated as first in financial reporting.

Apart from those few issues, some are beyond us. For example when we talk of this query on payables of 14,000,000 due for CAF, it is the same office and other agencies that actually make it look like if it is paid it also becomes another query. That the Service Board and the entire institution at risk and therefore we believe that sooner or later the Government will pronounce itself on matters County Assemblies for a. So that when we make subscriptions we cannot again be asked that we are doing undue payments and also when we do not pay courtesy of following their directives again it becomes an issue of pending bills.

There is also this issue of ethnicity and on this one allow me say that the people of Western Kenya are disadvantaged because they are all lumped into one group called Luhya yet when you go out there you will find that at the coast the small communities are distinct. They are observed and recognized as Taita, Taveta, Oromo but the Luhya are lumped together. Therefore this query of ethnicity composition that makes this Assembly fail to attain and achieve Section 7(2) of National Cohesion and Integration Act 2008. It's not the making of this Assembly.

Nevertheless, the response from the CEO of this Assembly and the management was so robust that we realized that this County is predominantly inhabited by the Bukusu and therefore these other communities are also accommodated in this Assembly. So, the Bukusu's standing at 65% and other communities standing at 33% is a good composition of this Assembly. I am sure when you go to Garissa...

Mr. Speaker: When he is seconding the motion, you cannot inform at the moment honourable Member.

Mr. Stephen Wamalwa: Thank you Hon. Speaker for your protection. We know very well that other communities are in this region and specifically in this County and off course the County Assembly has achieved the same. Because when you put the Luhya nation together comprising of 18 sub clans, they make 84% and we have other communities which we agree but when we come down now with the predominance of Bukusu in this County, we are doing well because we are at 65 and that is an indicator that we are achieving the cohesion requirement.

In this County Assembly, it should be known members that advertisement is done when vacancies fall due in this Assembly and this advertisements are made through all the media available; print media, not to mention even radio stations and every other media. The Assembly may not and cannot maybe go out and coerce who to apply for these opportunities. It is upon the members of the public themselves to come forward, to present themselves for the chances that are available.

Having said that, we are working towards complying with Section 7(2) of the integrated commissions' requirement but we know that this being a predominant area for certain communities, it may be difficult. I know going forward, this Assembly will work towards achieving the same.

Hon. Speaker, another issue that was resolved effectively by the Assembly was the issue of basic pay and basic pay, Honourable Members, requires discipline. Apart from the Assembly working to ensure that our payroll stands at two-thirds, that we cannot go beyond our earnings, it requires discipline of Honourable Members. It requires discipline of the staff of this Assembly because your payroll may read that you're actually achieving the two-thirds of your earnings, yet maybe we've gone out and taken even other facilities from other financial institutions. For us Honourable Members that would make us not honourable enough because it would be disgraceful for us to be in a status which undermines the standard of an Honourable Member. Hon. Speaker, having said that, a memo was made on 24th June 2024, directing compliance on this and I know this is going to not only address our living standards but also discipline on our part.

There is also this issue of unsupported prior adjustments and doubtful long-term receivables. This is about the obligations that we have with the County Assembly. All of us here have been advanced monies towards purchase of property; that is mortgage, and also a car for us to use. It is a requirement under Regulation 8(2) of the Public Finance Management Act and our own Regulations 2022 of this County Assembly that we have to register those properties both ourselves and the County Assembly so that at the end of term, after completing the payment, then you can be given your property so that you can own it the way you want or even you sell. As we speak, this is a query that was not resolved and where we are 90 days after adoption of this report, all of us, including the staff, are required that we register co-ownership of that motor vehicle that you purchased with advancement from the Assembly and that property that you purchased with both the County Assembly and ourselves so that this query can be resolved. It is part of the few areas that make our County Assembly not to be rated the best in this country.

Therefore, Honourable Members, I want to urge this House with passion that you support and ensure we adopt the same. I second the report.

