

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

WEDNESDAY, 10TH SEPTEMBER, 2025

Afternoon Sitting

3rd County Assembly

Version 00

4th Session

Revision 00

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COUNTY ASSEMBLY OF BUNGOMA

THE DAILY HANSARD

WEDNESDAY, 17TH SEPTEMBER, 2025

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

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

PRAYER

STATEMENTS

1. PURSUANT TO SECTION 42 2 (C) THE CHAIRPERSON SECTORAL COMMITTEE ON FINANCE AND ECONOMIC PLANNING WILL RESPOND ON THE FOLLOWING STATEMENT ON WEDNESDAY, 17TH, 2025

Mr. Speaker: Yes, Hon. Francis Chemion, you are present. Hon. Orize Kundu, Member of Finance Committee, proceed.

Hon. Tonny Barasa: Thank you, Honourable Speaker, the Committee on Finance and Economic Planning, received a question sought by Hon. Francis Chemion in this House on 31st July, 2025 and referred to Committee for response pursuant to Standing Order 47 (2) (c) of the County Assembly of Bungoma Standing Orders. The statement was in respect to the Ward specific projects for the financial year 2024/2025. The committee was given up to the 2nd of September, 2025 to provide a response through the chairperson.

The committee, requested for reply from the department of Finance and Economic Planning of the Clerk on 18th August, 2025. The reply reached the office of the clerk of the county Assembly and consequently to the committee on 10th September, 2025. On 11th September, 2025, at 9:00 a.m., the CECM Finance and Economic Planning accompanied by the Chief Officer and the Directors

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for Accounts, Supply Chain Management and M&E, provided a reply to the committee as follows:
The letter requested comprehensive reports addressing the following:

Ward Based Projects Approved Budget for FY 2024/25

The total approved budget was KShs. 1,125,000,000 translating to Kshs. 25M per ward. The projects were distributed as per the following Sector/Department allocation;

NO.	Department/ Sector	Allocation	NO. of Projects
1.	Agriculture & Livestock	82,180,000.00	38
2.	Education & Vocational Training	98,150,000.00	38
3.	Health & Sanitation	67,600,000.00	28
4.	Lands, Urban & Physical Planning	25,800,000.00	16
5.	Roads & Infrastructure	647,702,720.00	115
6.	Trade & Industrialization	59,467,280.00	41
7.	Water & Natural Resources	144,100,000.00	41
	Total	1,125,000,000.00	379

On issues No 2-4; for the financial year 2024/2025

The total amount allocated for ward-based projects was Kshs. 1,125,000,000. Upon completion of the procurement process, the departments contracted works of Kshs. 1,103,079,471.28 as per the attached list including names of contractors, amount involved, amount paid and balances. (see attached schedule)

Issue No 5; The criteria used to determine payments;

The Accounting Officers submit documents for completed works and services to the County Treasury. Upon confirmation of supporting documents, the County Treasury processes payments to internet banking level one to await for exchequer funding.

Once the exchequer is received, a payment work plan is prepared based on available funds on exchequer account. An Exchequer request is raised to the Controller of Budget on First In First Out principle.

Issue No 6; Reasons for non-payments of contractors or projects;

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The own source revenue projection was highly ambitious. There was a revenue shortfall at the close of the year. Similarly, the budgeted grants were not received in full at the end of the Financial Year.

The budget for 2024/2025 did not fully provide for all the historical pending bills. However, the County Treasury paid Ksh. 2,471,000,887

The committee after consideration of the submission resolved to have a discussion with County Assembly Leadership to come up with a legal framework that will tie payment of Ward projects to exchequer to avoid pending bills in Ward based projects.

The owner of the statement was satisfied with the responses provided and the commitment made by the committee to follow-up, address ward based projects pending bills by engaging with leadership to come up with remedies for future.

I beg to move Honourable Speaker, on behalf of vice chair Hon. Orize Kundu signed as Chairperson, Committee on Finance and Economic Planning. Honourable Speaker we have the annexures and the owner of the Statement Hon. Francis Chemion is here, he can confirm Honourable Speaker, Thank you.

Mr. Speaker: Yes, Hon. Francis Chemion

Hon. Francis Chemion: Thank you, Honourable Speaker, for this time that you have given to me. Honourable Speaker and Members, this statement, I sought because I wanted Members to have a look and we have an attachment, an annexure of all the work projects that were done in our Wards. We have in the annexure, honourable Members; we have the company or business director's name, allocation that you allocated, contract sum for each project in your Ward, what has been paid, the balance that has not been paid and the status of the project. So members, I hope you will take keen interest in this document.

Because it is answering some of the issues that you could be having in your Wards. So check on your Ward, because I am not able, as a person who raised the statement, to know exactly what happened in your Ward. I cannot tell the number of projects, I cannot tell the amount allocated, but you can still check from the list.

What we learned, honourable Speaker, it must be now a practice, if we want to manage this area of CEF very well. Let it be a practice that we check all the time, they give us, they furnish us with

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all this information the way they have furnished. After a quarter, we get a report, after another quarter, we get another report, so that we are on top of things. We also established that the department has not attached CEF projects to the exchequer.

That was very dis-heartening information that we received and we agreed that we need a meeting of our leadership, the Finance Committee, and even all of us to come up with a binding tool that will bind the Executive to attach all the CEF projects to the exchequer. So that this other recurrent can be attached to our own source revenue.

Otherwise we will be putting money in these projects and they will not be paid, if we attach them to our own source revenue. We also realized honourable Members that we should also be keen now with our targeting, in terms of our own source revenue. We must target something that is realistic...

Mr. Speaker: Members, for guidance purposes, which Hon. Orize is not saying. This document has come when we were in the morning session. I'm sure all the honorable Members here none of them has that attachments. When you say that they look at the document on their gadgets, they don't have that document. I suggest that we go to another issue so that by the time we come back to it, you will have copies on your gadgets because the said attachment is critical to elected MCAs.

It's indicating every project, which company did that work, status, whether complete, ongoing, whichever status it is. Right now they can't be able to follow up because scanning is being done right now to be send to Members.

Hon. Orize Kundu all this time, the feedback came today in the morning, even going to the Clerk's Office has taken long. Members, I think...

Hon. Francis Chemion: Honourable Speaker, I thought it had been circulated. If it has not been circulated, it will be a disservice to Members. Then I agree, Speaker that we reschedule it to tomorrow, so that they have enough time to go through, not today.

Mr. Speaker: Hon. Chemion, it appears you don't attend the sittings on a daily basis. The last motion of the Order Paper is to adjourn the sitting of the House. Members, there is no sitting tomorrow. This statement is taken back to HBC and it will appear on the Order Paper on the day

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we will resume our sittings. The document will be send on your gadgets once they are through with scanning.

Have time to look at every Ward projects that have been done, payment and status. This document will be send again on the day we will sit to consider this statement to enable you follow up. Next item.

2. STATEMENT BY THE CHAIRPERSON OF THE SECTORAL COMMITTEE ON LABOUR RELATIONS

Mr. Speaker: Yes, Hon. Hentry Nyongesa

Hon. Hentry Nyongesa (Chairperson, Labour): Thank you, Honourable Speaker. Honourable Speaker, I beg to move the report from the Committee on Labour Relations, Member Services and Facilities on the statement raised by the Hon. John K. Wanyama in relation to the state of Casual Workers in the County Government of Bungoma after the Court case. Pursuant to the provisions of Standing Order 54 of the County Assembly of Bungoma Standing Orders, the Committee on Labour Relation, Members Service and Faculties hereby submits its report on the statement sought by Hon. John K. Wanyama concerning the State of Casual Workers in the County Government of Bungoma after the Court case.

Following the directive of the Committee, the County Secretary was formally requested to respond to issues raised in the Statement vide letter reference CAB/CC/SECT/12 VOL.I (91) dated 22nd July, 2025.

The County Secretary submitted the response vide a letter Ref CGB/BGM/CS/CA/VOL.III/ (74). The Committee with the Owner of the statement deliberated on the response but the owner had issues that needed clarification from the County Secretary Concerning the employment of 463 Casual Workers.

The County Secretary was invited for Clarification vide letter ref: CAB/CC/SECT/12 VOL.1 (113) to appear before the committee on Thursday, 11th September, 2025 at 11:00 a.m. and give clarification on the employment of 463 Casual Workers.

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The Committee together with the County Secretary deliberated on the response but the County Secretary was to submit a report on the Implementation of Court Order in Petition No.1 of 2019, where it was submitted by letter ref: CGB/BGM/CS/A.L/VOL.1/ (96) dated 12th September, 2025.

Consequently, the Committee invited the owner of the statement on 16th September, 2025 to deliberate on the implementation report where the owner was taken through the report which has the following Observations and Recommendations that were made.

General Observations

- i. A total of 235 Casuals that presented themselves had basic requirements that allow them to be employed at entry level of Job Group ‘B’ (Annex 3).
- ii. A total of 45 casual workers had partial qualifications for employment/placement at Job Group ‘B’ (Annex 5).
- iii. Three Casual Workers had already secured formal employment with the County Government of Bungoma (Annex 6).
- iv. A total of 56 casual workers had not attained the age of Maturity by 2013 when they were allegedly working as casuals. (Annex 7).

Recommendations

- i. The County Government of Bungoma to place 235 Casuals on Permanent and Pensionable employment terms at Job Group ‘B’ as ordered by the Court.
- ii. The County Government to seek advisory from the public Service Commission on employability of 45 Casual Workers who didn’t have basic Form Four Certificates (KCSE Certificates). This will address the issue of placement on IHRIS System and generation of personal numbers to facilitate salary payments as manual payment is not applicable.
- iii. The County Government of Bungoma to seek advisory from the Public Service Commission on how to handle 56 casual workers who had not attained the age of maturity by 2013 yet they were already in formal employment. They were minors by then and the question arises on how to handle their arrears.
- iv. Once the advisory is issued on underage casuals and those who didn’t have the basic qualifications for placement on permanent and pensionable terms from the Public Service Commission, the respondents will abide by the advisory given and implement appropriately.
- v. Once the budget is availed, the effective date for appointment of those who qualify should be 1st August, 2025.
- vi. Discussions on the payment of accrued arrears as directed by the Court will commence immediately after the appointment letters are issued.

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Hon. Speaker, the owner of the Statement Agreed and informed the Committee that the report was Satisfactory as he had raised in the statement. I submit

Mr. Speaker: Thank you, Hon. Kennedy Wanyama

Hon. Kennedy Wanyama: Thank you, Honourable Speaker. I want to confirm that I appeared before the Committee on Labour and I'm satisfied with the submissions done by the department. Honourable Speaker, the department gave a breakdown of the number of casuals that appeared for the physical analysis and the total number has been indicated by the department, Mr. Speaker. But out of that verification, Mr. Speaker, as much as I'm actually satisfied, a few issues have come out which I would like to urge the Committee to continue engaging with the department so that they can ensure that the same is not repeated.

Mr. Speaker, you see it's clearly indicated there were a total of 45 casual workers that had partial qualifications and then we had 56 casual workers that had not attained the age of maturity by 2013 when they were allegedly working as casuals. So the department, the County government has procedurally, it's actually seeking for an advisory from the Public Service Commission on the two issues and I believe the committee will be able to follow up and ensure that the same is addressed. So I am satisfied, Mr. Speaker. Thank you, Sir.

Mr. Speaker: Thank you, Hon. Kennedy Wanyama. Next.

MOTIONS

1. REPORT OF THE COMMITTEE ON SELECTION ON THE REVIEW OF MEMBERSHIP TO COUNTY ASSEMBLY COMMITTEES

Hon. Tonny Barasa: Thank you, Honourable Speaker. It's not HMS, it's a report by Selection, Committee on the review of membership to County Assembly Committees.

ACKNOWLEDGEMENT

On behalf of the Members of Selection Committee, I would like to express my heartfelt gratitude to the Honourable Speaker and the Clerk of the County Assembly for their invaluable support.

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I further extend my gratitude to the secretariat for their technical support in coming up with this report.

Pursuant to the provision of the Standing Order 177 (3), it is now my privilege to present this report of the Selection Committee on the re-alignment of members to County Assembly committees for approval by this House.

Signed by Hon. Joseph Juma Nyongesa -MCA Tuuti / Marakaru Ward
Chairperson of Selection Committee

OBJECTIVE OF THE REPORT

The objective of the Selection Committee to review and place members to committees are typically for:

- a) Ensuring balanced representation to ensure that all political parties/ coalitions within the County Assembly are fairly represented across various committees.
- b) Compliance with legal and procedural requirements by ensuring that the composition of the committees complies with all legal, procedural and constitutional requirements

METHODOLOGY

The Selection Committee used multi step method to ensure effective and fair placement of members to committees through coalitional consultations.

SCRUTINY OF COMMITTEES' MEMBERSHIP

The Committee on Selection pursuant to its mandate scrutinized the Committees' membership to address concerns as raised by the respective coalitions. This was done through a mapping and matching process where preferences, diversity and representation were considered that led to a consensus building.

The Committee analyzed and reviewed 18 committees, taking into consideration the provision of the Standing Orders and placed members to the various committees and Pursuant to Standing Order 177 (3) urge this House to approve the placement and nomination of the Members to the following Committees of the County Assembly;

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SECTORAL COMMITTEES

1. FINANCE AND ECONOMIC PLANNING

- | | | |
|-----|-------------------------|--------|
| 1. | Hon. Polycarp Wandabusi | Member |
| 2. | Hon. Hentry Nyongesa | Member |
| 3. | Hon. Jack Kawa | Member |
| 4. | Hon. Violet Makhanu | Member |
| 5. | Hon. Stephen Wamalwa | Member |
| 6. | Hon. Tony Barasa | Member |
| 7. | Hon. George Makari | Member |
| 8. | Hon. Catherine Kituyi | Member |
| 9. | Hon. Grace Sundukwa | Member |
| 10. | Hon. Joan Kirong | Member |
| 11. | Hon. Godfrey Mukhwana | Member |
| 12. | Hon. Milliah Masungo | Member |
| 13. | Hon. Aggrey Mulongo | Member |
| 14. | Hon. Anthony Lusenaka | Member |
| 15. | Hon. Vitalis Wangila | Member |

2. EDUCATION AND VOCATIONAL TRAINING

- | | | |
|-----|-------------------------|------------------|
| 1. | Hon. Stephen Kaiser | Vice Chairperson |
| 2. | Hon. Jack Wambulwa | Member |
| 3. | Hon. Jack Kawa | Member |
| 4. | Hon. Kennedy Wanyama | Member |
| 5. | Hon. Angeline Rugut | Member |
| 6. | Hon. Francis Chemion | Member |
| 7. | Hon. Abraham Obama | Member |
| 8. | Hon. Christine Mukhongo | Member |
| 9. | Hon. Mildred Barasa | Member |
| 10. | Hon. Jacob Psero | Member |
| 11. | Hon. Johnson Ipara | Member |
| 12. | Hon. Everton Nganga | Member |
| 13. | Hon. Timothy Chikati | Member |
| 14. | Hon. Job Mukoyandali | Member |

