



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. II NO. 81**

## THE HANSARD

Tuesday, 26<sup>th</sup> September 2023

The House met at 2.30 p.m.

*[The Speaker (Hon. Moses Wetang'ula) in the Chair]*

### PRAYERS

**Hon. Speaker:** Hon. Members, congratulations for having quorum at the beginning of the House especially after the recess

*(Laughter)*

### COMMUNICATIONS FROM THE CHAIR

**Hon. Speaker:** Hon. Members, I have two short Communications to make.

#### RESUMPTIONS OF SITTINGS OF THE HOUSE FOR THE THIRD PART OF THE SESSION

**Hon. Speaker:** Hon. Members, I wish to welcome you back to the House for the Third and final part of the Second Session of this House. It is my hope that in the course of undertaking your parliamentary duties at the constituencies, you have managed to take some rest and also spent quality time with your families. I am also optimistic that you are re-energized and ready to transact business of the House from now.

Hon. Members, you may recall that on Tuesday, 22<sup>nd</sup> August 2023, I notified the House that from Monday 18<sup>th</sup> to Friday 22<sup>nd</sup> September 2023, the Leadership of the House was scheduled to hold a retreat under the theme: *Building Synergy in Leadership: Enhancing the Legislative Agenda in the National Assembly*.

I wish to report to the House that the retreat, which brought together the Presidium of the House, the Leadership of both the Majority and Minority Parties, Chairpersons of the Committees, Parliamentary Service Commissioners, and the House Business Committee took place as scheduled.

The retreat adopted a raft of resolutions that will be implemented progressively with a view to enhancing the performance of the House. Among other resolutions, the Leadership resolved to reconfigure certain aspects of Question Time with a view to enhancing effectiveness of legislative oversight through Parliamentary Questions.

Further, the retreat took note of the financial constraints that the House, its Committees and Members have been experiencing in the course of discharging their mandates. To this end, the retreat resolved that action should be taken to enhance the National Assembly's budget, particularly in Committees, so as to avail adequate resources for the execution of the constitutional trusts bestowed on the National Assembly.

Finally, Hon. Members, let me wish all of you success in your individual capacities as Members and collectively as a House throughout this final part of the Second Session.

I thank you.

*(Several Members walked into the Chamber)*

Hon. Members, take the nearest seats. I have another short Communication.

*(Hon. David Kiplagat walked into the Chamber)*

Take the nearest seat, Hon. DK.

DELEGATION FROM THE COUNTY ASSEMBLY OF KAKAMEGA

**Hon. Speaker:** Hon. Members, I wish to introduce to you a delegation from the County Assembly of Kakamega seated in the Speaker's Gallery. The delegation comprises Members of the Implementation and Monitoring Committee. They are:

1. Hon. Absolom Lumbasi - Chairperson;
2. Hon. Danston Mukofu - Vice Chairperson;
3. Hon. Kefa Musiya - Member;
4. Hon. Truphena Asembo - Member;
5. Hon. Victoria Zillah - Member;
6. Hon. David Kivishi - Member;
7. Hon. Evans Ambale - Member;
8. Hon. Muteshi Silvia - Member;
9. Hon. Robert Makhanu - Member;
10. Hon. Peter Wanami - Member;
11. Hon. Jael Omunyangoli - Member; and,
12. Hon. Victorine Shikutwa - Member.

Hon. Members, the delegation, accompanied by four staff, is on a visit to share best practices in executing their mandate with the counterpart committee of the House. On my behalf and that of the National Assembly, I welcome them to Parliament and wish them fruitful engagements.

Thank you. Next Order, Clerk-at-the-Table.

**Hon. Junet Mohammed** (Suna East, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Junet, what is out of order? Give him the microphone.

**Hon. Junet Mohammed** (Suna East, ODM): Thank you, Hon. Speaker. I want to rise on a point of order to raise an issue on the code of dressing.

**Hon. Speaker:** Code of dressing?

**Hon. Junet Mohammed** (Suna East, ODM): Yes, Hon. Speaker. It is well stipulated in the Standing Orders that when you are coming to Parliament, you must be dressed properly. You must be dressed in a shirt which has a collar with buttons. But if you look at the way Hon. Didmus Barasa is dressed, he can only qualify to be the King of the Bukusu. He is not properly dressed for Parliament. I know we are from recess, but...

*(Laughter)*

**Hon. Speaker:** Order, Hon. Junet. Thou shall not engage in trivia. If you know the history of Kenya, the Bukusu have never had a king.

*(Laughter)*

Address the issue of dressing and leave out communities. Give him the microphone.

**Hon. Junet Mohammed** (Suna East, ODM): Hon. Speaker, I meant to say that it is you, but he is masquerading as one. The King of the Bukusu is known in the country; I do not

want to mention names. This kind of dressing, now that we have come back from recess, is going to allow many Members to dress in any way they feel like.

**Hon. Speaker:** Which part of his dressing is objectionable?

**Hon. Junet Mohammed** (Suna East, ODM): Hon. Speaker, he is not dressed in a manner that is stipulated in the Standing Orders. He has no tie or collar. You know, he wears shirt size number two, and with his physique, he is not even visible. So, could you make a judgement on this matter?

*(Laughter)*

This is not the way to dress in Parliament. I want to bring to your attention that a Member is not dressed properly in the House. The Member entering the Chamber is dressed like Members in the Parliament of Somalia.

*(Laughter)*

**Hon. Speaker:** Order, Hon. Members. Senior counsel Otiende Amollo and one or two others have raised this matter before. As I sit here every other day, I normally notice Members who are inappropriately dressed, but the Speaker does not see or hear unless you bring it to his attention. Now that you have, it is not just about the manner in which the Hon. Member for Kimilili is dressed. Many of you have been persistent offenders against this rule. I will give you some guidance by next week.

Next Order.

## PAPERS

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Allow me to welcome Members back to this last part of this Session. As you have rightly said in your Communication, Members have had time to not only rest, but also reflect on their work as legislators and representatives of their people. I am certain many of them engaged their people during public participation on their NG-CDF proposals.