Mr. Speaker: Thank you, Deputy Speaker for seconding the report.

I'll be proposing a motion for debate, but as I do so, the mover and the seconder, you are silent on one item. Honourable Members who are in this House and the members of staff, who have so far refused to give their logbooks and title deeds. You haven't talked about what measures are supposed to be taken on them to ensure they comply. How do you handle them?

(Motion proposed)

Hon. George Makari: Thank you Hon. Speaker. I want to support the report because this is our own report on the Assembly. When the committees were going through the just ended County Fiscal Strategy Paper, there was a curious observation from the Executive Hon. Speaker which has pained me a lot. One of the observations they made is that the challenges they face stems from weak oversight by this County Assembly. They happily wrote that in their report and when they appeared before us and we asked them to explain, they could not respond.

This is our own report of this House but let me first of all congratulate the mover of the motion, Hon. Chikati, I didn't know Hon. Chikati can read so fast like that, if it was my good friend, Hon. Waiti we would still be yawning and he would still be reading the report.

(Laughter)

Mr. Speaker: Be fair to Hon. Waiti. What about Hon. Mulongo?

Hon. George Makari: Hon. Mulongo is now worse Hon. Speaker. My point is first of all I support the report but I want to differ with the seconder a little bit because he dwelled on an unqualified opinion. Hon. Speaker, in this report, there are two opinions. There is a qualified opinion, and that specifically goes to Car and Mortgage and then there is unqualified opinion on the statements of the County Assembly. Now, the statement of the County Assembly is where an unqualified opinion is and it means it is clean. Qualified opinion on Car and Mortgage, it is called qualified which means it is not a clean opinion; it is below average. I want to correct my good friend, the DS. He just dwelt on the unqualified opinion, which is a good report he did not want to look on the negative side, Hon. Speaker.

On this qualified opinion regarding the...

(Loud consultations)

Mr. Speaker: What he has said is the true picture if he did not know. What Hon. Makari has said is the true position. Hon. Makari, you are protected. Proceed. Thank you.

Hon. George Makari: Thank you Honourable Speaker, for protecting me. I want to look at the qualified opinion on the Car and Mortgage which is okay because there were very many problems in the issuance of Car and Mortgage. We know what happened and things happened the way they were. Now 3(4) says management did not provide logbooks and title deeds duly registered between the County Assembly and the Loanee, as required by Regulation 8(2) of the Public Management Act, specifically County Assembly Car and Mortgage regulations of 2022.

As much as I don't want to argue with them, honourable Members have only a contract of five years and our salaries are attached for the same. Now, you are going to register my car logbook; you are going to register my land jointly with the County Assembly and of course you are picking money from my salary to pay, it's not that I'm not paying. The question is why should you register jointly with the Assembly and myself? Some financial loss may arise at the end of the term because now maybe I have finished the term and I don't want to contest again and I come back for my logbook, who is going to pay for the discharge of change of ownership? I want to discharge that loan from the Assembly, who is going to pay for that discharge? The charge that was placed on my property, who is going to foot that cost of discharging?

We must be able also to look at that one, because the short period we are here and then you go ahead to charge my property with the County Assembly when I have not defaulted and I'm not going to default within the five years contract term. If you look at it carefully, there is no room for defaulting because you have my salary which

you have already written and accepted that you will be deducting the loan from. As much as that is the law but applying it here, I don't know but it doesn't make sense.

As I wind up, I want to say it is a good report except for the few areas which we can look at.

Finally, those ones who did not provide title deeds and log books. I know a few Members, one of them is here but I don't want to name them. We will cross that bridge when we reach there. I support, Hon. Speaker.

Mr. Speaker: Thank you. Hon. Jack, you're next on line then Hon. Ipara. Hon. Chemion I asked you to bring your card, if you don't have I think today you will not have a chance to speak.

