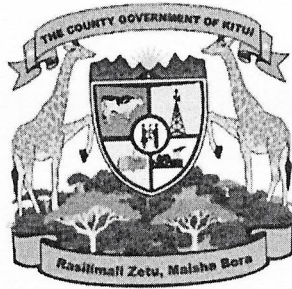


COUNTY GOVERNMENT OF KITUI



COUNTY ASSEMBLY

THIRD ASSEMBLY – (THIRD SESSION)

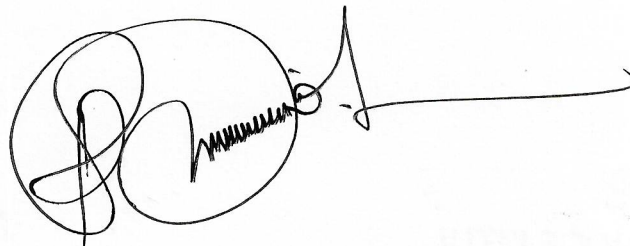
REPORT OF THE SPECIAL COMMITTEE INVESTIGATING THE REMOVAL
FROM OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR
FINANCE, ECONOMIC PLANNING AND REVENUE MANAGEMENT- MR.
PETER MWIKYA KILONZO

CLERK'S CHAMBERS
COUNTY ASSEMBLY OF KITUI

DECEMBER, 2024

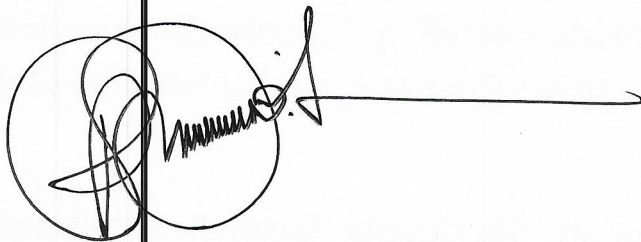
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1.0 BACKGROUND

Mr. Speaker,

Article 185(3) of the Constitution of Kenya, 2010 provides that;

(3) A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.

Section 40(2) of the County Governments Act, 2012 provides that;

a member of the county assembly, supported by at least one-third of all the members of the County Assembly, may propose a motion requiring the governor to dismiss a county executive committee member on any of the following grounds;

- (a) gross violation of the Constitution or any other law;*
- (b) incompetence;*
- (c) abuse of office;*
- (d) gross misconduct; or*
- (e) if convicted of an offence punishable by imprisonment for at least six months.*

Mr. Speaker,

Based on the above provisions, Hon. Anthony Musyimi Musyoka, Member of County Assembly for Kiomo/Kyethani Ward and the Chairperson, Committee on Agriculture, Water and Irrigation moved a motion in this Honourable House on 3rd December, 2024, urging the House to resolve to remove Mr. Peter Mwikya Kilonzo, from the Office of the County Executive Committee Member (CECM) for Finance, Economic Planning and Revenue Management pursuant to section 40 of the County Governments Act, 2012 and Standing Order No. 62 of the County Assembly Standing Orders.

Mr. Speaker,

Upon approval of the motion, the County Assembly appointed a five (5) member Special Committee on 4th December, 2024, pursuant to the provisions of Section 40(3)(a) of the County Governments Act, 2012 as read together with Standing Order No. 62(6).

The Special Committee was mandated to investigate the grounds alleged in the motion for the removal of the CECM for Finance, Economic Planning and Revenue Management, Mr. Peter Mwikya Kilonzo, and to report back to this House within ten (10) days on whether the allegations were substantiated or not.

Mr. Speaker,

The Special Committee promptly commenced its proceedings on 4th December, 2024. It diligently undertook its investigative mandate, ensuring a thorough and comprehensive review of the allegations raised in the motion. This effort aimed to prepare a detailed report for submission to this Honourable Assembly within the stipulated timeframe.

1.1 TERMS OF REFERENCE FOR THE COMMITTEE

Mr. Speaker,

The terms of reference for the Committee are provided for under Section 40(3) of the County Governments Act, 2012 and Standing Order No. 62(6) which are: -

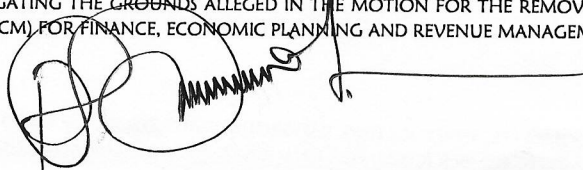
- i. To investigate the grounds alleged in the motion for removal from office of the County Executive Committee Member (CECM) for Finance, Economic Planning and Revenue Management; and*
- ii. To report to the County Assembly whether it finds the allegations to be substantiated or not.*

1.2 COMMITTEE'S MEMBERSHIP

Mr. Speaker,

The Special Select Committee as constituted by Assembly consists of the following members;

1. Hon. Jeremiah Musee Mutua, - Chairperson
2. Hon. Jacquelyne Cate Kalenga - Vice Chairperson
3. Hon. David Masaku Manyau - Member
4. Hon. Peter Kitonyo Mwanza - Member
5. Hon. Frida Maua Mutinda - Member



1.3 ACKNOWLEDGMENT

Mr. Speaker,

I wish to sincerely thank the members of this Special Committee for their dedication and commitment to their work. The members of this committee, together with the secretariat selflessly worked for long hours to ensure that they carry out their mandate effectively and subsequently produce their report within the statutory timelines of ten (10) days.

I also wish to thank the Offices of the Speaker and Clerk for their tireless efforts and support towards making this undertaking a success through facilitation and other Logistics.

Mr. Speaker,

I further wish to acknowledge the invaluable contributions of all witnesses who sacrificed their time to present their submissions to the Committee. I equally appreciate the members of the public who keenly followed the proceedings within the Assembly precincts and through the various Assembly social media platforms, as well as the media outlets that increased the outreach of these proceedings.

Mr. Speaker,

It is therefore my distinct honour and privilege to present this report on behalf of the members of the Committee. I humbly recommend it for the consideration and adoption by this Honourable Assembly.

SIGNED: _____



DATE: 11-12-2024

**HON. JEREMIAH MUSEE MUTUA,
CHAIRPERSON, SPECIAL COMMITTEE INVESTIGATING THE GROUNDS IN
THE MOTION FOR THE REMOVAL FROM OFFICE OF THE COUNTY
EXECUTIVE COMMITTEE MEMBER (CECM) FOR FINANCE, ECONOMIC
PLANNING AND REVENUE MANAGEMENT
COUNTY ASSEMBLY OF KITUI.**

2.0 INTRODUCTION

Mr. Speaker,

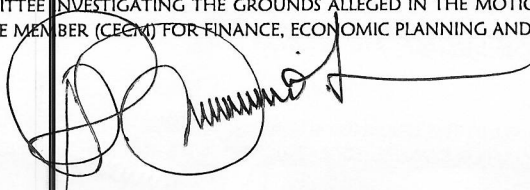
On Tuesday, 3rd December 2024, during its morning sitting, this House adopted a motion moved by Hon. Anthony Musyimi Musyoka, MCA for Kiomo/Kyethani Ward. The motion, which was supported by thirty-two (32) Honourable Members, sought the removal from office of the County Executive Committee Member for Finance, Economic Planning, and Revenue Management, Mr. Peter Mwikya Kilonzo. The Motion was in line with Section 40 (2) of the County Governments Act, 2012, which provides that:

(2) A member of the county assembly, supported by at least one – third of all the members of the county assembly, may propose a motion requiring the governor to dismiss a county executive committee member on any of the following grounds:

- (a) gross violation of the Constitution or any other law*
- (b) incompetence*
- (c) abuse of office*
- (d) gross misconduct; or*
- (e) if convicted of an offence punishable by imprisonment for at least six months*

In line with the provisions of Section 40 (3) of the County Governments Act, 2012, as read together with Standing Order number 62 of the County Assembly of Kitui Standing Orders, this House appointed a Special Committee comprising of five (5) of its members to investigate into the allegations made in the Motion and report its findings to the County Assembly within ten (10) days, in line with Section 40 (3) of the County Government Act, 2012.

Guided by the ten (10) day timeline as stipulated in Section 40 (3) of the County Government Act, 2012, the interrogations by the Committee were concluded on 9th December, 2024 and the Committee immediately embarked facts compilations and report writing in order to submit the report for adoption by the House.



Hon. Speaker,

The Committee notes the executive authority of the County is vested in and exercised by a County Executive Committee.

Article 179 of the Constitution of Kenya, 2010 establishes the County Executive Committee comprising of the Governor, Deputy Governor, and members appointed by the Governor with the approval of the Assembly from among persons who are not members of the County Assembly.

Article 183 of the Constitution of Kenya, 2010 as read together with Section 36 of the County Governments Act, 2012, outline the functions of the County Executive Committee as follows;

- 1) A County Executive Committee shall;
 - a) Implement County legislation;*
 - b) Implement, within the County, National legislation to the extent that the legislation so requires;*
 - c) Manage and coordinate the functions of the County administration and its departments; and*
 - d) Perform any other functions conferred on it by this Constitution or National legislation.**
- 2) A County Executive Committee may prepare proposed legislation for consideration by the County Assembly.*
- 3) The County Executive Committee shall provide the County Assembly with full and regular reports on matters relating to the County.*

Mr. Speaker,

The motion for removal from office of the CECM for Finance, Economic Planning and Revenue Management was founded on the basis of the allegation that Mr. Peter Mwikya Kilonzo, is:

- 1. in gross violation of the Constitution and other relevant laws,*
- 2. incompetent;*
- 3. in gross misconduct; and*
- 4. in abuse of the office which he holds*

In consideration of the above, Hon. Anthony Musyimi Musyoka moved a motion before the Assembly for the removal from office of the County Executive Committee Member (CECM) for Finance, Economic Planning and Revenue Management Mr. Peter Mwikya Kilonzo, pursuant to provisions of Section 40 of the County Governments Act, 2012 and Standing Order No. 62 of the County Assembly Standing Orders.

The motion, which was approved by the County Assembly, raised the following grounds;

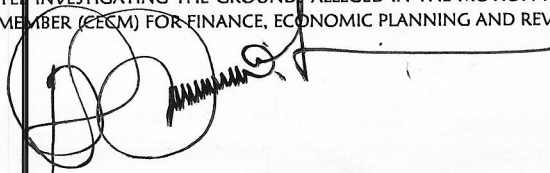
A. GROSS VIOLATION OF THE CONSTITUTION OF KENYA, 2010 OR ANY OTHER LAW; -

Mr. Peter Mwikya Kilonzo has contravened Chapter Six of the Constitution of Kenya, 2010, Leadership and Integrity Act, 2012 and Public Officer Ethics Act, 2003 which enshrine the principles of leadership and integrity essential for public office. By conducting himself in a manner that erodes public trust and confidence in his role, Mr. Peter Mwikya Kilonzo has exhibited a fundamental disregard for the values of integrity, accountability and transparency required of the CECM for Finance, Economic Planning and Revenue Management.

Such acts include;

- i. **Undermining the separation of powers and public participation as underscored in Articles 1, 10, 118, 175, 196 of the Constitution of Kenya, 2010, Section 91 of the County Governments Act, 2012, Section 125 of the Public Finance Management Act, 2012, and as advanced in Section 130 of the PFM Act, 2012 as amended by Section 11(4) & (5) of the County Allocation of Revenue Act (CARA), 2021.**

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning, and Revenue Management, has blatantly undermined the principle of separation of powers as enshrined in Article 175 of the Constitution of Kenya, 2010, which emphasizes the autonomy of the county executive and legislative arms, and Section 11(4) of the County Allocation of Revenue Act (CARA), 2021(which amended Section 130 of the PFM Act, 2012) and which prohibits the reallocation of unspent funds designated for the County Assembly to other purposes.



In the submitted Kitui County Supplementary Budget I for the Financial Year 2024/2025 (See annex i) received by the Assembly on 18th October 2024, Mr. Kilonzo unlawfully reallocated Kshs. 133,042,008 from the County Assembly's approved annual budget. This included a revote of Kshs. 100 million from the previous financial year 2023/2024 factored into the current annual budget for the construction of a modern office block for the County Assembly, contrary to Section 130 of the PFM Act, 2012 as amended by Section 11(4) and (5) of the CARA, 2021, which requires that unspent funds for the County Assembly from the ending financial year should be reallocated by the CECM Finance in a subsequent Supplementary Appropriation Bill to the County Assembly within two (2) months of the commencement of the financial year.

It also included Kshs. 33,042,008 allocated in the current financial year for constructing Members of the County Assembly Ward Offices, thus undermining the Assembly's constitutional mandate over financial matters as provided under Section 125 of the Public Finance Management Act, 2012 which highlights the critical statutory steps to be observed in County budget making process viz County Integrated Development Plan (CIDP), Annual Development Plan (ADP), County Fiscal Strategy paper (CFSP) and annual budget estimate, and public involvement in the entire process.

By these actions, Mr. Kilonzo has not only violated Section 130 of the PFM Act as amended by Section 11 of CARA, 2021, but has also overstepped his authority, thereby infringing upon the Assembly's financial independence in budgeting and subverting the checks and balances essential to the devolved governance framework. Further, these actions undermine the principle of public participation enshrined in Articles 10(2)(a) and 118(1)(b) of the Constitution of Kenya, 2010, which require public involvement in legislative and budgetary matters. This is further supported by Section 91 of the County Governments Act, 2012, which establishes mechanisms for public participation in governance and decision-making processes.

In reallocating these funds in deviance with the wishes of the public, Mr. Kilonzo disregarded the outcomes of public participation on the aforementioned statutory planning documents and infringed upon the

constitutional requirement of transparency and accountability as stipulated in Article 10 of the Constitution. By undermining the Assembly's oversight role, Mr. Kilonzo violated the separation of powers and the public trust, both of which are fundamental to Kenya's devolved governance system.

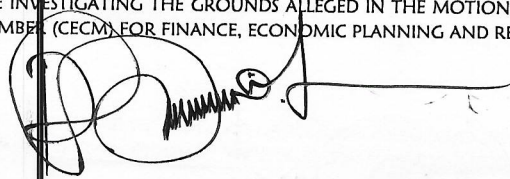
ii. Violation of Section 135 of the Public Finance Management Act, 2012, and Regulation 39(3) & (8) of the Public Finance Management (County Governments) Regulations, 2015

- (a) Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, contravened Section 135 of the Public Finance Management (PFM) Act, 2012, and Regulation 39(3) and (8) of the PFM (County Governments) Regulations, 2015 in the submitted Kitui County Supplementary Budget I for the FY 2024/2025 on 18th October 2024. The submitted budget contained allocations for new projects that were not part of the approved annual budget, failing to meet the qualifications stipulated under these legal provisions.

Under Section 135 of the PFM Act, 2012, a supplementary budget should only contain expenditures necessitated by unforeseen and unavoidable needs that cannot wait for the next financial year or reallocations within the approved budget to address priority areas. Similarly, Regulation 39(3) and (8) of the PFM (County Governments) Regulations, 2015, specify that supplementary budgets must conform to the approved annual plan and cannot introduce new projects unless they meet the strict conditions set by the law, including unforeseen exigencies.

Some of the allocations in the submitted supplementary budget which exemplify these violations are as follows:

- Office of the Deputy Governor - Purchase of Computers, Printers and other IT Equipment (To enable automation) Kshs. 1,241,700
- Ministry of Culture, Sports and Youth Development - Project Allowance - Youth Engagement Forum Kshs. 15M. Expenditures under this programme have already been incurred as evidenced

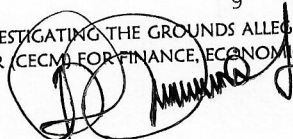


by the invitation letter referenced CG.KTI/MCGYICT&SS/ADM/CAK/ CECM/ 1/17/46 dated 6th November, 2024 inviting Members of the County Assembly to attend the Kitui County Youth engagement forum, 2024 on 15th November, 2024 at Ithookwe showgrounds (**see annex ii**). This happened when the supplementary budget I for FY 2024/2025 is still in the approval process and the same was undertaken without a policy to guide on its implementation. This was not an emergency and further a contravention of regulation 39(8) of the PFM (County Governments) Regulations, 2015 which envisages that new policy options and service delivery initiatives should only be considered when introduced in the annual budget estimates.

- Ministry of Culture, Sports and Youth - Advertising, Awareness and Publicity Campaigns - County tournament in football from Village level culminating into Governor's cup) Kshs. 10M.

During public participation on the County budget for the FY 2023/2024, among the contagious issues raised by the County residents was the poor state of County roads. This necessitated a reasonable allocation of Kshs. 284,749,652 to cater for the need. During a subsequent supplementary budget I for FY 2023/2024 (**see annex iii**), the CECM reallocated Kshs. 266,660,304 for other needs subverting the will of the people and eroding the sovereignty of the people provided under Article 1 of the Constitution of Kenya, 2010. This is an indication of misplaced priorities by the CECM Finance against pressing needs that ought to be addressed within the scarce resources available to the County. The effect of this reallocation has been devastating as roads are in still in a dilapidated state owing to lack of supporting roads infrastructure works including drifts, culverts and gabions.

The introduction of new budget items and reallocations represent new projects that were neither approved in the original budget nor justified under the statutory qualifications for supplementary budgets. The introduction of such unauthorized expenditures undermines the principles of public finance management, including



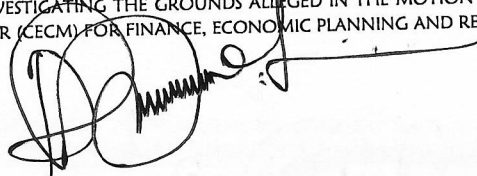
transparency and accountability, as enshrined in Article 201 of the Constitution of Kenya, 2010, and the PFM framework.