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15. Hon. Ali Machani Member

3. AGRICULTURE, LIVESTOCK, FISHERIES, IRRIGATION AND COOPERATIVES DEVELOPMENT

- | | | |
|-----|------------------------|------------------|
| 1. | Hon. Waiti Wafula | Chairperson |
| 2. | Hon. Idd Owongo | Vice Chairperson |
| 3. | Hon. Franklin Simotwo | Member |
| 4. | Hon. Jerusa Aleu | Member |
| 5. | Hon. Isaiah Busolo | Member |
| 6. | Hon. Bernard Kikechi | Member |
| 7. | Hon. Caleb Wanjala | Member |
| 8. | Hon. Edwin Opwora | Member |
| 9. | Hon. Meshack Simiyu | Member |
| 10. | Hon. Martin Chemorion | Member |
| 11. | Hon. George Tendet | Member |
| 12. | Hon Allan Nyongesa | Member |
| 13. | Hon. Everlyne Mutiambu | Member |
| 14. | Hon. Alice Kibaba | Member |
| 15. | Hon. Alfred Mukhanya | Member |

4. ROADS, TRANSPORT, INFRASTRUCTURE AND PUBLIC WORKS

- | | | |
|-----|------------------------|-------------|
| 1. | Hon. Frankline Simotwo | Chairperson |
| 2. | Hon. Godfrey Mukhwana | Member |
| 3. | Hon. Charles Nangulu | Member |
| 4. | Hon. Metrine Wilson | Member |
| 5. | Hon. Violet Makhanu | Member |
| 6. | Hon. Jerusa Aleu | Member |
| 7. | Hon. Idd Owongo | Member |
| 8. | Hon. Stephen Kaiser | Member |
| 9. | Hon Hentry Nyongesa | Member |
| 10. | Hon. Bridgit Katasi | Member |
| 11. | Hon. Johnston Ipara | Member |

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|-----|------------------------|--------|
| 12. | Hon. Ali Machani | Member |
| 13. | Hon. Everlyne Mutiambu | Member |
| 14. | Hon. Timothy Chikati | Member |
| 15. | Hon. Everton Nganga | Member |

5. TOURISM, ENVIRONMENT, WATER AND NATURAL RESOURCES

- | | | |
|-----|------------------------|------------------|
| 1. | Hon. Edwin Opwora | Chairperson |
| 2. | Hon. Martin Chemorion | Vice Chairperson |
| 3. | Hon. Joseph Nyongesa | Member |
| 4. | Hon. Jerusa Aleu | Member |
| 5. | Hon. Meshack Simiyu | Member |
| 6. | Hon. Bernard Kikechi | Member |
| 7. | Hon. Grace Sundukwa | Member |
| 8. | Hon. Orize Kundu | Member |
| 9. | Hon. Isaiah Busolo | Member |
| 10. | Hon. George Tendet | Member |
| 11. | Hon. Benjamin Otsiula | Member |
| 12. | Hon. Metrine Nangalama | Member |
| 13. | Hon. Anthony Lusenaka | Member |
| 14. | Hon. Vitalis Wangila | Member |
| 15. | Hon. Aggrey Mulongo | Member |

6. GENDER, CULTURE AND SOCIAL WELFARE

- | | | |
|----|----------------------|------------------|
| 1. | Hon. Jack Kawa | Chairperson |
| 2. | Hon. Abraham Obama | Vice Chairperson |
| 3. | Hon. Charles Nangulu | Member |
| 4. | Hon. Joseph Nyongesa | Member |
| 5. | Hon. Metrine Nangila | Member |
| 6. | Hon. Kennedy Wanyama | Member |
| 7. | Hon. Mourine Wafula | Member |

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8.	Hon. Sheila Sifuma	Member
9.	Hon. Mildred Barasa	Member
10.	Hon. George Tendet	Member
11.	Hon. Eunice Yeko	Member
12.	Hon. Alice Kibaba	Member
13.	Hon. Jeremiah Kuloba	Member
14.	Hon. Florence Juma	Member
15.	Hon. Alfred Mukhanya	Member

7. HEALTH SERVICES

1.	Hon. George Makari	Chairperson
2.	Hon. Jerusa Aleu	Vice Chairperson
3.	Hon. Meshack Simiyu	Member
4.	Hon. Jackson Wambulwa	Member
5.	Hon. Grace Sundukwa	Member
6.	Hon. Wafula Waiti	Member
7.	Hon. Joan Kiro'ng	Member
8.	Hon. Orize Kundu	Member
9.	Hon. Jacob Psero	Member
10.	Hon. Tony Barasa	Member
11.	Hon. Dorcas Ndasaba	Member
12.	Hon. Miliar Masungo	Member
13.	Hon. Vitalis Wangila	Member
14.	Hon. Jeremiah Kuloba	Member
15.	Hon. Ali Machani	Member

8. LANDS, URBAN, PHYSICAL PLANNING AND HOUSING

1.	Hon. Johnston Ipara	Vice Chairperson
2.	Hon. Joan Kirong	Member

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3.	Hon. Edwin Opwora	Member
4.	Hon. Waiti Wafula	Member
5.	Hon. Orize Kundu	Member
6.	Hon. Metrine Wilson	Member
7.	Hon. Mildred Barasa	Member
8.	Hon. Linda Kharakha	Member
9.	Hon. Eunice Yeko	Member
10.	Hon. George Makari	Member
11.	Hon. Polycarp Kimeta	Member
12.	Hon. Cornelius Makhanu	Member
13.	Hon. Aggrey Mulongo	Member
14.	Hon. Metrine Nangalama	Member
15.	Hon. Jeremiah Kuloba	Member

9. TRADE, ENERGY AND INDUSTRIALIZATION

1.	Hon. Bernard Kikechi	Chairperson
2.	Hon. Kennedy Wanyama	vice Chairpeson
3.	Hon. Polycarp Kimeta	Member
4.	Hon. Maurine Wafula	Member
5.	Hon. Bridgit Katasi	Member
6.	Hon. Linda Kharakha	Member
7.	Hon. Angeline Rugut	Member
8.	Hon. Aggrey Bosire	Member
9.	Hon. Martin Chemorion	Member
10.	Hon. Charles Nangulu	Member
11.	Hon. Eunice Yego	Member
12.	Hon. Evelyn Mutiambu	Member
13.	Hon. Alfred Mukhanya	Member
14.	Hon. Florence Juma	Member

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15. Hon. Alice Kibaba Member

10. PUBLIC ADMINISTRATION AND ICT

1. Hon. Tony Barasa Chairperson
2. Hon. Caleb Wanjala Vice Chairperson
3. Hon. Joseph Nyongesa Member
4. Hon. Jackson Wambulwa Member
5. Hon. Johnston Ipara Member
6. Hon. Franklin Simotwo Member
7. Hon. Joan Kirong Member
8. Hon. Stephen Kaiser Member
9. Hon. Brigit Katasi Member
10. Hon. Francis Chemion Member
11. Hon. Isaiah Busolo Member
12. Hon. Florence Juma Member
13. Hon. Allan Nyongesa Member
14. Hon. Cornelius Makhanu Member
15. Hon. Job Mukoyandali Member

11. LABOUR RELATION, MEMBERS SERVICE AND FACILITIES

1. Hon. Hentry Nyongesa Chairperson
2. Hon. Catherine Kituyi Vice Chairperson
3. Hon. Aggrey Bosire Member
4. Hon. Polycarp Kimeta Member
5. Hon. Godfrey Mukhwana Member
6. Hon. Everlyne Anyango Member
7. Hon. Sheila Sifuma Member
8. Hon. Francis Chemion Member
9. Hon. Jack Kawa Member

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|-----|------------------------|--------|
| 10. | Hon. Linda Kharakha | Member |
| 11. | Hon. Caleb Wanjala | Member |
| 12. | Hon. Allice Kibaba | Member |
| 13. | Hon. Everton Nganga | Member |
| 14. | Hon. Metrine Nangalama | Member |
| 15. | Hon. Anthony Lusenaka | Member |

12. YOUTH, AFFAIRS AND SPORTS

- | | | |
|-----|-----------------------|------------------|
| 1. | Hon. Violet Makhanu | Chairperson |
| 2. | Hon. Grace Sundukwa | Vice Chairperson |
| 3. | Hon. Aggrey Bosire | Member |
| 4. | Hon. Linda Kharakha | Member |
| 5. | Hon. Idd Owongo | Member |
| 6. | Hon. Catherine Kituyi | Member |
| 7. | Hon. Dorcas Ndasaba | Member |
| 8. | Hon. Everlyne Anyango | Member |
| 9. | Hon. Abraham Obama | Member |
| 10. | Hon. Angeline Rugut | Member |
| 11. | Hon. Metrine Nangila | Member |
| 12. | Hon. Allan Nyongesa | Member |
| 13. | Hon. Milliah Masungo | Member |
| 14. | Hon. Timothy Chikati | Member |
| 15. | Hon. Job Mukoyandali | Member |

3.2. STANDING COMMITTEES

13. POWERS AND PRIVILEGES COMMITTEE

- | | | |
|----|----------------------|------------------|
| 1. | Hon. Emmanuel Situma | Chairperson |
| 2. | Hon. Bridgit Katasi | Vice Chairperson |

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3. Hon. Tony Barasa Member
4. Hon. Orize Kundu Member
5. Hon. Jack Kawa Member
6. Hon. Eunice Yeko Member
7. Hon. Maurine Wafula Member
8. Hon. Bernard Kikechi Member
9. Hon. Vitalis Wangila Member
10. Hon. Anthony Luseneka Member
11. Hon. Milliah Masungo Member

14. JUSTICE, COHESION AND LEGAL AFFAIRS COMMITTEE

1. Hon. Jacob Psero Chairperson
2. Hon. Everlyne Anyango Vice Chairperson
3. Hon. Linda Kharakha Member
4. Hon. Joan Kirong Member
5. Hon. Sheila Sifuma Member
6. Hon. Edwin Opwora Member
7. Hon. George Makari Member
8. Hon. Idd Owongo Member
9. Hon. Aggrey Mulongo Member
10. Hon. Allan Nyongesa Member
11. Hon. Ali Machani Member

15. DELEGATED COUNTY LEGISLATION COMMITTEE

1. Hon. George Tendet Chairperson
2. Hon. Dorcas Ndasaba Vice Chairperson
3. Hon. Metrine Nangila Member
4. Hon. Godfrey Mukhwana Member
5. Hon. Martin Chemorion Member
6. Hon. Wafula Waiti Member
7. Hon. Angeline Rugut Member
8. Hon. Aggrey Bosire Member
9. Hon. Anthony Luseneka Member
10. Hon. Milliah Masungo Member
11. Hon. Job Mukoyandali Member

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16. IMPLEMENTATION COMMITTEE

1.	Hon. Jeremiah Kuloba	Member
2.	Hon. Vitalis Wangila	Member
3.	Hon. Ali Machani	Member
4.	Hon. Timothy Chikati	Member
5.	Hon. Mildred Barasa	Member
6.	Hon. Franklin Simotwo	Member
7.	Hon. Abraham Obama	Member
8.	Hon. Catherine Kituyi	Member
9.	Hon. Everton Nganga	Member
10.	Hon. Alfred Mukhanya	Member
11.	Hon. Idd Owongo	Member

17. BUDGET AND APPROPRIATIONS COMMITTEE

1.	Hon. Benjamin Otsiula	Member
2.	Hon. Christine Mukhongo	Member
3.	Hon. Francis Chemion	Member
4.	Hon. Caleb Wanjala	Member
5.	Hon. Stephen Kaiser	Member
6.	Hon. Jerusa Aleu	Member
7.	Hon. Meshack Simiyu	Member
8.	Hon. Sudi Busolo	Member
9.	Hon. Everlyne Mutiambu	Member
10.	Hon. Jeremiah Kuloba	Member
11.	Hon. Alfred Mukhanya	Member

18. PUBLIC ACCOUNTS AND INVESTMENTS

1.	Hon. Cornelius Makhanu	Member
2.	Hon. Allan Nyongesa	Member
3.	Hon. Everton Nganga	Member
4.	Hon. Job Mukoyandali	Member
5.	Hon. Metrine Nangalama	Member
6.	Hon. Florence Juma	Member
7.	Hon. Mourine Wafula	Member

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| 8. | Hon. Charles Nangulu | Member |
| 9. | Hon. Kennedy Wanyama | Member |
| 10. | Hon. Everlyne Anyango | Member |
| 11. | Hon. Sheila Sifuma | Member |

SUMMARY OF COMMITTEES ALLOCATIONS PER HON. MEMBER

S/N0.	NAME	PARTY	COMMITTEES	TOTAL
1.	Hon. Stephen Wafula	FK	HBC, Rules and Procedures, Finance, Speakers Panel, Liaison,	5
2.	Hon. Joseph Juma	FK	HBC, Tourism, Public Admin, Gender, Liaison	5
3.	Hon. Meshack Simiyu	FK	HBC, Tourism, Heath, Budget, Agriculture	5
4.	Hon. Hentry Nyongesa	UDA	Labour, HBC, Finance, Roads, , Liaison	5
5.	Hon. George Makari	FK	Health, Lands, Finance, Justice ,Liaison	5
6.	Hon. Violet Makhanu	FK	Youth ,HBC, , Finance, Roads , ,Liaison	5
7.	Hon. Mildred Barasa	FK	HBC, Lands, Gender, Education, Implementation	5
8.	Hon. Christine Mukhongo	UDA	Budget, Rules, Speakers Panel, Education	4
9.	Hon. Jack Wambulwa	FK	HBC, Health, Public Admin, Education	4
10.	Hon. Jacob Psero	Ind	Justice,HBC, Health, Education ,Liaison	5
11.	Hon. Johnston Ipara	MCC	Lands, Education, Roads, Public Admin	4

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12.	Hon. Linda Kharakha	FK	Trade, Justice, Labour, Youth, Lands	5
13.	Hon. Dorcas Ndasaba	FK	Delegated, Health, Youth, Labour	4
14.	Hon. Godfrey Mukhwana	Ind	Delegated, Labour, Finance, Roads, Trade	5
15.	Hon. Martin Chimorion	UDA	Delegated, Tourism, Agriculture, Trade	4
16.	Hon. Wafula Waiti	FK	Agriculture, Delegated, Lands, Health, Liaison	5
17.	Hon. Angeline Rugut	UDA	Delegated, Trade, Education, Youth	4
18.	Hon. Aggrey Bosire	UDA	Delegated, Trade, Youth, Labour	4
19.	Hon. Charles Nangulu	FK	PAC, Gender, Roads, Trade	4
20.	Hon. Grace Sundukwa	FK	Health, Finance, Youths, Tourism	4
21.	Hon. Joan Kirong	UDA	Health, Finance, Lands, justice, Public Admin	5
22.	Hon. Polycarp Wandabusi	FK	Trade, Labour, Lands, Finance	4
23.	Hon. Sudi Busolo	UDA	Tourism, Agriculture, Public Admin, Budget	4
24.	Hon. Caleb Wanjala	FK	Agriculture, Public Admin, Labour, Budget	4
25.	Hon. Metrine Wilson	FK	Agriculture, Delegated, Youth, Lands, Roads	5
26.	Hon. George Tendet	Ind	Delegated, Tourism, Agriculture, Gender, Liaison	5
27.	Hon. Tony Barasa	FK	Public Admin, Powers, Health, Finance, Liaison	5
28.	Hon. Franklin Simotwo	FK	Roads, Implementation, Agriculture, Public Admin, Liaison	5
29.	Hon. Francis Chemion	UDA	Budget, Education, Public Admin, Labour	4
30.	Hon. Benjamin Otsiulah	FK	Budget, Rules, Speakers Panel, Tourism	4