With that, I beg to lay the following Papers on the Table of the House:

1. Reports of the Auditor-General and financial statements for Lari Technical and Vocational College for the years ended 30<sup>th</sup> June 2021 and 30<sup>th</sup> June 2022.
2. Reports of the Auditor-General and financial statements for Sabako Vocational Training Centre for the years ended 30<sup>th</sup> June 2021 and 30<sup>th</sup> June 2022.
3. Reports of the Auditor-General and financial statements in respect of the following Institutions for the year ended 30<sup>th</sup> June 2022, and the certificates therein:
  - (a) Kamukunji Technical and Vocational College; and,
  - (b) Kipsinende Technical and Vocational College.
4. Annual reports and financial statements of the Teachers Service Commission for the year ended 30<sup>th</sup> June 2022.
5. Annual report and financial statements of the Privatisation Commission for the financial year ended 30<sup>th</sup> June 2022.
6. Reports of the Auditor-General and financial statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2023, and the certificates therein:

- (a) The Central Bank of Kenya; and,
- (b) The Capital Markets Authority.

### POINT OF ORDER

#### LOW TEMPERATURE IN THE CHAMBER

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, on point of order. Please, if you can beg the Office of the Clerk and the Office of the Chief Serjeant-at-Arms, this place is freezing. I do not know why they do not set temperatures at normal room temperature of about 22° C to 24° C. The Deputy Speaker keeps saying it should be set at 22° C to 24° C.

*(Hon. Junet Mohamed spoke off the record)*

I am not coming from any hot meeting as Hon. Junet is suggesting. A number of Members here are freezing in the Chamber.

**Hon. Speaker:** Leader of the Majority Party, I had already felt it and directed the Clerk to adjust accordingly.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Junet, you see.

**Hon. Speaker:** Next is the Chairperson of the Departmental Committee on Health, Dr Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Health on its consideration of:

1. The Digital Health Bill (National Assembly Bill No.57 of 2023).
2. The Social Health Insurance Bill (National Assembly Bill No.58 of 2023).

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Dr Pukose. The Chairperson of the Departmental Committee on Transport and Infrastructure.

**Hon. George Kariuki** (Ndia, UDA): Hon. Speaker, I await the Report. Give me ten minutes.

**Hon. Speaker:** Is the Report not here yet?

**Hon. George Kariuki** (Ndia, UDA): Not yet. Thank you.

**Hon. Speaker:** Okay. We will stay number C and go to the next Order.

*(Tabling of the Report deferred)*

Hon Ken Chonga, can you approach the Chair?

*(Hon. Ken Chonga consulted the Hon. Speaker)*

Go to Roman number two. The Chairperson of the Departmental Committee on Transport and Infrastructure, are you ready? Not yet?

*(Tabling of the Report deferred)*

Next Order. Member for Kirinyaga, Njeri Maina. I hope you have recovered from the vicious assault that you had.

### QUESTIONS AND STATEMENTS

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

## GENERAL STATEMENT

## DELAY IN DISBURSEMENT OF NG-AAF MONIES

**Hon. Njeri Maina** (Kirinyaga County, UDA): Thank you, Hon. Speaker. I have recovered, and I am doing much better.

Hon. Speaker, I rise pursuant to Standing Order 43(1). I wish to make a general Statement regarding the constant delay in the disbursement of the National Government Affirmative Action Fund (NG-AAF).

The National Government Affirmative Action Fund was established with the objective of empowering women, youth and persons with disabilities through financial support for various projects and initiatives at the county level. The NG-AAF plays a crucial role in enabling beneficiaries to start or expand their businesses and improve their overall socio-economic well-being. However, the NG-AAF has faced limitations in funding. That hampers its ability to effectively implement its programmes and reach its intended beneficiaries, raising concerns and frustrations for those who eagerly await the funds.

Whereas the National Government Constituencies Development Fund (NG-CDF) has a platform of follow-up on its matter through the Select Committee on the NG-CDF, the NG-AAF undergoes challenges due to the lack of a follow-up mechanism on its matters, as it is not domiciled under a specific committee. While appreciating the efforts of the Deputy Speaker on her follow-up on matters of the NG-AAF, there is a need for the establishment of a committee to handle matters regarding NG-AAF specifically and formally.

It is on that basis that I request you, under Standing Order 1, to allow the establishment of a committee to follow up on the disbursement of the NG-AAF and any other matters relating to it. I thank you.

## PERSONAL STATEMENT

## ATTACK ON HON. NJERI MAINA

**Hon. Njeri Maina** (Kirinyaga County, UDA): In the same breath, allow me to thank you, the Leader of the Majority Party, the Leader of the Minority Party, the Deputy Whip of the Majority Party and the many Members of Parliament who supported me after my brutal attack while on duty in Kirinyaga County. In particular, I thank Hon. Donya, who brought the matter to the Floor of this House. I also want to thank the people of Kirinyaga County for their prayers and support. I seek your indulgence to have the Departmental Committee on Administration and Internal Affairs handle this matter conclusively.

As I speak, no culprit has been apprehended. To my political tormentor, Governor Anne Waiguru, you may consider me an easy target.

**Hon. Speaker:** Order, Wa Njeri. I allowed you to make a Statement about NG-AAF.

**Hon. Njeri Maina** (Kirinyaga County, UDA): Hon. Speaker, I just sought to bring Members to speed.

*(Hon. Members consulted loudly)*

**Hon. Speaker:** Order, Hon. Members. The conversations are too loud. Sit down, Hon. Njeri. If you want to make a Personal Statement in the manner you have now digressed, you must seek the Chairperson's approval. I have no problem with that. You remember I even came to see you in hospital. So, if you want to make a statement about the attack on you, focus on

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

that. You cannot use your Statement on the NGAAF to digress into something very personal. The two are not related and so, I disallow you. If you want to make a statement, we can allow you tomorrow. The Hon. Deputy Speaker will be chairing the Morning Session; she can allow you. You can make a personal statement, and when you make it, avoid the temptation to attack people who cannot defend themselves in this House.

**Hon. Njeri Maina** (Kirinyaga County, UDA): Most obliged.

**Hon. Speaker:** Thank you, *wakili*. Regarding the matter you raised, Hon. Member for Kirinyaga, we do not need to set up a committee. The Hon. Leader of the Majority Party, you need to listen to this. I order that the Departmental Committee on Social Protection handle any NGAAF-related issues moving forward because this is a social fund, and any issues with NGAAF should go to the same Committee. Any matters relating to NGAAF, questions, agitations or complaints will go to that Committee.

*(Applause)*

Hon. Leader of the Majority Party, communicate with the Committee accordingly and inform the 47 beneficiaries of the NGAAF that from now on, that is the point of call.

Thank you.

Next is Hon. Anthony Oluoch, Member for Mathare.