By contravening these provisions, Mr. Peter Mwikya Kilonzo has jeopardized the County's financial integrity by failing to ensure prudent and lawful management of public funds. This disregard for statutory requirements erodes public confidence in the County's governance and threatens fiscal responsibility, which is central to devolved governance under the Constitution.

- (b) Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, violated Section 135(1) and (2) of the Public Finance Management Act, 2012 by authorizing the payment of Kshs. 76 million, funds appropriated in the Kitui County Supplementary II Appropriation Act, 2024, for drilling boreholes across the forty (40) Wards, to instead pay electricity bills for KITWASCO and KIMWASCO. This misapplication of funds was confirmed in the County Assembly report by the Committee on Agriculture, Water and Irrigation on the inspection of boreholes drilled across Kitui County in the Financial Year 2023/2024, KITWASCO and KIMWASCO pipelines, their main water sources, and treatment zones conducted from 12th to 16th August, 2024 (see annex iv).

Section 135(1) of the PFM Act, 2012, requires any reallocation of funds from the approved budget to be authorized through a supplementary budget, while Section 135(2) mandates that such reallocations must be presented to and approved by the County Assembly within two (2) months after the first withdrawal of the funds as required under Section 135(4) of the PFM Act, 2012. In this case, no supplementary budget was presented seeking the Assembly's approval to reallocate funds initially appropriated for drilling boreholes to settle electricity bills.

By authorizing this payment without following the statutory process, Mr. Peter Mwikya Kilonzo undermined the County Assembly's oversight role as enshrined in Article 185 of the Constitution of Kenya, 2010, which vests the Assembly with legislative and



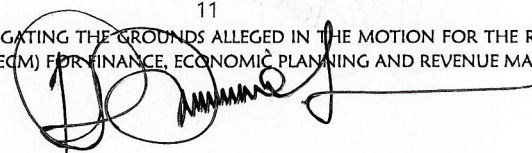
budgetary authority. This act also violates the principles of transparency and accountability under Article 201 of the Constitution, which require that public funds be utilized for the purposes for which they were appropriated.

This unauthorized expenditure further contravenes Section 149(1) of the PFM Act, 2012, which holds the County Executive Committee Member responsible for ensuring effective financial management and adherence to the approved budget. By redirecting funds appropriated for critical water infrastructure projects to unrelated expenditures, the CECM failed to prioritize and safeguard public resources, compromising service delivery and eroding public trust in the County's financial governance.

iii. Violation of Articles 10, 73, and 75 of the Constitution of Kenya, 2010, Sections 8, 9, 10, and 11 of the Leadership and Integrity Act, 2012, and Sections 9, 11, and 12 of the Public Officer Ethics Act, 2003

Articles 10 and 73(1)(iii) & (iv) of the Constitution of Kenya, 2010, sets out the national values and principles of governance, as well as the expectations on the ethical exercise of authority by state officers. Article 75(1) of the Constitution, as read together with Sections 8, 9, 10, and 11 of the Leadership and Integrity Act, 2012, and Sections 9, 11(1) & (2)(a)(i)(ii), and 12 of the Public Officer Ethics Act, 2003, obligates state officers to conduct themselves in a manner that upholds public trust, avoids conflict of interest, and refrains from using their positions to confer personal benefits.

Mr. Peter Mwikya Kilonzo violated these provisions by using his office to improperly confer a benefit to himself and his family. He influenced the drilling of Myaani 001 and Myaani 002 boreholes on family land in Myaani village, contrary to the Annual Budget for FY 2023/2024, which had approved the drilling of this borehole in Senda Village. This action compromised public interest and diverted public resources for personal gain, contrary to Article 73(2)(c) and (d) of the Constitution, which mandates state officers to prioritize public interest and uphold accountability.



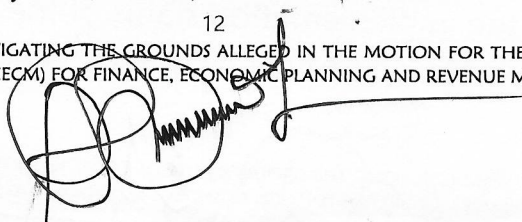
Article 10 of the Constitution underscores the national values of transparency and integrity in governance. By failing to adhere to these values, Mr. Peter Mwikya Kilonzo disregarded his ethical obligations, undermining public confidence in the impartial administration of resources.

Moreover, Section 8 of the Leadership and Integrity Act, 2012, specifically prohibits state officers from using their positions for improper enrichment, while Section 9 emphasizes avoiding situations of conflict between personal interests and public duty. Similarly, Section 11(1) & (2)(a)(i) ii) of the Public Officer Ethics Act, 2003, requires public officers to act in a manner that maintains the honour of their office. By using public funds and resources for personal advantage, Mr. Peter Mwikya Kilonzo not only violated these statutory provisions but also acted contrary to Section 12 of the Act, which demands public officials to maintain the integrity of the public office at all times.

This act of influencing the relocation of the boreholes demonstrates a clear compromise of public resources for personal gain, a serious breach of ethical conduct and a violation of the public trust inherent in his position. In addition, the self-centeredness of the CECM Finance has subjected the locals of Senda village to untold suffering having prioritised this project undertaken in their village for ease of water accessibility which is a scarce resource within the region as contained in the County Assembly report by the Committee on Agriculture, Water and Irrigation on the inspection of boreholes drilled across Kitui County in the Financial Year 2023/2024, KITWASCO and KIMWASCO pipelines, their main water sources, and treatment zones conducted from 12th to 16th August, 2024 (see annex iv).

iv. Violation of Article 175(b) of the Constitution of Kenya, 2010, and Sections 157 & 158 of the Public Finance Management Act, 2012

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, violated Article 175(b) of the Constitution of Kenya, 2010, which requires accountability for financial resources and transparent revenue management within county governments. Additionally, he contravened Sections 157 and 158 of the Public Finance Management (PFM) Act, 2012, which mandate the establishment and



enforcement of efficient systems for revenue collection to safeguard public finances.

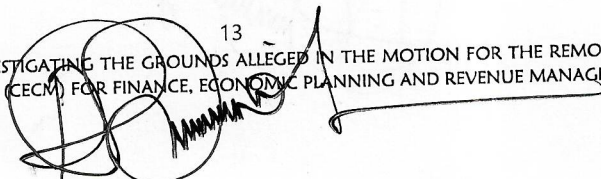
The County Assembly report by the Committee on Finance and Economic Planning on the Inspection Exercise on the Status of Revenue Collection in Kitui County, conducted from 2nd to 5th May 2023 (see annex v), revealed negligence on Mr. Peter Mwikya Kilonzo's part in implementing proper and transparent mechanisms for revenue collection. The report observed that revenue clerks continued to collect revenue in cash at most cess barriers, contrary to modern best practices and technological alternatives that enhance accountability and minimize pilferage.

This failure has led to significant revenue leakages, allowing substantial amounts of public funds to fall into private hands. Consequently, Kitui County has consistently failed to meet its own-source revenue targets for successive financial years. This shortfall directly contributes to the accumulation of unnecessary pending bills, undermining the County's fiscal responsibility and ability to deliver essential services.

Section 157 of the PFM Act, 2012, obligates the County Treasury to design and implement effective systems and controls for revenue collection and management, while Section 158 emphasizes the need for periodic evaluations of revenue collection systems to ensure accountability and mitigate revenue losses. The CECM's negligence in this regard demonstrates a failure of his statutory duty and a disregard for the principles of accountability and efficiency mandated under these sections.

Furthermore, Article 201 of the Constitution of Kenya, 2010, which sets out principles of public finance, highlights the need for transparency, accountability and fiscal responsibility in the management of public resources. By failing to address revenue collection inefficiencies, the CECM undermined these constitutional principles and the public trust in the County's financial governance.

Kitui County Assembly Standing Order No. 181 compels the CECM for Finance to provide a report to the relevant Committee of the County Assembly on the implementation status of the House resolution within Sixty (60) days. The CECM has grossly violated this provision by failing



to implement recommendations adopted by the Assembly in the aforementioned Committee report.

This lack of proper supervision and coordination of revenue collection mechanisms exemplifies a violation of his duty to safeguard public funds, leading to financial mismanagement that compromises the delivery of services and the achievement of the County's development goals.

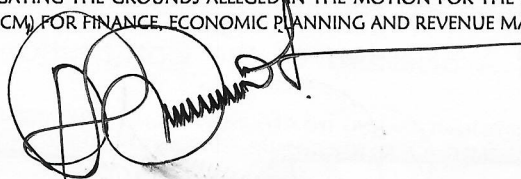
v. Violation of Article 10 & 201 of the Constitution of Kenya, 2010, Section 108 of the County Governments Act, 2012, and Sections 117 & 126 of the Public Finance Management Act, 2012

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, violated Section 108 of the County Governments Act, 2012, and Sections 117 and 126 of the Public Finance Management (PFM) Act, 2012 by misleading the County Government into operating within statutory budget documents that were not aligned with the five-year County Integrated Development Plan (CIDP) for the period 2023–2027.

Section 108 of the County Governments Act, 2012, establishes the CIDP as the guiding framework for all development activities and expenditure planning within the County. It mandates that all planning documents, including the Annual Development Plan (ADP) and the County Fiscal Strategy Paper (CFSP), must align with the CIDP to ensure consistency with the County's long-term development priorities.

However, the ADP and CFSP for the Financial Year 2022/2023 were prepared and approved outside the CIDP for the period 2023–2027. The CIDP was submitted for approval by the County Assembly on 5th June 2023 vide a letter referenced CGKTI/CT/FIN/37/II/34 dated 2nd June 2023 (see annex vi) when the County Budget for the financial year 2023/2024 had already been submitted for consideration by the Assembly, rendering them (ADP, CFSP and the Budget estimates for the FY 2023/2024) inconsistent with the CIDP.

Section 117 of the PFM Act, 2012, requires the preparation of the CFSP to reflect the priorities outlined in the CIDP and the ADP. Additionally, Section 126 obligates the County Executive Committee to prepare the



ADP based on the CIDP and submit it to the County Assembly for approval before budget formulation. By submitting and implementing budget documents that were misaligned with the CIDP, Mr. Peter Mwikya Kilonzo undermined the County's strategic development agenda and violated these statutory provisions.

This failure to adhere to the legal framework jeopardized the coherence and effectiveness of the County's planning and budgeting processes. The CIDP serves as the principal document for fostering integration and alignment of County programs and projects, and deviations from it compromise service delivery and resource allocation.

Moreover, these actions demonstrate non-compliance with the principles of good governance and accountability as outlined in Article 10(c) of the Constitution of Kenya, 2010, and the public finance principles in Article 201, which emphasize prudent and transparent use of public resources. By submitting these documents out of sequence and without proper alignment, Mr. Peter Mwikya Kilonzo failed in his duty to provide sound fiscal and economic guidance to the County Government, resulting in an uncoordinated, ineffective planning process and delayed uploading of the County budget into the Integrated Financial Management Information System (IFMIS).

B. INCOMPETENCE:

Mr. Peter Mwikya Kilonzo, in his role as CECM for Finance, Economic Planning and Revenue Management, has consistently demonstrated an inability to effectively fulfil the responsibilities of his office. His repeated failures to comply with statutory obligations and deadlines have impeded the efficient functioning of the County Government, thereby compromising its operational stability and financial planning by: -

i. Non-Compliance with Statutory Deadlines for Submission of Statutory Documents

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, has demonstrated glaring negligence in his handling of the Kitui County Finance Bills; critical legislative instruments governing taxation. The Finance Bill requires rigorous public engagement in line with Article 174(c) and Article 196 of the Constitution of Kenya, 2010, which

underscore the principles of public participation and accountability in governance, and Section 3(f) of the County Governments Act, 2012, which prioritizes inclusivity in decision-making processes.

In clear violation of Section 133 of the Public Finance Management (PFM) Act, 2012, which mandates submission and approval of the Finance Bill within ninety (90) days after the passing of the Appropriations Bill, and Kitui County Assembly Standing Order No. 216, which establishes the procedural timelines for the Assembly, Mr. Peter Mwikya Kilonzo has consistently delayed submission of the Finance Bills.

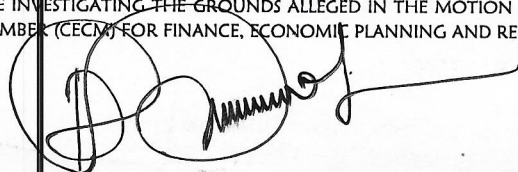
The Kitui County Finance Bills 2022, 2023 and 2024 were submitted as follows;

- Finance Bill, 2022 was submitted on 29th June 2023 (see annex vii);
- Finance Bill, 2023 was submitted on 21st September 2023 (see annex viii); and
- Finance Bill, 2024 was submitted on 30th September 2024 (see annex ix)

This noncompliance directly contravenes the legal requirement for the Assembly to consider and approve the Bills by the end of September of each financial year. The repeated delays in submission have significantly undermined the County's ability to revise and enact updated revenue collection rates, fines, fees and charges in line with the prevailing economic environment and budgetary needs. As a result, the County Government has been forced to rely on outdated revenue collection frameworks, negatively impacting its revenue-generating capacity.

Furthermore, the failure to meet statutory deadlines disregards the principles of accountability and transparency in public finance as enshrined in Article 201 of the Constitution of Kenya, 2010, and has jeopardized the County's financial stability. The delay in enacting these critical fiscal policies has not only compromised service delivery to the County residents but also contributed to inefficiencies in budget implementation due to reduced and untimely revenue inflows.

Additionally, Mr. Peter Mwikya Kilonzo's insensitivity to the heightened public awareness surrounding taxation matters and his neglect in ensuring timely and inclusive public participation has violated the constitutional obligation of involving citizens in decision-making processes as provided



under Article 174(c) of the Constitution. This lack of responsiveness demonstrates incompetence and a failure to uphold the statutory and ethical standards expected of his office.

By failing to adhere to these statutory deadlines, the CECM has hindered the smooth operation of County fiscal and governance processes, intensifying the challenges of revenue mobilization and financial planning.

ii. Failure to Adhere to the Provisions of Section 157 of the Public Finance Management Act, 2012 on the Designation of Receivers of County Government Revenue

Section 157 of the Public Finance Management (PFM) Act, 2012 requires the CECM for Finance to designate, in writing, a specific person responsible for collecting, receiving and accounting for county government revenue. This statutory obligation is vested exclusively in the CECM for Finance to ensure clear accountability and effective financial governance.

In blatant disregard of this legal requirement, Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, neglected his duty and unlawfully delegated the designation authority vested in him to a Chief Officer within his ministry, contravening the express provisions of the PFM Act, 2012.

Evidence presented during a session of the County Assembly Committee on Labour and Social Welfare on Thursday, 4th July 2024, indicates that Ms. Roselyn Kavata Munyasya, an employee in the department, was assigned this role in writing by Mr. John Makau, the Chief Officer for Finance, Revenue Management and Accounting, on 14th March 2023. This evidence is contained in the Committee's report on a statement request by Hon. Jeremiah M. Mutua concerning various county staff in acting capacities (**see annex x**).

By delegating a statutory role exclusively reserved for the CECM, Mr. Peter Mwikya Kilonzo demonstrated incompetence and blatant disregard for his legally prescribed obligations, violating the governance principles outlined in Section 157 of the PFM Act, 2012. This failure to fulfill his duties:

- (a) Undermines the county's financial governance, creating a gap in accountability for revenue collection and management.

- (b) Has contributed to significant revenue leakages, directly impacting the county's ability to meet its own source revenue targets.
- (c) Erodes public trust, as improper delegation compromises the transparency and integrity of public financial management.

This act of negligence illustrates a failure to prioritize public interest and uphold constitutional and statutory obligations, ultimately hindering the County's financial sustainability and governance standards. Resultantly, the County has not been able to provide effective service delivery owing to lack of adequate funds to fully finance the County budgets.

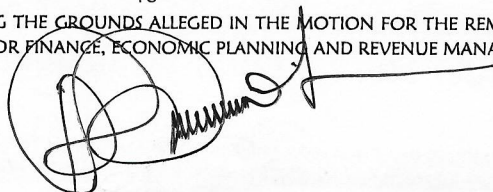
iii. Failure to Adhere to the Provisions of Section 103 and 109 of the Public Finance Management Act, 2012

Mr. Peter Mwikya Kilonzo, as the CECM for Finance, Economic Planning and Revenue Management, failed in his statutory responsibility for the management, administration and coordination of County revenue collection, as outlined in Sections 103 and 109 of the Public Finance Management (PFM) Act, 2012.

Section 103 of the PFM Act, 2012, designates the County Treasury headed by the CECM Finance to be responsible for the efficient management of public finances, including revenue collection, while Section 109 requires the establishment and proper administration of a County Revenue Fund into which all revenue should be deposited promptly and managed transparently.

As of 30th June 2023 Kshs. 11,395,086 in collected revenue could not be accounted for due to poor supervision and coordination of revenue collection activities as contained in auditor general's report for the period ending 30th June, 2023 (see annex xi) It was discovered that certain revenue collectors were holding cash instead of depositing it into the designated County Revenue Fund. This failure occurred despite consistent budgetary allocations for the automation of revenue collection systems, which have yet to be fully implemented under the CECM's leadership.