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31.	Hon. Jack Kawa	UDA	Finance, Powers, Gender, Education, Labour, Liaison	6
32.	Hon. Edwin Opwora	FK	Tourism, Lands, Agriculture, Justice, Liaison	5
33.	Hon. Mourine Wafula	FK	Powers, Health, Gender, PAC, Trade	5
34.	Hon. Abraham Obama	UDA	Implementation, Gender, Education, Youths	4
35.	Hon. Catherine Kituyi	FK	Implementation, Labour, Youths, Finance	4
36.	Hon. Benard Kikechi	FK	Trade, Powers, Tourism, Agriculture, Liaison	5
37.	Hon. Stephen Kaiser	FK	Budget, Public Admin, Education, Roads	5
38.	Hon. Kennedy Wanyama	FK	Trade, Gender, Education, PAC	4
39.	Hon. Jerusa Aleu	FK	Health, Agriculture, Roads, Budget, Tourism	5
40.	Hon. Orize Kundu	UDA	Powers, Tourism, Health, Lands	4
41.	Hon. Eunice Yeko	UDA	Powers, Lands, Gender, Trade	4
42.	Hon. Bridgit Katasi	FK	Powers, Trade, Public Admin, Roads	4
43.	Hon. Everlyne Anyango	FK	Labour, Youths, Justice, PAC	4
44.	Hon. Sheila Sifuma	UDA	Gender, Justice, Labour, PAC	4
45.	Hon. Idd Owongo	FK	Agriculture, Roads, Youths, Justice, Implementation	5
46.	Hon. Metrine Nangalama	DAP-K	HBC, Lands, PAC, Tourism, Labour	5
47.	Hon. Allan Nyongesa	DAP-K	Agriculture, PAC, Youth, Justice, Public Adm	5
48.	Hon. Florence Juma	DAP-K	Gender, PAC, Trade, Public Admin	5
49.	Hon. Alice Kibaba	DAP-K	Agriculture, Trade, Labour, Gender	4

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50.	Hon. Job Mukoyandali	DAP-K	PAC, Education, Youth, Public Adm, Delegated	5
51.	Hon.Cornelius Makhanu	DAP-K	Public Adm, PAC, Lands, HBC, Rules	5
52.	Hon.Jeremiah Kuloba	DAP-K	Lands, Budget, Gender, Health, implementation	5
53.	Hon.Alfred Mukhanya	DAP-K	Gender, Implementation, Budget , Trade, Agriculture	5
54.	Hon. Ali Machani	ODM	Implementation, Roads, Education, Health, Justice	5
55.	Hon. Milliah Masungo	DAP-K	Agriculture, Delegated, Powers, Finance, Health, Youth	6
56.	Hon. Everlyne Mutiambu	JUBILEE	Budget, Roads, Trade, Agriculture	4
57.	Hon. Tim Chikati	DAP-K	Roads, Education, Youth, Implementation	4
58.	Hon.Vitalis Wangila	DAP-K	HBC, Finance, Powers, Implementation, Tourism, Health	6
59.	Hon. Everton Nganga	DAP-K	PAC, Implementation, Roads, Education, Labour	5
60.	Hon. Aggrey Mulongo	DAP-K	Finance, Tourism, Lands, Justice, HBC	5
61.	Hon. Antony Luseneka	DAP-K	Delegated, Powers, Tourism, Labour, Finance	5

Adoption schedule

The Members of the Selection Committee do append their signatures adopting this report. I now call upon Hon. Vitalis Wangila to second the report. Thank you, Honourable Speaker.

Hon. Vitalis Wangila: Thank you, Mr. Speaker. I hereby second the report of the Selection Committee on the placement of Members in various committees, especially committees like PAIC and Budget. For quite some time, those committees were not constituted and now we have taken this particular chance to make sure that we place Members in those committees.

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The good thing with this report is in the last membership to committees report we had at least three committees per honourable Member but according to this report, every Member will have not less than four committees.

We might have some lapses in this particular report but we have room for various caucuses to propose changes and it is upon the Whips to do the necessary. Thus, Mr. Speaker, I support the proposed changes and I believe they will enhance the Assembly productivity.

I urge my fellow Members to adopt the report and support the committee proposals. Thank you, Mr. Speaker, I second.

Mr. Speaker: Thank you, Hon. Vitalis, our Leader of Minority in the House. Honourable members, allow me be able to propose a motion that seeks this House to adopt the report of the Selection Committee on the review of individual memberships to County Assembly committees that was laid on the Table of the House on Wednesday, 17th of September, 2025.

(Motion proposed)

Yes, Hon. Ali Machani?

Hon. Ali Machani: Thank you, Honourable Speaker for allowing me to give my input on the report before us from the Selection Committee. Honourable Speaker, first of all, I want to thank the mover of the motion, Hon. Tony as I support this report. It is the two coalitions that form the Selection Committee and away from that, each coalition will always consider parties that form the coalition.

When we were elected to come and serve our people in this House, when we were entering the main gate, even in my mind I didn't know the committee I'm going to serve on. Before my people who elected me, I told them I'm going to serve you in the Assembly on three things; representation, oversight and legislation.

Time is not on our side. We may talk, gamble, do what but from where I sit, we should move on. Members have missed many privileges especially on Budget and PAIC yet those committees were given allocation and when Members miss, we cannot enjoy.

I want to thank you and the chair for fast-tracking the formation of the committees. I know we had frictions a bit, but that's a gone story. What I want to appeal to my colleagues is kindly let us support the report, and we think of tomorrow. Something else can come before us, because the Whips have powers to consider the performance of each Member in committees.

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My appeal to those who will be elected to serve as chairpersons, kindly consider Members who can also add more value. All of us can add value, but more value to this House because we are almost finishing. If you are going to be privileged to have a responsibility in terms of a Chair or a vice Chair, let us avoid absenteeism, and also let us make sure that any report coming to this House, we make a follow-up so that it can be implemented, because it may also make us not to be re-elected.

Getting this positions whether elected or nominated is easy, but retaining terms of defending is something that you will spend on and it requires more prayers. Otherwise, I support the report on my side, as one of the senior most 001. Thank you.

Hon Jeremiah Kuloba: Mine is just to echo the sentiments which I guess are in the minds of all the Members present. For the first time, coalitions have done a good work, where we have seen the formation of these committees as per what the Standing Orders say that it should be done in consultation with the Members. For the first time, Honourable Speaker, we have seen a balanced distribution of these committees.

Honourable Speaker, when I pressed this button wanting to speak, some Members thought I was out to oppose the way things have been done...

Mr. Speaker: Hon. Kuloba, that line of submission is wrong. Nobody can read your mind to preempt what you are going to say.

Hon. Jeremiah Kuloba: Thank you, Honourable Speaker, I withdraw. It is a balanced distribution of these committees and all committees are equal. I want to echo that sentiments of the earlier speaker on the follow up and say you have done a good work. Thank you, Mr. Speaker.

Hon. Everton Nganga: Thank you Honourable Speaker for giving me a chance to contribute to this motion. First, I rise to support this report.

As I have been going through the report, Honourable Speaker, I remembered the theory that was put forward by David McClelland in the 1960s, that is the theory of needs. In his theory, he had only three components. The first component is the need for achievement; the committee has done a good job. Some Honourable Members may think that they have achieved and others may think that they have not achieved but everybody on this earth has a desire to excel and succeed.

Two, we are going to have some Honourable Members who will be leading us in different committees as Chairs and Vice-Chairs; that is the second component of the theory on the need for

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power. Actually, those honourable Members who will be given time to lead us must be able to influence, control, and bring an impact in the committees.

Then the last one is need for affiliation which is the last component of his theory. In the new committees, we are going to make friendship. On this earth, everybody desires to make friendship with the neighbors or those people whom he is staying close to. Honourable Speaker, let us not hate the Selection Committee, they have done some good work, let us all be friends to the Selection Committee. They have done some work, as it is stated in the McClelland Theory of 1960. Thank you, Honorable Speaker, for giving me a chance to contribute.

Hon. Millia Masungu: Thank you Honourable Speaker to have given me this chance also to talk about the report before us. First and foremost, let me laud the Selection Committee for placing us in our respective committees to serve our people. I want to believe, Honorable Speaker, as our committee sat down, they put in consideration that this House is a House of rules and procedure and equally, as legislators must follow and implement what we discuss and pass on the floor of this House.

As I finish, I want to believe and I am convinced that the objective on bulletin 2.0(b), that as the committee did, they complied with the legal and procedural constitutional requirements. I support the report. Thank you, Speaker.

Hon. George Makari: Thank you Speaker for the opportunity. I don't want to oppose the report but I want to point out a few issues.

First, I am not affected in any way by the report, only that my Committee of Health has lost some good minds but I have gained the Mayor who is my good friend. He has come to help and there is no problem.

I want to remind this House one thing, on the 17th of April at 2.30 p.m. and then on the 22nd of April, 2025, 2:00p.m. Sessions; this House deliberated well and even there were motions passed here. Being the custodian of the rules of the House, I know you know there were motions to the effect of dissolution, disbandment, and reconstitution. One fine afternoon, I think the Honourable Deputy Speaker was the one chairing and this is what he said; and by saying this I am not against any Member that has been taken back in the Budget committee; I don't have any ulterior motives to any member but he said, 'even if one Member of the former Committee of Budget will come back through the report of Selection, we will put down the whole report.' That's what he said. That was the ruling of the Speaker of that day.

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Unfortunately, Honourable Speaker, you were not there that day. But the Speaker of that day, I am just reminding the House, because we have again gone against our own ruling as a House on what we deliberated on.

Honourable Speaker, there are former Members of Budget who have been brought back through the Selection Committee report and some of them did not make it back. What will be going through the minds of those that did not come back? Can they be telling themselves that they were the problem in the Budget Committee? They were also Members and if there is anything they did, they did it jointly as a committee. We cannot say others did this and others did not do this. All of them did everything they did as a committee so no one can run away and say I was a Member of Budget Committee partly and when others were doing this, I was not part of it. They were part and parcel of everything that was happening, Honorable Speaker.

That as it may, Honourable Speaker, we are now where we are and also there are other dynamics at play. I can remember well when we were asking in coalitions and regions; the caucus for Bumula sat and proposed Hon. Nyongesa Hentry; today in this Selection report I am not seeing Hentry in Budget Committee. I don't know if the Bumula caucus sat down again removed Hon. Hentry or it is the Selection Committee that removed him. Then in Finance Committee...

Mr. Speaker: Hon. Makari, you are not a Member of this committee, now when they forward the names through their Whips, I am sure you cannot be privy to what they are agreeing at the committee level. When you talk about the issue of Hon. Nyongesa, it becomes tricky for me. The coalitions can forward the names and agree at their own level. So don't use Hentry as an example.

Hon. George Makari: Well guided, Honourable Speaker. My good friend Hon. Orize, though he is in the other party of yellow, UDA, but he was now a caretaker Member of Finance. I am surprised now he has been thrown out and he was looking to be the chairperson of that committee. I don't know where he has gone if he will be given that chairmanship Honourable Speaker. Above everything, I was reminding the House and I am not opposing the report. I am supporting the report. Thank you.

Hon. Tony Barasa (Mover to reply): Thank you, Honourable Speaker. First, I want to thank all my colleagues for supporting the report and giving their views.

Honourable Speaker, just to mention, the Standing Orders of Bungoma County Assembly do not give powers to caucuses to place people to the committees, instead, the Standing Orders give powers to the Selection Committee to place Members. Hon. George Makari, it is the Selection

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Committee that has powers through the Standing Orders to place Members based on regions, gender and other issues. If there are any caucuses, then that one, as a Selection Committee we are not privy to that and we are just fully following the Standing Orders.

Honourable Speaker, there are some pronouncements that have been made here but we are looking at Standing Order 2(b) which says compliance with legal and procedural requirements by ensuring that the composition of the committee complies with legal, procedural and constitutional requirements.

Honorable Speaker, the Constitution of Kenya is supreme and for us, regional balance was key to us. If you come to a place like Kabuchai where there are three Members who have all been placed in committees with a representation in Budget, as Selection Committee, we were satisfied because that meets the constitutional requirements.

Honourable Speaker, all committees are equal and some Members have been discharged from one committee to another but I want to urge all of us to be our brother's keepers and be ready to work in any committee.

Something that we have said as a Committee on Selection is that we are going to be keen on the commitment of Members and that will force us to be reviewing this placements after every three months. Let us commit ourselves to serve this county. I want to beg the House to adopt the report. Thank you.

Mr. Speaker: Thank you, Hon. Tony for your reply to the motion as moved and seconded.

Honorable Members, I will be proceeding to call out each committee, then you approve as we go on.

1. Finance and Economic Planning Committee

(Question put and agreed to)

2. Education and Vocational Training Committee

(Question put and agreed to)

3. Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development

(Question put and agreed to)

4. Roads, Transport, Infrastructure and Public Works Committee

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(Question put and agreed to)

5. Tourism, Environment, Water and Natural Resources Committee

(Question put and agreed to)

6. Gender, Culture and Social Welfare Committee

(Question put and agreed to)

7. Health Services Committee

(Question put and agreed to)

8. Lands, Urban, Physical Planning and Housing Committee

(Question put and agreed to)

9. Trade, Energy and Industrialization Committee

(Question put and agreed to)

10. Labor Relations, Member Services and Facilities Committee

(Question put and agreed to)

11. Youth Affairs and Sports Committee

(Question put and agreed to)

12. Powers and Privileges Committee

(Question put and agreed to)

13. Justice, Cohesion and Legal Affairs Committee

(Question put and agreed to)

14. County Delegated Legislation Committee

(Question put and agreed to)

15. Implementation Committee

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(Question put and agreed to)

16. Budget and Appropriations Committee

(Question put and agreed to)

17. Public Accounts and Investments Committee

(Question put and agreed to)

The Membership to the committees as read here is hereby approved by the House and the changes should be effected immediately through the Office of the Clerk. Next?

2. REPORT BY THE AD-HOC COMMITTEE ON COLLECTION AND UTILIZATION OF AGRICULTURAL CESS IN BUNGOMA COUNTY FROM SEPTEMBER 2022 TO MARCH 2025

Hon. Benjamin Otsiula (Chairperson, Adhoc Committee): Thank you honourable Speaker, as it is the norm I want my members to be upstanding.

(Members of Adhoc committee present stand)

Mr. Speaker: The membership is overflowing, they were 11. So there is quorum, let us proceed.

Hon. Benjamin Otsiula (Chairperson, Adhoc Committee): Thank you Honourable Speaker. I wish to move a report by the on the collection and utilization of Agricultural CESS in Bungoma County since September, 2022 to March, 2025.

CHAPTER ONE

PREFACE

Honourable Speaker,

This report is prepared pursuant to a Motion adopted by the County Assembly on 9th April, 2025, which called for the formation of an Ad-Hoc Committee to scrutinize the collection, waivers, and utilization of Cess in the County. The Motion was moved in accordance with Standing Order No. 58, which empowers the County Assembly to establish special committees to investigate specific matters of public interest. The formation of the Committee was prompted by concerns over the transparency, accountability, and efficiency of Cess administration, particularly with regard to

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collection, the granting of waivers, and the application of funds collected as prescribed in the Bungoma County Agricultural Produce Cess Act, 2017.