### REQUEST FOR STATEMENT

#### PROJECTED FUNDING CEILINGS FOR KERRA

**Hon. Anthony Oluoch** (Mathare, ODM): Thank you, Hon. Speaker. I rise to request for a Statement regarding the projected funding ceilings for the Kenya Rural Roads Authority (KeRRA) for the 2024/2025 and 2025/2026 Financial Years.

*(Applause)*

Hon. Speaker, pursuant to the provisions of Standing Order 44 (2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the reduction of the projected funding ceilings for the KeRRA for the 2024/2025 and 2025/2026 Financial Years. In a circular dated 16<sup>th</sup> August 2023, KeRRA directed all regional directors of the Authority to implement a reduction of the constituency roads allocation from 22 per cent to 15 per cent and the critical roads allocation from 10 per cent to 6.8 per cent. Subsequently, the Constituency Roads Committee (CRC) were and have been requested to forward revised work plans for the 2024/2025 and 2025/2026 Financial Years in line with this directive. These reductions will greatly affect the maintenance works undertaken by or in the constituencies.

Hon. Speaker, the Kenya Roads Board Act, 1999 requires the National Assembly to approve all proposed programmes under the Road Maintenance Levy Fund. Notably, the proposed programmes did not receive the approval of the National Assembly. Against this background, I request a comprehensive report from the Chairperson of the Departmental Committee on Transport and Infrastructure. This is signed by Anthony Tom Oluoch, Member of Parliament, Mathare.

I thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Oluoch. Hon. GK, you are the Chairman of the Committee. Are you in a position to say something, or we give you time?

**Hon. George Kariuki** (Ndia, UDA): Yes, I can say something. Thank you, Hon. Oluoch for raising the matter.

**Hon. Speaker:** Are you saying something preliminary or comprehensive?

**Hon. George Kariuki** (Ndia, UDA): I want to say something preliminary, and then I will say something comprehensive later.

**Hon. Speaker:** Okay.

**Hon. George Kariuki** (Ndia, UDA): The supposed hypothetical reduction of the Road Maintenance Levy Fund was discussed in Naivasha by the Summit of Governors. It concerns the 2024/2025 Financial Year, not the current Financial Year. This morning, my Departmental Committee on Transport and Infrastructure met and did a report to require the Director-General of Kenya Roads Board (KRB) and KeRRA to recall that circular because only Parliament can amend the Kenya Roads Board Act, 1999.

*(Applause)*

There is no way KRB or the Governor's Summit can amend the Act that allocates money to our constituencies. As an Hon. Member, please do not be overly concerned about the issues raised outside Parliament because we are the only body mandated to change the law.

*(Applause)*

Hon. Speaker, that settles the matter. I will table the report shortly. It is almost ready. I am waiting for the Clerk Assistant to bring it here, and then I shall make a comprehensive Statement. That will take not more than 15 minutes.

**Hon. Speaker:** Yes, Hon. Junet.

**Hon. Junet Mohammed** (Suna East, ODM): Hon. Speaker, I congratulate the Chairman for trying to answer the question. He has said here in the House that this matter was discussed in Naivasha in a forum called the Inter-governmental Budget and Economic Council (IBEC) summit, yet we are not Members of IBEC. Parliament is not represented in IBEC. That is a forum between the Executive and devolved bodies, the county governments. For people to purport to sit in a room in Naivasha to decide on matters touching on constituencies is an affront to the Constitution of the Republic of Kenya.

*(Applause)*

We urge that before the Director-General of KRB appears before the Committee, he should appear when that circular has been revoked. This issue of the Roads Maintenance Levy Fund and the Constituency Roads Fund did not start the other day. It is as old as when you were in this Parliament, Hon. Speaker, or before. The Chairman should not take this matter lightly; otherwise, the consequences will be messy and noisy in this House. It will have casualties like the Director-General of KeRRA.

*(Laughter)*

**Hon. Speaker:** Hon. Junet, you may be required to pay royalties for intellectual property rights.

*(Laughter)*

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*



Yes, Hon. Ichung'wah, Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Hon. Junet may not be aware because he was out of the House for some time. Somebody in the House holds the patent for the noisy and messy, and there shall be casualties' phrase. Just like the Hon. Junet holds the patent of something to do with cows and "Hii imeenda. Hii imeenda". That was Hon. Junet on something to do with cows.

*(Laughter)*

Hon. Speaker, on the issue of KeRRA, it is true what Hon. Junet has said; that nobody can amend existing laws other than this House. Even on the Statute that established the Road Maintenance Levy Fund that funds the 22 per cent and 10 per cent kitty in KeRRA, it is only this House. The communication I did in a Statement I tabled before the House from the Cabinet Secretary for Transport and Infrastructure ascertained that fact. Until and unless this House changes the law, the funds remain as they are. Since the Chairman of the Departmental Committee on Transport and Infrastructure, Hon. George Kariuki, had indicated that they had interacted with the agencies and will be tabling a report, I beg that we allow him to table it when it is ready. We can have time to deliberate on a report already tabled once we benefit from what the agencies have said. To re-emphasise, we need to ensure that the status quo remains until or unless we amend the law.

Thank you, Hon. Speaker.

**Hon. Speaker:** Is the Chairman, Hon. GK, here? You may now table your Report and give notice of Motion simultaneously.

## PAPER

**Hon. George Kariuki** (Ndia, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Transport and Infrastructure on its consideration of the proposed reduction of projected ceilings for Kenya Rural Roads Authority for Financial Years 2024/2025 and 2025/2026.

## NOTICE OF MOTION

### ADOPTION OF REPORT ON REDUCTION OF CEILINGS FOR THE KENYA RURAL ROADS AUTHORITY

**Hon. George Kariuki** (Ndia, UDA): Hon. Speaker, I also beg to give notice of Motion for the same.

**Hon. Speaker:** No, you cannot do that. Give a notice of Motion.

**Hon. George Kariuki** (Ndia, UDA): Hon. Speaker, I give notice of Motion.

**Hon. Speaker:** Give it in the manner a notice of Motion is given.

**Hon. George Kariuki** (Ndia, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Transport and Infrastructure on its consideration of the proposed reduction of projected ceilings for the Kenya Rural Roads Authority for Financial Years 2024/2025 and 2025/2026, laid on the Table of the House on Tuesday, 26<sup>th</sup> September 2023.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Chairman. We will allocate you time tomorrow, probably in the afternoon, so that the Report can be debated for about an hour to put the matter to rest.

Next Order.