Hon. Jack Wambulwa: Hon. Speaker. I rise to support the report. First of all, I want to congratulate Hon. Chikati, the mover of the motion. The speed at which he has read the report is one of the best so far in this House and he requires a clap, members, let's appreciate him. Because I did not imagine it is the Chikati I know that was reading.

(Applause)

When he means it, he can do it better. Hon. Speaker, I want to...

Mr. Speaker: You are missing one point, he was under some motivation

(Laughter)

Hon. Jack Wambulwa: But after motivation, he has done it well. The motivation must have worked well in him. Hon. Speaker I was going to raise the same issue that has been raised by Hon. Makari. When it comes to the County Assembly loaning out this money to a Member, we've committed our pay slips and all this money comes through this Assembly. There is nothing at the end of the month that does not come through the Assembly. I think the legal mind in the Assembly that resolved that we should be co-joined on the logbook or on the title deed is worrying and we need to review.

Mr. Speaker: Hon. Jack, just to correct you, it is not the Assembly, it is the auditor's report recommending, not us.

Hon. Jack Wambulwa: As much as that's what the auditors are recommending, they need to respond clearly. Because at the end of the day, what the auditor needs is a satisfactory response. They should not tie us to a level that we have to register jointly with the Assembly which is unfair to this Member's Hon. Speaker. Therefore, I will not agree to allow my title to be enjoined with the County Assembly. Whoever responds must get it clear that these Members have a term limit. In fact, for my case I will clear the loan a year before my terms comes to an end.

Secondly, the loans advanced to Members should be insured, there is no way we can continue operating without insuring these loans. If the loans are insured I am sure the auditor will not

be asking for the same. I request that we get insurance cover this facility to make sure that Members are safe.

As I sum up, Hon. Speaker, I want to correct my younger brother, my Deputy Speaker, who seconded the motion. He made an allegation here that is unsubstantiated and that's why as an Assembly, when you oversight, we really need somebody to substantiate on what he contributes on this floor or the information he's giving. For him to claim that Bukusu's are 65%, I disagree with him 100%. Reason being, majority of those who are in Bungoma County are Abanyala only that they are assimilated by Bukusu. That is why we find ourselves to be in a situation like we are all Bukusu but the truth remains that Abanyala are the majority in Bungoma at 55%. He needs to withdraw that statement of saying Bukusu's are 65% and dig back to the sub-clans of Bungoma County and then he will be able to tell indeed who are these 55%. Thank you Honourable Speaker

Mr. Speaker: Hon. Jack, while I respect your submissions, but you understand that basically Hon. Chikati was just reading the report of the committee so we cannot hang him for the response for that issue of saying the percentages. Although you said that but you have not recognized the fact that some of the Members here are from across. They are international, so how do we handle that? Especially so-and-so are international. Let's proceed. Hon. Ipara.

Hon. Johnston Ipara: Thank you Honourable Speaker. I will not comment on that one...

Mr. Speaker: Of course you cannot, you know that is the truth.

Hon. Johnston Ipara: Hon. Speaker let me begin by lauding Hon. Chikati and even today when we left home coming to Bungoma, Hon. Chikati was driving at a high speed and I was wondering where he was rushing to. I have just realized he was rushing to prepare for the presentation that he has done wonderfully.

I also want to start from where Hon. Makari and Hon. Jack stopped. The system we are using to recover payment of both mortgage and car loan is called check-off system. Where, the one who is in control is the one who gave you the loan. He is the one who calculates how much you will be repaying on a monthly basis and for how long. Why again should we subject honourable Members to a joint ownership on a vehicle and property when repayment is being done promptly? We should inform the Auditor General why we are applying that leeway and not to punish ourselves.

If you go for a co-operative loan, the co-operative loan does not require you to have a joint ownership on a property that you are going to use that loan for. Why are we applying this on honourable Members? Is it because we are not able to defend ourselves? We should not allow this Hon. Speaker.