The Committee's mandate draws its legal foundation from Article 209(3) and (4) of the Constitution of Kenya, 2010, which empowers County Governments to impose taxes and charges for services they provide, within the framework established by County legislation. As Cess constitutes one such charge, its management must conform to the principles of fiscal responsibility, transparency, and accountability as laid out in the PFM law and County's Act.

Moreover, Article 210(1) and (2) of the Constitution of Kenya, 2010, Section 59 of the PFM Act, 2012 and Section 15 of the Bungoma County Agricultural Produce Cess Act, 2017 strictly regulates the imposition, waiver, or variation of any tax or licensing fee, mandating that such actions must be legislated and that public records of all waivers, including their justifications, be maintained and reported to the key oversight bodies, specifically the **County Assembly** and the **Auditor-General**.

In line with these legislative provisions, the Ad-Hoc Committee undertook this assignment with the objective of providing a comprehensive assessment of agricultural produce Cess practices within the County. The Committee examined the legal and administrative frameworks governing Cess collection and utilization, reviewed records relating to waivers, and assessed whether funds collected through Cess were used effectively and in accordance with Section 12 of the Cess Act. This report presents the Committee's findings, observations, and recommendations with a view to enhancing fiscal discipline, ensuring legal compliance, and promoting prudent public financial management in the County.

Membership

Honourable Speaker,

The Committee's membership is as below;

1. Hon. Benjamin Otsiula - Chairperson
2. Hon. Christine Mukhongo - Vice Chairperson
3. Hon. Jack Kawa
4. Hon Francis Chemion
5. Hon. Grace Sundukwa

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6. Hon. George Makari
7. Hon. Johnston Ipara
8. Hon. Bernard Kikechi
9. Hon. Job Mukoyandali
10. Hon. Cornelius Makhanu
11. Hon. Alfred Mukhanya

I beg your indulgence if I can skip the mandate of the committee.

Mr. Speaker: Yes, the only problem I am having Hon. Otsiula is that you may start the report but be careful you may lack a seconder. I am just mentioning to you that the way things are going be careful. We are not going to adjourn this matter. Hon. Waliaula I am not allowing you to speak anything here now. Hon. Otsiula proceed.

Hon. Benjamin Otsiula (Chairperson, Adhoc Committee): Thank you Honourable Speaker

Scope and Methodology

Honourable Speaker,

The Committee's investigation focused on how Cess is collected, waived, and used in the County. It considered the laws and systems guiding Cess, how well different stakeholders comply, and how transparent and accountable the process is. The review covered Cess-paying groups like farmers' cooperative societies and agricultural processing entities. The Committee also checked whether the money collected was used fairly and effectively, especially for improving roads and supporting agricultural infrastructure development; particularly in road maintenance as is envisaged in the Act.

To carry out its work, the Committee used several methods. It visited Cess-paying entities' sites such as farmers' cooperative societies and factories to observe operations and get firsthand insights into Cess remittance practices and challenges regarding compliance in Cess payment. It also held discussions with County Executive Committee Members in charge of Agriculture, Roads, and Finance to understand each department's role. The Committee further examined financial documents from both the county government and the paying entities to assess how Cess was collected and waived. This helped to identify key issues and support the Committee to conclude the findings and recommendations in this report.

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Acknowledgement
Honorable Speaker,

On behalf of the Honorable Members of the Ad Hoc Committee, I wish to express my sincere gratitude to all Members of the Committee for their invaluable contributions throughout the proceedings, culminating in the successful completion of this report.

The Committee also extends its appreciation to the respective County Executive Departments for providing documented information on Cess collection, sharing the Memorandum of Understanding with West Kenya Sugar Company Limited, permitting their field officers to accompany the Committee during field visits to various farmers' cooperative societies, and for appearing in person to offer critical insights that have informed the narrative and findings of this report. We further acknowledge the cooperation of Cess-paying entities for providing important records, granting access to their premises, and responding to all concerns raised during the investigation.

Special thanks also go to the Offices of the Honorable Speaker and the Clerk of the County Assembly for their unwavering support throughout the preparation of this report.

It is, therefore, my privilege to table this report for consideration and adoption by this Honourable House.

The report is signed by the Chairman, Hon. Benjamin Otsiula, MCA - Khasoko Ward

CHAPTER TWO

REVIEW OF AGRICULTURAL PRODUCE CESS IN BUNGOMA COUNTY

Honorable Speaker,

The Committee's assessment into the terms of reference took a structured approach. The investigation was guided by a set of terms of reference clustered into three thematic areas; with an aim to assess adherence to the Bungoma County Agricultural Produce Cess Act, 2017, transparency in revenue management, and the impact of Cess on local agricultural infrastructure development as envisaged in the Act. The ToRs clustered into three categories are as follows;

1. Review of Cess-paying entities and Cess collection
2. Assessment of Cess Collection points and institutional framework in Bungoma County

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3. Assessment of Agricultural Cess utilization, waivers, and institutional agreements in Bungoma County

The findings of the Committee are detailed below.

Review of Cess-paying entities and Cess collection

Honorable Speaker,

This section addresses ToR (a), (d), (g) which sought to establish;

- Entities that have been paying Cess since September, 2022;
- Total revenue collected from Agriculture Cess since September, 2022;
- Whether West Kenya Sugar Company – Naitiri unit is one of the companies paying Cess to the County and if yes, how much has the company paid to the County since September, 2022.

(1) Cess Paying Entities in Bungoma County

The Department of Agriculture Livestock, Fisheries, Irrigation and Co-operatives reported the following entities as having paid Cess since 2022 to date:

1. West Kenya Sugar Company Limited
2. Mumias Sugar Company
3. Butali Sugar Company
4. British American Tobacco
5. Busia Sugar Mills
6. Nzoia Sugar Company
7. Kapsara Tea Mills
8. National Cereals and Produce Board
9. Mastermind Tobacco Company

Response from the Finance Department

The Department submitted that not all of the above mentioned Cess paying entities have been remitting Cess. For instance, Nzoia Sugar Company has been experiencing financial challenges that have crippled the Company and thus making Cess realization impossible.

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Kapsara Tea Mills and Mastermind Tobacco Company have Cess arrears totaling to Kshs. 5Million and KShs.4.4Million respectively. A summary report detailing Cess collection has been appended on this report as **Annexure 1**

(2) Total Revenue collected from Agriculture Cess since September, 2022.

Findings by the Committee

The information tabulated below was compiled by the *Ad hoc* Committee; collated from various reports received at the County Assembly.

Kshs.53, 460,955 was collected and reported by the Department of Finance and Economic Planning in the Receivers of Revenue Report for the period 2022/23

In the FY2023/24 Kshs.26, 008, 816 was collected; Kshs.21, 615,333 recorded as Cess paid in kind as reported in the CFSP of 2025. Records submitted by West Kenya Sugar Company indicate a sum of Kshs.12, 580,365 that was retained to cover MoU expenses for the period from January-December, 2024; whereas the Department of Roads reported Kshs10, 183,408 for the same. The variance of Kshs1.7M relates to costs incurred in fuel expenses in the months of October, November and December, 2024.

The table below provides the breakdown of **Kshs.97, 525,595** as Cess received by the County per quarter as reported in the Receivers of Revenue Reports from September, 2022 to date.

Quarter	Amount (Kshs)
Sep-22 Q1	15,610,491
Dec-22 Q2	14,275,760
Mar-23 Q3	14,398,598
Jun-23 Q4	9,176,106
Sep-23 Q1	3,981,551
Dec-23 Q2	1,748,011
Mar-24 Q3	12,835,188
Jun-24 Q4	2,709,945
Sep-24 Q1	5,220,000
Dec-24 Q2	4,820,000
Mar-25 Q3	12,749,945
Total	97, 525,595

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Submissions from Cess Paying Entities

1. BAT Kenya

Cess by BAT is paid once per year at the end of the season, around September-December. From documents submitted, Cess due to the County from September, 2022 to March, 2025 was Kshs.5, 379,231. The entire amount was paid in the period and is broken down as below;

October 2022- Kshs.1, 358,699

September 2023- Kshs.1, 637,595

September 2024- Kshs.2, 104,041

Total amount Kshs. 5,379,231 (provided in the **annexure 2**)

As per information submitted by Finance and Economic Planning Department, Cess due from BAT was Kshs.5, 100,335. Cess received was Kshs.5, 403,371. This gives an over payment of Kshs.303, 036 that was received in the financial year 2023/24. The money was a direct transfer to the County account from Standard Chartered Bank. The details are summarized below.

PERIOD	CESS DUE	CESS PAID
2022/23	1,358,699	1,358,699
2023/24	1,637,595	1,940,631
2024/25	2,104,041	2,104,041
TOTAL	5,100,335	5,403,371

2. Mumias Sugar

According to documents submitted by Mumias Sugar Company, Cess due to the County Government of Bungoma from September, 2022 to March, 2025 was Kshs.6, 433,360 and was paid to the County as **per annexure 3**.

The factory did not mill between June and November, 2023

The breakdown is as listed below

2022/23 Kshs.1, 207,143

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2023/24 Kshs.2, 538,456

2024/25 Kshs.2, 687,854

Total- Kshs. 6, 433,360

The entire amount due was paid by cheques that were deposited in KCB and Cooperative Bank accounts.

	Company submission	Finance Dept. submission	Variance
2022/23	1,207,143	1,168,414	38,729.00
2023/24	2,538,456	2,577,187	(38,731.00)
2024/25	2, 687,854	2,687,854	nil
TOTAL	6,433,455	6,433,455	nil

3. West Kenya Sugar Company

According to documents submitted by the Company as **per annexure 4**, Cess due to the County between September, 2022 and March, 2025 was Kshs.104, 465,259. Kshs.78, 600, 512 was paid to the County leaving a balance of Kshs.25, 864,747.

From September, 2022 to June, 2023, Cess due was Kshs.30, 712,316. The entire amount due was paid in the period.

In the Financial year 2023/24, Kshs.33, 233,216 was due; Kshs.25, 401,499 was paid leaving an outstanding balance of Kshs.7, 831,716. These were amounts retained to cover MoU expenses.

For financial year 2024 /25 as at March 2025; Kshs.40, 519,729 was due; Kshs.22, 486,696 was paid leaving an outstanding balance of Kshs.18, 033,030.

The details are summarized in the table below.

DATE	CESS DUE	CESS PAID	BALANCE
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2022/23	30,712,316.53	30,712,316.53	-
2023/24	33,233,216.08	25,401,499.14	7,831,716
2024/25	40,519,727.20	22,486,696.00	18,033,030
TOTAL	104,465,259.81	78,600,512.48	25,864,747

The total of Kshs.18, 033,030 and Kshs.7, 831,716 amounts to Kshs.**25, 864,747**; of this, Kshs.12, 580,364 covered MoU expenses as per the West Kenya submissions. The difference of Kshs13, 284,383 due to the County Government of Bungoma as at March, 2025 and is summarized below.

PERIOD	CESS DUE
25-Jan	4,477,771.00
25-Feb	4,604,194.63
25-Mar	4,201,717.57
TOTAL	13, 284,383

The amount of Kshs. 12,580,376 (MoU expenses) is broken down as;

Fuel 38,188 litres translating to Kshs.6, 831,029

Oil and lubricants Kshs.377, 427

Drivers and operators allowances Kshs.2, 984,500

Administration staff allowances Kshs.2, 387,420

The Department of Roads did not submit expenses incurred on the exercise in the period between October and December, 2024

Further, Kshs.24, 707,005 was received from West Kenya in January, 2025 relating to period between February and September, 2024. Payments for the months of October, November and December were in separate installments as detailed in the table below.

2023/24	CESS DUE	CESS PAID	BALANCE RETAINED
Feb-24	5,445,863.94	3,081,822.00	2,364,042 .00
Mar-24	4,944,507.34	1,823,790.34	3,120,717.00
Apr-24	3,588,480.83	1,541,944.83	2,046,536.00

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May-24	3,707,496.00	3,407,074.00	300,422.00
Jun-24	3,998,509.00	3,998,509.00	-
TOTAL	21,684,857.11	13,853,140.17	7,831,717.00
2024/25			
Jul-24	4,404,776.00	4,391,616.00	12,460.00
Aug-24	5,297,987.00	3,404,187.00	1,893,800.00
Sep-24	4,134,080.00	3,057,362.00	1,076,718.00
Oct-24	5,045,374.00	4,095,084.00	950,290.00
Nov-24	4,243,823.00	4,243,823.00	-
Dec-24	4,110,004.00	3,294,624.81	815,379 .00
TOTAL	27,236,044.00	22,486,696.81	4,748,647.00
			12,580,364.00

The total amount of Kshs.12, 580,364 covered MoU expenses (**Schedule from West Kenya Sugar- Annexure 4**)

Submission by Department of Finance

According to information received from Finance and Economic Planning Department, Cess due from West Kenya from September, 2022 to March, 2025 was Kshs.79, 194,130. The amount has all been paid in full and therefore there is no balance outstanding.

Findings by the Committee

This position by the Department contradicts what was submitted by West Kenya Sugar Company; where Kshs.104, 465,259 was due to the county, Kshs.78, 600,512 was paid leaving a balance of Kshs.25, 864,747.

4. Busia Sugar Company

Documents submitted by Busia Sugar Company as **per annexure 5** indicate a collection of Kshs.159, 299 relating to five months in the financial year 2024/25. Management submitted that the Company was not collecting sugarcane from the County in the other periods. All the money

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collected was banked in a revenue account ending with ...7930 held by the County in KCB. The table below details Cess remittance.

Month	Cess due	Cess paid
Nov-24	41,586.00	41,586.00
Dec-24	63,192.00	63,192.00
Jan-25	29,276.50	29,276.50
Feb-25		-
Mar-25	7,675.50	7,675.50
Apr-25	17,569.00	17,569.00
TOTAL	159,299.00	159,299.00

Submissions by the Department of Finance

As per documents submitted by Treasury, Busia Sugar Company only owed Cess for two months in financial year 2024/25; a total of Kshs.104, 779 that was paid in full via direct transfer from DTB as tabulated.

MONTH	CESS Due	CESS PAID
Nov-24	41,586	41,586
Dec-24	63,193	63,193
TOTAL	104,779	104,779

5. Butali Sugar

As per records submitted by the company as **per annexure 6**, Cess due in the period under review was Kshs.17, 098,334 .The full amounts were paid to the County by cheques.

The amount is broken down as below.

DATE	CESS DUE	CESS PAID	BALANCE
2022/23	5,099,888.00	5,099,888.00	-
2023/24	6,211,187.00	6,211,187.00	-
2024/25	5,787,259.00	5,787,259.00	-
TOTAL	17,098,334.00	17,098,334.00	-

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Submission by the Department

According to information from the Department of Finance and Economic Planning, total Cess due from Butali Sugar in the period was Kshs. 17,261,824. The entire amount was paid by cheques. Kshs.1,470,386 was banked in Cooperative bank while the balance of Kshs.15,791,802 in KCB. The details of Cess paid per year are as tabulated below.

Findings by the Committee

PERIOD	CESS	CESS PAID
2022/23	4,943,323	4,943,687.00
2023/24	6,531,242	5,931,518
2024/25	5,787,259	6,386,983
TOTAL	17,261,824	17,262,188

6. Nzoia Sugar Company

Submission by the Department

According to information from the Department of Finance and Economic Planning, Kshs.400, 000 was collected from the factory in the month of January, 2024. The company did not submit any report.