## PROCEDURAL MOTION

### EXTENSION OF SITTING TIME

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. I beg to give notice of the following Procedural Motion.

**Hon. Speaker:** This is a Motion that you can move without notice. Therefore, move the Motion.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, pursuant to Standing Order 30(3)(a), this House orders that should time appointed for adjournment of the House be reached before conclusion of the business under Order No.12 in today's Supplementary Order Paper, the Sitting shall stand extended until conclusion of the said business.

Members will note that the House adjourned the Committee of the Whole House on the Sugar Bill (National Assembly Bill No.34 of 2022), sponsored by Hon. Emmanuel Wangwe. When we adjourned, we had begun considering amendments to the Bill. I was in Shinyalu Constituency, Kakamega County, on Sunday for a church service. It is a great honour that we have representatives of the people of Kakamega County in the Speaker's Gallery. The question of the Sugar Bill is a matter which I was under a lot of pressure to ensure we finish. Considering the huge business, especially Government-sponsored business lined up in this last Session, it is likely that if we go beyond today without processing this Bill, it may fall off the Order Paper, considering how the House Business Committee has prioritised business. This being a Private Member's Bill, it is only fair that we accord Hon. Wangwe, the Committee Chairman, Hon. Mutunga, and, more so, Members from the sugar belt in western Kenya and parts of the Coast time to propose the necessary amendments and pass this Bill so that it can be assented to law or processed further in the Senate. Allow me to request the Whip of the Minority Party, Hon. Junet Mohamed, to second the Procedural Motion.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Speaker, I stand to second the Motion that has been moved by the Leader of the Majority Party. I urge Members who come from the sugar belt, majorly on this side of the aisle and others on the other side, like Hon. Kangogo, who for the first time is also a sugarcane farmer, to remain in the House for the sake of their people. This Bill affects the lives of sugarcane farmers. Last week, during the Special Sitting, the Bill was almost completed. But due to lack of quorum, that did not happen. I am saying this on the Floor of the House. Please remain seated until we conclude that business.

Before that business, there are two important Bills on healthcare that are coming up. They affect peoples' lives, and we need to look at them critically to determine whether they make sense. Kenyans are known for changing laws with no benefits, but as a House, let us scrutinise them and support them if they make sense. I am repeating for the last time that Members from the sugar belt should remain in the House.

Thank you, Hon. Speaker. I second.

*(Question proposed)*

*(Question put and agreed to)*

## **BILLS**

### *First Readings*

THE TRIBUNALS BILL  
(National Assembly Bill No.45 of 2023)

THE PRESERVATION OF PUBLIC SECURITY (AMENDMENT) BILL  
(National Assembly Bill No.48 of 2023)

*(The Bills were read a First Time  
and referred to the relevant Committees)*

### *Second Readings*

THE DIGITAL HEALTH BILL  
(National Assembly Bill No.57 of 2023)

**Hon. Speaker:** The Leader of the Majority Party, before you move the Bill, allow me to acknowledge the following schools in both the Speaker's and Public Galleries: Kipsingei Secondary School from Sotik Constituency in Bomet County, Bridgan Academy from Mavoko Constituency in Machakos County, Kenya Kids Learning Centre from Starehe Constituency in Nairobi City County, Glory Learning Centre from Embakasi East Constituency in Nairobi City, and Kiio Secondary School from 'Mwingi East Constituency' in Kitui County.

*(Applause)*

On behalf of the House and myself, I welcome the institutions, the students and their teachers to the House of Parliament. Thank you.

*(Hon. Charles Nguna spoke off the record)*

**Hon. Speaker:** Yes, Hon. Nguna. What is it? Is it because Mwingi was mentioned?

**Hon. Charles Nguna** (Mwingi West, WDM): It is a point of correction.

**Hon. Speaker:** Yes. Give him a microphone.

**Hon. Charles Nguna** (Mwingi West, WDM): Hon. Speaker, I just rise to correct you. There is no constituency called 'Mwingi East'. It is Mwingi West, where I come from; and I take this opportunity to welcome everybody in this House.

Thank you.

**Hon. Speaker:** Thank you. I think the mistake was made by my team here. It is so corrected, and the *Hansard* will reflect as Mwingi West.

The Leader of the Majority Party, you may now move the Bill.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Before I move, let me also take this opportunity to welcome all those students who have come to join us, including those from Embakasi East Constituency. Their Member of Parliament, Hon. Babu Owino, was banging the table instead of foot thumping, and I just pointed it out to him that he should foot thump and not bang tables.

Hon. Speaker, I beg to move:

THAT, the Digital Health Bill, (National Assembly Bill No.57 of 2023), be now read a Second Time.

Allow me to begin by thanking the Departmental Committee on Health for tabling a very comprehensive Report. They have done it in a timely manner, having undertaken thorough public participation during the recess. I particularly thank them because they did this when the House was on a working recess. Many other Members were back in their constituencies, but they sacrificed their time to engage with members of the public and all Kenyans, including institutions in the health space. They were able to listen to their views and adopt those views in the compilation of their Report under the leadership of the Chairman, Hon. (Dr) Pukose. We thank you on behalf of the House.

Hon. Speaker, our nation has made significant strides towards digital transformation in various sectors, leveraging technology to enhance the implementation and delivery of services and products within the digital space. Key among those innovations in the digital space are in the financial sector. Besides M-PESA, the most recent has been the Hustler Fund, where people can now access money by simply dialling on their phones without having to fill out papers or having to know anybody. The health sector has not been left behind. It has made steady progress in digital technology transformation by implementing digital solutions to manage, share and use health data.

Hon. Speaker, Members will appreciate products like M-tiba. I have seen a number of pharmacies around the country that use digital solutions to provide and deliver pharmaceutical products to their clients — both consumers or patients and hospitals, and also other dispensers of pharmaceutical products. However, the adoption of technology has been very uncoordinated and characterised by fragmented implementation with health sector actors and not adhering to basic digital health standards, guidelines, recommendations and digital development principles. These technologies have affected how health data is managed, resulting in multiple disparate systems that have limited ability to exchange data.

This Bill now seeks to provide a framework for the provision of digital services, to establish a digital health agency, a comprehensive integrated digital health information system, and also to provide for data governance and protection of personal health information in the service delivery through digital health interventions on e-waste disposal and on health tourism.