The second thing I want to address; is I saw the Deputy Speaker fumbling when he was seconding this report; terming qualified as unqualified, it is wrong. I want to say this on a tribal breakdown on employment in the...

Mr. Speaker: Let me hear what Honourable Deputy Speaker has

Hon. Stephen Wamalwa: (*On a Point of Information*) Hon. Speaker because he is on Hansard I want to make it clear that I did not fumble, that is unfortunate.

Mr. Speaker: Hon. Ipara, if that is the term you used I think you were out of order and out of parliamentary language

Hon. Stephen Wamalwa: (*On a Point of Information*) Two, when I said that this County Assembly is failing to get first position I was meaning the qualified part of it that makes us unqualified, I cannot use the same word, I am a teacher, I don't do repetition and you have to understand members

Hon. Johnston Ipara: Hon. Speaker because he is my neighbor and he may decide to block the road when I am going to Eldoret I withdraw that word.

On the breakdown on employment, the Constitution is very clear and I want to be very particular, Article 232(1) (h), *public service must reflect, the word to mark is 'must reflect Kenya's diversity and ensure fair representation of all communities'*. When the seconder was seconding and using the words he picked as a teacher, they were not correct, they were totally in contravention of the law. If you look at Article 10 and 27, it says; *guarantee equality and non-discrimination*. Who is supposed to guarantee this? It is the entity and for our case, who is the entity? The County Assembly of Bungoma where we have qualified human resource officers who are supposed to assist in making sure that at least we comply with what the law calls upon us.

Hon. Speaker, Article 56(c) calls for affirmative action, affirmative action comes about when you discover that a wrong has been done you apply it to correct the wrong. We should not have excuses saying that 65% or 90%. What does the law say? The law provides for a remedy for all the wrongs that we do.

I was also wondering on our forum, if you look on the membership of this forum, CAF, majority of them are speakers and the majority of them are qualified lawyers. Why has it taken all those many years for us not to comply with the law? It seems like there's one or several Hon. Speakers who are not ready to comply with the law. The law is very clear, what was the purpose of CAF? Simple, spell out what the purpose was. Why did we fail to give the purpose? What is the objective? Why are we not able to give the objectives? When that is done properly in adherence to the law, it is supposed to be taken for public participation and later presented to this Assembly.

Mr. Speaker: Hon. Ipara you are arguing so well but are you aware of the status of CAF at the moment? On the report, you are putting it so well, but are you aware of the status of CAF at the moment?

Hon. Johnston Ipara: If I knew the status, I could not have been speaking the way I'm speaking, Hon. Speaker.

Mr. Speaker: CAF is a registered society and it has a certificate. What we have been fighting as CAF is to have CAF anchored in the law as an entity which is supposed to get funds from

the National Government. As we are talking here, CAF is just an entity. Basically whenever CAF has functions, the patron of CAF is the Senate Speaker himself so you ought to understand the legal status of CAF as you proceed.

Hon. Johnston Ipara: Thank you, Hon. Speaker, for the information. I'm now informed when I walk out, I walk out an informed person knowing the current position of CAF and we must correct the anomaly that is there. I support this report.

Mr. Speaker: Yes, Benjamin Otsiula? Proceed.

Hon. Benjamin Otsiula: Hon. Speaker I am surprised that today you don't know me. I think you need spectacles.

Mr. Speaker: No. I am looking at the requests here which is not clear.

Hon. Benjamin Otsiula: Hon. Speaker, I also appreciate the guidance that has been given to my friend, Hon. Okasida, because I was also thinking along the same lines.