7. Kikai Farmers’ Cooperative Society - Coffee

Submission by the Department

According to information from the Department of Finance and Economic Planning, the Society paid Cess for November, 2023. A total of Kshs.200, 000 was paid by cheque. No justification was provided as to why Cess was not demanded in the other periods the Society has been in operation.

(3) Whether West Kenya Sugar Company Naitiri Unit is one of the Companies paying Cess to the County and if yes how much has the Company paid since September, 2022 to March, 2025.

The Committee established that West Kenya Sugar Company is the leading Cess paying entity to Bungoma County. The Company’s Cess due and paid is elaborated in the table below

MONTH 2022/2023	CESS DUE	CESS PAID	BALANCE
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Sep-22	4,217,716.88	4,217,716.88	-
Oct-22	3,980,367.30	3,980,367.30	-
Nov-22	3,876,283.12	3,876,283.12	-
Dec-22	3,654,888.75	3,654,888.75	-
Jan-23	4,572,137.07	4,572,137.07	-
Feb-23	2,948,775.81	2,948,775.81	-
Mar-23	2,186,302.85	2,186,302.85	-
Apr-23	2,470,125.90	2,470,125.90	-
May-23	1,671,189.30	1,671,189.30	-
Jun-23	1,134,529.55	1,134,529.55	-
TOTAL	30,712,316.53	30,712,316.53	-
2023/24			
Jul-23	500,151.85	500,151.85	-
Aug-23	263,676.05	263,676.05	-
Sep-23	249,399.15	249,399.15	-
Oct-23	78,243.00	78,243.00	-
Nov-23	247,646.41	247,646.41	-
Dec-23	4,587,376.20	4,587,376.20	-
Jan-24	5,621,866.31	5,621,866.31	-
Feb-24	5,445,863.94	3,081,822.00	2,364,041.94
Mar-24	4,944,507.34	1,823,790.34	3,120,717.00
Apr-24	3,588,480.83	1,541,944.83	2,046,536.00

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2024/25			
Jul-24	4,404,776.00	4,391,616.00	13,160.00
Aug-24	5,297,987.00	3,404,187.00	1,893,800.00
Sep-24	4,134,080.00	3,057,362.00	1,076,718.00
Oct-24	5,045,374.00	4,095,084.00	950,290.00
Nov-24	4,243,823.00	4,243,823.00	-
Dec-24	4,110,004.00	3,294,624.81	815,379.19
Jan-25	4,477,771.00		4,477,771.00
Feb-25	4,604,194.63		4,604,194.63
Mar-25	4,201,717.57		4,201,717.57
TOTAL	40,519,727.20	22,486,696.81	18,033,030.39
GRAND TOTAL	104,465,259.81	78,600,512.48	25,864,747.33

Assessment of Cess Collection points and institutional framework in Bungoma County

This section addresses ToR (b) and (c) which sought to establish;

- Published list of exit points where Cess is collected from;
- The existence and operations of the County Cess Committee as established in the CESS Act;

The Cess Act categorizes Cess as per Section 10 (1) & (2) into two categories as structured and non-structured Cess for administration purposes

Structured Cess includes all payments to the county government by Agricultural Producers deducted and paid by the individual, company, factory, association or any such entity concerned where the agricultural produce is produced or supplied to be processed and/or stored.

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Unstructured Cess includes all payments collected by an authorized officer at County Exit points or any other place as determined by the County Executive Committee Member.

Submission from the Executive on the Cess Exit points in the County

On the published list of exit points where Cess is collected from, the Department of Agriculture in its response Ref. CGB/MOALFIC/CECM/BCA/VOL.I (013) dated 2nd May 2025 alluded that the County currently has 37 active Cess collection points/barriers in eight sub counties on major exit points as toll points for agriculture produce Cess and royalties on building materials.

The submission of the County Executive Committee Member for Finance and Economic Planning Ref: CG/BGM/FIN/CA/REPORT/VOL.5/38 dated 8th May, 2025 also indicated 37 No. active Cess collection points in eight sub counties which were proposed and whose gazettment process had been initiated as per the table below.

No.	Sub county	Ward	Collection point/Barrier
1.	Sirisia	Malakisi/South Kulisiru	Sirisia market
		Lwandanyi	Lwakhakha market
			Malakisi (opposite BAT)
			Namwela
		Namwela	Namwela-Kikai junction
			Wapukha junction
Kolani			
2.	Tongaren	Ndalu/Tabani	Ndalu- Kiminini Mkt (Kapchonge)
			Muliro-kitale road
		Milima	Wabukhonyi
			Naitiri market-hospital road
		Mitua/ soysambu	Matunda (near Nzoia River)
			Mitoto market
		Mbakalo	Nzoia-Lugari road
		3.	Mt Elgon
Kaptama	Kaborom market		
Chepyuk	Masaek		
	Kipsigon		
Cheptais	Cheptais (near ACC office)		
4.	Webuye West	Sitikho	Sitikho-kuywa road
5.	Webuye East	Maraka	Sajjan
			Nabuyole road
6.	Bumula	West Bukusu	Mayanja Kibuke market
		Sibot	Miluki- sango road

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			Mukwa
		Kimaeti	Kimaeti-Impresa road
			Myanga market
		South Bukusu	Mateka market
		Kabula	Wamunyiri
		Bumula	Joy Valley
7.	Kabuchai	Chwele/ Kabuchai	Busakala friends church
		Mukuyuni	Chebukaka-Mpakani road
			Kuywa junction
8.	Kanduyi	Township	Airstrip
		Khalaba	Pamus
		Musikoma	Musikoma junction
			Dismas junction
			Siritanyi

The Department submitted that these Cess Collection points have not been gazetted and that the process is on course. That Department further stated that the omission of Kimilili Sub County was an oversight which shall be corrected and included before gazettelement.

Existence and Operations of the County Cess Committee as Established in the Cess Act

Legal Basis and Composition of the County Cess Committee

Pursuant to Section 7 (2) of the Bungoma County Agricultural Produce Cess Act, 2017 (**Annexure 7**), the County Cess Committee was established with the following membership structure:

- i. Two representatives from agricultural sector departments
- ii. One representative from finance department
- iii. One representative from Public Administration Department
- iv. One representative from Roads and Public works department
- v. Two representatives from the sugarcane sector
- vi. One representative from coffee sector
- vii. One representative from tea sector
- viii. One representative from tobacco sector
- ix. One representative from maize sector
- x. One youth representative
- xi. One women representative

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- xii. One representative from livestock sector
- xiii. One representative from fisheries sector
- xiv. One representative from people with disabilities.

The Chairperson of the Committee shall be elected by members on the 1st day of the sitting of the committee. The committee shall have a term of three years and no member may be appointed to represent the agricultural sector for more than two terms. The Bungoma County Agricultural produce Cess Act 2017 further gives mandate of the County Cess Committee under section 8 of the Act as follows;

- 1. To oversee the Agricultural Cess programs in the County
- 2. Enhance collection of Cess in the County
- 3. Facilitate enforcement of Agricultural Cess legislation
- 4. Planning and implementation of programs under the agricultural Cess Fund
- 5. Monitoring and Evaluation of the programs
- 6. Reporting biannually to the County Executive Committee Members of Agriculture and Finance and Economic Planning on the progress made in the discharge of their functions

Submission by the Department of Finance & Economic Planning

A response from the County Executive Committee Member for Finance dated 20th May 2025 indicated that the Committee was appointed on 13th December, 2023 and Gazetted on 30th April, 2025 through Gazette Notice No. 5793 for a period of 3 years, with effect from 2nd January, 2024 with the following membership

- 1. David Lupao- Chairperson
- 2. Mary Munanda
- 3. Mary Situma
- 4. Moses Munialo
- 5. Mercy Grace Werenga
- 6. Maurine Chebet
- 7. Kipngetch Chepkwony
- 8. Wyclife Kisuya Simiyu
- 9. Christopher Wekesa Sifuna
- 10. Cyphrene Sabuni
- 11. Moses Walekhwa
- 12. Fredrick Wotia
- 13. Susan Ngera

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14. Omoit Lydia
15. Rashid Wekesa Barasa
16. Dina Nasimiyu Masolo

The Committee invited the Cess Committee through a letter Ref: CAB/CC/ADH/1 VOL.I (35) dated 14th May 2025. During their appearance before the Committee on 21st May 2025 at 11:00 a.m. and submitted as follows;

Submission by the Cess Committee

- 1) Since inception they only had an inaugural meeting where they elected the Chairperson.
- 2) On reporting biannually to the CECM, Finance and Economic Planning and CECM, Agriculture as a requirement of Section 8 (f) of the Act, the Chairperson submitted that there no report that has been done since the Committee had not been gazetted.

Assessment of Agricultural Cess utilization, waivers, and institutional agreements in Bungoma County

This section addresses ToR (e), (f), (h) (i) (j) and (k) which sought to establish;

- Utilization of the Revenue collected through Agricultural Cess and how much was used to construct Road infrastructure in areas where Cess is collected.
- Percentage submitted to the Separate Road maintenance Account in compliance with the Cess Act.
- Whether the County Government has granted any Cess waivers to west Kenya Sugar Company, Naitiri unit and if yes, how much?
- Waivers given to any other company
- Whether there is any memorandum of understanding with any entity with regard to payment of Cess and challenges occasioned by the said memorandum.
- Whether lack of allocation of Cess in some cases leads to disputes between stakeholders and the County Government.

Memorandum of Understanding between the County Government of Bungoma and West Kenya Sugar Company (Naitiri Unit)

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The Black's Law Dictionary describes a Memorandum of Understanding in the same definition of a letter of intent to wit; a written statement detailing the preliminary understanding of parties who plan to enter into a contract or some other agreement. In other words; it is non-committal writing preliminary to a contract. In essence it is not meant to be binding.

Making reference to the Memorandum of understanding between the County Government of Bungoma and West Kenya Sugar Company Limited- Naitiri unit, the parties do not expressly state the extent to which they are bound but instead state at **clause 9** thereof that the parties will proceed to execute the works agreed in good faith. Further, **clause 7 (b)** of the said MoU makes reference to section 15 of the Cess Act, 2017 and provides that the CECM will waive Cess payable to the County Government of Bungoma with the approval of the County Assembly; for West Kenya Sugar Company Limited- Naitiri Unit.

The Memorandum of Understanding (MoU) between the **County Government of Bungoma and West Kenya Sugar Company (Naitiri)** was signed on 19th January, 2024 and focuses on road rehabilitation in the **West Kenya Sugar Belt Region**. It is provided as **annexure 8**.

- 1) The Department of Roads, Infrastructure and Public Works, is responsible for the management, development, rehabilitation and maintenance of roads in Bungoma County to facilitate the movement of goods and people, enhance the economic development, and create jobs;
- 2) West Kenya Sugar Company Limited is a major producer of sugar and other related products in Bungoma County, and has a vested interest in improving the road network in the region to increase its market access with farmers, reduce transportation costs, and support the local communities and farmers;
- 3) The Parties identified the need and the opportunity to collaborate on roads maintenance works in Bungoma County, which will benefit both the Parties and the public;

Purpose and Objectives

The purpose of the MOU was to establish a framework of cooperation between the Parties for the rehabilitation/improvement of roads in Bungoma County.

The objectives are to:

- a) Rehabilitate/ improve approximately 96 Kms of roads in the Bungoma County.

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- b) Ensure that the roads are improved according to the required standards and specifications, and are durable, safe, and environment friendly;
- c) Enhance the accessibility and mobility of the Factory equipment, machineries, vehicles and the local population, and reduce the travel time and costs;
- d) Promote the economic growth and social development of Bungoma County, and create employment opportunities for the local labor force.

Description

The following activities were to be undertaken:

- a) Conducting roads inventory of the roads identified to be rehabilitated by both parties in agreement, and generation of a work plan for the roads.
- b) Executing the roads rehabilitation / improvement works, under the supervision and guidance of the County Government and the Factory, and in accordance with the agreed plans and specifications;
- c) Monitoring and evaluating the progress and performance of the works, using the agreed indicators and methods, and reporting the results and challenges to the Parties on a regular basis;
- d) Maintaining and operating the roads after the completion of the Rehabilitation, ensuring their quality and functionality, and addressing any issues or defects that may arise.
- e) The sugar belt regions to be covered were; Tongaren, Webuye East & West and Kimilili.

The Rehabilitation /improvement of roads was to cover the following wards in Tongaren Sub County:

- (a) Mbakalo Ward (15 km)
- (b) Milima Ward (15 km)
- (c) Naitiri/Kabuyefwe Ward (15 km)
- (d) Tongaren Ward (15 km)
- (e) Ndalul/Tabani Ward (15 km)
- (f) Soysambu/Mitua Ward (15 km)
- (g) Ndivisi bridge-Naitiri Market Road (6km)

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Terms of the Agreement

The terms and conditions of the agreement were as follows:

Responsibilities:

The County Government of Bungoma and West Kenya Sugar Company Limited were to share the responsibilities and obligations of the Project, as follows:

The County Government of Bungoma

- a) Provide the overall policy direction and strategic guidance for the works through the CECM Roads and Public Works.
- b) Provide competent technical staff to supervise the road works through the Chief Officer Roads, Infrastructure and Public Works.
- c) Monitor the implementation of the Project, and ensure its quality and compliance with the agreed standards and specifications; CECM, Roads was responsible for the works.
- d) Coordinate and facilitate the communication and cooperation among the Parties and other stakeholders involved in the Project, and resolve any issues or conflicts that may arise;
- e) Evaluate and report the results and impacts of the Project, and provide feedback and recommendations for improvement.
- f) Provide the following equipment & facility for the works:
 - 1) 2 No. Motor graders
 - 2) 2 No. Single drum rollers
 - 3) 1No. Excavator
 - 4) 2No. Tippers
 - 5) 1No. Pickup Truck
 - 6) Identify Gravel borrow pits for the Naitiri acquisition

West Kenya Sugar Company Limited

- a) Provide fuel and lubricants for the machines, equipment and plant throughout the period (including Mobilization and Demobilization) as per the written request by the representative of the county government of Bungoma based on standard fuel efficiency for equipment
- b) Provide agreed daily allowances for staff of Bungoma County Government attached to the works as per written request by the representative of county government of Bungoma which includes the costs of road inventory, the operators, the supervision, the monitoring and evaluation;

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- c) Payment for acquired gravel borrow pits based on certification and recommendations by the County Government of Bungoma
- d) Participate in the execution and supervision of the works
- e) Monitor and report the progress and performance of the works, and provide feedback and suggestions for improvement.

Resources

- a) West Kenya Sugar Company Limited was to provide the required resources like fuel, lubricants and pay allowances & cost of gravel for borrow pits and all these costs from the waiver of Cess as provided in the Bungoma County Agricultural Produce Cess Act 2017
- b) The Parties would ensure that the funds and resources for the works are used efficiently and effectively and are accounted for.

Written Submissions from the Department of Roads and Public Works

That Utilization of Cess is managed by the County Department of Finance and Economic Planning. There is no separate Road Maintenance Account that is administered by the Department of Roads, Infrastructure and Public Works.

The following list of Machinery and Equipment were provided by the County Government to support Execution of Works in the Conditions of the MOU entered with Cess entity.