You will see from Clause 5, Part Two, that almost the entire Part Two of the Bill speaks to the establishment of this health agency. From Clause 6, you will see that the agency will be established as a body corporate and will develop, operationalise and maintain the comprehensive integrated health information system, to manage the core digital systems and the infrastructure required for its seamless health information exchange. It will also develop and implement the infrastructure for health data exchange of health information in a secure manner. It will undertake resource mobilization for the implementation of health digitisation in the country. This agency will also certify digital health solutions based on best practices and standards to ensure that all the digital solutions being used in the country are, indeed, certified. It was also, amongst other objectives and the functions stipulated in that clause, to advise the Cabinet Secretary on matters related to digital health.

Hon. Speaker, the Bill further sets the minimum standards applicable for establishing and maintaining digital health information systems. It provides for the mechanism for inter-connectivity between each county's information system and the national system. Under this Comprehensive Integrated Digital Health Information System, all our health facilities, right from the primary health care facilities at the level of dispensaries, those at Level 3, 4, 5, 6 to the national referral hospitals like Kenyatta National Hospital, Moi Teaching and Referral Hospital (MTRH), Kenyatta University Teaching Referral and Research Hospital (KUTRRH)

in Kiambu County, will be integrated in one similar system, and exchange of medical information will become easy.

Therefore, if you have a CT scan done on you in Kisumu at the Kisumu Referral Hospital, a doctor in Kenyatta National Hospital or Nairobi Hospital can access that scan and advise the person treating you down at the Kisumu Referral Hospital or in a Level 3 hospital in Marsabit County. You will not necessarily be required to have all manner of consultants scattered around the country. Health personnel will benefit from more experienced personnel at the national level or in our national referral hospitals by exchanging such data in a seamless and secure system where patients' data is safely gathered. You are certain that your data as a patient is not subject to abuse or to be misused by characters out there.

Hon. Speaker, this Bill also seeks to facilitate the realisation of the right to protection of personal information, as guaranteed under Article 31 of the Constitution of Kenya and the Data Protection Act No.24 of 2019. Members are aware that enacting the Data Protection Act of 2019 presented new challenges for the health sector in Kenya as the sector handles sensitive patient data whose protection requires more safeguards.

Therefore, this Bill fills that gap to ensure that patient data is safeguarded. In the past, Members' patient data has been leaked to people who should not hold private or confidential patient data. With this new Bill, nobody - be it a Member of Parliament or any Kenyan attended to at a health facility anywhere within the country - should be apprehensive or afraid that people with no right to it will access their patient data.

The Bill also enhances the health data governance framework in the country by requiring all healthcare providers and health facilities to adopt mechanisms to ensure the safety and security of patient information, as I had previously articulated. Kenyans will now have more control over their data, particularly in health facilities, because they will be required to consent before collecting, processing, and sharing their personal health-related information. With the adoption of this Bill, nobody should fear that any data that is collected will be shared without their consent. You must consent for your data to be collected and shared with anybody, even if it is another referral hospital or health professional. It can only be shared with your consent.

I thank the Committee for being very emphatic as they engaged with stakeholders that patient data should be well-safeguarded. I see that in their Report. Besides what is provided for in the Data Protection Act, the Bill provides further safeguards or guardrails to ring-fence the data that is collected in the health sector.

The Bill further regulates the processing of sensitive personal health data through technological mediums such as telemedicine. In this regard, the Bill requires healthcare providers and technology platforms that offer telemedicine to put in place several safeguards, including anonymisation and de-identification of sensitive personal data. Anonymisation and de-identification mean that one can transfer or share data anonymously without clearly identifying whose data it is.

I see Hon. Junet holding his chin. He should not worry that anybody will share his health information, if he is treated at a health facility in Migori and that the health facility requires referral services from his consultant doctors, be it in London or at the Nairobi Hospital. I know Hon. Junet sees a doctor I also see at the Kenyatta National Hospital Doctor's Plaza. Therefore, I only use him as an example when I mention London, although I know he likes traveling to London. He need not be apprehensive. If he was attended to at the Suna Sub-County Dispensary and the dispensary needs to share his health data with a consultant at the Kenyatta National Hospital, that data must be de-identified and anonymised such that the consultant will not know if it is Junet Mohammed or Kimani Ichung'wah who was being treated at Lusigetti Sub-County Hospital in Nachu Ward, Kikuyu Constituency. This is because they cannot see the patient.

The health agency shall, among other things, develop, operationalise and maintain a comprehensive, integrated management information system that will be established under Part IV of the Bill. This integrated management information system will ensure that we can manage the core digital systems and infrastructure required for seamless sharing and exchange of health information.

I promised the Departmental Committee on Health Chairperson that I would not take a long time to move the Bill. I want us to appreciate that we are in a digital economy, a digital world, and digitisation is here with us. Hon. Speaker and Members, you remember that during the campaigns, His Excellency the President committed to leveraging technology to offer more efficient service delivery to Kenyans. This is not just in the financial services sector as we did under the Hustler Fund, and not just through the E-Citizen platform where Kenyans can now access over 5,000 Government services online, but also in our healthcare space. Kenyans will easily access affordable medical care from any part of the country. It will not matter whether you are in the far corners of Kathiani Constituency or the far-flung counties in the North of Kenya, probably in El Wak, where the senior-most medical personnel could be a clinical officer.

In some cases, there are areas where dispensaries are managed by senior nursing officers and not clinical officers. Kenyans will not need to worry that they are in far-flung counties and do not have the resources to access expensive healthcare at Nairobi Hospital or the Kenyatta National Hospital, where there are seasoned consultants. They can access healthcare at their local dispensaries, where their health consultant can share information through a seamless and secure digital system with experienced health personnel at referral hospitals. The patient will then get a correct diagnosis and timely treatment of diseases. Kenyans will not have to live with the agony and anguish they have had to bear, especially with diseases like cancer which, if arrested early, would not progress to become agonising to patients and families across the country.

With those many remarks, I beg to move. I urge Members to support this Bill because these health Bills are in the best interests of Kenyans. Hon. Junet alluded to that when he seconded the Procedural Motion. The Bills are critical for our nation and people. It is up to us to scrutinise this Bill and others and vote in their favour, not for the Government, but for the people. Our people are suffering from a dysfunctional healthcare system that we can now fix. We have a golden opportunity to do so.

I beg to move and request the Chairperson of the Departmental Committee on Health, the one and only Hon. (Dr) Pukose, to second.