You know when we get directives from the COB and from the Auditor General sometimes we wonder, are these directives anchored in the law? I remember in 2014 when you were doing matters in court concerning these issues of charges and mortgages, I think I was just 1 year in practice, Hon. with Mr. Ocharo, and this issue of registering a charge was there. How do you register a charge on a loan which is being secured and serviced through the Check off system? It has never happened. As much as this thing is happening, and even you in your law firm, I'm sure you cannot allow that. I'm just wondering, if these people are giving directions to this Assembly, and now that CAF is our umbrella and is yet to be recognized from the other side. Hon. Speaker, don't you think that we are also protected in law, so that we as an Assembly we should be looking at these directives emanating from these entities and also respond? We also have to respond to them. I believe if you gave me this mortgage to purchase land, then you tie my land for five years, I think it is unfair, and in law I believe it is wrong.

On this issue of insurance I think we can cure it in our budget making process in future. Once our loans are insured, we shall not trouble members. Once I purchase my land and I am now paying, I can be able to take this title deed to a co-operative bank so that they can develop it for me, or they can give me financial adjustments to improve my livelihood.

Otherwise I also support the report, but as I said it is an issue of imploring upon Members and looking at it wholesomely.

Before I sit down, we were in Nairobi during the summit, and Members of CAF were saying, we met the President. We were with the President's team until late last night, but the President has not come out up to now. Hon. Speaker, two weeks after we came back from Nairobi, MPs' salaries were adjusted upwards. If these people are able to sit with the President and the President's team, what is this thing that is so difficult when it comes to issues affecting County Assemblies? Even if they are recognized and put under our umbrella, I believe the current team is doing a disservice to the honourable Members, we are not

convinced. Why sit with President's team the whole night, then in the morning he is not there and then, after two weeks, those people who did not even meet the President they are being given KShs.366,000 salary increments, Hon. Speaker. It boils down to how we are being represented and how our interests are going to be taken care of. Otherwise, I also wish to second the report. Thank you.

Mr. Speaker: You are not seconding the report, you are supporting the report.

Hon. Benjamin Otsiula: I'm supporting the report, Hon. Speaker.

Mr. Speaker: Hon. Aggrey. Hon. Chemion you will have a chance to speak, but next time you must have your card. Every Member has a card that he carries around. If you lost it then you must replace.

Hon. Aggrey Mulongo: Thank you Mr. Speaker for giving me this chance to contribute towards this motion. I take this opportunity to say thank you to Hon. Chikati for giving us the report in 30 minutes. This report is an eye-opener for this Assembly and my question is so simple. First of all, I am supporting the report.

Mr. Speaker in 2017, you were here, I was here also and some other honourable Members have been here since 2017. Is there anybody who has defaulted paying this loan? If not, Mr. Speaker, this report here, I think we need also to look into it because we are not defaulters. We should not be told that we must surrender our title deeds and logbooks...

Mr. Speaker: Hon. Mulongo, come out very clear, are you against the joint registration or even giving a title? As a sign that you bought a vehicle we have been giving our title deeds and our logbooks. So what are you opposing? Come clear.

Hon. Aggrey Mulongo: I'm saying this is revolving fund which we are given with an interest of 3% and we are paying back. I have given a reference that since 2017 there is no any defaulter in this House? If nobody has defaulted they why should we surrender our title deeds and logbooks? If you are holding my money, you are giving me my money as a salary and you are deducting my loan directly through check off system, why should we again be told to surrender logbooks and title deeds or even talking about co-ownership of those properties with the Assembly? I am saying we are not even supposed to surrender those things to the County Assembly. It is not worth because you already have my money, deducting my loan through check off. Why should you again retain my title deed or logbook?

(Laughter)

This is double payment, it is double Mr. Speaker. I'm here because from Kimilili up to this area, is the reason I was given a car loan to be here daily. My salary is my guarantee and the Assembly has a responsibility to deduct the loan so that after five years when my term comes to an end all the amount is recovered and I go home a clean man. Mr. Speaker, the logbook title deed should be mine. Again you have not given me as a favor since I am repaying back in fact with interest. I support this report but you as a member of CAF take back the auditor's report.

Mr. Speaker: Let me correct you. You are equally a member of CAF. If you don't know from today, CAF is 47-County Assembly Members and their Speakers.