- i. Grader, KCA 349F
- ii. Grader, KCD 728G
- iii. Grader, GKA 554R
- iv. Tipper, KCA 976F
- v. Tipper, KBZ 997B
- vi. Tipper, 39CG 028A
- vii. Roller, KBZ 950B
- viii. Roller, GKA 154Y
- ix. Roller, KCD 294G
- x. Pick-Up MV, KBW 323V

The table below highlights the scope of works and specific locations where these works were implemented

Ward	S.No	Road	KM	Activities Carried Out
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Naitiri/Kabuyefwe	1	Junction PAG to Mr. Mukweyu road	1.8	Grading and compaction
	2	Madam Sarah to Mr. Like Kikunzi road	0.5	Grading and compaction
	3	Mr. Alphonzi Siumba road to Siumbwa Pimary	1.7	Grading and compaction
	4	Mr. Wanakai junction road to Khakobi	0.3	Grading and compaction
	5	Nyange Busta, Taraja Mbili to Makhavi junction	2.3	Grading and compaction
	6	Sangura Mukhohovi road	1.3	Grading and compaction
	7	Naitiri Salvation Army Church to Shem	0.8	Grading and compaction
	8	Naitiri market to Lukoye Dispensary	0.3	Grading and compaction
	9	Nyagi to Samuel Faro road	1.5	Grading and compaction
	10	Sango Market to Mukisi road	2.0	Grading and compaction

Mbakalo Ward	1	Matiang I Catholic, Nabiswa-Kibisi Karima junction	2.70	Grading and compaction
	2	Kibisi Catholic Church – Bilongo Marangachi junction	2.50	Grading and compaction
	3	Peter Wamalwa junction-Madam Jane Simiyu –Mbakalo river	1.40	Grading and compaction
	4	Mr. Black –Karima ACK road	0.60	Grading and compaction
	5	Kibisi Secondary School-Wanjononi road	1.90	Grading and compaction
	6	Nakitare Michelesi – Simwata Mikosi junction	1.20	Grading and compaction
	7	Mbakalo booster – Wesakania – Reuben Mbakalo river	1.40	Grading and compaction

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	8	Lukile primary junction – antony junction – Lumikile primary – Otindi Mbakalo river	2.00	Grading and compaction
	9	Khasavuli – Wavukha – Wevumbi- Muchwingi junction	1.40	Grading and compaction
	10	MCA Road	1.00	Grading and compaction
		KM Sub-total	16.1	
	1	Nabing’eng’e Dam – Nabing’eng’e Sec.	1.0	Grading and compaction
	2	Namboko Sec. road	1.0	Grading and compaction
	3	Matisi – Mbakalo Bridge	1.0	Grading and compaction
	4	Bakasa – Mbakalo Bridge	1.0	Grading and compaction
	5	Eluuya Matamano Werangai Road	2.0	Grading and compaction
	6	Eluuya primary Indeche road	1.0	Grading and compaction
	7	Mukuyuni Diocese road	1.5	Grading and compaction
	8	Shivachi Delma Academy Siandaumba	2.0	Grading and compaction
	9	Nandemu siandumba	1.0	Grading and compaction
	10	Maliki market – Rising Star	1.0	Grading and compaction
	11	Binyenya Market- Dkt Eseli primary School	2.0	Grading and compaction
	12	Bondeni –Utubora road	1.0	Grading and compaction
		KM Sub Total	15.5	
Tongaren/Kiminini Ward	1	Matisi Makhonge Road	1.5	Grading and compaction

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	2	Olunga Kwoma road	0.7	Grading and compaction
	3	Korokocho – Jeremiah Road	0.9	Grading and compaction
	4	Mumali –Milimani – Machakha	1.1	Grading and compaction
	5	Sikolia Matisi Pr. Ngome road	1.2	Grading and compaction
	6	Welikhe – Namtokholo Road	0.4	Grading and compaction
	7	Sawa Kiminini road	0.7	Grading and compaction
	8	Chelonga road	0.3	Grading and compaction
	9	Check Point Kikwamet Tongareen Road	2.0	Grading and compaction
	10	Makolelwe – Friends Milele road	0.7	Grading and compaction
	11	Binyenya Mkt- Sikulu junction Road	2.0	Grading and compaction
	12	Chonge – Maende – Isaiah Road	2.4	Grading and compaction
	13	Samson – Herbert- Samland junction road	1.1	Grading and compaction
		KM Sub-total	15.0	
Soysambu/Mitua Ward	1	John Situma- Namatore-River Nzoia	2.9	Grading and compaction
	2	Narati junction – Narati Mosque – Mr. Nderitu	3.0	Grading and compaction
	3	Koinange junction – Mr. Lasi Wanjala	0.3	Grading and compaction
	4	Ass. Chief Marani – River Nzoia	2.9	Grading and compaction
	5	Wabukala – River Nzoia	1.9	Grading and compaction

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	6	Mitua VTC –Mr. Wasilwa – Mayven river Bridge	1.6	Grading and compaction
	7	Mitoto PAG – Situma High	0.8	Grading and compaction
	8	Wateso junction –Wateso Mama Jane	0.3	Grading and compaction
	9	Mitua primary- Cattle Dip	0.2	Grading and compaction
	10	Wakwetu –Fred Korokoro	0.5	Grading and compaction
	11	Lasi Wanjala – Koinange junction	0.7	Grading and compaction
		KM sub –total	15.1	
Ndalu/Tabani	1	Mwangi –Mapera primary – Minyali	5.1	Grading and compaction
	2	Tabani Market – River Kiminini	3.0	Grading and compaction
	3	Mr. Akoi – Tabani Sec. – Kamau Foot Bridge	1.4	Grading and compaction
	4	T-junction – Kisika	4.6	Grading and compaction
	5	Samaria PAG – Mapera junction	2.4	Grading and compaction
		KM Sub-total	16.5	
		Total KM	97.2	

Public participation Report relating to the MOU and Executed Works

The projects were identified within the MTEF (Ward Based) and CFSP public participation framework as coordinated by the Department of Finance and Economic Planning.

Monitoring and Evaluation Report on execution of the MOU

No monitoring and evaluation reports were submitted.

Expenditure by West Kenya and County Government

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From the submissions by West Kenya Sugar Company (Naitiri Unit), the total amount due out of expenditures on the execution of the MoU is Kshs.12, 580,376. The Department has submitted that the expenditure for the period was Kshs.10, 598,728. The Department of Roads did not include in their submissions expenses worth Kshs 1,765,669 recorded in the months of October to December, 2024 as provided in the table below.

2023/24	CESS DUE	CESS PAID	BALANCE RETAINED
Feb-24	5,445,863.94	3,081,822.00	2,364,042 .00
Mar-24	4,944,507.34	1,823,790.34	3,120,717.00
Apr-24	3,588,480.83	1,541,944.83	2,046,536.00
May-24	3,707,496.00	3,407,074.00	300,422.00
Jun-24	3,998,509.00	3,998,509.00	-
TOTAL	21,684,857.11	13,853,140.17	7,831,717.00
2024/25			
Jul-24	4,404,776.00	4,391,616.00	12,460.00
Aug-24	5,297,987.00	3,404,187.00	1,893,800.00
Sep-24	4,134,080.00	3,057,362.00	1,076,718.00
Oct-24	5,045,374.00	4,095,084.00	950,290.00
Nov-24	4,243,823.00	4,243,823.00	-
Dec-24	4,110,004.00	3,294,624.81	815,379 .00
TOTAL	27,236,044.00	22,486,696.81	4,748,647.00
			12,580,364.00

In addition, the County Government of Bungoma spent Kshs.2, 440, 000 on the maintenance of machines.

KCA349F Kshs.900, 000

KCD728 Kshs.1, 410,000

KCA976F Kshs.130, 000

During the period, 97.2 Kms of roads were graded and compacted in Tongaren and none was graveled as per the conditions of the MOU.

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Committee's Findings

In reference to Clause 7(b) of the MoU it is only an expression of intent and does not constitute a waiver for the following reasons;

- 1) Section 59 of the PFMA and section 15 of the Bungoma Agricultural produce Cess Act 2017 puts the County Executive Committee Member (CECM) for Finance with vested authority to waive or vary certain county revenues. The process typically begins with the submission of a formal waiver request by a company or individual to the County Treasury, clearly stating the Cess amount to be waived, the justification for the request (such as public interest or financial hardship). Conversely, the procedure that was undertaken on this MOU, the County Government is the one that approached West Kenya through several consultative meeting from the local leadership, constituency and county leadership
- 2) No purported waiver has been done in favor of West Kenya Sugar Company Limited, Naitiri Unit by the CECM, Finance.
- 3) No approval of the County Assembly on any waiver has been given pursuant to section 15 of the Cess Act.

Procedure for Granting Cess Waivers under the Public Finance Management Act, 2012 and Regulation 64(3)

The process for granting Cess waivers by County Governments in Kenya is governed primarily by the Public Finance Management Act (PFMA), 2012, supplemented by the Public Finance Management (County Governments) Regulations, 2015. (Cap.412A). Together, these legal instruments provide a structured, transparent, and accountable framework for the waiver of county taxes, fees, or charges, including Cess.

Under Section 59 of the PFMA, the County Executive Committee Member (CECM) for Finance is vested with the authority to waive or vary certain county revenues. However, this authority is not discretionary and must be exercised in compliance with legal, procedural, and financial standards. The process typically begins with the submission of a formal waiver request by a company or individual to the County Treasury, clearly stating the Cess amount to be waived, the justification for the request (such as public interest or financial hardship), and supporting documentation like audited financial statements or operational plans.

Upon receipt, the County Treasury undertakes a thorough evaluation of the request to assess its legal validity, fiscal impact, and alignment with public interest goals. If the application meets the criteria established by law, the CECM for Finance prepares a waiver proposal detailing the name

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of the applicant, the amount to be waived, justification for the waiver, duration, and legal basis. The waiver must comply with Section 59(1) (c), which requires that any such waiver be authorized by either an Act of Parliament or county legislation.

Before the waiver can take effect, the proposal must be submitted to the County Assembly for approval in accordance with Section 77 of the PFMA. The Assembly holds the power to approve, reject, or amend the proposal. No Cess waiver is valid without formal approval by the Assembly, ensuring legislative oversight and checks on executive power.

In addition, Regulation 64(3) of the Public Finance Management (County Governments) Regulations, 2015 introduces further transparency requirements. This Regulation mandates that any waiver or variation in respect of county taxes, fees, or charges be reported quarterly by the County Treasury. The report must be submitted to key oversight bodies, specifically the County Assembly and the Auditor-General. The Regulation outlines the specific content that must be included in the report:

1. The full name of the person or entity granted the waiver or variation.
2. The amount of revenue affected by the waiver.
3. The financial year to which the waiver applies.
4. The justification for the waiver, based on objective criteria.
5. The legal provision under which the waiver was granted.

This ensures that each waiver is fully documented and traceable, thereby discouraging arbitrary or unauthorized exemptions and reinforcing public trust in county financial management.

Once approved, the waiver is recorded and maintained by the County Treasury, in compliance with Section 59(1) (a), which calls for a public register of all waivers. This record is to be made publicly accessible, detailing the name of the beneficiary, the amount waived, the rationale, and the terms and conditions under which the waiver was granted.

Further, Section 164 of the PFMA requires that all granted waivers be disclosed in the quarterly and annual financial reports of the county. These reports are submitted to the County Assembly and the Controller of Budget, promoting both horizontal and vertical accountability. Additionally, Section 166 ensures that these waivers are subject to independent audit by the Auditor-General to confirm compliance with financial laws and regulations.

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Importantly, Section 159 of the PFMA provides a crucial safeguard by holding public officers personally liable for any waiver granted without legal authority. Any officer who unlawfully authorizes a waiver can face disciplinary action, surcharge, or prosecution for the loss of public funds.

Finally, Section 59(1) (b) ensures equity by prohibiting the exemption of State Officers from paying taxes or charges, including Cess, solely based on their position or status. This prevents the abuse of office and guarantees that all individuals are subject to the same legal standards.

Submission from the County Executive Committee Member for Finance on the MoU and Waiver

Reference to the letter CG/BGM/FIN/CA/REPORT/VOL.5/38 dated 8th May, 2025; the County Executive Committee Member for Finance stated that the County Government of Bungoma entered into an MOU with West Kenya Sugar Company LTD on the implementation of roads under agricultural Cess. The object of the agreement was to establish a framework of cooperation between the parties for improvement of roads in Bungoma County.

The CECM further submitted that no waivers have been granted in relation to Agricultural Produce Cess; and that the Kshs21M reported in the Fiscal Strategy Paper, 2025 as Cess in kind is as a result of the services rendered by West Kenya Company.

Note: Cess in kind refers to a form of taxation or levy where payment is made not in money but in the form of goods or services (road maintenance in areas where agricultural goods are produced) usually agricultural produce.

Submissions from the CECM Roads, Infrastructure, Transport and Public Works

The CECM appeared before the Committee on 21st May, 2024 at 3:00p.m and submitted as follows; That the Department was aware of the correspondence from the CECM-Finance dated 14th March, 2024 regarding the Memorandum of Understanding (MoU) to which a response by the Chief Officer was supposed to submit on the following;

1. Clear duration of the MOU
2. The disclosure of estimated Cess expected within the duration of the contract.
3. Quantified cost of the work to be done.
4. The computed cost of the County Machinery deployed for the same work
 - a) Fuel required for the period

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- b) The staff cost
 - c) The machine maintenance cost
5. The West Kenya Sugar Cane coverage zone in the County with sub county coverage percentage.

The Committee was informed that the objectives of the MoU were achieved to a considerable extent, as outlined in the document. Approximately 70 per cent of the works, specifically grading and compaction of 97.2 kilometers, was completed. However, gravelling works were not undertaken due to the unavailability of an operational excavator. Challenges in accessing murram sites were also cited. Additionally, the Department lacked budgetary allocation for the identification of burrow pits. It was also reported that no funds under the Cess payments had been received or utilized.

The CECM submitted that the MoU expenses were quantified at Kshs12M and with a total expenditure of Kshs. 12 million; 97.2 km of roads had been graded and compacted, indicating value for money. That officers involved in the works were compensated for five months, reflecting the actual duration of their engagement. The Committee was further informed that works were carried out up to December, 2024.

Post-Implementation Maintenance of Roads

The Committee inquired whether maintenance of the roads was carried out upon completion of the project as stipulated in the MoU; however it was submitted that no maintenance of the roads has been carried out.

Exclusion of Certain Sub-Counties and Future Plans:

Regarding the exclusion of Webuye East, Webuye West and Kimilili Sub-Counties as referenced under Section 5(e) of the MoU, the CECM stated that the initial intention was to roll out the programme in phases of which phase one was completed. Further, he added that the Department is planning to continue with the implementation of phase two upon full operationalization of the Cess Act, with the support of the County Assembly. Further, the Department intends to engage key stakeholders, including *boda boda* operators, in the future programmes.

Variance in Machinery Deployment:

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The Committee noted a discrepancy between the machinery committed in the MoU and the ones that were actually deployed during the period. The CECM clarified that some machines broke down necessitating replacement to ensure that works continue as planned. A report on the machines which were availed during the implementation of the works was availed to the Committee.

On the Model of Public Participation used through MTEF and CFSP:

The Department clarified that public participation on the MoU involved consultations with Members of the County Assembly (MCAs) from Tongaren Sub County. The projects were categorized based on implementation modality—those to be undertaken through the Framework, Ward-Based Projects, company-owned machinery, and the MoU arrangement. After consultations the CECM for Roads presented the proposed work-plan to the County Executive Committee for approval. The cabinet approved the proposal which was implemented by the Department.