This failure amounts to gross mismanagement of public finances, allowing theft of public funds under his watch. The mishandling of revenue collection not only contravenes the PFM Act but also violates the principles of good



governance, accountability and integrity, as stipulated in Article 10 and Article 201 of the Constitution of Kenya, 2010.

The blatant theft of public funds ought to have been reported promptly to the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) for investigation and prosecution. However, no such action was taken and the implicated staff remain employed in various County Government departments, further eroding public confidence in the County's governance.

As head of the County Treasury, it was Mr. Peter Mwikya Kilonzo's statutory duty under Section 104(1)(d) of the PFM Act, 2012 to enforce effective financial control measures and advise the County Government on necessary remedial actions. His failure to report or act on the identified theft demonstrates negligence in performing his duties and a disregard for the anti-corruption and ethical standards outlined in Sections 8 and 9 of the Public Officer Ethics Act, 2003.

This situation exemplifies a lack of commitment to safeguarding public resources and ensuring accountability, contrary to the public finance principles enshrined in law. The inaction and ongoing revenue management inefficiencies continue to undermine the County's financial stability and public trust.

iv. Unlawful submission of a Memorandum on the Approved County Fiscal Strategy Paper (CFSP) 2024/2025

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, demonstrated a fundamental failure to understand his roles and mandate as defined by the law by submitting a memorandum to the Clerk of the Assembly objecting to the approved County Fiscal Strategy Paper (CFSP) for the Financial Year 2024/2025. This was done via a letter referenced CGKTI/CT/FIN/35/V/43 dated 11th April 2024 (*see annex xii*).

The submission of this memorandum was an unlawful attempt to overturn a decision of the County Assembly, a direct overreach of the CECM's mandate, and a deliberate contravention of the legal framework governing County budgeting processes. Section 24(2)(b) of the County Government Act, 2012, and Standing Order No. 134(2)(b) of the Kitui County Assembly Standing

Orders, only allow the Governor to refer an Appropriation Bill back to the Assembly with a memorandum outlining specific reasons for the referral. There is no legal provision that permits the CECM to challenge an approved CFSP or any Assembly decision in the manner undertaken by Mr. Peter Mwikya Kilonzo.

Additionally, this act violated key provisions of the Public Finance Management Act, 2012, which establishes the roles and responsibilities of the County Treasury and the Assembly in the budget-making process. Once the CFSP has been approved by the Assembly as per Section 117 of the PFM Act, 2012, the County Treasury's mandate is strictly to implement the priorities therein. Any objections to the approved CFSP should be addressed through established legal channels, which do not involve the submission of unilateral memoranda by the CECM.

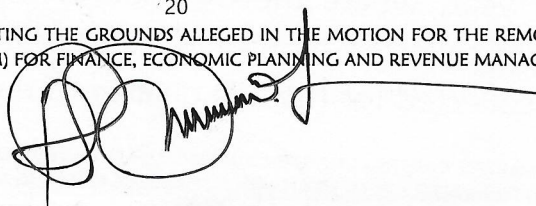
This overreach by the CECM undermined the principle of separation of powers enshrined in Article 175 of the Constitution of Kenya, 2010, and subverted the Assembly's exclusive mandate to approve and oversee the implementation of budgetary frameworks. His actions displayed a lack of adherence to Article 10 (respect for the rule of law) and Article 201 (prudence in public finance) of the Constitution.

The memorandum was a direct challenge to the Assembly's decision-making authority, a fundamental breach of the democratic processes governing County operations.

v. Misreporting on IFMIS uploading for the Kitui County Supplementary II for Financial Year 2023/2024

One of the cardinal principles of public financial management is strict compliance with approved budgets and adherence to the legislative frameworks that govern them. Mr. Peter Mwikya Kilonzo, in his role as the CECM for Finance, Economic Planning and Revenue Management, failed to honour this principle when he inaccurately uploaded the recurrent budget allocation for the Ministry of Health and Sanitation into the Integrated Financial Management Information System (IFMIS).

The Kitui County Supplementary II Appropriation Act, 2024, a binding legislative document mandating strict execution of the approved budgetary



provisions, expressly indicated the recurrent budget allocation for the Ministry of Health and Sanitation as Kshs. 3,467,530,515. Despite this clear indication, Mr. Peter Mwikya Kilonzo negligently uploaded the figure as Kshs. 3,447,994,858, creating a variance of Kshs. 19,535,657, as pointed out by the Controller of Budget's letter referenced COB/KTU/002/2/3(25) dated 30th April 2024 (**see annex xiii**), the Hyperion budget printout (**see annex xiv**), and the Supplementary II Appropriation Act, 2024.

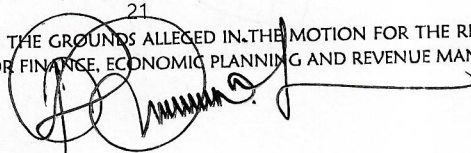
This discrepancy constitutes a breach of the principles outlined in Article 201 of the Constitution of Kenya, 2010, which mandates openness, accountability and strict adherence to public financial discipline. Further, Section 104 of the Public Finance Management Act, 2012, imposes an obligation on the County Treasury to ensure that all financial transactions align with approved budgetary allocations, a standard that was grossly violated in this instance. By failing to adhere to the legal provisions, the CECM undermined Section 107(2) of the Public Finance Management Act, 2012, which underscores the importance of fiscal responsibility in public resource management.

The failure to accurately upload the budget allocations into IFMIS demonstrates a lack of due diligence and technical oversight. It undermines the fiscal integrity of the County and compromises the confidence of stakeholders, including the public, in the County Treasury's ability to manage public resources effectively. This negligence is particularly concerning given that IFMIS serves as a central platform for public financial management, designed to ensure accuracy, transparency and compliance with statutory requirements.

vi. Unrealistic County Own Source Revenue Target

Mr. Peter Mwikya Kilonzo, the CECM for Finance, Economic Planning and Revenue Management, has set an unrealistic revenue target of Kshs. 988,645,941 in the submitted Kitui County Supplementary Budget I estimates for the financial year 2024/2025, which represents an increase of Kshs. 388,645,941 from the Kshs. 600 million in the approved County budget for the same period.

This increase in the revenue target comes on the heels of underperformance in the previous year, where the own-source revenue target of Kshs. 585 million was under collected by Kshs. 67,950,185. Moreover, the total own-source revenue collected for the first quarter of the financial year 2024/2025



was a mere Kshs. 112,157,327, as outlined in the CECM's response to concerns raised by the County Budget and Appropriations Committee during the consideration of the Kitui County Supplementary Budget I estimates for the financial year 2024/2025 (see annex xv).

Given the history of underachievement in meeting revenue targets and the current slow revenue collection pace, it is evident that the proposed new target of Kshs. 988,645,941 is not only unrealistic but may also lead to significant fiscal challenges. If this target is not met, the County risks accumulating large, unnecessary pending bills by the end of the financial year, further straining its financial stability and ability to provide services.

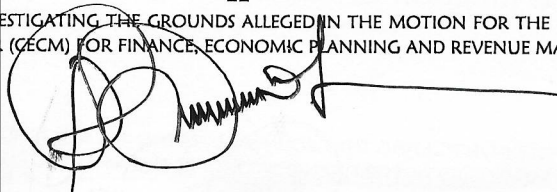
As detailed in this motion, it is clear that the County has a poor revenue collection administration system, riddled with serious revenue leakages. These systemic issues require urgent reform and a complete overhaul of the County's revenue collection strategies. Unfortunately, this has proven to be an uphill task for Mr. Peter Mwikya Kilonzo, who has not demonstrated sufficient competence in addressing these challenges.

This failure to align revenue targets with realistic collection capabilities is a direct violation of the principles of fiscal responsibility and prudent financial management enshrined in Article 201 of the Constitution of Kenya, 2010, and is contrary to the Public Finance Management Act, 2012, particularly Section 104, which mandates effective revenue mobilization and management. Moreover, it undermines the County's ability to implement the County Integrated Development Plan (CIDP) and achieve its development objectives, which depend heavily on the availability of reliable and adequate financial resources.

This unrealistic target further worsens the County's budgeting challenges, as it may encourage financial mismanagement, misreporting and improper planning, all of which undermine the integrity of public financial management within the County.

C. ABUSE OF OFFICE

Mr. Peter Mwikya Kilonzo, in his capacity as the CECM for Finance, Economic Planning and Revenue Management, has exploited his position for personal gain, in direct violation of the code of conduct expected of Public Officers



and the national values and principles of governance as enshrined in Article 10 of the Constitution of Kenya, 2010.

(a) In a shocking and unlawful act, the CECM manipulated the allocation of a community borehole project, redirecting it to be drilled on his family property, thereby depriving the intended community beneficiaries. This blatant act subverted the public interest for his personal advantage.

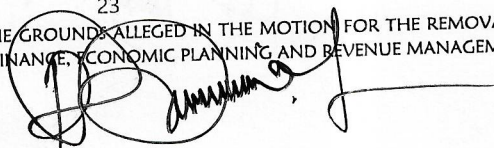
Specifically, Mr. Peter Mwikya Kilonzo used his office to influence the diversion of the drilling of Myaani 001 and Myaani 002 boreholes from Senda village to Myaani village, on family land, at a cost of Kshs. 2 million. This gross misuse of public resources and authority exemplifies abuse of office by the CECM, contrary to Article 73 and 75 of the Constitution of Kenya, 2010, as well as Sections 8, 9, 10, 11, 13, and 24 of the Leadership and Integrity Act, 2012.

Such actions breach the public trust and represent a complete failure to carry out the duties of his office in a professional, transparent and accountable manner. Furthermore, this conduct constitutes the use of office to unlawfully enrich himself, as well as a failure to exercise impartiality and objectivity in the execution of his official duties, as mandated by Articles 10, 73(2)(b) & (c), and 232(1)(a)(c) and (e) of the Constitution of Kenya, 2010.

This abuse of office undermines the integrity of public service, erodes public confidence in the leadership and contributes to a culture of impunity, where public resources are diverted for personal gain rather than for the public good.

(b) There have been numerous complaints from contractors alleging that Mr. Peter Mwikya Kilonzo, in his capacity as the CECM for Finance, Economic Planning and Revenue Management, has been asking for bribes from them before approving payments for contracts done. This conduct is contrary to:

- Section 6(1) of the Bribery Act, 2016, which criminalizes the solicitation or acceptance of any financial or other advantage as an inducement or reward for the improper performance of a relevant function or activity.



- Chapter Six of the Constitution of Kenya, which sets the principles of leadership and integrity, including accountability, transparency and the avoidance of corruption or abuse of office.
- Sections 10 and 12 of the Leadership and Integrity Act, 2012, which mandate state officers to uphold public trust and avoid conflicts of interest or conduct that undermines the dignity of their office.

These actions not only undermine public confidence in the office but also violate the ethical and legal standards required of public officers.

- (c) Further, several Chief Officers have raised concerns that Mr. Peter Mwikya Kilonzo has been engaging in bullying behaviour by issuing threats and intimidation to advance his personal interests contrary Section 34 Leadership and Integrity Act, 2012, which prohibits state officers from which prohibits state officers from bullying, intimidating or harassing any person.

D. GROSS MISCONDUCT

i. Improper use of public office for personal gain

Mr. Peter Mwikya Kilonzo influenced the drilling of Myaani 001 and Myaani 002 boreholes on family land in Myaani village, contrary to the approved allocation for a borehole at Senda Village in the FY 2023/2024 budget. This action violated Articles 73(2)(c) and 75(1) of the Constitution, Sections 8, 9, and 10 of the Leadership and Integrity Act, 2012, and Sections 9, 11, and 12 of the Public Officer Ethics Act, 2003, which require state officers to act with integrity and prioritize public interest over personal gain.

The improper prioritization of personal interests over public welfare constituted a breach of ethical obligations, undermined public trust and diverted critical resources meant to alleviate water scarcity in Senda Village.

ii. Unlawful submission of a memorandum challenging the approved CFSP

Mr. Peter Mwikya Kilonzo unlawfully submitted a memorandum objecting to the approved County Fiscal Strategy Paper (CFSP) for FY

2024/2025. This violated Section 24(2)(b) of the County Governments Act, 2012, and Standing Order No. 134(2)(b) of the Kitui County Assembly Standing Orders, which vest authority over such matters in the Governor and not the CECM.

These above two scenarios couple with failure to submit a supplementary budget seeking ratification for the expenditure of Kshs. 76 million to pay electricity bills for KITWASCO and KIMWASCO within two (2) months of such expenditure in line with Section 135 of the PFM Act, 2012 amount to gross misconduct by the CECM.

2.1 PROCEDURE FOR REMOVAL FROM OFFICE OF A COUNTY EXECUTIVE COMMITTEE MEMBER.

The procedure for the removal from Office of a Member of the County Executive Committee is clearly provided for under Section 40 of the County Governments Act, 2012, as read together with Standing Order no. 62 of the County Assembly Standing Orders.

- 1) A member of the County Assembly, supported by at least one third of all the members of the county assembly, may propose a motion requiring the Governor to dismiss a County Executive Committee member on any of the grounds set out in subsection (1).*
- 2) If a motion under subsection (2) is supported by at least one third of the members of the County Assembly—*
 - a) the County Assembly shall appoint a select committee comprising five of its members to investigate the matter; and*
 - b) the select committee shall report, within ten days, to the County Assembly whether it finds the allegations against the County Executive Committee member to be substantiated.*
- 3) The County Executive Committee member has the right to appear and be represented before the select committee during its investigations.*
- 4) If the select committee reports that it finds the allegations—*
 - a) unsubstantiated, no further proceedings shall be taken; or*

b) Substantiated, the County Assembly shall vote whether to approve the resolution requiring the County Executive Committee member to be dismissed.

5) If a resolution under subsection (5)(b) is supported by a majority of the members of the County Assembly—

a) the Speaker of the County Assembly shall promptly deliver the resolution to the Governor; and

b) the Governor shall dismiss the County Executive Committee member.

Article 195 of the Constitution of Kenya, 2010 as read together with Section 18 of the County Assemblies Powers and Privileges Act, 2017 and the County Assembly Standing Order 171, provide that the County Assembly or any of its committees have the power to summon any person to appear before it for the purpose of giving evidence or producing information.

The afore stated legal provisions further provide that the County Assembly and its Committees have the same powers as the High Court to enforce the attendance of witnesses and compelling the production of documents.

Section 39(2) of the County Governments Act, 2012 on **Accountability of members of the executive committee**, stipulates that;

(2) A committee of the county assembly may require a member of the executive committee to—

(a) attend or appear before the committee; and

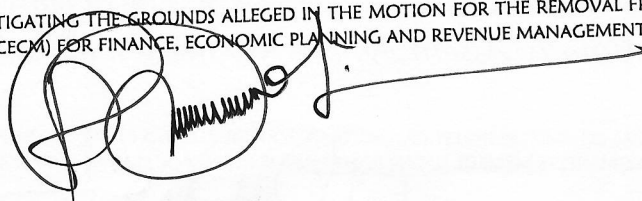
(b) answer any question relating to the member's responsibilities.

Section 40(4) of the County Governments Act, 2012 provide that;

“the member of the county executive committee has the right to appear and be represented before the special committee during its investigations”

The procedure for executing the motion is also provided for under Standing Order 62 as follows;

1) Before giving notice of Motion under section 40 of the County Governments Act, 2012, the member shall deliver to the Clerk a copy of



the proposed Motion in writing stating the grounds and particulars upon which the proposal is made, for requiring the Governor to dismiss a Member of County Executive Committee on ground of a gross violation of a provision of the Constitution or of any other law; where there are serious reasons for believing that the Member of county executive has committed a crime under national or international law; or for gross misconduct. The notice of Motion shall be signed by the Member and the Clerk shall submit the proposed Motion to the Speaker for approval.

2) A member who has obtained the approval of the Speaker to move a Motion under paragraph (1) shall give a three (3) days' notice calling for dismissal of a Member of County Executive Committee by the Governor.

3) Upon the expiry of three (3) days, after notice given, the Motion shall be placed on the Order Paper and shall be disposed of within three days;

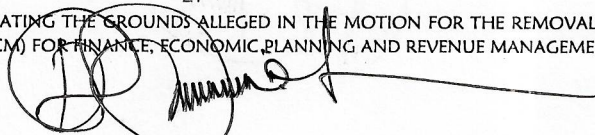
4) When the Order for the Motion is read, the Speaker shall refuse to allow the member to move the motion, unless the Speaker is satisfied that the member is supported by at least one-quarter of all Members of the County Assembly to move the motion. Provided that within the seven days' notice, the Clerk shall cause to be prepared and deposited in his office a list of all Members of the County Assembly with an open space against each name for purposes of appending signatures, which list shall be entitled “

*SIGNATURES IN SUPPORT OF A MOTION FOR REMOVAL OF
Mr./Mrs./Ms-----MEMBER OF COUNTY EXECUTIVE
COMMITTEE”*

Provided further that the Mover shall provide to the Speaker, at least one hour before the sitting of the Assembly, a list signed by members in support of the motion.

5) Any signature appended to the list as provided under paragraph (4) shall not be withdrawn.

6) When the Motion has been passed by at least one-third of all members of the County Assembly, the Assembly shall, within seven



(7) days, appoint a special committee comprising of a third of the Members to investigate the matter; and shall, within ten days, report to the Assembly whether it finds the allegations against the Member of county executive to be substantiated.