**Hon. Speaker:** Dr Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Hon. Speaker, I beg to second. Allow me to thank your Office and that of the Clerk for the immense support they have given the Departmental Committee on Health on the two Bills. I particularly want to mention the Director of Legal, Mr. Mwendwa, for providing us with eight legal drafters who assisted us in ensuring this Bill sees the light of day. I thank the Departmental Committee on Health for spending many late hours scrutinising this Bill and in public participation.

I also thank the Ministry of Health, under the able leadership of Cabinet Secretary Nakhumicha, for facilitating the Principal Secretary, Mr. Harry Kimutai and the team, to appear before this Committee. I also thank the National Hospital Insurance Fund (NHIF) personnel and other partners who appeared before our Committee.

I also thank the Office of His Excellency the President for sending a team led by Dr Mwai that made immense contributions to this Bill. The Kenyan Government has prioritised digitised health programmes under the Third Medium Term Plan 2018-2022. In addition, under the able leadership of His Excellency President Ruto, the Kenya Kwanza Manifesto has identified digitisation as a pillar for the health sector to enable us to achieve universal health

coverage. By adopting these health technologies, the country can ensure everyone has access to the healthcare they need regardless of their financial situation.

This Bill establishes the digital health agency, which establishes a comprehensive integrated digital health information system in fulfilment of section 105 of the Health Act (No.21 of 2017). It obligates the Cabinet Secretary to establish an integrated health information system relating to the national Government health functions in every county in respect to the county functions. This agency will be domiciled within the Ministry of Health.

This Bill seeks to consolidate and harmonise information obtained from both levels of Government. It also provides for an inter-governmental or county-to-county integrated system where they can communicate and link matters health. The Bill further states the minimum standard applicable for establishing and maintaining digital health information systems. It further provides the mechanisms for inter-connectivity between each county's information system and the national system.

This will assist all levels of Government in coming up with consumer-focused and prevention-oriented care at all levels of healthcare services, which will ultimately care for the disease burden within the country. We had immense contributions from the Council of Governors (CoG) in this Bill and, therefore, the counties were ably represented. The Bill facilitates the retention of the right to protection of personal information as granted under Article 31 of the Constitution of Kenya, 2010, and the Data Protection Act (No.24 of 2019).

The enactment of the Data Protection Act (No.24 of 2019) presented new challenges for the health sector in Kenya as the sector handles sensitive patient data whose protection requires more safeguards. Therefore, the Bill fills this gap, which is crucial because privacy concerns and data breaches are now more prevalent.

This Bill enhances the health data governance framework in the country by requiring healthcare providers and health facilities to adopt mechanisms to ensure the safety and security of patients' information.

It also gives Kenyans the ability to have control over their data, particularly in health facilities, as they must provide consent before collecting, processing and sharing their personal health-related information.

This Bill further regulates the processing of health data that contains sensitive personal data through chronological mediums such as telemedicine. In this regard, the Bill requires health providers and technological platforms that offer telemedicine to put in place several safeguards, including anonymisation and de-identification of sensitive personal data. This way, the Bill regulates largely unregulated telemedicine and e-Health platforms, among others, which will guarantee the safety of Kenyans using such platforms.

Yesterday, the President launched the distribution of community health promoters' kits. Those kits have gadgets that can collect sensitive information, which will be sent to the digital health agency, whereby any information pertaining to the disease burden within various areas can be interpreted and stored for access in healthcare delivery within our country.

We can also monitor who is working and who is not. We will have close to 100,000 healthcare providers in all corners of this country, and they will be present in every constituency. Each healthcare provider will oversee 100 households. Within those households, they can take information about what diseases people have, what can be referred to, what can be advised in terms of management, and what other preventive measures can be put in place. All this information will be captured within this gadget, m-Health, which means mobile health. This can be sent to the digital health agency where this information can be stored.

We also have e-waste in terms of how to dispose of information and at what time. So, once the House Business Committee approves the Committee of the whole House for this Bill, we will discuss further and look at the amendments that have been made by the Committee,

those from public participation and those proposed by Members. Those amendments are to enhance and make the Bill a better document.

Hon. Speaker, with those very few remarks, I second. Thank you

**Hon. Speaker:** Thank you. Order, Hon. Njeri! Take your seat.

*(Question proposed)*

Hon. Julius ole Sunkuli. The problem of keying in and leaving the Chamber. Hon. Victor Koech.

Hon. Julius Sunkuli is here? I will give him the opportunity to contribute because he was the first on the list. Hon. Julius Sunkuli, you can be given the microphone anywhere, but go where you are most comfortable.

Before he takes the Floor, allow me to acknowledge the presence of the following in the Speaker's and Public Gallery: Greenview Secondary School, Mwanza Constituency, United Republic of Tanzania. Ole Sankale Junior Secondary School, Narok North Constituency, Narok County. *Kwa niaba yenu na yangu, tunawakaribisha wanafunzi kutoka Tanzania na Narok katika Jumba hili la Bunge, na tunawatakia makaazi mema.*

*(Applause)*

**Hon. Julius Sunkuli** (Kilgoris, JP): Before I make my remarks, I wish to say *karibu* to the students whom you have just acknowledged, especially those from the great County of Narok and, particularly, one of the oldest schools in Narok. That is Ole Sankale. They are quite welcome in Parliament.

Hon. Speaker, the Digital Health Bill is one of the two Bills we will be discussing, and which have been thoroughly deliberated on by the Departmental Committee on Health. The Departmental Committee on Health has prominent Members of Parliament from the medical profession. They are led by our Chairman, Dr Robert Pukose, and ably supported by other doctors. I will not mention all of them, but I would like to particularly recognise Dr Nyikal and our friend Prof. Jaldesa. So, this Committee is populated by medical experts in this field.

As a lawyer, I am privileged to midwife the Bill that we are discussing today. This Bill acknowledges that we have all moved, and that digitisation is here. I want to single out one element of digitisation that will be very helpful to the people of Kenya - telemedicine. It is now possible, for example, for a doctor at the Aga Khan University Hospital to review a patient in Kilgoris and prescribe treatment for the patient; or for a doctor in Washington DC to review a patient in Nairobi. However, the challenge this poses is what will be done with the information the medics will possess. This Bill will regulate this area because it has been unregulated in the past.

This Bill has been well thought-out. We are confident that, upon passing it, the medical profession will be well-guided on what to do with peoples' information. One of the important things in the medical profession is the privacy of information. The Bill has a number of ways of dealing with privacy of information. One of the ways is to make sure that the names of patients are not revealed to anybody, especially to the persons requiring that type of information. That is what we call anonymisation. There are many ways that are proposed in this Bill that will ensure that the information gathered and stored is stored securely.