Clarification on Expenditure of Kshs. 10 Million (Annexure 6):

A detailed breakdown of the expenditure of Kshs. 10, 598,728 was submitted to the Committee. The CECM submitted that the amount covered the period of the MoU up to and including September, 2024. (Annexure 9)

On what activities the tippers were engaged in during the period when no excavation works were done;

It was reported that during the period when excavation activities stalled, the tippers were utilized to transport single-drum rollers from one site to the other. The equipment deployed included two graders, two single drum rollers, a loader, and a pick-up. The Department explained that mechanical breakdowns of some machines led to their replacement with others already stationed at the site; resulting in a higher number of machines than originally indicated in the MoU.

Analysis of the Submissions

Payment of Daily Allowances to Staff

Section 6 (b) of the MoU states that West Kenya Sugar Company will provide agreed daily allowances for staff of Bungoma County Government attached to the works as per written request by the representative of County Government of Bungoma which includes the costs of road

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inventory, the operators, the supervision and the monitoring the evaluation. In this regard; breakfast and lunch allowances paid during the period is as highlighted below;

MONTH	OPERATORS	ADMINISTRATIVE STAFF	TOTAL
FEBRUARY	374,000	597,800	971,800
MARCH	610,300	597,800	1,208,100
MARCH	641,700	-	641,700
APRIL	647,500	622,300	1,269,800
AUGUST	430,800	350,800	781,600
SEPTEMBER	280,500	218,720	499,220
Total	2,984,500	2,387,420	5,371,920

The Committee noted that allowances were not paid in the months of May, June and July yet 210 liters of fuel worth Kshs37, 380 and lubricants worth Kshs275, 502 were utilized

For the months of October, November and December, 10,370 liters of fuel worth Kshs1, 765,669 was utilized. No corresponding allowances were paid to the attached staff. The Department submitted that during this period, works were carried out in Webuye East Sub County under the patronage of the area Member of Parliament.

The Committee observed that payments from West Kenya Limited were credited to employees of the County Department of Roads and Public Works and the disbursements were effected via bank and M-Pesa transfers.

Fuel and Lubricants

Details compiled from the submissions made by West Kenya Sugar limited indicate that Staff allowances were paid up to the month of September, 2024, but fuel was drawn up to December, 2024. Total fuel drawn in the three months was 10,370 liters worth Kshs.1, 678,750. Oil and lubricants worth Kshs.86, 919 was also utilized. Fuel drawn was as follows;

October - 5,830 litres

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November - 1,030

December - 3,510

In the month of October, a total of 5,830 litres of fuel was consumed. The following vehicles and machines were listed as having been fueled.

4 double cabin vehicles of registration numbers KCX135K, KCX131K, KBW323V and KBV323V consumed a total of 900 litres

2 rollers registration KBZ950D and KCD294G consumed a total of 1,160 litres

2 Tippers KBZ996D/KBZ997D consumed 500 litres

1 low loader 39CG008A consumed 500 litres

1 administration vehicle 39CG008A consumed 100 litres

A total of 1,030 litres of fuel were consumed between 13th and 26th November, 2024. The pick-up 39CG042A consumed 200 litres and the grader consumed 400 liters.

According to the list provided, fueling was done up to December 20, 2024. Machines fuelled include low loader, excavator, Tipper, graders and Rollers.

The Tipper consumed a total of 1,810 litres of fuel. The grader consumed 100 litres of fuel in the month.

Other vehicles fueled in December include;

A pick-up of registration number 39CG042A which drew a total of 250 liters of fuel, an administrative vehicle GKA891X which drew 200 liters of fuel in December and a double cabin KCX131X drew 50 liters.

The total amount due from West Kenya including these amounts is therefore Kshs.12, 580,376. This is what has been reported as MoU expenses.

Status of Cess Remittance by Farmers' Cooperative Societies

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Section 10 (1) of the Bungoma County Agricultural Produce Cess provides Act that all payments to the County Government by Agricultural Producers shall be deducted and paid by the individual, company, factory, association or any such entity concerned where the agricultural produce is produced or supplied to be processed and /or stored.

Subsection (3) of the Act provides that the company or factory referred to subsection (1) shall ensure that all the amounts deducted are remitted to the County Treasury within a period of 30 days from the date of deduction.

Subsection (5) provides that the Company, factory, association or any such entity referred to in Subsection (1) shall keep an up to date record of agricultural produce supplied to it and Cess deductions thereof.

The farmers' cooperative societies fall within the description given in section 10 (1) of the Bungoma County Agricultural Produce Cess Act and therefore subject to the provisions of section 10 (1), (3) and (5) and therefore they are under an obligation to pay Cess.

Documents obtained from the Agriculture Livestock and Cooperative Societies indicate that the County Government of Bungoma has 93 registered farmers' cooperative societies.

The Committee sampled and visited 36 FCS across the County as listed below

1. Bungoma Cooperative Union
2. Bumula Poultry Farmers' Cooperative Society
3. Bumula Dairy Farmers' Cooperative Society
4. Lukholele Robusta Coffee Growers Cooperative Society
5. Malakisi British American Tobacco (BAT)
6. Sirisia Farmers' Cooperative Society
7. Namang'ofulo Farmers' Cooperative Society
8. Mayekwe Farmers' Cooperative Society
9. Kikai Farmers' Cooperative Society
10. Chebukube Farmers' Cooperative Society
11. Chebwek Farmers' Cooperative Society
12. Mt Elgon Farmers' Cooperative Union LTD
- 13.** Kitaban Farmers' Cooperative Society
14. Cheriwet Farmers' Cooperative Society
15. Kaptama Farmers' Cooperative Society(Milk)
16. Khalaba Farmers' Co-operative Society

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17. Musese/Bungoma County Coffee Millers
18. Khachonge Farmers' Cooperative Society
19. Sichei Farmers' Cooperative Society
20. Chenjeni Farmers' Cooperative Society
21. Kibisi Farmers' Cooperative Society
22. Nakoyonjo Farmers' Cooperative Society
23. Chwele Farmers' Cooperative Society
24. Tongaren Dairy Community Driven Dev Coop SACCO
25. Luma Coffee Growers FCS
26. Makhanga FCS
27. Soysambu Farmers' Cooperative Society
28. Naitiri Lungai FCS Ltd
29. Tongaren Dairy Community Driven Dev Coop SACCO
30. Khamulati Fcs
31. Kibingei Fcs
32. Kamusinde Fcs
33. Kituni FCS
34. Misikhu FCS
35. Khalumuli Coop Society
36. Webuye East Poultry SACCO

Summary of Committee Findings from the Field Visits

1. That all the farmers' cooperative societies visited indicated lack of awareness regarding the requirement to remit CESS to the County Government of Bungoma, and confirmed that they had not received any formal communication, sensitization, or guidance from the relevant county departments on this statutory obligation.
2. The Department of Agriculture has not adequately sensitized Farmers' Cooperative Societies on the provisions and requirements of the Bungoma County Agricultural Produce Cess Act, 2017.
3. The FCS made no remittances during the period under review.
4. The FCS submitted that they were not aware that failure to remit CESS attracted penalties and interest as stipulated under the CESS Act.
5. The FCS reported that there had been no formal engagement, sensitization, or educational initiatives by the County Government to guide them on the statutory obligations relating to the collection and remittance of CESS.

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6. They demonstrated willingness to pay Cess as long as the County Government guides them on how they are supposed to remit.
7. There exists a union that oversees several cooperative societies, mainly in the coffee sector.
8. The leadership of the union made reference to a directive made by former President H.E Uhuru Kenyatta exempting coffee farmers from paying Cess, effectively de-gazetting Cess remittance for the sector. The Committee did not find records to substantiate the cited directive.

CHAPTER THREE

COMMITTEE'S FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

This chapter presents the Committee's key findings and observations arising from the inquiry into the Cess collection and utilization in Bungoma County since September, 2022 to March, 2025. It responds to the 11 terms of reference that mandate the operations of this Committee. It outlines critical gaps in legal and administrative compliance that have hindered effective realization of optimum Own Source Revenue, to support the county's resource envelope. The chapter offers recommendations towards strengthening institutional capacity and oversight mechanisms that shall ensure growth of the County's economy.

Committee's Findings on the Terms of Reference

These are the findings that the Committee compiled against the Terms of References in the Motion;

1. On entities that have been paying Cess since September, 2022;

The Committee established that there are nine (9) Cess paying entities in the County Government of Bungoma for structured Cess. These are; West Kenya Sugar Company Limited, Mumias Sugar Company, Butali Sugar Company, British American Tobacco, Busia Sugar Mills, Nzoia Sugar Company, Kapsara Tea Mills, National Cereals and Produce Board and Mastermind Tobacco Company.

2. On published list of exit points where Cess is collected from;

The Committee found that 37 Cess collection points/barriers have been mapped in eight sub counties on major exit points as toll points for unstructured agriculture produce Cess.

3. The existence and operations of the County Cess Committee as established in the Cess Act;

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The Committee established that there is established a Cess Committee appointed vide a letter dated 13th December, 2023. The County Cess Committee was NOT operational for the entire period of its existence since there was no handing over and facilitation.

4. **Total revenue collected from Agriculture Cess since September, 2022;** The summary of findings on the Cess due to the County of Bungoma in the period September, 2022- March, 2025 as per the submissions made by the Cess paying entities compared to submission by the Department of Finance is tabulated below.

Period	Cess due (Entities Submission)	Cess due (Department of Finance)	of variance
2022/23	38,378,046.53	40,756,909.65	(2,378,863.12)
2023/24	43,620,454.08	23,019,875.90	20,600,578.18
2024/25	51,359,637.20	45,308,099.10	6,051,538.10
TOTAL	133,358,137.81	109,084,884.65	24,273,253.16

5. **Utilization of the Revenue collected through Agricultural Cess and how much was used to construct Road infrastructure in areas where Cess is collected.**

The Committee established that there were no disclosures on utilization of Agricultural Produce Cess and no allocation had been earmarked for the construction of Road infrastructure.

6. **Percentage submitted to the Separate Road maintenance Account in compliance with the Cess Act.**

The Committee established that there was neither a separate Roads maintenance account nor allocation for the same. Section 12 of the Bungoma County Agricultural Produce Cess Act however puts this percentage at 90 per cent of the total sum of Agricultural Cess collected.

7. **Whether West Kenya Sugar Company – Naitiri unit is one of the companies paying Cess to the County and; if yes, how much has the company paid to the County since September, 2022.**

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The Committee established that West Kenya Sugar Company – Naitiri unit is the leading Cess paying entity in Bungoma County. The Company’s Cess due and paid for the review period is elaborated as; Cess due at Kshs.104, 465,259.81, Cess Paid at Kshs.78, 600,512.48; leaving a variance of Kshs. 25,864,747.33

8. Whether the County Government has granted any CESS waivers to West Kenya Sugar Company, Naitiri unit; and if yes, how much.

The Committee established that no waiver has been granted to West Kenya Sugar Company, Naitiri unit

9. Waivers given to any other company;

The Committee established that no waiver has been granted to any other company.

10. Whether there is any Memorandum of Understanding with any entity with regard to payment of Cess and challenges occasioned by the said memorandum.

The Committee established that the County Government entered into an MoU with West Kenya Sugar Company- Naitiri Unit on 19th January, 2024 with an aim to focus on road rehabilitation in the West Kenya Sugar Belt Region thus converting related road works costs for the period as Cess paid. It further established that amongst others, the challenges occasioned by the said MoU include the abuse of the terms agreed upon.

11. Whether lack of allocation of Cess in some cases leads to disputes between stakeholders and the County Government.

The Committee found that unequal distribution of programs funded through Cess remittances contributed to uneven development and was therefore a potential source of conflict.

**Committee’s Observations
Honorable Speaker,**

The Ad hoc Committee observed as follows;

1. The County Executive Committee Member (CECM) for Finance failed to advise the Executive Committee Members on the legal requirements governing Cess waivers and the proper Memorandum of Understanding (MoU) approval process. This omission demonstrates a breach of financial laws and procedures, particularly the lack of legal consultation prior to the execution

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of the MoU. The County Attorney was also not involved at a critical stage, which contravenes the legal requirement that the County Attorney must guide all contractual matters involving the County.

2. The MoU in question was abused from the initiation stage, leading to arrangements that favored external parties at the expense of County revenue. There was no clear cost-benefit analysis or protective clauses to shield the County from financial loss. This indicates a lack of due diligence and strategic foresight in the negotiation and drafting of MoUs, resulting in significant fiscal implications.
3. Since the enactment of the Bungoma County Agricultural Produce Cess Act, 2017, the County has not developed the necessary regulations to operationalize the law. The CECMs for Finance and Agriculture have not demonstrated urgency or commitment to implementing this statutory requirement. As a result, the absence of enabling regulations has led to unstructured and inefficient Cess collection, compromising potential revenue streams. Moreover, there has been no gazettement of Cess collection points, limiting transparency and accountability.
4. The County Treasury has not opened dedicated bank accounts for Cess collections as mandated under Section 12 of the Bungoma Agricultural Produce Cess Act, 2017. The current practice hampers traceability and compromises the integrity of revenue management. Furthermore, the required Roads Maintenance Account under the Department of Roads and Public Works remains un-established, in direct contravention of both the Cess Act and the Public Finance Management Act (PFMA). There is also a lack of documented Treasury communications or bank confirmations submitted to the County Assembly for oversight.
5. The Receiver of Revenue has failed to initiate recovery of KES 13 million in outstanding Cess arrears from West Kenya Sugar Company and other known defaulters including Kibos Sugar, Mastermind Tobacco, NCPB, and Kapsara Tea Factory. This negligence has resulted in lost revenue and undermines the County's fiscal position. No official demand notices have been issued, nor has there been documented correspondence or a progress report submitted to the County Assembly. In addition, there is no evidence of communication with coffee millers and farmers' cooperatives regarding their statutory Cess remittance obligations.
6. The County has not conducted any formal sensitization programs targeting key stakeholders such as millers and farmers' cooperative societies. As a result, many entities remain unaware of their legal obligations under the Bungoma County Agricultural Produce Cess Act, 2017 and the Public Finance Management (County Governments) Regulations, 2015. The lack of targeted education campaigns has significantly contributed to low compliance rates and weakened revenue mobilization.

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7. The County Cess Committee, as provided for under Section 8 of the Bungoma County Agricultural Produce Cess Act, 2017, has not been reconstituted or operationalized. This failure has resulted in a lack of coordination and oversight of Cess-related activities. The absence of this statutory committee impedes strategic decision-making which is an imperative for effective Cess administration.
8. Farmers' Cooperatives Societies have failed to remit agricultural produce Cess as required by the Bungoma County Agricultural Produce Cess Act, 2017. This non-compliance stems from both weak county enforcement and widespread misinformation—such as the false belief in a 2022 Presidential directive exempting coffee farmers from paying Cess. The cooperatives also reported a lack of sensitization or formal guidance from the County Government on Cess obligations and penalties.