7) The Member of County Executive has the right to appear and be represented before the select committee during its investigations.

8) No further proceedings shall be taken on the matter if the select committee finds the allegations unsubstantiated.

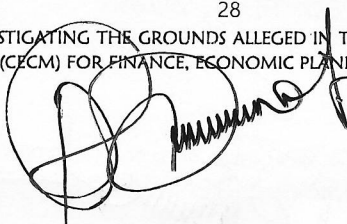
9) If the select committee reports that it finds the allegations substantiated, the County Assembly shall afford the Member of County Executive an opportunity to be heard and vote whether to approve the resolution requiring the Member of County Executive to be dismissed.

10) If a resolution requiring the Governor to dismiss a Member of County Executive is supported by a majority of the members of the County Assembly the Speaker shall promptly deliver the resolution to the Governor and the Member shall be considered dismissed.

2.2 METHODOLOGY

In light of the procedure as stipulated in the relevant legal frameworks, the Committee adopted the following methodology and undertook the following steps to investigating the matter: -

1. The Committee reviewed the content of the motion as presented by Hon. Anthony Musyimi Musyoka, Member of the County Assembly representing Kiomo/Kyethani Ward.
2. In line with Article 50(2)(b) of the Constitution of Kenya, 2010, as read together with Section 40(4) of the County Governments Act, 2012, the Committee wrote to the CECM, Mr. Peter Mwikya Kilonzo, informing him of the content of the motion seeking his removal from office and inviting him to appear before the Committee on 9th December, 2024.
3. In its invitation, the Committee informed the CECM of his liberty to appear personally or with representation.



4. The Committee also advised the CECM of his right to request any information or documentation from the County Assembly that he might require to build his case.
5. The CECM was further requested to submit any written response on the matter by close of business on Monday, 9th December, 2024.
6. In line with Article 196 of the Constitution of Kenya, 2010, the Office of the Clerk placed an advertisement in The Star newspaper (page 7) (**annex iv**) and the Daily Nation newspaper (page 8) (**annex v**) on Thursday, 5th December, 2024, calling for public submissions, comments, information and memoranda on the proposed removal of the CECM for Finance, Economic Planning and Revenue Management.
7. The CECM was represented by Kimanthi and Associates Advocates, who on 6th December 2024, filed a bundle of documents to be relied on by the CECM in his case.
8. From the commencement, throughout the proceedings, the CECM was accompanied by Mr. Musyoki Kimanthi (Advocate), and Mr. Paul Kithome (Legal Assistant) who attended the proceedings.
9. The Committee granted Mr. Musyoki Kimanthi, the advocate on record representing the CECM, ample time to cross-examine Hon. Anthony Musyimi Musyoka the mover of the motion so as to gain clarity on the allegations presented.
10. The Committee interrogated Hon. Anthony Musyimi Musyoka, the mover of the motion, to gain clarity on the allegations presented.
11. The Committee heard the defence of the CECM which was presented by his advocate Mr. Musyoki Kimanthi.
12. The Committee received and considered the testimony of Hon. Zacchaeus Ivutha Syengo, Chairperson of the County Budget and Appropriations Committee, who appeared virtually and testified under oath, and was subsequently cross-examined by Mr. Musyoki Kimanthi on 9th December, 2024.
13. The Committee received and considered the testimony of Hon. Harrison Mawia Maluki, a Member of the Committee on Agriculture, Water and Irrigation, who testified under oath and was cross-examined by Mr. Kimanthi on 9th December, 2024.

14. The Committee received and considered the testimony of Hon. Godfrey Muthengi Ndagara, a Member of the Committee on Public Accounts and Investments, who testified under oath and was cross-examined by Mr. Kimanthi on 9th December, 2024.
15. The Committee received and considered the testimony of Hon. Benjamin Ndambu Mulandi, a Member of the Committee on Finance and Economic Planning, who testified under oath and was cross-examined by Mr. Kimanthi on 9th December, 2024.
16. The CECM Mr. Peter Mwikya Kilonzo opted to rely on the evidence and testimony given by the summoned witnesses during cross examination. During interrogation by the Committee he gave unsworn testimony.
17. The Committee also interrogated the CECM, allowing him and his Advocate the opportunity to respond to questions concurrently, as they deemed fit.
18. The CECM also had an opportunity to make submissions on the motion, which was done orally through his legal counsel, Mr. Kimanthi.
19. Upon completing its hearings, the Committee retreated to prepare its report on the investigations.

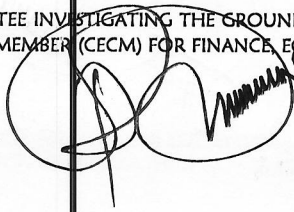
3.0 COMMITTEE INQUIRY, FINDINGS AND OBSERVATIONS

The Committee made the following inquiries, findings and observations on the matters raised in the Motion by Hon. Anthony Musyimi Musyoka, MCA for Kiomo/Kyethani Ward.

1. GROSS VIOLATION OF THE CONSTITUTION OF KENYA, 2010 OR ANY OTHER LAW; -

- i. **Undermining the separation of powers and public participation as underscored in Articles 1, 10, 118, 175, 196 of the Constitution of Kenya, 2010, Section 91 of the County Governments Act, 2012, Section 125 of the Public Finance Management Act, 2012, and as advanced in Section 130 of the PFM Act, 2012 as amended by Section 11(4) & (5) of the County Allocation of Revenue Act (CARA), 2021.**

The motion alleges that Mr. Peter Mwikya Kilonzo contravened Articles 1, 10, 118, 175, and 196 of the Constitution of Kenya, 2010, Section 91 of the County Governments Act, 2012, Section 125 of the Public Finance Management Act,



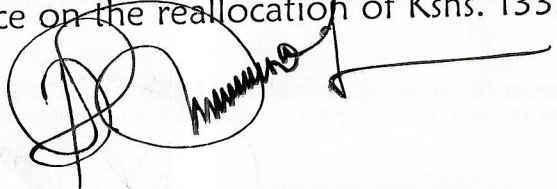
2012, and Section 130 of the PFM Act, as amended by Section 11(4) & (5) of the County Allocation of Revenue Act (CARA), 2021, by undermining the separation of powers and public participation in the budgetary process. The specific allegation involves the unlawful reallocation of Kshs. 133,042,008 in the Kitui County Supplementary Budget Estimates I for FY 2024/2025 from the County Assembly's approved budget.

The mover of the motion relied on Annex I of the motion and indicated that Mr. Peter Mwikya Kilonzo, CECM Finance, Economic Planning and Revenue Management submitted the Kitui County Supplementary Budget I for FY 2024/2025, which included reallocations totaling Kshs. 133,042,008 from the County Assembly's approved budget. These reallocations consisted of:

- A revote of Kshs. 100 million from FY 2023/2024 allocated for the construction of a modern County Assembly office block.
- An allocation of Kshs. 33,042,008 for the construction of County Assembly Ward offices.

Other than the motion mover, the Committee summoned Hon. Zacchaeus Ivutha Syengo, Chairperson, County Budget and Appropriations Committee who reaffirmed the motion mover's submissions. He reaffirmed that Mr. Peter Mwikya Kilonzo, had unlawfully reallocated the funds outside the required process, violating Section 130 of the PFM Act, 2012 and its amendments under CARA, 2021 and Section 129(3) of the same Act which only authorizes the Clerk of Assembly to prepare and submit budget estimates for the County Assembly and a copy submitted to the CECM Finance. Thus, it was a reserve of the Clerk of the Assembly to prepare the Assembly budget and not the CECM Finance. Consequently, any reallocation from the Assembly's approved budget required negotiation between the County Assembly and the Executive, a process that was not followed.

The Counsel for the CECM Finance tried to invalidate the witnesses' evidence by introducing a letter from the Commission of Revenue Allocation dated 9th December, 2024 which was a response by the Commission to the request for opinion on the same by the CECM Finance on the reallocation of Kshs. 133, 042, 008 **(see annex XI)**.

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The admission of the letter as part of their evidence in support of their defence was disallowed by the Committee Chairperson since it raised questions on its credibility and authenticity.

Mr. Peter Mwikya Kilonzo's actions demonstrate a gross violation of Articles 175 of the Constitution of Kenya, 2010 on separation of powers, and Section 130 of the PFM Act, 2012 as amended by Section 11 of CARA, 2021, by reallocating funds without consultations with the County Assembly. Accordingly, this sub-ground is found to be **SUBSTANTIATED**.

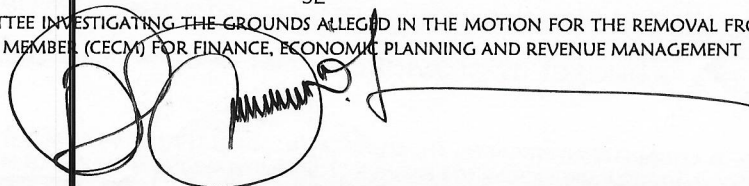
ii. Violation of Section 135 of the Public Finance Management Act, 2012 and Regulation 39 (3) & (8) of the Public Finance Management (County Governments) Regulations, 2015.

The motion alleges that Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management violated the law, thus committing gross violation of the law. It alleges that:

- a) Mr. Kilonzo contravened Section 135 of the PFM Act, 2012 by submitting to the County Assembly a Supplementary Budget I for the FY 2024/2025 containing allocation of new projects that were not part of the approved annual budget for FY 2024/2025.
- b) Mr. Kilonzo authorized payment of Kshs. 76 million, funds appropriated in the Kitui County Budget for the FY 2023/2024, for drilling boreholes across the forty wards to pay electricity bills for KIWASCO and KITWASCO.

In addition to the mover of the motion, the committee heard the submissions of Hon. Zacchaeus Ivutha Syengo, Chairperson, County Budget and Appropriations Committee and Mr. Peter Gitonga Nkunda, CECM for Water and Irrigation.

They relied on annex I of the motion and testified that Mr. Peter Mwikya Kilonzo submitted Kitui County Supplementary Budget I for the Financial Year 2024/2025 containing allocations for new projects as contained in the motion that was not part of the approved annual budget. The mover of the motion stated that the supplementary budget ought to only contain expenditures of new projects that are necessitated by unforeseen and avoidable needs that



cannot wait for the next financial year or reallocations within the approved budget to address priority areas.

The mover further informed the committee that the CECM Finance authorised payment of Kshs. 76 million funds appropriated in the Kitui County Supplementary II Appropriation Act, 2024 for drilling boreholes across the 40 wards to pay electricity bill for KIMWASCO and KITWASCO and the same was not regularised in a subsequent supplementary budget to the Assembly within two months (60 days) from the date of the expenditure.

This payment was evidenced and confirmed by the CECM water and Irrigation in his response to the statement request where he conceded to the payment of the Kshs. 76 million. In giving this testimony, he relied on Annex iv to the motion to prove the payment and highlighted that the amount in question was Kshs. 46 million and not Kshs. 76 million contrary to the Agriculture, Water and Irrigation Committee report (annex i) to the motion.

During cross-examination by the counsel for the CECM Finance, the chairperson, County Budget and Appropriation Committee confirmed to the Committee that the Kitui County Supplementary Budget Estimates I 2024/2025 contained new projects that were not in the approved annual budget.

On interrogating the CECM, it was uncertain whether the new items were captured in key planning documents, including the CIDP, CFSP, or the ADP. He did not provide any evidence to invalidate the evidence produced to the effect that this new reallocation did not have any backing of these stator documents and that the new reallocation had not been subjected to public participation.

It was also ascertained during further interrogation, that the CECM authorized payment of Kshs. 76 million funds allocated for borehole drilling to pay KIWASCO & KITWASCO electricity bills and the same was not regularised in a subsequent supplementary budget as per Section 135 of the PFM Act, 2012.

On the first allegation of introduction of new projects such as the Youth Forum and the IT equipment, the committee ascertained that the new projects were not justified under the emergency or unforeseen expenditure criteria for a supplementary budget as provided under Section 135 of the PFM Act, 2012

and regulation 39(3) & (8) of the PFM (County Governments) Regulations, 2015.

Whereas on the second allegation on violation of Section 135 of the PFM Act, 2012 the committee upon review of the evidence noted that in deed the CECM failed to regularize the payment of Kshs. 46 million to KITWASCO and KIMWASCO electricity bills by not submitting a supplementary budget within two months upon incurring the expenditure.

Basing on the analysis of the evidence as provided by the witnesses, the committee finds that the grounds on violation of Section 135 of the PFM Act and regulation 39(3) and (8) of the Public Finance Management (County Governments) Regulations, 2015 as highlighted in ground 1 Sub-ground (ii) (a) & (b) are **SUBSTANTIATED**.

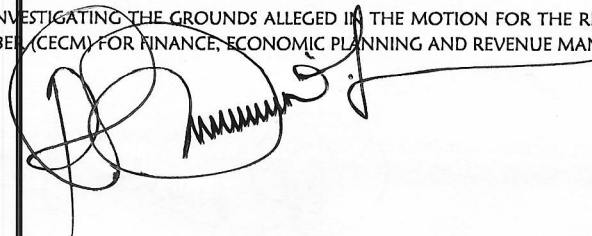
iii. Violation of Articles 10, 73, and 75 of the Constitution of Kenya, 2010, Sections 8, 9, 10, and 11 of the Leadership and Integrity Act, 2012, and Sections 9, 11, and 12 of the Public Officer Ethics Act, 2003.

The allegation as stated in the motion is that Mr. Peter Mwikya Kilonzo influenced the relocation and drilling of Myaani 001 and Myaani 002 boreholes in a family land in Myaani Village in contravention of the approved Annual Budget for the Financial Year 2023/2024 which had earmarked the drilling of the borehole at Senda Village.

Under this ground, the motion alleges that the CECM violated Articles 10, 73, 75, and 232 of the Constitution of Kenya, 2010, Sections 8, 9, 10, 11, 13, and 24 of the Leadership and Integrity Act, 2012, Section 6(1) of the Bribery Act, 2016, Chapter Six of the Constitution of Kenya, and Section 34 of the Leadership and Integrity Act, 2012.

The Committee heard the testimony of the mover, after which it called witnesses, and later on interrogated the CECM on the allegations.

The Committee summoned Mr. Peter Gitonga Nkunda (County Executive Committee Member, Water and Irrigation) and Hon. Harrison Maluki Mawia (Member, Committee on Agriculture, Water, and Irrigation) who were both cross-examined under oath and submitted as follows;



Mr. Peter Gitonga Nkunda (County Executive Committee Member, Water and Irrigation) testified as follows:

- That the approved budget for the Financial Year 2024/2025 had allocated Kshs. 3.5 million for drilling and equipping a borehole at Senda village.
- That he was not aware of the diversion of the borehole from Senda village to Myaani at the time it was pointed out by the Committee on Agriculture, Water and Irrigation.
- That Myaani 001 and Myaani 002 boreholes were done on family land belonging to the father of the CECM for Finance, Economic Planning and Revenue Management.
- That his technical officers in the Ministry initiated the drilling of a borehole at Myaani village and they were informed by low water yields at Myaani 001 to do a second borehole within the same place.

Hon. Harrison Maluki Mawia (Member, Committee on Agriculture, Water, and Irrigation) testified as follows:

- That he became aware that Mr. Peter Mwikya Kilonzo influenced the drilling of two boreholes, Myaani 001 and Myaani 002 on his family in Myaani village during an inspection of boreholes, water pipelines and treatment zones in August 2024 by the Committee of Agriculture, Water and Irrigation where he is a member.
- That the father of the CECM, one Mr. Kilonzo Mbwika Nduto confirmed that the land where Myaani 002 has been drilled belongs to him. This was as well captured in the Hansard proceedings annexed to the Committee on Agriculture, Water and Irrigation report (annex iv) to the motion.
- That the borehole was originally intended to be drilled at Senda Village as informed by the itemised projects contained in the approved budget for the financial year 2023/2024.
- That the relocation of the borehole from Senda to Myaani has caused significant suffering among the residents of Senda village, who continue to struggle with water scarcity as they had prioritised a borehole to supply them with water.

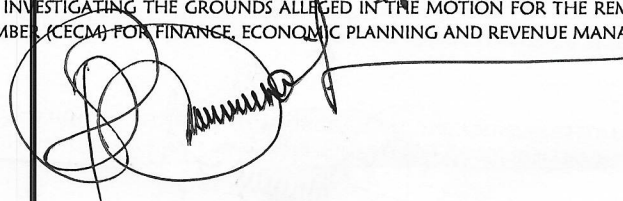
On interrogation by the committee, the CECM for Water and Irrigation admitted that whereas the approved budget of constructing the borehole at Senda village was subjected to public participation, the relocation to Myaani 001 and Myaani 002 were not subjected to public participation. On further questioning, the committee sought to establish the rationale for utilizing the resources meant for Senda village to Myaani 001 and Myaani 002, confirmed to be family land by the CECM's father as referred to in Annex iv. It was apparent that there was no agreement or terms in place outlining the terms for depriving the people of Senda of their duly allocated borehole and constructing the said boreholes on the CECM's family land. Annex iv, the County Assembly report by the Committee on Agriculture, Water and Irrigation on the inspection of boreholes drilled across Kitui County in the Financial Year 2023/2024 proves the illegalities involved in the prioritisation of the construction of boreholes on Mr. Peter Mwikya Kilonzo's family land, using the budget earmarked for Senda village.