I commend Members for this Bill. It is a good Bill. We will propose a number of amendments to it that will not be substantial. As it is, it is a good Bill, and I support it.

**Hon. Speaker:** Very well, Hon. Sunkuli. Hon. Victor Koech, Member for Chepalungu.

**Hon. Victor Koech** (Chepalungu, CCM): Thank you very much, Hon. Speaker. I rise to support this Bill and appreciate the Departmental Committee on Health, led by Dr Pukose,



for thinking about this Bill. It will solve the issues that patients have been facing. In cases where patients have been traveling long distances... If we pass this Bill, our patients will be reviewed by doctors who will be staying in Nairobi. It is a known fact that our local hospitals have inadequate equipment. Even though this Bill is going to offer solutions in equal measure, I would like to recommend that local hospitals like Sigor Sub-District Hospital in Chepalungu must have the requisite equipment so that patients can travel short distances to have reviews of their health that are usually conducted in Nairobi done efficiently locally. I support the Bill.

Thank you.

**Hon. Speaker:** Hon. Nelson Wamboka. He is not here. Hon. Ken Chonga, have you keyed in for this Bill? Those who wish not to speak to this Bill can withdraw their cards. The screen is full. Hon. Ken Chonga, are you for this Bill?

**Hon. Ken Chonga** (Kilifi South, ODM): No, I am not for this Bill, Hon. Speaker.

**Hon. Speaker:** Okay. Yield the Floor to Hon. Martha Wangari.

**Hon. Martha Wangari** (Gilgil, UDA): Thank you, Hon. Speaker. I want to join my colleagues in congratulating the Departmental Committee on Health for this Bill that will ensure efficiency in how we handle our health records. If passed, one of the issues that I like and this Bill will address is the management system and the co-operation between the national and county governments as stipulated in the Constitution in Articles 187 and 189. The disconnect between the two levels of government has been ailing the health sector. From what we saw yesterday – the President flagging off kits for community health promoters in county governments – there is hope. There will be smoother operations in the counties.

The other issue is inter-linkages with other institutions and officers. Here, I have in mind the issue of the Government Chemist. A week ago, in a village called Kasambara in my Constituency, a young girl aged 12 years old, Jasmin Njoki, was waylaid from school, raped and killed. The DNA samples collected by the Government security officers have to be taken to Kisumu to assess whether the suspect is culpable. I hope this Bill will address the issue of releasing DNA data for sexual offenses. I hope that it will be done under Article 36 in terms of closure of data. It provides areas where this data can be provided as a legal requirement. I pray that it will be more express, specifically on issues that touch on defilement and rape. That, the DNA samples and information can be easily shared with the law enforcers and the court system so that we can have paedophiles and criminals jailed. The information should not take long to be accessed. Efficiency should be such that one will not travel to a different city or town to get that information. It should be easily transmitted.

Another important issue is privacy. Matters of medical records are susceptible to all people, not just us, Members of Parliament, alone. That is why we visit a doctor alone. This Bill has tried to address that, and it has looped in the Office of the Data Commissioner so that we have the credibility that the confidentiality, privacy and security of any data that any person shares with a medical practitioner will be protected. We are just coming from a time when we have dealt with World coin, which was recently a major issue in this country. As we wait for the Report of the *ad hoc* Committee that was formed, its safety has not been guaranteed. I hope confidentiality will be guaranteed. The Data Commissioner should be on top of it. That way, we will protect the information that is shared in any form or manner with any institution in our country.

This is a good Bill, and I will be proposing some amendments during the Committee of the Whole House stage. At this point, it is very important in terms of e-Waste materials. They must rope in the county governments because practitioners are not just in Nairobi, referral hospitals and national institutions; practitioners are in counties.

With those few remarks, I beg to support. Thank you.

**Hon. Speaker:** Hon. James Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Speaker, for giving me this opportunity. This is an important Bill for the health services in this country. In health, there is a lot of information. If you start at an individual level when a patient is being looked after, you will have huge files full of information on individuals.

Hon. Speaker, we use this information to manage people. With e-health now, we can manage people in long distances. We need that information. It must be transmitted from one place to another, not only within the country, but internationally because people worldwide seek healthcare. Actual management and treatment of patients with telemedicine has made it possible to manage some cases, including surgery. A lot of information is, therefore, flowing through the system. This information is personal. It is used to manage patients and hospitals. Beyond that, health systems have massive amounts of information. The data that we have concerning the equipment, drugs and supplies is enormous information. We use this to monitor how the system is being managed and how our health system is working.

Look at the link between the Ministry and the information that goes there in national management, managing national affairs and planning. The health indices - infant mortality, maternal mortality, under-five mortality, access to immunisation, access to drugs and levels of malnutrition - are extremely important in planning. This massive information must be linked to our national data, the Kenya National Bureau of Statistics (KNBS), and the Ministry of National Treasury and Economic Planning. We have a lot of information. Most of it is being managed either manually or digitally right now. We have little information and systems everywhere that do not talk to each other. Therefore, they cannot give us the information we require.

Hon. Speaker, it is even worse with devolution because we do not have a huge health information system that talks at the national and county levels. We do it manually. If we are doing it digitally, the systems that we have are not coordinated or integrated. It is important that we now move and digitise all of them. If this is done, it will obviously improve efficiency. It also introduces a considerable risk. This information that is flowing digitally can be accessed easily. There is the danger of hacking individual, hospital, national and county information or any information digitally. It is time that we looked into that. That is precisely what this Bill is doing. It creates an integrated, comprehensive health information system that can talk to all institutions nationwide - at the county government, national and hospital levels. That is created in this information.

Once you have that information, you need to manage data. It is a danger and security risk if it is not managed at the national level. Therefore, this Bill creates a system of data management. As I said earlier, if you do not think about it, what about the personal level, security of the data, and individual information that people do not want to be everywhere? This Bill looks like this. Information can be treated so that you cannot identify the individuals to whom the data is related. That is in the Bill. Confidentiality and security are assured. We are creating a system that will employ people who are well-versed in the management of data and data security.

Hon. Speaker, I will compare health data nationally to military security. What does the military use to protect our lives? The information about our lives is equally important. It cannot be a security problem. I support this Bill because it creates systems that will deal with that. When all the computers and digital equipment in X-rays and laboratories are not used, many still have the information inside.