Committee's Recommendations

Honorable Speaker,

The Committee recommends as follows;

- 1) **THAT**, the County Executive Committee Member (CECM) for Finance should comply with financial laws and procedures while advising the Executive Committee Members during MOU approval on legal provisions relating to Cess waivers and the MoU approval process. Any future MoU entered into should follow the laid down procedures; further the County Attorney Must advise the County on any contracts the County enters into.
- 2) **THAT**, to safeguard the County's resources and interests, future MoUs should be to the advantage of the County and not the County incurring a loss. The Office of the County Attorney should establish a clear framework for developing and reviewing all MoUs to prevent future financial losses. This should include mandatory cost-benefit analysis, legal review, and input from relevant experts to ensure agreements are financially sound, protect the County's interests and adhere to the laid down approval procedures.
- 3) **THAT**, The CECMs for Finance and Agriculture are directed to jointly develop and submit draft regulations to operationalize the Bungoma County Agricultural Produce Cess Act, 2017. This must be completed within ninety (90) days of the adoption of this report, in accordance with Section 17 of the Cess Act and Section 12 of the Statutory Instruments Act, 2013. Additionally, the CECM for Finance should, within sixty (60) days, gazette all Cess collection points across all

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the sub-counties to ensure transparency and legal compliance under Section 12 of the Bungoma County Cess Act and to enhance revenue generation from unstructured Cess collections.

- 4) **THAT**, The County Treasury must open dedicated accounts for Cess collection as required under Section 12 of the Bungoma Agricultural Produce Cess Act, 2017. Consequently, the CECM, Finance should facilitate the opening of a separate roads maintenance account under the Department of Roads and Public Works as expressly required under Section 12 of the Bungoma County Agricultural Produce Cess Act, 2017 within sixty (60) days of adoption of this report. This requirement is grounded in Section 109(2) (b) of the PFMA and Section 12 of the Bungoma Agricultural Produce Cess Act. Treasury communications and bank confirmations should be submitted to the County Assembly for tracking purposes.
- 5) **THAT**, the Receiver of Revenue should initiate immediate recovery of 13M outstanding Cess arrears from West Kenya Sugar Company, further known defaulters including Kibos Sugar, Mastermind Tobacco, the National Cereals and Produce Board (NCPB), Kapsara Tea Factory, and others. Official demand notices should be issued within sixty (60) days upon adoption of this report; and a detailed progress report submitted to the County Assembly within sixty (60) days. Additionally, the Receiver of Revenue must officially communicate with all coffee millers and Farmers' Cooperative Societies on the requirement to remit Agricultural produce Cess to the County. Evidence of this action should be filed with the County Assembly within sixty (90) days
- 6) **THAT**, within sixty (60) days upon adoption of this report, the Receiver of Revenue in collaboration with the Cooperatives Department should organize and implement a targeted sensitization program to educate these entities namely; millers and Farmers' Cooperative Societies on their legal obligations under the Bungoma County Agricultural Produce Cess Act, 2017 and the Public Finance Management (County Governments) Regulations, 2015. The focus should explicitly dispel misinformation regarding any alleged exemptions, and outline applicable penalties for non-compliance. Evidence of this sensitization including attendance records, Information Education Communication materials, official letters, and media outreach must be compiled and submitted to the County Assembly.
- 7) **THAT**, The County Executive Committee Member for Finance and Economic Planning should formally reconstitute the County Cess Committee , within sixty (90) days upon adoption of this

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report and structure it in accordance with the provisions of Section 8 of the Bungoma County Agricultural Produce Cess Act, 2017.

That is the final recommendation, this report is duly executed by the members of the committee. I can see Hon. Mukoyandali smiling. It has a total of 9 annexures

1. The summary of the report on CESS collection in Bungoma County
2. VAT submission
3. Mumias Sugar submission
4. Payment schedule from West Sugar
5. Submission by Busia Sugar
6. Submission by Butali Sugar
7. Bungoma County Agricultural Cess Act 2017
8. The MOU between the County Government of Bungoma and West Kenya Sugar millers
9. The department of Roads analysis of the expenditure

That is the end of the report. I wish to call upon the Vice chair of the Committee Hon. Christine Kunera Mukhongo to second.

Mr. Speaker: Hon. Christine, you have the honor of seconding the report!

(Applause)

Hon. Christine Mukhongo: Thank you Hon. Speaker for giving me this chance to second the report on Ad hoc. I want to first appreciate the Chair of this committee for eloquently taking us through the report that was well prepared by the committee. I want to second this report by saying that through this report, we have established that following up the revenue streams that have declined in performance is key.

We have CESS Act but the department of Agriculture has not come up with regulations to operationalize the Act making CESS Revenue collection and utilization a challenge for lacking framework.

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There was no waiver hence all revenue withheld as CESS payment in kind has been discarded and receivers of revenue directed the initial demand of payment once the report is adopted.

The appointment of members of the committee is just done as a formality not to realize the intent or the purposes of this committee. Because from the report, you can see that the committee was appointed in 2023, it was gazetted in April 2025 after the Ad hoc committee had been constituted.

The committee came up with recommendations and observations that we have been taken through and as you can see, this MoU being mentioned was illegal because you can see that the County did not even seek the legal advice from the County Attorney. They did it as a Finance, Roads and Agriculture departments. We insist that in future any kind of MoU being entered on behalf of the County must be advised by the County Attorney so that things are done in a right way.

As we continue, we can also see from the report that the department of Roads and Public Works also required Section 12 of the Bungoma County CESS Act did not even follow what was expected by the committee to come up with the MOU. I second this report and I want to urge the Honourable Members to look into it, we discuss it in a way that we are going to help our County to come up with proper ways of revenue collection so that we help our County get enough money to do the projects and also help our CEF projects because they depend on this revenue collection. I second.

(Applause)

Mr. Speaker: Honourable Members, allow me be able to proceed and propose a motion for debate. After I have proposed, Hon. Jack you can now come in with what you wanted to say.

(Motion proposed)

Hon. Jack Wambulwa: Thank you Hon. Speaker, I now rise under Standing Order 164 (b)

Mr. Speaker: Honourable Member, can you confirm the Standing Orders! I do not want to say it's because of age but....

Hon. Jack Wambulwa: Yes it is 64, Hon. Speaker.

Mr. Speaker: The one you said was 164

Hon. Jack Wambulwa: Oh, 64 (b) sorry. It could be age, I agree with you.

Mr. Speaker: Let people not hear that you said it is because of age.

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Hon. Jack Wambulwa: It's okay Hon. Speaker. I want to move a motion for the adjournment of debate reason being; this motion is a key motion, important to this House and the County Government of Bungoma. For the time I have been around, CESS has never been declared as a source of income and Members if you may remember even wherever we do our budgets, CESS is never indicated anywhere. It has been going quietly and from the look of things, it's a collusion of companies with the Executive. You have seen from the expenditures.

Mr. Speaker: Hon. Wambulwa!

Hon. Jack Wambulwa: Hon. Speaker, I get you.

Mr. Speaker: You can proceed!

Hon. Jack Wambulwa: Honourable Speaker, I would therefore request that we push it to next week so that all Members are available to be able to know the areas that we can source for more revenue through CESS. I call upon my colleague Hon. Ipara to second. Thank you.

Mr. Speaker: Yes, Hon. Ipara, you have the honor.

Hon. Johnston Ipara: Hon. Speaker, with all the humility, I want to declare this from the beginning. I decline to second this motion because I do not see any reason as to why we should adjourn. If Honourable Members knew that this is a very important motion, they could have remained in this House. We should not adjourn to justify those who do not want to remain here.

The mover of the motion has taken his time, he has illustrated why those loopholes exist, the mistakes that have been done in terms of application of the law, where it's the Governor that is appointing the committee. Why should we adjourn for those who have no priority for the business of this House? I decline.

Mr. Speaker: Honourable Members, the implication is simple, in the absence of the seconder...

(Loud Consultation)

Out of order!

(Loud Consultation)

Mr. Speaker: Hon. Nganga, what you are saying is alien in this House. The moment the motion is not seconded, it collapses automatically. Proceed!

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(Loud Consultation)

Yes, Hon. Sudi!

Hon. Isaiah Sudi: Hon. Speaker, this is very unfortunate and because law is law, I would like to request that you invoke Standing Order No. 1 and appropriately guide this House because actually the document is so good. We want to read, internalize and contribute. You know the Honorable Member who has declined...

Mr. Speaker: Hon. Sudi, it's in black and white, if there is no seconder, the motion that is moved dies. Two, you only invoke Standing Order No. 1 if the law is not provided for. Here they have given you room to adjourn and the seconder has declined; there is nothing you can do. If you want to contribute proceed!

Hon. Isaiah Sudi: Hon. Speaker, I am still on Standing Order No. 64.

Mr. Speaker: We have moved away from that. The mover has moved, the seconder has refused, so 64 is not available for you.

Hon. Isaiah Sudi: Now, Honorable Speaker, why I am crying that you invoke Standing Order No. 1 so that we are all under your mercy.

Mr. Speaker: You cannot be under my mercy, be under your God. The law is clear here.

Hon. Isaiah Sudi: You are a small god here.

Mr. Speaker: I cannot, I am refusing. I am not.

Hon. Isaiah Sudi: Besides that, this is a key motion and the person who has declined for adjournment was a Member of the Ad hoc Committee. He understands it well but those of us who are not Members also want to read and internalize and contribute. Not that we are refusing the motion but look at the mood of the House. We want...

Mr. Speaker: Hon. Sudi, I cannot be able to carry this blame. The mover of the motion for adjournment picked his seconder who has refused and it is clear. Standing Order No. 1 in all cases where the matters are not expressly provided for by this Standing Orders or by the County Assembly, any question shall be decided by the Speaker for the purposes of facilitating the execution of the business in the Assembly.

Now that they are saying 64 (b) which has collapsed, what do I do? I cannot go to number 1!

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Hon. Isaiah Sudi: Hon. Speaker that is why I am coming for your discretion because the drafters of the Constitution and the law knew that you will reach a scenario where things are at a standstill then the solution is that Standing Order No.1. It unlocks. Kindly unlock so that we...

Mr. Speaker: Hon. Sudi, I have heard you. Hon. Jack, kindly look for a friendly seconder not like the one...

(Laughter)

Now, I see people are deciding to go on

(Loud Consultation)

Honourable Members, you know I am comfortable, we can move up to 11.00 p.m.

(Loud Consultation)

Now I see Members are rigid that they want us to go on, let us go on!

(Loud Consultation)

Members, you know as you are all making this noise...

Hon. Benjamin Otsiula: Point of information!

Mr. Speaker: Yes, Hon. Otsiula!

Hon. Benjamin Otsiula *(On a point of information):* Hon. Speaker, I wish to guide the House, that motion by Hon. Wambulwa has been defeated on HANSARD. The correct procedure is that if there is any other motion then another Member can move that motion for your consideration. Otherwise, we cannot be allowed again to call another seconder!

Mr. Speaker: That is what I was going to say. So, if there is an Honorable Member who wants the House to adjourn.

(Loud consultation)

Hon. Isaiah Sudi: Thank you Hon. Speaker. I rise under Standing Order 64 (b) that we adjourn the House and discuss this motion next week. I pick on Hon. Meshack my leader to second.

(Applause)

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Mr. Speaker: Hon. Meshack,

(Loud Consultation)

Order Members!

Mr. Speaker: Hon. Meshack proceed!

Hon. Meshack Simiyu: Mheshimiwa Speaker, I second the motion.

(Applause)

Mr. Speaker: Honourable Members, what I have discovered is that before you invite your colleague to second your motion, be sure of what is going to come out of his mouth...

(Laughter)

...or else he can easily deny you like Peter. Hon. Members, a motion has been moved and seconded that this House adjourns its debate on the motion beforehand under 64 (b), I propose!

Mr. Speaker: Hon. Nganga!

Hon. Everton Nganga: Thank you Hon. Speaker. I rise to support the adjournment of the motion with the following reasons; from our Constitution of 2010 where the Constitution was passed and it was decided that we should have 47 counties in Kenya, we only have two sources of revenue.

Mr. Speaker: Hon. Nganga, you are out of order! The motion is black and white, supporting the adjournment, that you are tired you want to go and rest.

Hon. Everton Nganga: I am building my case

Mr. Speaker: You are out of order!

Hon. Everton Nganga: Honourable Members, when you look at time and the motion that was moved, we really need enough time. The motion that was moved by Hon. Otsiula is a nice one and at this time if we adjourn the way Hon. Sudi has moved the motion, it will give us good time to go through so that when we meet, we can deliberate and have all Members given enough time to contribute. I support the motion for adjournment so that we can have enough time in the next sitting to deliberate on the motion that was moved by Hon. Otsiula.

Mr. Speaker: Hon. Sudi, reply.

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Hon. Isaiah Sudi: Thank you Hon. Speaker. I want to thank a Member who has contributed in support of the motion that we adjourn and have the same motion on the Order Paper next week because it's a good motion. I request that this House supports the adjournment. I do not have much to say because only one person contributed, but I want to give thanks to Members who are in support of the motion.

(Applause)

Mr. Speaker: Thank you. Honorable Members, a motion has been moved and seconded and debate having ensued that this House adjourns debate pursuant to the provision of Standing Order No.64 (b).

(Question put and agreed to)

The ayes have it!

(Applause)

This motion is taken out of today's Order Paper and it will be on the next Order Paper, the next sitting as the first motion.

Next item!

Hon. Allan Nyongesa: Hon. Speaker, I am sorry I was just rising for clarification. You said it will be starting, will it be starting afresh or we shall be resuming from where we left.

Mr. Speaker: As per Standing Order No.35, any resumption of interrupted debate. For now, we adjourn a motion and resume from where we stopped but on the Order Paper, if we have three motions, it will be the first one. Are we together? Thank you. Next, proceed!

2. ALTERATION OF THE HOUSE CALENDAR 2025

Mr. Speaker: Leader of majority!

Hon. Joseph Nyongesa: Thank you Mr. Speaker, I rise to move a motion on alteration of the House calendar 2025. That pursuant to Standing Order No.31 (4) of the County Assembly of Bungoma Standing Orders, this House adjourns its sitting from today Wednesday 17th September, 2025 and resumes sittings on 24th September, 2025 at 9.30 a.m. to allow the sectorial committees sufficient time to interrogate the Annual Development Plan (ADP) for FY 2026/2027 scheduled for 18th and 19th September, 2025 and to receive briefings on the Financial Statements report

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scheduled for 22nd and 23rd September, 2025 thus ensuring that the committees conduct thorough scrutiny and fully briefed to support informed deliberations in compliance with the Public Finance Management Act 2012 and enhance oversight, transparency and accountability.

Having reached there, allow me call upon Hon. Leader of Minority, Vitalis Wangila to second!

Mr. Speaker: Hon. Vitalis, you have the honor of seconding the motion.

Hon. Vitalis Wangila: Thank you Mr. Speaker. I am on my feet to second the motion. The document at hand is important and it has timelines and we are almost at the tail end thus beg that this House adjourn until next week. I second the adjournment.

Mr. Speaker: Thank you. Honourable Members, allow me be able to propose a motion pursuant to our Standing Order No.31 (4).

(Question proposed)

Honorable members, I will now put a question;

(Question put and agreed to)

The ayes have it!

ADJOURNMENT

The House will adjourn today and resume next week as scheduled in the said motion. Honourable Members, I am informed that was the last motion on our Order Paper, we adjourn our sitting as per our plan and resume next week on Wednesday 24th of September 2025.

The House rose at 6:00 p.m.

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