This committee finds that the relocation was in direct contravention of the approved Annual Budget for the Financial Year 2023/2024, which had earmarked the drilling of the boreholes in Senda Village. The action compromised public interest and diverted public resources for personal gain, contrary to Article 73(2)(c) and (d) of the Constitution of Kenya, 2010, which obligates state officers to prioritize public interest and to uphold accountability.

This committee also finds the action by Mr. Peter Mwikya Kilonzo to be a clear violation of the Leadership and Integrity Act, 2012 and the Public Officer Ethics Act, 2003 for using public resources for personal gain.

Mr. Peter Mwikya Kilonzo's actions demonstrate a gross violation of Articles 10, 73 and 75 of the Constitution, Sections 8, 9, 10, and 11 of the Leadership and Integrity Act, 2012 and Sections 9, 11, and 12 of the Public Officer Ethics Act, 2003.

The Committee, therefore, finds Mr. Peter Mwikya Kilonzo culpable of these violations and thus this sub-ground is **SUBSTANTIATED**.

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iv. Violation of Article 175(b) of the Constitution of Kenya, 2010, and Sections 157 & 158 of the Public Finance Management Act, 2012

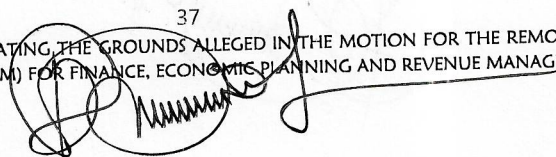
The allegation as stated in the motion is that Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management has failed to implement proper and transparent mechanisms for revenue collection as revealed by findings of the Committee on Finance and Economic Planning on the Inspection Exercise on the Status of Revenue Collection in Kitui County, conducted from 2nd to 5th May, 2023.

The motion alleges that the CECM was negligent in performing his statutory duties, thus infringing against Article 175(b) of Constitution and Sections 157, 158 of PFM Act, 2012.

The mover of the motion relied on annexure V, which is the County Assembly report by the Committee on Finance and Economic Planning on the Inspection Exercise on the Status of Revenue Collection in Kitui County, conducted from 2nd to 5th May 2023

In addition to hearing the testimony of the motion mover, the Committee summoned Hon. Benjamin Ndambu Mulandi, a Member of the Committee on Finance and Economic Planning who was examined under oath and submitted as follows;

- That the report by the Committee revealed negligence on Mr. Peter Mwikya Kilonzo's part in implementing proper and transparent mechanisms for revenue collection.
- That revenue clerks continued to collect cash payments at most cess barriers despite repeated recommendations by the County Assembly to adopt modern digital systems for revenue collection. This practice contravenes best practices for accountability and exposes public funds to theft and misuse.
- Significant revenue leakages were noted, resulting in substantial sums of public funds being misappropriated.
- That the report further highlighted that the CECM failed to implement recommendations adopted by the Assembly in the Committee's inspection report on status of revenue collection across the County, contrary to Kitui County Assembly Standing Order No.



181, which requires the CECM for Finance to provide a status report on implementation within 60 days. This violation demonstrated a lack of commitment to improving the County's fiscal systems.

On interrogating Mr. Peter Mwikya Kilonzo, he denied the allegation that revenue was being collected in cash at cess points. He also pointed out that the process of automation of revenue collection systems was in progress.

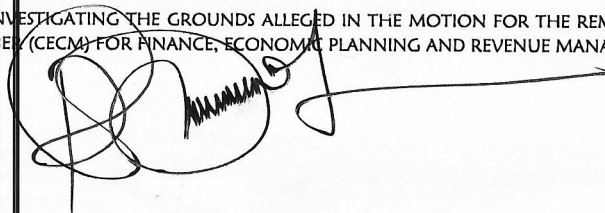
The committee finds that the CECM violated his mandate. This is on the strength of the report produced by the mover of the motion as Annex v, which highlights clear instances of failure to enforce and implement innovative mechanisms to enhance revenue collection in accordance with Section 157 of the PFM Act, 2012 which mandates the County Treasury to develop robust controls, and Section 158, which requires periodic reviews of revenue systems to mitigate losses and enhance accountability.

The committee also finds that the CECM breached Article 201 of the Constitution of Kenya, 2010, which sets out principles of public finance, including transparency, accountability and fiscal responsibility by neglecting to address revenue collection inefficiencies.

The Committee, therefore, finds Mr. Peter Mwikya Kilonzo culpable of violating Article 175(b) of the Constitution and Sections 157 and 158 of the Public Finance Management Act, 2012 and thus this sub-ground is **SUBSTANTIATED**.

v. Violation of Article 10 & 201 of the Constitution of Kenya, 2010, Section 108 of the County Governments Act, 2012, and Sections 117 & 126 of the Public Finance Management Act, 2012

The allegation as stated in the motion is that Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management misled the County Government into operating within statutory budget documents that were inconsistent with the approved County Integrated Development Plan (CIDP) for the period 2023-2027. Section 108 of the County Governments Act, 2012 requires that all planning and development activities align with the CIDP as the overarching framework for long-term County priorities.



The motion indicates that Mr. Kilonzo submitted and implemented budget documents for the Financial Year (FY) 2023/2024 that were misaligned with the CIDP. This misalignment led to incoherence in the County's planning framework and a failure to comply with statutory provisions.

The motion mover gave his evidence in support of this ground. He stated that the CECM violated statutory obligations as contained in Article 10(c) and Article 201 of the Constitution of Kenya, 2010, Section 108 of the County Governments Act, 2012, and Sections 117 & 126 of the Public Finance Management Act, 2012

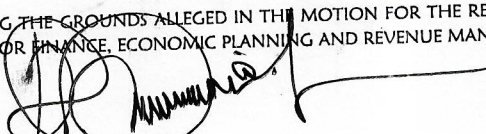
On interrogation, the CECM indicated that he was not in a position to articulate whether or not there was a lack of coherence in the named documents. The committee was thus guided by the mover's testimony, which it tested to establish the state of affairs with regards to the documents.

The committee was convinced that the CIDP for the period 2023-2027 was submitted to the County Assembly on 5th June 2023, after the submission of budgetary documents for the FY 2023/2024. As a result, the ADP, CFSP and Budget Estimates for FY 2023/2024 were not informed by the CIDP. This sequencing failure rendered the budget documents inconsistent with the long-term development priorities, compromising the effective implementation of County programs and projects.

The committee finds that the submission of budgetary documents out of sequence violated Section 108 of the County Governments Act, 2012, and Sections 117 and 126 of the PFM Act, 2012, which demonstrates negligence in the fulfilment of statutory duties.

From the foregoing, Mr. Peter Mwikya Kilonzo's actions represent a gross violation of Articles 10 and 201 of the Constitution, Section 108 of the County Governments Act, 2012 and Sections 117 and 126 of the PFM Act, 2012. His failure to ensure alignment between the CIDP, ADP, CFSP and Budget Estimates disrupted the County's planning processes, compromised resource allocation, and undermined public confidence in the County's governance and financial management.

The Committee finds him culpable of these violations and thus this sub-ground is **SUBSTANTIATED**.



2. INCOMPETENCE

The motion for impeachment alleges that Mr. Peter Mwikya Kilonzo's conduct in office has been marked by repeated incompetence. The sub-grounds specifically allege the following against the CECM: -

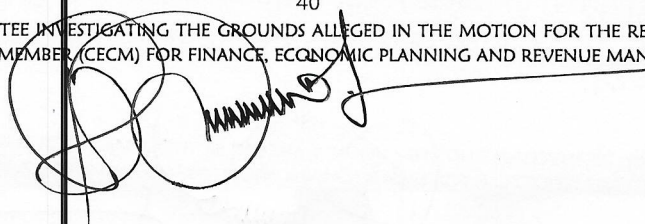
i. Non-Compliance with Statutory Deadlines for Submission of Finance Bills

The motion alleges that the CECM has consistently failed to meet statutory deadlines for submitting the County Finance Bills, specifically the Finance Bills for 2022, 2023, and 2024, which were submitted not in reasonable time for them to be considered within the ninety (90) days as required by law.

The motion alleges that the CECM has violated Article 174(c) of the Constitution of Kenya, 2010 on public participation and accountability in governance, Section 3(f) of the County Governments Act, 2012 on inclusivity in the decision-making processes of County governments, Section 133 of the PFM Act, 2012 which mandates the submission and approval of the Finance Bill within 90 days of passing the Appropriations Bill.

Beside the mover of the motion, the Committee summoned Hon. Benjamin Ndambu Mulandi, a Member, the Committee on Finance and Economic Planning who was cross-examined under oath and submitted as follows;

- That there have been continuous delays in the submission of the County Finance Bills.
- That Mr. Peter Mwikya Kilonzo submitted the Finance Bill, 2022 on 29th June 2023 instead of submitting it within good time for it to be considered by the Assembly by 30th September 2022.
- That the Finance Bill, 2023 was submitted on 21st September 2023, instead of submitting it in time to be considered by the Assembly by 30th September 2023.
- That the Finance Bill, 2024 was submitted on 30th September 2024, instead of it being submitted in time for it to be considered by the Assembly by 30th September 2024.
- That the delays were not due to unforeseen circumstances but were directly attributed to the failure of the CECM to adhere to legal timelines.



The Committee further interrogated the CECM on the same whereby he highlighted as follows: -

- That indeed he had submitted the Finance Bills out of time for them to be considered and approved by the County Assembly by 30th September of each financial year.
- That the provisions of Section 133 of the PFM Act, 2012 mandate the submission and consideration of Finance Bills within 90 days after the Appropriation Bill is passed. He also affirmed that this procedural timeline is reiterated in Standing Order No. 216 of the Kitui County Assembly Standing Order.
- That the Finance Bills as submitted could not allow the County Assembly sufficient time to deliberate and approve the same within the required 90 days.
- That the County had collected revenue based on the old Finance Bills since the ones submitted out of time were not in place in time for use.

Taking into consideration the statutory timelines for submitting and considering Finance Bills under Section 133 of the PFM Act, 2012 and the Kitui Standing Order No. 216, the admission by the CECM that he delayed in submitting the Finance Bills, as well as the fact that this was his direct mandate, this committee finds that this sub-ground is **SUBSTANTIATED**.

ii. **Failure to Adhere to the Provisions of Section 157 of the Public Finance Management Act, 2012 on the Designation of Receivers of County Government Revenue**

The motion alleges that Mr. Peter Mwikya Kilonzo, the CECM for Finance, Economic Planning and Revenue Management, failed to comply with Section 157 of the PFM Act, 2012. This section mandates the CECM for Finance to designate, in writing, a specific individual responsible for collecting, receiving and accounting for county government revenue.

The motion alleges that the CECM unlawfully delegated his statutory responsibility to a Chief Officer within his department. That this unauthorized delegation contravened explicit legal requirements and undermined financial governance and accountability mechanisms within the County Government.

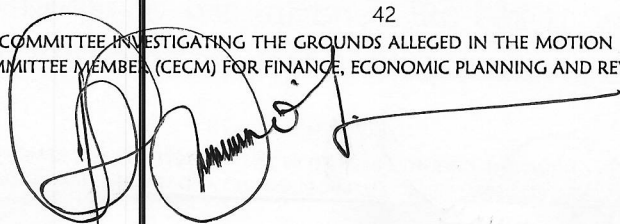
The mover of the motion emphasized that the CECM did not fulfil his statutory obligation under Section 157 of the PFM Act, 2012, which requires the designation of receivers of county revenue to be done in writing. The mover referenced Annex X to the motion, which indicated that on 14th March 2023, Ms. Roselyn Kavata Munyasya was appointed as the collector of county revenue by Mr. John Makau, the Chief Officer for Finance, Revenue Management and Accounting. This appointment occurred prior to Mr. Makau being formally designated in writing as the receiver of County Revenue by the CECM Finance as required by law. From the foregoing, it is clear that the CECM Finance did not appoint a receiver of revenue as required by law but instead relied on the collector of county revenue who has been appointed as the chief officer.

The mover further asserted that Mr. Kilonzo's designation of the Chief Officer as the receiver of county revenue came only after the Chief Officer had already issued an appointment letter to Ms. Roselyn Kavata Munyasya, a letter that had been copied to the CECM.

Additionally, during the proceedings, Mr. Peter Mwikya Kilonzo referred to prior letters of appointment from previous engagements to justify his oversight. However, these letters were not provided for review by the Committee when documents to be used in his defence were forwarded to the Assembly by his advocate, Mr. Musyoki Kimanthi on 6th December 2024 at 5.01pm.

Upon further examination, it became evident that this failure to adhere to Section 157 of the PFM Act, 2012, created loopholes that enabled potential revenue leakages.

The evidence presented demonstrated that Mr. Peter Mwikya Kilonzo's failure to formally delegate this authority to Mr. John Makau before the assumption of duties violated Section 157 of the PFM Act, 2012. Furthermore, it contravened Article 201 of the Constitution of Kenya, 2010, which upholds the principles of transparency and accountability in public financial management.



The Committee finds that this failure to comply with the statutory and constitutional requirements undermined public financial governance, facilitated inefficiencies in revenue collection and eroded trust in the County's financial oversight mechanisms.

Based on the evidence and analysis, the Committee concludes that this sub-ground of impeachment is **SUBSTANTIATED**.

iii. **Failure to Adhere to the Provisions of Sections 103 and 109 of the Public Finance Management Act, 2012**

The motion alleges that Mr. Peter Mwikya Kilonzo violated Sections 103 and 109 of the PFM Act, 2012 by failing to manage County revenue collection effectively, resulting in the inability to account for significant sums of collected revenue.

Sections 103 and 109 of the PFM Act, 2012 Mandates the effective management and timely deposit of all county revenues.

In addition to the testimony of the mover of the motion, Hon. Godfrey Muthengi Ndagara, a Member, Committee on Public Investments and Accounts gave his testimony. They relied on annex xi, being the Auditor General's report for the period ending 30th June 2023, detailing discrepancies in revenue collection and management.

Hon. Ndagara testified that revenue management under Mr. Kilonzo's leadership has been inefficient, with collected revenue not being properly accounted for or deposited into the County Revenue Fund. He referred to annex xi and showed that Kshs. 11,395,086 in collected revenue as of 30th June 2023 was not accounted for.

The witness also stated that under Section 104(1)(d) of the PFM Act, 2012 Mr. Peter Mwikya Kilonzo had a statutory duty to put in place effective financial, control measures, which duty he failed to abide by. In addition, his failure to report the identified theft further compromised this duty.

The witness stated that Mr. Peter Mwikya Kilonzo pardoned the theft of public resources of Kshs. 11,395.086, and instead of reporting employees implicated in the embezzlement of public funds, he opted not to report them

to the EACC or DCI for further investigations. That the staff were instead transferred to other departments and allowed to pay the unbanked funds in instalments as if was a loan advanced to them by the Ministry.

During interrogations, Mr. Kilonzo stated that he is putting in place avenues to facilitate the automation of revenue collected. He confirmed that he had not taken legal action against the individuals implicated in the theft of public funds.

This committee finds that the evidence provided by the motion mover, the witness and the evidence of Mr. Peter Mwikya Kilonzo **SUBSTANTIATES** the mismanagement of country revenue by Mr. Kilonzo due to poor oversight of revenue collection and mismanagement of public funds contrary to Sections 103, 104(1)(d), 109 of the PFM Act, 2012, and Articles 10, 201 of the Constitution.

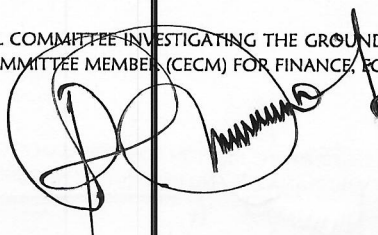
iv. Unlawful submission of a Memorandum on the Approved County Fiscal Strategy Paper (CFSP) 2024/2025

The motion alleges that Mr. Peter Mwikya Kilonzo unlawfully submitted a memorandum objecting to the approved County Fiscal Strategy Paper (CFSP) for 2024/2025, which was outside his legal mandate.

On adducing this ground, the motion alleges breach of Section 24(2)(b) of the County Government Act, 2012 which only allows the Governor to refer a memorandum to the Assembly outlining the reasons for the referral. The motion further relies on Article 175 of the Constitution of Kenya, 2010 which provides for separation of powers.

In addition to the mover of the motion, Mr. Hon. Zacchaeus Ivutha Syengo Chairperson, County Budget and Appropriations Committee virtually gave his evidence. They relied on Annex xii, a letter of submission from Mr. Peter Mwikya Kilonzo challenging the approved CFSP.

Hon. Zacchaeus Ivutha Syengo confirmed that the CECM overstepped his mandate in submitting the memorandum, an action that contravened the principles of governance and budgetary procedures.



On interrogation, Mr. Kilonzo did not provide any explanation on this allegation.

The committee finds that Mr. Peter Mwikya Kilonzo's actions of unlawful submission of a memorandum on an approved CFSP a violation of the law, and this sub-ground is thus **SUBSTANTIATED**.

v. **Misreporting on IFMIS uploading for the Kitui County Supplementary II for Financial Year 2023/2024**

The motion alleges that Mr. Peter Mwikya Kilonzo misreported budget figures by uploading incorrect recurrent budget allocations into the Integrated Financial Management Information System (IFMIS).

It alleges that Mr. Kilonzo violated Article 201 of the Constitution of Kenya, 2010 which requires transparency and accountability in public finance. As well as Section 104 of the PFM Act, 2012 which mandates accurate financial reporting.