Hon. Aggrey Mulongo: Leadership. Mr. Speaker, leadership. What I mean is leadership. You know, we cannot all of us be IN leadership. I am sending you as our leader now. Thank you, Mr. Speaker.

Mr. Speaker: Just to assist you, Hon. Grace and Tony sit in Governing Council. Hon. Chemion, you must find a way of recovering your card or else the next coming sittings, you won't be given a chance to speak. Proceed.

Hon. Francis Chemion: Thank you Hon. Speaker for the chance. Hon. Speaker I want to come to an issue where the first Assembly and the Second Assembly in the report, we have Members who defaulted and a good amount, I remember. Hon. Speaker, there was a time it was about 27 million. Those who came back in the Second Assembly paid. It came down a bit. From this report Hon. Speaker, it is showing that the Members still owe that fund more than 21 million. I'm talking about what is contained in this report. Just look at the report, honorable Members. It is clear that we have Members who defaulted in the first and even in the second assembly as per this report.

Secondly Hon. Speaker, if we as Members of this Assembly we passed that law, what we need now to do to cure this mischief and not to air out the way we are doing is to make amendment. We amend that law because that is what the Controller of Budget is using. We need to come as a County Assembly, look at the same law and move amendments. We review that law. That is the cure. If we only contribute without amending honourable Members, we would have not done anything. That law will be applied because we passed it here. It will affect us and it will affect the next coming team unless that area is reviewed. That is why this committee to them, they stood by the law. They didn't want to divert. They stood by the law and what the law says, and that is what is contained in that recommendation. I propose Members that we now take time and look at the law and find a way of curing this issue.

Thirdly, Hon. Speaker on the issue of this report from the Auditor General disowning the legality of CAF. I looked at the timetable in the Lexham. On the timetable, there was time scheduled for Office of the Auditor General and he was coming to attend a CAF legislative summit. Now, they are saying that whatever we have been submitting as subscriptions, we have been submitting to an illegal entity. Why did they attend our meetings if these meetings were being held or being coordinated by an illegal entity? Hon. Speaker, you have informed us today that this CAF is now registered as a society.

So being registered as a society at least gives it some backing and legality. There is some backing in law. There is something that we are also anchored somewhere, even in the Societies Act. Honorable Members, if today all of us say that we don't belong to CAF and that CAF should not be in existence, we will not participate in CAF programs. That is what

will happen. Because if we decide not to subscribe, it means we don't support CAF programs like the one held at Lexham, which all of us attended in Nairobi. We have other programs like CASA, an affiliate of CAF and all of us partake all these programs. We must look at these issues and find an amicable solution.

Finally Hon. Speaker on the issue of ethnicity, I don't know if you looked at the population census and the categorization of communities that may have been the one that has been used to categorize communities in Kenya has lumped us all as Luyhas. If we want to correct, we must look at that categorization at that level. The Banyala of this country and *Basoso*, *Babukusu* and Bamabasaba among others. If categorization has not changed the Auditor General will look at the categorization as given by that body which lumps us together as Luyha community.

Honorable Members, there was a report by the Justice Committee and Hon. Chikati is a strong Member there, where we were looking at the ethnic diversity in Bungoma Executive and the County Assembly. The report is with us and we passed it here. We gave those percentages in that other report, which is closely related to this report. If Members check from your gadgets you will find we have a report by the Justice Committee that has given the diversity. What I want to thank first of all is that we are not far from the margin as a County. We are not, because it is 70-30. So what we could now be recommending Hon. Speaker, in this report is that we work towards achieving what is given by the law. In the substantive employments, let us now consider improving on those other areas in the substantive employment, because right now, we cannot do anything. Those who are in office are in office. If we want to correct it, we correct it in the next employment opportunities that will come before this County Assembly. Members that is what I would have wished to talk about, those three major areas and also to thank the mover of the motion, Hon. Speaker.