The Motion mover relied on xiii and xiv to show the discrepancy in the figures uploaded as reported by the Controller of budget.

It was highlighted that Mr. Kilonzo misreported the recurrent budget, which led to discrepancies with a variance of Kshs. 19,535,657. That Mr. Kilonzo uploaded the Ministry of Health's recurrent budget allocation as Kshs. 3,447,994,858 instead of Kshs. 3,467,530,515.

On cross-examination, Mr. Kilonzo explained the misreporting by indicating that he was not in charge of the uploading. The Committee finds this explanation wanting, noting that Mr. Kilonzo is in charge of the county treasury and that he also appended his signature on the letter forwarding Form IB and 2A to the Controller of Budget for clearance for uploading of the Kitui County Supplementary II for FY 2023/2024, and thus responsible and accountable for the uploads.

It is the committee's finding that this sub-ground of misreporting on IFMIS uploads is **SUBSTANTIATED**.

vi. **Unrealistic County Own Source Revenue Target**

The motion alleges that Mr. Peter Mwikya Kilonzo set an unrealistic County Own Source Revenue target of Kshs. 988,645,941 for the financial year 2024/2025, a significant increase from the Kshs. 600 million in the approved County budget.

The motion further claims that this increase is particularly problematic given the underperformance of the County's revenue collection in the previous year and the slow pace of revenue collection in the first quarter of 2024/2025. These discrepancies and the motion, illustrate Mr. Kilonzo's incompetence and failure to develop a viable and effective revenue generation strategy, compromising the financial stability and governance of the County.

The motion alleges a breach of Article 201 of the Constitution of Kenya, 2010 and Section 104 of the PFM Act, 2012.

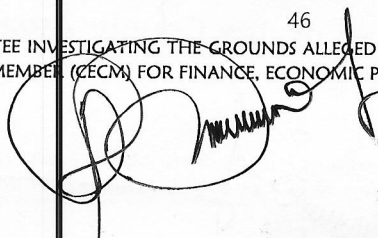
In addition to the motion mover, two witnesses adduced evidence on the ground. These are Hon. Benjamin Ndambu Mulandi, a Member of the Committee on Finance and Economic Planning, Hon. Zacchaeus Ivutha Syengo, Chairperson of the County Budget and Appropriations Committee.

They testified that the revenue target set by Mr. Kilonzo was unrealistic given the County's historical underperformance and current slow pace of revenue collection.

Hon. Zacchaeus Ivutha Syengo also pointed out that the target increase was unreasonable given the County's inability to meet its previous targets. He further stressed the importance of realistic planning.

On interrogation, Mr. Peter Mwikya Kilonzo defended the target, stating that it was ambitious but necessary projection to stimulate growth. He argued that the increase was meant to address the County's revenue shortfall and expand the fiscal base.

The committee finds that the allegations under this sub-grpund are not proved by sufficient evidence and thus it stands **UNSUBSTANTIATED.**



3. ABUSE OF OFFICE

The motion accuses Mr. Peter Mwikya Kilonzo, the CECM for Finance, Economic Planning and Revenue Management of abusing his office in the following manner:

- (a) The unlawful redirection of the Myaani 001 and Myaani 002 borehole projects to Mr. Peter Mwikya Kilonzo's family land, misusing public resources for personal gain, and undermining public interest;
- (b) Soliciting bribes from contractors before approving payments, which contravenes anti-bribery laws and ethical standards.
- (c) Instances of bullying and intimidation, with Mr. Peter Mwikya Kilonzo reportedly threatening and harassing individuals to advance his personal interests, in violation of the Leadership and Integrity Act.

On this ground, the motion mover testified alleging instances of unlawful relocation of borehole, soliciting bribes and bullying.

In addition to the mover's testimony, the committee heard the testimony of Hon. Harrison Maluki Mawia, a Member, Committee on Agriculture, Water and Irrigation.

- (a) On the first issue of abuse of office through relocation, the Committee aligns with the findings on the first ground of gross misconduct. The finding has established that Mr. Peter Mwikya Kilonzo abused his office by relocating the approved borehole project intended for Senda Village to Myaani 001 and Myaani 002, located on his family's land, as evidenced by the boreholes Inspection Report by the Committee on Agriculture, Water and Irrigation (annexure iv). This act constitutes a clear abuse of office through the misuse of public resources for personal gain, contrary to Articles 10, 73, 75 and 232 of the Constitution of Kenya, 2010 as well as Sections 8, 9, 10, 11, 13 and 24 of the Leadership and Integrity Act, 2012 and thus the sub-ground is **SUBSTANTIATED**.
- (b) and (c): upon cross-examination, the mover of the motion, and the witness were unable to prove solicitation of bribes and instances of bullying and intimidation. The witness - Hon. Harrison Maluki Mawia, relied on the Hansard Report on the County Assembly report by the

Committee on Agriculture, Water and Irrigation. In the report, Mr. Nathan Vungo stated as follows:

“Asante. Ningependa kumalizia kwa kusema, sababu moja yenye umma, ni chenye unasemna. Ni sababisha tusiweke jambo hili adharani kwa lwapo tungefanya hivyo, basi sababu tunazozijua. Najua yeye hana lingepandisha joto la kisiasa kwa shida wanted to avoid is a tukichimbia mtu wa kwake kisima. But what we rigs have been situation where, this is a member of the executive and the County drilling taken to his place. The politics around that would be very hot to us. For us to just do the job and because there are other people around where Waziri comes from who want to benefit, it was very discreet. That is why I wanted to end by rendering my apologies to Mheshimiwa here. We had to do it discreetly to manage the politics”

We find that this statement is unable to prove the conduct of corruption and bullying as imputed by the motion and the witnesses.

In summation, it is our considered view that the ground of abuse of office has been proved and substantiated on the basis of the unlawful redirection of the Myaani 001 and Myaani 002 borehole projects to the CECM's family land. However, the sub-grounds of corruption and bullying were **UNSUBSTANTIATED** due to insufficient material evidence.

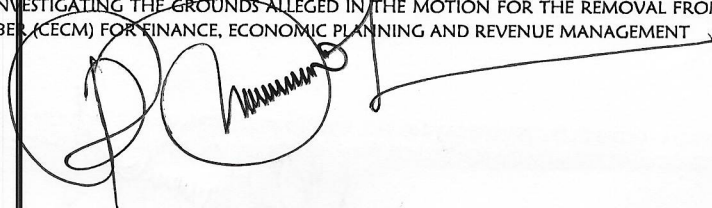
4. GROSS MISCONDUCT

Under the ground of gross misconduct, the motion alleges that the CECM used his public officer for personal gain. He raised two allegations as follows;

- a) That the CECM used public funds improperly for personal gain.
- b) Unlawful submission of a memorandum challenging the approved CFSP.

In addition to the testimony of the mover, two other witnesses gave their testimony on this issue. These were Hon. Harrison Maluki Mawia and Mr. Peter Gitonga Nkunda, CECM for Water and Irrigation.

The motion mover informed the committee that he is the chairperson for the committee on Agriculture, water and Irrigation. That it was during the inspection of boreholes drilled under the budget for the financial year 2023/2024, where the committee noted that borehole Myaani 001 and 002 were drilled on a land belonging to the family of CECM Finance. While giving



his testimony, the motion mover relied on a Hansard report capturing the CECM's father confirming that the land where Myaani 001 and 002 are drilled belongs to him. He relied on Annex iv to prove this allegation.

Mr. Peter Gitonga Nkunda, CECM Water and Irrigation as well testified and confirmed that the said boreholes Myaani 001 and 002 were drilled on the land belonging to the family of CECM Finance, contrary to the approved budget for the financial year 2023/2024 where the borehole was proposed and confirmed by the community to be drilled at Senda village.

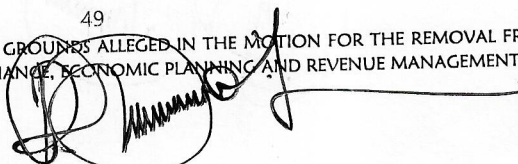
Hon. Harrison Maluki Mawia while giving his testimony relied on the budget notes attached by the CECM Water and Irrigation on his response to the statement request on the status of borehole drilled on the FY 2023/2024, where it was indicated that the borehole was to be drilled in Senda and not Myaani village.

Upon interrogation by the Committee, the CECM stated that he was familiar with Article 75 of the Constitution, Sections 8, 9, and 11 of the Leadership and Integrity Act, 2012, and Sections 9 and 12 of the Public Officer Ethics Act, 2003, which prohibit state officers from using their positions for personal gain. In his testimony, he did not, however, invalidate the allegation that the borehole was drilled on private family land. Even though his counsel questioned the motion mover on whether he had called the CECM's father to give evidence, no evidence was offered by the CECM controverting the report relied on by the motion mover.

In addition, when asked for any agreements signed with the CECM's father on the modalities of the drilling of the borehole on private land, both the CECM for water and the CECM for finance were unable to provide any such agreement.

In the annex iv, the Hansard Report captures the following dialogue with the CECM's father:

Mr. Kilonzo Mbwika Nduto: Yes. The borehole is not mine. The water belongs to these people.



Hon. Sylvester Munyalo: If the Chief Officer who is here decides to pipe the water from here for around ten kilometers, will you have an issue with that?
Mr. Kilonzo Mbwika Nduto: I will not have any issue.

Hon. Sylvester Munyalo: I am satisfied. Secondly, if the CO decides that you enter into an agreement that you have allowed the public to use the water, but the land belongs to you, do you have problem with signing the document?

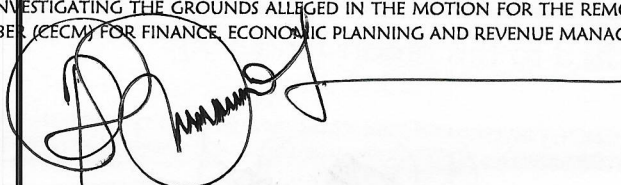
Mr. Kilonzo Mbwika Nduto: I want the people to benefit as I also benefit. The water should not be piped to any other area far away before the locals benefit.

Hon. Sylvester Munyalo: I want to tell you this, your neighbor can write a letter to the County Assembly complaining that a borehole was drilled at someone's land and feels they would be denied water. If someone raises such a complaint and as the relevant Committee we fail to come here, do you know, we would have broken the law? We have a right to come here and find out the fruth.

Mr. Kilonzo Mbwika Nduto: We cannot allow people here to go far away in search of water. We want people to get water here. About signing we will sit down with my son, the one you are calling Tangawizi. The two of us and even if there will be other people, it is okay' We will then agree between him and I who will append the signature because I am leaving. If he is the one, I will give him my blessings.

After analysing the evidence and the testimony of the witnesses and the CECM, it is this committee's finding that the manner in which the reallocations were done are in contravention of Articles 73(2)(c) and 75(1) of the Constitution, Sections 8, 9, and 10 of the Leadership and Integrity Act, 2012, and Sections 9, 11, and 12 of the Public Officer Ethics Act, 2003.

The committee therefore finds the ground on improper use of public office contrary to of Articles 73(2)(c) and 75(1) of the Constitution, Sections 8, 9, and 10 of the Leadership and Integrity Act, 2012, and Sections 9, 11, and 12 of the Public Officer Ethics Act, 2003 **SUBSTANTIATED.**



ii. **Unlawful submission of a memorandum challenging the approved CFSP**

On the second allegation under gross misconduct, the motion mover testified before the committee that Mr. Peter Mwikya Kilonzo unlawfully submitted a memorandum objecting to the approved CFSP for FY 2024/2025 contrary to Section 24(2)(b) of the County Governments Act, 2012, and Standing Order No. 134(2)(b) of the Kitui County Assembly Standing Orders, which vest authority over such matters in the Governor and not the CECM.

He further testified that the CECM Finance failed to submit a supplementary budget seeking ratification for the expenditure of Kshs. 76 million to pay electricity bills for KITWASCO and KIMWASCO within two (2) months of such expenditure in line with Section 135 of the PFM Act, 2012 which according to him amounted to gross misconduct by the CECM Finance. This testimony by the motion mover in support of the allegation was confirmed by Hon. Zacchaues Ivutha Syengo and Mr. Peter Nkunda, CECM Water and Irrigation during their testimony before the committee where they equally relied on annex I and IV.

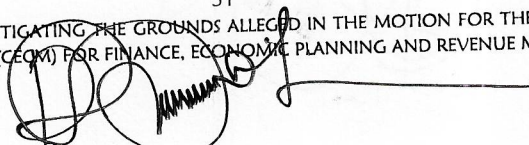
The committee also finds that the CECM undermined the principle of separation of powers enshrined in Article 175 of the Constitution of Kenya, 2010, and subverted the Assembly's mandate to approve and oversee the implementation of her budgetary frameworks. His actions displayed a lack of adherence to Article 10 (respect for the rule of law) and Article 201 (prudence in public finance) of the Constitution.

The committee also finds that the CECM violated Section 24(2)(b) of the County Governments Act, 2012, and Standing Order No. 134(2)(b) of the Kitui County Assembly Standing Orders by unlawful submitting a memorandum challenging the approved CFSP.

The committee therefore finds that the ground on gross misconduct is **SUBSTANTIATED**.

Mr. Speaker,

Hon. David Masaku Munyau dissented pursuant to Standing Order No. 179(5) from the majority members' opinion on the grounds substantiated which is as attached to this report (**annex x**).



3.1 OTHER WITNESSES WHO SUBMITTED WRITTEN MEMORANDA TO THE COMMITTEE

Mr. Speaker,

In the course of its investigations, Mr. Ezekiel Mwangu Ivuti submitted a written memorandum to the Office of the Clerk (**annex XII**), which was subsequently forwarded to the committee for consideration. This submission was made in response to the public call for written memoranda published through the print media and the Assembly's social pages and the website.

Mr. Ezekiel Mwangu Ivuti, a member of the public residing in Mutomo Ward, Kitui South, claimed in his memorandum that the grounds stated in the motion to impeach Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management were not weighty enough to meet the threshold for impeaching the CECM and thus he should be treated as a first-time offender for any transgressions he might have committed. Consequently, he requested that the motion should be withdrawn.

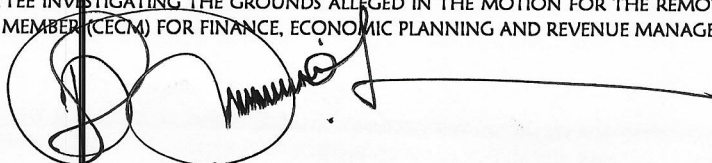
Based on this memorandum from a member of the public, the Committee having thoroughly analysed the submissions therein, it notes as follows:

- i. The submissions made by Mr. Ezekiel Mwangu Ivuti were primarily a plea for pardoning and a call for withdrawal of the motion.
- ii. The Committee found that the submissions did not refute or disprove any of the grounds outlined in the impeachment motion.

4.0 COMMITTEE RECOMMENDATIONS

Mr. Speaker,

Based on the documented submissions from the witnesses, interrogation of written submissions, review of relevant legal statutes and own findings, the Committee resolves and **RECOMMENDS THAT: Mr. Peter Mwikya Kilonzo be removed from the office of the CECM for Finance, Economic Planning and Revenue management** based on the select substantiated grounds as highlighted above in the report.



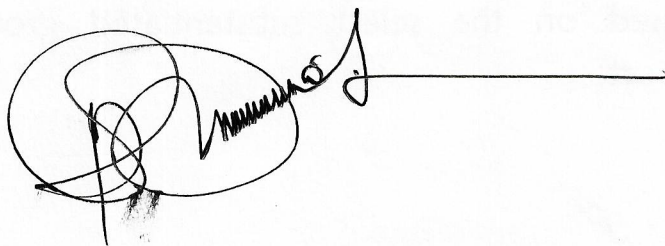
5.0 CONCLUSION

Mr. Speaker,

The Special Committee finds that some allegations as contained in the motion for removal from office of the County Executive Committee Member for Finance, Economic Planning and Revenue Management, Mr. Peter Mwikya Kilonzo, approved by the Assembly on 4th December 2024 are **SUBSTANTIATED.**

Therefore, this Assembly hereby resolves that;

The Governor to immediately dismiss Mr. Peter Mwikya Kilonzo from the position of County Executive Committee Member for Finance, Economic Planning and Management upon receipt of the resolutions of this Assembly, pursuant to the provisions of Section 40 (6)(b) of the County Governments Act, 2012 as read together with Kitui County Assembly Standing Order No. 62 (10).



ANNEX I

SIGNED LIST OF MEMBERS OF THE SPECIAL COMMITTEE ADOPTING THE REPORT INVESTIGATING THE REMOVAL FROM OFFICE OF COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE, ECONOMIC PLANNING AND REVENUE MANAGEMENT- MR. PETER MWIKYA KILONZO.

<u>NAME</u>	<u>DESIGNATION</u>	<u>SIGNATURE</u>
1. Hon. Jeremiah Musee Mutua	- Chairperson	
2. Hon. Jacquelyne Cate Kalenga	- Vice Chairperson	
3. Hon. David Masaku Munyau	- Member	
4. Hon. Peter Kitonyo Mwanza	- Member	
5. Hon. Frida Maua Mutinda	- Member	

THE STATE OF TEXAS,
COUNTY OF [illegible]
I, the undersigned, Clerk of the County,
do hereby certify that the within and
above entitled instrument was duly
filed for record in my office on the
[illegible] day of [illegible] 19[illegible].

WITNESSED my hand and the seal of the County at [illegible] this [illegible] day of [illegible] 19[illegible].

[illegible signature]
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[illegible text]
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MOTION FOR REMOVAL FROM OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER (CECM) FOR FINANCE, ECONOMIC PLANNING AND REVENUE MANAGEMENT - MR. PETER MWIKYA KILONZO.



THAT, in accordance with Section 40 (2) of the County Governments Act, 2012, and pursuant to Kitui County Assembly Standing Order No. 62, this Assembly hereby resolves to approve the motion seeking the removal from office of Mr. Peter Mwikya Kilonzo, County Executive Committee Member (CECM) for Finance, Economic Planning and Revenue Management, on the grounds of gross violation of the Constitution or any other law, incompetence, abuse of Office and gross misconduct as follows:

1. GROSS VIOLATION OF THE CONSTITUTION OF KENYA, 2010 OR ANY OTHER LAW; -

Mr. Peter Mwikya Kilonzo has contravened Chapter Six of the Constitution of Kenya, 2010, Leadership and Integrity Act, 2012 and Public Officer Ethics Act, 2003 which enshrine the principles of leadership and integrity essential for public office. By conducting himself in a manner that erodes public trust and confidence in his role, Mr. Peter Mwikya Kilonzo has exhibited a fundamental disregard for the values of integrity, accountability and transparency required of the CECM for Finance, Economic Planning and Revenue Management.

Such acts include;

- i. Undermining the separation of powers and public participation as underscored in Articles 1, 10, 118, 175, 196 of the Constitution of Kenya, 2010, Section 91 of the County Governments Act, 2012, Section 125 of the Public Finance Management Act, 2012, and as advanced

Ag. S.L.C
Confirm that this motion meets the legal threshold
27/11/24

Clear
Approved for tabling
[Signature]
27/11/2024

Mr. Spealca
[Signature]
Director of Administration

in Section 130 of the PFM Act, 2012 as amended by Section 11(4) & (5) of the County Allocation of Revenue Act (CARA), 2021.

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning, and Revenue Management, has blatantly undermined the principle of separation of powers as enshrined in Article 175 of the Constitution of Kenya, 2010,

which emphasizes the autonomy of the county executive and legislative arms, and Section 11(4) of the County Allocation of Revenue Act (CARA), 2021 (which amended Section 130 of the PFM Act, 2012) and which prohibits the reallocation of unspent funds designated for the County Assembly to other purposes.

In the submitted Kitui County Supplementary Budget I for the Financial Year 2024/2025 (**See annex i**) received by the Assembly on 18th October 2024, Mr. Kilonzo unlawfully reallocated Kshs. 133,042,008 from the County Assembly's approved annual budget. This included a revote of Kshs. 100 million from the previous financial year 2023/2024 factored into the current annual budget for the construction of a modern office block for the County Assembly, contrary to Section 130 of the PFM Act, 2012 as amended by Section 11(4) and (5) of the CARA, 2021, which requires that unspent funds for the County Assembly from the ending financial year should be reallocated by the CECM Finance in a subsequent Supplementary Appropriation Bill to the County Assembly within two (2) months of the commencement of the financial year.

It also included Kshs. 33,042,008 allocated in the current financial year for constructing Members of the County

Assembly Ward Offices, thus undermining the Assembly's constitutional mandate over financial matters as provided under Section 125 of the Public Finance Management Act, 2012 which highlights the critical statutory steps to be observed in County budget making process viz County Integrated Development Plan (CIDP), Annual Development Plan (ADP), County Fiscal Strategy paper (CFSP) and annual budget estimate, and public involvement in the entire process.

By these actions, Mr. Kilonzo has not only violated Section 130 of the PFM Act as amended by Section 11 of CARA, 2021, but has also overstepped his authority, thereby infringing upon the Assembly's financial independence in budgeting and subverting the checks and balances essential to the devolved governance framework. Further, these actions undermine the principle of public participation enshrined in Articles 10(2)(a) and 118(1)(b) of the Constitution of Kenya, 2010, which require public involvement in legislative and budgetary matters. This is further supported by Section 91 of the County Governments Act, 2012, which establishes mechanisms for public participation in governance and decision-making processes.

In reallocating these funds in deviance with the wishes of the public, Mr. Kilonzo disregarded the outcomes of public participation on the aforementioned statutory planning documents and infringed upon the constitutional requirement of transparency and accountability as stipulated in Article 10 of the Constitution. By undermining the Assembly's oversight role, Mr. Kilonzo violated the separation



of powers and the public trust, both of which are fundamental to Kenya's devolved governance system.

ii. Violation of Section 135 of the Public Finance Management Act, 2012, and Regulation 39(3) & (8) of the Public Finance Management (County Governments) Regulations, 2015

(a) Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, contravened Section 135 of the Public Finance Management (PFM) Act, 2012, and Regulation 39(3) and (8) of the PFM (County Governments) Regulations, 2015 in the submitted Kitui County Supplementary Budget I for the FY 2024/2025 on 18th October 2024. The submitted budget contained allocations for new projects that were not part of the approved annual budget, failing to meet the qualifications stipulated under these legal provisions.

Under Section 135 of the PFM Act, 2012, a supplementary budget should only contain expenditures necessitated by unforeseen and unavoidable needs that cannot wait for the next financial year or reallocations within the approved budget to address priority areas. Similarly, Regulation 39(3) and (8) of the PFM (County Governments) Regulations, 2015, specify that supplementary budgets must conform to the approved annual plan and cannot introduce new projects unless they meet the strict conditions set by the law, including unforeseen exigencies. Some of the allocations in the submitted supplementary budget which exemplify these violations are as follows:

- Office of the Deputy Governor - Purchase of Computers, Printers and other IT Equipment (To enable automation) Kshs. 1,241,700
 - Ministry of Culture, Sports and Youth Development - Project Allowance - Youth Engagement Forum Kshs. 15M Expenditures under this programme have already been incurred as evidenced by the invitation letter referenced CG.KTI/MCGYICT&SS/ADM/CAK/CECM/ 1/17/46 dated 6th November, 2024 inviting Members of the County Assembly to attend the Kitui County Youth engagement forum, 2024 on 15th November, 2024 at Ithookwe showgrounds (see annex ii). This happened when the supplementary budget I for FY 2024/2025 is still in the approval process and the same was undertaken without a policy to guide on its implementation. This was not an emergency and further a contravention of regulation 39(8) of the PFM (County Governments) Regulations, 2015 which envisages that new policy options and service delivery initiatives should only be considered when introduced in the annual budget estimates.
 - Ministry of Culture, Sports and Youth - Advertising, Awareness and Publicity Campaigns - County tournament in football from Village level culminating into Governor's cup) Kshs. 10M.
- During public participation on the County budget for the FY 2023/2024, among the contagious issues raised by the County residents was the poor state of County roads. This necessitated a reasonable allocation of Kshs. 284,749,652 to cater for the need. During a subsequent supplementary

budget I for FY 2023/2024 (see annex iii), the CECM reallocated Kshs. 266,660,304 for other needs subverting the will of the people and eroding the sovereignty of the people provided under Article 1 of the Constitution of Kenya, 2010. This is an indication of misplaced priorities by the CECM Finance against pressing needs that ought to be addressed within the scarce resources available to the County. The effect of this reallocation has been devastating as roads are still in a dilapidated state owing to lack of supporting roads infrastructure works including drifts, culverts and gabions.

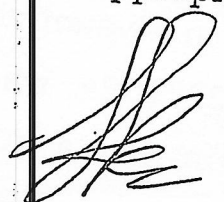
The introduction of new budget items and reallocations represent new projects that were neither approved in the original budget nor justified under the statutory qualifications for supplementary budgets. The introduction of such unauthorized expenditures undermines the principles of public finance management, including transparency and accountability, as enshrined in Article 201 of the Constitution of Kenya, 2010, and the PFM framework.

By contravening these provisions, Mr. Peter Mwikya Kilonzo has jeopardized the County's financial integrity by failing to ensure prudent and lawful management of public funds. This disregard for statutory requirements erodes public confidence in the County's governance and threatens fiscal responsibility, which is central to devolved governance under the Constitution.

- (b) Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, violated Section 135(1) and (2) of the Public Finance Management Act, 2012

by authorizing the payment of Kshs. 76 million, funds appropriated in the Kitui County Supplementary II Appropriation Act, 2024, for drilling boreholes across the forty (40) Wards, to instead pay electricity bills for KITWASCO and KIMWASCO. This misapplication of funds was confirmed in the County Assembly report by the Committee on Agriculture, Water and Irrigation on the inspection of boreholes drilled across Kitui County in the Financial Year 2023/2024, KITWASCO and KIMWASCO pipelines, their main water sources, and treatment zones conducted from 12th to 16th August, 2024 (see annex iv).

Section 135(1) of the PFM Act, 2012, requires any reallocation of funds from the approved budget to be authorized through a supplementary budget, while Section 135(2) mandates that such reallocations must be presented to and approved by the County Assembly within two (2) months after the first withdrawal of the funds as required under Section 135(4) of the PFM Act, 2012. In this case, no supplementary budget was presented seeking the Assembly's approval to reallocate funds initially appropriated for drilling boreholes to settle electricity bills. By authorizing this payment without following the statutory process, Mr. Peter Mwikya Kilonzo undermined the County Assembly's oversight role as enshrined in Article 185 of the Constitution of Kenya, 2010, which vests the Assembly with legislative and budgetary authority. This act also violates the principles of transparency and accountability under Article 201 of the Constitution, which require that public funds be utilized for the purposes for which they were appropriated.



This unauthorized expenditure further contravenes Section 149(1) of the PFM Act, 2012, which holds the County Executive Committee Member responsible for ensuring effective financial management and adherence to the approved budget. By redirecting funds appropriated for critical water infrastructure projects to unrelated expenditures, the CECM failed to prioritize and safeguard public resources, compromising service delivery and eroding public trust in the County's financial governance.

iii. Violation of Articles 10, 73, and 75 of the Constitution of Kenya, 2010; Sections 8, 9, 10, and 11 of the Leadership and Integrity Act, 2012, and Sections 9, 11, and 12 of the Public Officer Ethics Act, 2003

Articles 10 and 73(1)(iii) & (iv) of the Constitution of Kenya, 2010, sets out the national values and principles of governance, as well as the expectations on the ethical exercise of authority by state officers. Article 75(1) of the Constitution, as read together with Sections 8, 9, 10, and 11 of the Leadership and Integrity Act, 2012, and Sections 9, 11(1) & (2)(a)(i)(ii), and 12 of the Public Officer Ethics Act, 2003, obligates state officers to conduct themselves in a manner that upholds public trust, avoids conflict of interest, and refrains from using their positions to confer personal benefits.

Mr. Peter Mwikya Kilonzo violated these provisions by using his office to improperly confer a benefit to himself and his family. He influenced the drilling of Myaani 001 and Myaani 002 boreholes on family land in Myaani village, contrary to the Annual Budget for FY 2023/2024, which had approved the drilling of this borehole in Senda Village. This action

compromised public interest and diverted public resources for personal gain, contrary to Article 73(2)(c) and (d) of the Constitution, which mandates state officers to prioritize public interest and uphold accountability.

Article 10 of the Constitution underscores the national values of transparency and integrity in governance. By failing to adhere to these values, Mr. Peter Mwikya Kilonzo disregarded his ethical obligations, undermining public confidence in the impartial administration of resources.

Moreover, Section 8 of the Leadership and Integrity Act, 2012, specifically prohibits state officers from using their positions for improper enrichment, while Section 9 emphasizes avoiding situations of conflict between personal interests and public duty. Similarly, Section 11(1) & (2)(a)(i)(ii) of the Public Officer Ethics Act, 2003, requires public officers to act in a manner that maintains the honour of their office. By using public funds and resources for personal advantage, Mr. Peter Mwikya Kilonzo not only violated these statutory provisions but also acted contrary to Section 12 of the Act, which demands public officials to maintain the integrity of the public office at all times.

This act of influencing the relocation of the boreholes demonstrates a clear compromise of public resources for personal gain, a serious breach of ethical conduct and a violation of the public trust inherent in his position. In addition, the self-centeredness of the CECM Finance has subjected the locals of Senda village to untold suffering having prioritised this project undertaken in their village for ease of water accessibility which is a scarce resource within the region as contained in the County Assembly report by the



Committee on Agriculture, Water and Irrigation on the inspection of boreholes drilled across Kitui County in the Financial Year 2023/2024, KITWASCO and KIMWASCO pipelines, their main water sources, and treatment zones conducted from 12th to 16th August, 2024 (see annex iv).

iv. Violation of Article 175(b) of the Constitution of Kenya, 2010, and Sections 157 & 158 of the Public Finance Management Act, 2012

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, violated Article 175(b) of the Constitution of Kenya, 2010, which requires accountability for financial resources and transparent revenue management within county governments. Additionally, he contravened Sections 157 and 158 of the Public Finance Management (PFM) Act, 2012, which mandate the establishment and enforcement of efficient systems for revenue collection to safeguard public finances.

The County Assembly report by the Committee on Finance and Economic Planning on the Inspection Exercise on the Status of Revenue Collection in Kitui County, conducted from 2nd to 5th May 2023 (see annex v), revealed negligence on Mr. Peter Mwikya Kilonzo's part in implementing proper and transparent mechanisms for revenue collection. The report observed that revenue clerks continued to collect revenue in cash at most cess barriers, contrary to modern best practices and technological alternatives that enhance accountability and minimize pilferage.

This failure has led to significant revenue leakages, allowing substantial amounts of public funds to fall into private hands. Consequently, Kitui County has consistently failed to

meet its own-source revenue targets for successive financial years. This shortfall directly contributes to the accumulation of unnecessary pending bills, undermining the County's fiscal responsibility and ability to deliver essential services. Section 157 of the PFM Act, 2012, obligates the County Treasury to design and implement effective systems and controls for revenue collection and management, while Section 158 emphasizes the need for periodic evaluations of revenue collection systems to ensure accountability and mitigate revenue losses. The CECM's negligence in this regard demonstrates a failure of his statutory duty and a disregard for the principles of accountability and efficiency mandated under these sections.

Furthermore, Article 201 of the Constitution of Kenya, 2010, which sets out principles of public finance, highlights the need for transparency, accountability and fiscal responsibility in the management of public resources. By failing to address revenue collection inefficiencies, the CECM undermined these constitutional principles and the public trust in the County's financial governance.

Kitui County Assembly Standing Order No. 181 compels the CECM for Finance to provide a report to the relevant Committee of the County Assembly on the implementation status of the House resolution within Sixty (60) days. The CECM has grossly violated this provision by failing to implement recommendations adopted by the Assembly in the aforementioned Committee report.

This lack of proper supervision and coordination of revenue collection mechanisms exemplifies a violation of his duty to safeguard public funds, leading to financial mismanagement



that compromises the delivery of services and the achievement of the County's development goals.

v. Violation of Article 10 & 201 of the Constitution of Kenya, 2010; Section 108 of the County Governments Act, 2012, and Sections 117 & 126 of the Public Finance Management Act, 2012

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, violated Section 108 of the County Governments Act, 2012, and Sections 117 and 126 of the Public Finance Management (PFM) Act, 2012 by misleading the County Government into operating within statutory budget documents that were not aligned with the five-year County Integrated Development Plan (CIDP) for the period 2023-2027.

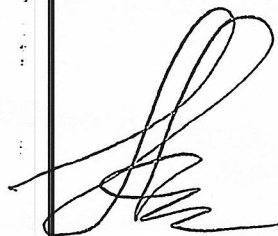
Section 108 of the County Governments Act, 2012, establishes the CIDP as the guiding framework for all development activities and expenditure planning within the County. It mandates that all planning documents, including the Annual Development Plan (ADP) and the County Fiscal Strategy Paper (CFSP), must align with the CIDP to ensure consistency with the County's long-term development priorities.

However, the ADP and CFSP for the Financial Year 2022/2023 were prepared and approved outside the CIDP for the period 2023-2027. The CIDP was submitted for approval by the County Assembly on 5th June 2023 vide a letter referenced CGKTI/CT/FIN/37/II/34 dated 2nd June 2023 (see annex vi) when the County Budget for the financial year 2023/2024 had already been submitted for consideration by

the Assembly, rendering them (ADP, CFSP and the Budget estimates for the FY 2023/2024) inconsistent with the CIDP.

Section 117 of the PFM Act, 2012, requires the preparation of the CFSP to reflect the priorities outlined in the CIDP and the ADP. Additionally, Section 126 obligates the County Executive Committee to prepare the ADP based on the CIDP and submit it to the County Assembly for approval before budget-formulation. By submitting and implementing budget documents that were misaligned with the CIDP, Mr. Peter Mwikya Kilonzo undermined the County's strategic development agenda and violated these statutory provisions. This failure to adhere to the legal framework jeopardized the coherence and effectiveness of the County's planning and budgeting processes. The CIDP serves as the principal document for fostering integration and alignment of County programs and projects, and deviations from it compromise service delivery and resource allocation.

Moreover, these actions demonstrate non-compliance with the principles of good governance and accountability as outlined in Article 10(c) of the Constitution of Kenya, 2010, and the public finance principles in Article 201, which emphasize prudent and transparent use of public resources. By submitting these documents out of sequence and without proper alignment, Mr. Peter Mwikya Kilonzo failed in his duty to provide sound fiscal and economic guidance to the County Government, resulting in an uncoordinated, ineffective planning process and delayed uploading of the County budget into the Integrated Financial Management Information System (IFMIS).