The only area that I am not clear Hon. Speaker is that I did not get all the annexures. Because annexures would have given us more information to contribute on. For example, for ethnicity we could have looked at the numbers. We could have looked at the names of people who defaulted. Who are these who defaulted? The names would have been given that for example myself may be, I defaulted one million in the first Assembly or in the second Assembly. The annexures would have enriched this report. Otherwise, I support the report. It has come and let us now work on those areas that we think we should amend so that we are safe. Thank you Mr. Speaker.

Mr. Speaker: Thank you. I will now allow the Leader of Majority. As he does so Hon. Chikati should prepare to reply to the motion.

Hon. Joseph Nyongesa (Leader of Majority): Thank you Mr. Speaker. I'm also in support, because nowadays I'm also a Member in that committee. I am rising on a few things; one, please let us not divert from the truth, Mr. Speaker. Because I also once used to think the way my colleagues are thinking. When we hosted Auditor General here, in fact he told us that

there is no way any public funds can be given minus security. Mr. Speaker as we speak even in the National Parliament, he quoted, he was sitting in that seat and he told us that even in the National Assembly, this is what is happening.

Mr. Speaker even car reimbursement has regulations and Members are aware of the reimbursement process. Mr. Speaker, there is somebody who said if we have some defaulters? Mr. Speaker in the first Assembly almost half of the Members were defaulters. That's why we are having a lot of challenges in that kitty. In the second Assembly, we have about four or five defaulters because there was no security. Members as much as we are contributing, let us put in mind that we have many laws. When I listened to Wakili Otsiula, it prompted me look at Regulation 82 of the PFM Regulations where you can find all these information. Mr. Speaker what we can agree as an Assembly is that we insure the loans for us to be safe. The issue of depositing logbooks and title deeds as security is in order. Because the Auditor General was clear and he said the Accounting Officer will be liable for loss of funds if security is not under his custody. The key condition should be before issuing out any public fund, you should have the security in your custody and Members should know that. Thank you Mr. Speaker.

Mr. Speaker: Hon. Chikati reply, so let me give you the microphone first. Proceed.

Hon. Timothy Chikati (*Mover to reply*): Thank you Hon. Speaker. Allow me thank all the honourable Members that have contributed to the motion and more so to Hon. Chemion Masai, and the Leader of Majority that have helped me to respond to most of the issues.

(Laughter and Applause)

However, Hon. Speaker, I would like to add a few. Hon. Masai, thank you so much, because when we are doing this report, we are following the PFM Act Section 82 on car and mortgage. So we need to have that security in place. But I just want to add one thing, Hon. Speaker. For the security, we are using the check-off system, our salaries being deducted to repay back car loan and mortgage. That aside, the Assembly must have the security under its custody. Hon. Speaker, what if a Hon. Member decides to resign because of greener pastures somewhere? That is the reason that security has to be in place. What if a Hon. Member dies God forbid, Hon. Speaker? That brings me to what Hon. Wambulwa said that the possible way moving forward is to have these loans insured. Otherwise the majority of the Members their questions have been answered by Hon. Chemion and the Leader of Majority. I beg them to adopt the report as it is. Thank you Mr. Speaker.

(Applause)

Mr. Speaker: Honorable Members, Hon. Chikati is in order. They have spoken on his behalf. Why repeat when the answer has already been given? Honorable Members, allow be able to proceed and put a question;

(Question put and agreed to)

The Ayes have it.

(Applause)

Members will be forced to go back to our Order Paper specifically item 5 (2) on Papers.

PAPERS

2. Report by the Budget and Appropriations Committee on the County Fiscal Strategy Paper 2025.

Mr. Speaker: Yes, Chair Budget.

Hon. Jackson Wambulwa (Chairperson, Budget): Hon. Speaker, I hereby rise to table the medium-term paper...

Mr. Speaker: Number 2.