2. INCOMPETENCE:

Mr. Peter Mwikya Kilonzo, in his role as CECM for Finance, Economic Planning and Revenue Management, has consistently demonstrated an inability to effectively fulfil the responsibilities of his office. His repeated failures to comply with statutory obligations and deadlines have impeded the efficient functioning of the County Government, thereby compromising its operational stability and financial planning by: -

i. Non-Compliance with Statutory Deadlines for Submission of Statutory Documents

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, has demonstrated glaring negligence in his handling of the Kitui County Finance Bills; critical legislative instruments governing taxation. The Finance Bill requires rigorous public engagement in line with Article 174(c) and Article 196 of the Constitution of Kenya, 2010, which underscore the principles of public participation and accountability in governance, and Section 3(f) of the County Governments Act, 2012, which prioritizes inclusivity in decision-making processes.

In clear violation of Section 133 of the Public Finance Management (PFM) Act, 2012, which mandates submission and approval of the Finance Bill within ninety (90) days after the passing of the Appropriations Bill, and Kitui County Assembly Standing Order No. 216, which establishes the procedural timelines for the Assembly, Mr. Peter Mwikya Kilonzo has consistently delayed submission of the Finance Bills.

The Kitui County Finance Bills 2022, 2023 and 2024 were submitted as follows;

- Finance Bill, 2022 was submitted on 29th June 2023 (see annex vii);

- Finance Bill, 2023 was submitted on 21st September 2023 (see annex viii); and
- Finance Bill, 2024 was submitted on 30th September 2024. (see annex ix)

This noncompliance directly contravenes the legal requirement for the Assembly to consider and approve the Bills by the end of September of each financial year. The repeated delays in submission have significantly undermined the County's ability to revise and enact updated revenue collection rates, fines, fees and charges in line with the prevailing economic environment and budgetary needs. As a result, the County Government has been forced to rely on outdated revenue collection frameworks, negatively impacting its revenue-generating capacity.

Furthermore, the failure to meet statutory deadlines disregards the principles of accountability and transparency in public finance as enshrined in Article 201 of the Constitution of Kenya, 2010, and has jeopardized the County's financial stability. The delay in enacting these critical fiscal policies has not only compromised service delivery to the County residents but also contributed to inefficiencies in budget implementation due to reduced and untimely revenue inflows.

Additionally, Mr. Peter Mwikya Kilonzo's insensitivity to the heightened public awareness surrounding taxation matters and his neglect in ensuring timely and inclusive public participation has violated the constitutional obligation of involving citizens in decision-making processes as provided under Article 174(c) of the Constitution. This lack of responsiveness demonstrates incompetence and a failure to uphold the statutory and ethical standards expected of his office.



By failing to adhere to these statutory deadlines, the CECM has hindered the smooth operation of County fiscal and governance processes, intensifying the challenges of revenue mobilization and financial planning.

ii. Failure to Adhere to the Provisions of Section 157 of the Public Finance Management Act, 2012 on the Designation of Receivers of County Government Revenue

Section 157 of the Public Finance Management (PFM) Act, 2012 requires the CECM for Finance to designate, in writing, a specific person responsible for collecting, receiving and accounting for county government revenue. This statutory obligation is vested exclusively in the CECM for Finance to ensure clear accountability and effective financial governance.

In blatant disregard of this legal requirement, Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, neglected his duty and unlawfully delegated the designation authority vested in him to a Chief Officer within his ministry, contravening the express provisions of the PFM Act, 2012.

Evidence presented during a session of the County Assembly Committee on Labour and Social Welfare on Thursday, 4th July 2024, indicates that Ms. Roselyn Kavata Munyasya, an employee in the department, was assigned this role in writing by Mr. John Makau, the Chief Officer for Finance, Revenue Management and Accounting, on 14th March 2023. This evidence is contained in the Committee's report on a statement request by Hon. Jeremiah M. Mutua concerning various county staff in acting capacities (see annex x).

By delegating a statutory role exclusively reserved for the CECM, Mr. Peter Mwikya Kilonzo demonstrated incompetence and blatant disregard for his legally prescribed obligations, violating the governance principles outlined in Section 157 of the PFM Act, 2012. This failure to fulfill his duties:

- (a) Undermines the county's financial governance, creating a gap in accountability for revenue collection and management.
- (b) Has contributed to significant revenue leakages, directly impacting the county's ability to meet its own source revenue targets.
- (c) Erodes public trust, as improper delegation compromises the transparency and integrity of public financial management.

This act of negligence illustrates a failure to prioritize public interest and uphold constitutional and statutory obligations, ultimately hindering the County's financial sustainability and governance standards. Resultantly, the County has not been able to provide effective service delivery owing to lack of adequate funds to fully finance the County budgets.

iii. Failure to Adhere to the Provisions of Section 103 and 109 of the Public Finance Management Act, 2012

Mr. Peter Mwikya Kilonzo, as the CECM for Finance, Economic Planning and Revenue Management, failed in his statutory responsibility for the management, administration and coordination of County revenue collection, as outlined in Sections 103 and 109 of the Public Finance Management (PFM) Act, 2012.

Section 103 of the PFM Act, 2012, designates the County Treasury headed by the CECM Finance to be responsible for the efficient management of public finances, including revenue collection, while Section 109 requires the establishment and proper



administration of a County Revenue Fund into which all revenue should be deposited promptly and managed transparently.

As of 30th June 2023, Kshs. 11,395,086 in collected revenue could not be accounted for due to poor supervision and coordination of revenue collection activities as contained in auditor general's report for the period ending 30th June, 2023 (**see annex xi**) It was discovered that certain revenue collectors were holding cash instead of depositing it into the designated County Revenue Fund. This failure occurred despite consistent budgetary allocations for the automation of revenue collection systems, which have yet to be fully implemented under the CECM's leadership.

This failure amounts to gross mismanagement of public finances, allowing theft of public funds under his watch. The mishandling of revenue collection not only contravenes the PFM Act but also violates the principles of good governance, accountability and integrity, as stipulated in Article 10 and Article 201 of the Constitution of Kenya, 2010.

The blatant theft of public funds ought to have been reported promptly to the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) for investigation and prosecution. However, no such action was taken and the implicated staff remain employed in various County Government departments, further eroding public confidence in the County's governance.

As head of the County Treasury, it was Mr. Peter Mwikya Kilonzo's statutory duty under Section 104(1)(d) of the PFM Act, 2012 to enforce effective financial control measures and advise the County Government on necessary remedial actions. His failure to report or act on the identified theft demonstrates negligence in performing

his duties and a disregard for the anti-corruption and ethical standards outlined in Sections 8 and 9 of the Public Officer Ethics Act, 2003.

This situation exemplifies a lack of commitment to safeguarding public resources and ensuring accountability, contrary to the public finance principles enshrined in law. The inaction and ongoing revenue management inefficiencies continue to undermine the County's financial stability and public trust.

iv. Unlawful submission of a Memorandum on the Approved County Fiscal Strategy Paper (CFSP) 2024/2025

Mr. Peter Mwikya Kilonzo, CECM for Finance, Economic Planning and Revenue Management, demonstrated a fundamental failure to understand his roles and mandate as defined by the law by submitting a memorandum to the Clerk of the Assembly objecting to the approved County Fiscal Strategy Paper (CFSP) for the Financial Year 2024/2025. This was done via a letter referenced CGKTI/CT/FIN/35/V/43 dated 11th April 2024 (**see annex xii**).

The submission of this memorandum was an unlawful attempt to overturn a decision of the County Assembly, a direct overreach of the CECM's mandate, and a deliberate contravention of the legal framework governing County budgeting processes. Section 24(2)(b) of the County Government Act, 2012, and Standing Order No. 134(2)(b) of the Kitui County Assembly Standing Orders, only allow the Governor to refer an Appropriation Bill back to the Assembly with a memorandum outlining specific reasons for the referral. There is no legal provision that permits the CECM to challenge an approved CFSP or any Assembly decision in the manner undertaken by Mr. Peter Mwikya Kilonzo.



Additionally, this act violated key provisions of the Public Finance Management Act, 2012, which establishes the roles and responsibilities of the County Treasury and the Assembly in the budget-making process. Once the CFSP has been approved by the Assembly as per Section 117 of the PFM Act, 2012, the County Treasury's mandate is strictly to implement the priorities therein.

Any objections to the approved CFSP should be addressed through established legal channels, which do not involve the submission of unilateral memoranda by the CECM.

This overreach by the CECM undermined the principle of separation of powers enshrined in Article 175 of the Constitution of Kenya, 2010, and subverted the Assembly's exclusive mandate to approve and oversee the implementation of budgetary frameworks. His actions displayed a lack of adherence to Article 10 (respect for the rule of law) and Article 201 (prudence in public finance) of the Constitution.

The memorandum was a direct challenge to the Assembly's decision-making authority, a fundamental breach of the democratic processes governing County operations.

**v. Misreporting on IFMIS uploading for the Kitui County
Supplementary II for Financial Year 2023/2024**

One of the cardinal principles of public financial management is strict compliance with approved budgets and adherence to the legislative frameworks that govern them. Mr. Peter Mwikya Kilonzo, in his role as the CECM for Finance, Economic Planning and Revenue Management, failed to honour this principle when he inaccurately uploaded the recurrent budget allocation for the Ministry of Health and Sanitation into the Integrated Financial Management Information System (IFMIS).

The Kitui County Supplementary II Appropriation Act, 2024, a binding legislative document mandating strict execution of the approved budgetary provisions, expressly indicated the recurrent budget allocation for the Ministry of Health and Sanitation as Kshs. 3,467,530,515. Despite this clear indication, Mr. Peter Mwikya Kilonzo negligently uploaded the figure as Kshs. 3,447,994,858, creating a variance of Kshs. 19,535,657, as pointed out by the Controller of Budget's letter referenced COB/KTU/002/2/3(25) dated 30th April 2024 (see annex xiii), the Hyperion budget printout (see annex xiv), and the Supplementary II Appropriation Act, 2024.

This discrepancy constitutes a breach of the principles outlined in Article 201 of the Constitution of Kenya, 2010, which mandates openness, accountability and strict adherence to public financial discipline. Further, Section 104 of the Public Finance Management Act, 2012, imposes an obligation on the County Treasury to ensure that all financial transactions align with approved budgetary allocations, a standard that was grossly violated in this instance. By failing to adhere to the legal provisions, the CECM undermined Section 107(2) of the Public Finance Management Act, 2012, which underscores the importance of fiscal responsibility in public resource management.

The failure to accurately upload the budget allocations into IFMIS demonstrates a lack of due diligence and technical oversight. It undermines the fiscal integrity of the County and compromises the confidence of stakeholders, including the public, in the County Treasury's ability to manage public resources effectively. This negligence is particularly concerning given that IFMIS serves as a central platform for public financial management, designed to



ensure accuracy, transparency and compliance with statutory requirements.

vi. Unrealistic County Own Source Revenue Target

Mr. Peter Mwikya Kilonzo, the CECM for Finance, Economic Planning and Revenue Management, has set an unrealistic revenue target of Kshs. 988,645,941 in the submitted Kitui County Supplementary Budget I estimates for the financial year 2024/2025, which represents an increase of Kshs. 388,645,941 from the Kshs. 600 million in the approved County budget for the same period.

This increase in the revenue target comes on the heels of underperformance in the previous year, where the own-source revenue target of Kshs. 585 million was under collected by Kshs. 67,950,185. Moreover, the total own-source revenue collected for the first quarter of the financial year 2024/2025 was a mere Kshs. 112,157,327, as outlined in the CECM's response to concerns raised by the County Budget and Appropriations Committee during the consideration of the Kitui County Supplementary Budget I estimates for the financial year 2024/2025 (see annex xv).

Given the history of underachievement in meeting revenue targets and the current slow revenue collection pace, it is evident that the proposed new target of Kshs. 988,645,941 is not only unrealistic but may also lead to significant fiscal challenges. If this target is not met, the County risks accumulating large, unnecessary pending bills by the end of the financial year, further straining its financial stability and ability to provide services.

As detailed in this motion, it is clear that the County has a poor revenue collection administration system, riddled with serious revenue leakages. These systemic issues require urgent reform and

a complete overhaul of the County's revenue collection strategies. Unfortunately, this has proven to be an uphill task for Mr. Peter Mwikya Kilonzo, who has not demonstrated sufficient competence in addressing these challenges.

This failure to align revenue targets with realistic collection capabilities is a direct violation of the principles of fiscal responsibility and prudent financial management enshrined in Article 201 of the Constitution of Kenya, 2010, and is contrary to the Public Finance Management Act, 2012, particularly Section 104, which mandates effective revenue mobilization and management. Moreover, it undermines the County's ability to implement the County Integrated Development Plan (CIDP) and achieve its development objectives, which depend heavily on the availability of reliable and adequate financial resources.

This unrealistic target further worsens the County's budgeting challenges, as it may encourage financial mismanagement, misreporting and improper planning, all of which undermine the integrity of public financial management within the County.

3. ABUSE OF OFFICE

Mr. Peter Mwikya Kilonzo, in his capacity as the CECM for Finance, Economic Planning and Revenue Management, has exploited his position for personal gain, in direct violation of the code of conduct expected of Public Officers and the national values and principles of governance as enshrined in Article 10 of the Constitution of Kenya, 2010.

- (a) In a shocking and unlawful act, the CECM manipulated the allocation of a community borehole project, redirecting it to be drilled on his family property, thereby depriving the intended community beneficiaries. This blatant act subverted the public interest for his personal advantage.



Specifically, Mr. Peter Mwikya Kilonzo used his office to influence the diversion of the drilling of Myaani 001 and Myaani 002 boreholes from Senda village to Myaani village, on family land, at a cost of Kshs. 2 million. This gross misuse of public resources and authority exemplifies abuse of office by the CECM, contrary to Article 73 and 75 of the Constitution of Kenya, 2010, as well as Sections 8, 9, 10, 11, 13, and 24 of the Leadership and Integrity Act, 2012.

Such actions breach the public trust and represent a complete failure to carry out the duties of his office in a professional, transparent and accountable manner.

Furthermore, this conduct constitutes the use of office to unlawfully enrich himself, as well as a failure to exercise impartiality and objectivity in the execution of his official duties, as mandated by Articles 10, 73(2)(b) & (c), and 232(1)(a)(c) and (e) of the Constitution of Kenya, 2010.

This abuse of office undermines the integrity of public service, erodes public confidence in the leadership and contributes to a culture of impunity, where public resources are diverted for personal gain rather than for the public good.

(b) There have been numerous complaints from contractors alleging that Mr. Peter Mwikya Kilonzo, in his capacity as the CECM for Finance, Economic Planning and Revenue Management, has been asking for bribes from them before approving payments for contracts done. This conduct is contrary to:

- Section 6(1) of the Bribery Act, 2016, which criminalizes the solicitation or acceptance of any financial or other advantage as an inducement or reward for the improper performance of a relevant function or activity.

- Chapter Six of the Constitution of Kenya, which sets the principles of leadership and integrity, including accountability, transparency and the avoidance of corruption or abuse of office.
- Sections 10 and 12 of the Leadership and Integrity Act, 2012, which mandate state officers to uphold public trust and avoid conflicts of interest or conduct that undermines the dignity of their office.

These actions not only undermine public confidence in the office but also violate the ethical and legal standards required of public officers.

- (c) Further, several Chief Officers have raised concerns that Mr. Peter Mwikya Kilonzo has been engaging in bullying behaviour by issuing threats and intimidation to advance his personal interests contrary Section 34 Leadership and Integrity Act, 2012, which prohibits state officers from which prohibits state officers from bullying, intimidating or harassing any person.

4. GROSS MISCONDUCT

i. Improper use of public office for personal gain

Mr. Peter Mwikya Kilonzo influenced the drilling of Myaani 001 and Myaani 002 boreholes on family land in Myaani village, contrary to the approved allocation for a borehole at Senda Village in the FY 2023/2024 budget. This action violated Articles 73(2)(c) and 75(1) of the Constitution, Sections 8, 9, and 10 of the Leadership and Integrity Act, 2012, and Sections 9, 11, and 12 of the Public Officer Ethics Act, 2003, which require state officers to act with integrity and prioritize public interest over personal gain.



The improper prioritization of personal interests over public welfare constituted a breach of ethical obligations, undermined public trust and diverted critical resources meant to alleviate water scarcity in Senda Village.

ii. Unlawful submission of a memorandum challenging the approved CFSP

Mr. Peter Mwikya Kilonzo unlawfully submitted a memorandum objecting to the approved County Fiscal Strategy Paper (CFSP) for FY 2024/2025. This violated Section 24(2)(b) of the County Governments Act, 2012, and Standing Order No. 134(2)(b) of the Kitui County Assembly Standing Orders, which vest authority over such matters in the Governor and not the CECM.

These above two scenarios couple with failure to submit a supplementary budget seeking ratification for the expenditure of Kshs. 76 million to pay electricity bills for KITWASCO and KIMWASCO within two (2) months of such expenditure in line with Section 135 of the PFM Act, 2012 amount to gross misconduct by the CECM.

SIGNED:.....

DATE:.....27/11/2024

HON. ANTHONY MUSYIMI MUSYOKA
MEMBER OF COUNTY ASSEMBLY
COUNTY ASSEMBLY OF KITUI.