Hon. Jackson Wambulwa (Chairperson, Budget): Hon. Speaker, I hereby rise to table the Fiscal Strategy Paper, 2024/2025, 2025/2026. Thank you Hon. Speaker.

Mr. Speaker: Honourable Members, the report by the Budget and Appropriations Committee on Bungoma County Fiscal Strategy Paper 2025 is hereby tabled and now becomes the property of the House.

3. Report by Budget and Appropriation Committee on the Medium Term Debt Management Strategy Paper 2025/2026-2027/2028

Mr. Speaker: Yes, Honorable Jack, proceed.

Hon. Jackson Wambulwa (Chairperson, Budget): Thank you, Hon. Speaker. I hereby rise to table a paper by the Budget and Appropriations Committee on the Medium-Term Debt Management Strategy Paper for the financial year 2025/2026. Thank you, Honorable Speaker.

Mr. Speaker: Honourable Members, the report by the Sector Committee by the Budget and Appropriations Committee on the medium-term debt management paper 2025/2026-2027/2028 is hereby tabled and formally it becomes the property of the House accordingly.

NOTICES OF MOTION

1. That this House adopts a report by Budget and Appropriations Committee on the Bungoma County First Supplementary Budget financial year 2024/2025.

Mr. Speaker: Hon. Caleb you proceed and issue a notice for noting.

Hon. Caleb Wanjala: Thank you Hon. Speaker. I rise to give a notice of motion that this House notes the report by the Budget and Appropriations Committee on the Bungoma County Government 1st Supplementary Budget for the year 2024-2025.

Mr. Speaker: Thank you Honorable Members. A notice having been issued that this House takes note or notes the report by the Budget and Appropriations Committee on the Bungoma County Government 1st Supplementary Budget for the financial year 2024/2025, I urge the table clerks to share out this report today to Honorable Members to prepare for debate tomorrow at 9.30 a.m. The idea of saying that we will circulate tomorrow is not allowed. The moment I have issued the notice, share it out so that they prepare. Before close of business confirm circulation to me.

2. That this House adopts a report by Budget and Appropriations Committee on the County Fiscal Strategy Paper 2025.

Mr. Speaker: Hon. Jack, proceed and issue a notice.

Hon. Jackson Wambulwa (Chairperson, Budget): Thank you, Hon. Speaker. I hereby give notice that this House adopts the report by the Budget and Appropriations Committee on the County Fiscal Strategy Paper 2025. Thank you, Honorable Speaker.

Mr. Speaker: Honorable Members the Committee on Budget and Appropriations has hereby issued a notice that this House adopts the report by the Budget and Appropriations Committee on the County Fiscal Strategy Paper 2025. The same is shared with the Honorable Members. It will be coming up as a motion in the course of this week. Next.

3. That this House adopts a report by the Budget and Appropriations Committee on the Medium-Term Debt Management Strategy Paper 2025/2026-2027/2028.

Hon. Jackson Wambulwa (Chairperson, Budget): Hon. Speaker as I give the notice, I want to give some information; House is unaware that eight of my members are on Labour Committee which is away on a retreat; That is the reason we are few in the House today. I proceed and give notice that this House adopts a report by the Budget and Appropriations Committee on the Medium-Term Debt Management Strategy Paper 2025/2026-2027/2028. Thank you, Hon. Speaker.

Mr. Speaker: Honorable Members, equally the Budget Committee and Appropriations Committee has issued a notice to the House that the House adopts the report by the Budget Committee on the Medium-Term Debt Management Paper 2025/2026-2027/2028. The same will be shared out to the honourable Members and it will form part of debate in the course of the week or once scheduled by the HBC on the Order Paper.

ADJOURNMENT

Members, as per our Order Paper, those were the last items we placed aside. We will adjourn for now and resume tomorrow at 9.30 a.m. and continue with our Order Paper from there. So we adjourn accordingly.

The House rose at 4:30 p.m.