Hon. Speaker, we had a great American called Edgar Hoover who used to go behind offices and take what was in the dustbins to get information. Our current dustbins are where we put digital equipment that has been used. We must find a way of managing e-waste because it will give away our information. As I said earlier, our people move from this country to other

countries. How do we transfer the data? How do we make sure it is safe? How do we ensure confidentiality? This Bill provides for that.

I support this Bill. We need whatever health system we use. How we use our finances in the health sector is part of the information in the Bill.

**Hon. Speaker:** Hon. John Mutunga.

*(Loud consultations)*

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you, Hon. Speaker, for giving me the opportunity to contribute to this Bill. I have looked through the Bill. I want to highlight a few issues as per my findings.

I first noticed that the Bill uses the words ‘retrieval’ and ‘archival,’ which are not defined. Clause 21(3) of the Bill mentions those two words. They need to be defined. When you look at the Bill, the need for research is not amplified. It talks about the governance of data, health, data security, e-health service delivery, e-waste management, health tourism and tourism, but it does not recognise the need for research. This is data we are collecting across the country. It can be used, through data mining, to know what is happening in the country. I want to give several examples.

The first thing is to identify epidemics. Using the occurrences or outbreaks of diseases across the country, we can know when to declare an epidemic. We do not have to take health personnel there. We can declare an epidemic or pandemic based on the data we get. The health facilities across the country will be captured in this data. Their status will also be captured. I believe that by implementing this Bill, we can review this report frequently and take appropriate actions to prevent lack of medicine in certain parts of the country. We can distribute medicine nationwide based on the information we get from those reports.

Hon. Speaker, capturing this data and appropriate interpretation will help us guide the forward planning. My understanding of this Bill is that it will bring in integration of information. With integration, I understand somebody can visit a clinic, and then the diagnosis is done. Let us say you take an X-ray or Magnetic Resonance Imaging (MRI). After the report is taken, it can be relayed electronically to an interpretation centre or elsewhere.

It is also possible for administration of drugs to be given at another point. Somebody can get drugs without necessarily having to travel to Nairobi or referral hospitals. In that case, that possibility is created by this Bill. If that possibility is a reality, then some issues come in that you have to deal with. The Committee needs to look at some of these issues. One of them is ethics; when somebody believes he was not given the correct medicine because he was not there during the diagnosis, or when somebody believes the cure is not occurring in record time because the diagnosis was done out of the way, and when somebody gets complications. Therefore, there is attribution. The fact that this diagnosis was made far away is one of the issues that this Bill needs to cure. Because of integration, there is also perceived ease of identification and spread of illnesses. It is also possible for us to detect early based on what has been reported in different parts of the country. Ease of identification will help us to move on in a better way than we are right now.

I looked at the board. I thank Members of the Committee because they have restricted themselves to six, yet this Bill is open. On one member of the board, I am looking at Clause 8(1)(g). In the provision, one person represents the private sector appointed by the Cabinet Secretary. I wonder: Who is this person? Which private sector? Anybody from out there, and then you appoint and put them on the board? We need to describe this private sector. We can narrow this one down to private-sector health or ICT. If it is private sector health, will private sector ICT feel denied? We need to look at that very carefully to be sure. We may need to expand or substitute some board members to represent the private sector appropriately.

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

If you look at other issues in this Bill, I want to mention a specific one in Clause 15(1)(d) regarding the resources or funds for that agency. It identifies any other funds designated for or accruing to the agency by virtue of the operations of law. I find this quite open. We need some form of censorship of the money that comes into that agency. We need to have some provisions censuring this money. I have a suggestion, which we can say is "as approved by the Cabinet Secretary for Health." Without that censorship, then we have a problem.

Save for the few issues mentioned, I support. Thank you very much.

**Hon. Speaker:** Hon. Kakai Bisau.

**Hon. Bisau Kakai** (Kiminini, DAP-K): Thank you, Hon. Speaker. Digital management of our health system is very important. Improved customer service because of the quick retrieval of data is very crucial. It also helps the doctor to attend to more patients in a very short time span. At the same time, there is visibility of complete customer history.

This Bill helps to remove physical storage of information. Storage has become a problem. It continues to reduce. Going digital helps to address the physical storage of data. This Bill also addresses the issue of the environment. Looking backward and going forward, a lot of paper come from trees and has to take care of those physical files. In my view, this Bill is very important in addressing that. When it comes to research, even though team members might be in different places, for example, doctors, when they are researching, because of that digital accessibility, they are able, despite their different geographical, locations to do research in a cost-efficient manner.

Most importantly, even as I support this Bill, I expect data security and protection to be addressed because you will have data covering the entire country in a single storage facility. It is an excellent Bill, and I would like to support it.

Thank you.

**Hon. Speaker:** Hon. Wanjiku Muhia, are you keyed in for this? No? Hon. Joseph Makilap? He is not there. Hon. Omboko Milemba.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker, for giving me this chance to speak on this Bill, which brings together and tries to create a database for health. We also have this in the education sector because with the National Education Management Information System (NEMIS) working, we can know every information and movement of a student from one school to another. The world is getting digital, and we are taking this to the health sector. This is a very important Bill. It is going to bring out several things which are good for society.

First, it will bring to the fore affordability in the health sector so that there is the bit of sharing information from one hospital to another or doctor to another. Above all, in this level of affordability, to remove the double, triple and multiple tests done on the patients from one hospital to another. A patient attending a hospital at a lower level will undergo the same tests at the next level and go continuously on the same tests even at a higher level. And still, at every level, they pay. This is a big advantage of this Bill because a test at a particular level can now be shared throughout the entire health system.

There is an advantage of a test at a higher level being shared across and down to the community health volunteers or promoters so that even though they are working at the lowest levels, handling hundreds of people, as we were told, they can enjoy tests that the health practitioner otherwise approved at the highest level. This is very important. It is also given that the sharing of this profession can be done across the counties to the national level. This will basically reduce the cost of health, which is a real burden.

In the rural areas where we live, there is something called CT scan, which is now not only required, but also proving to be a health menace. Every patient will be asked to go through

it. This CT scanning is done at every level. For every CT scan, the patient pays about Ksh7,000 to Ksh10,000. They are paid all through the way. This Bill is trying to address that.

Sharing of high-level technical medical machines is also achieved. We realise economies of scale in terms of our medical equipment. Once we have techno-equipment at the Kenyatta National Hospital, it can also serve people at different levels in different counties and therefore, the cost is shared. I also see further advantages of this Bill. How often do we dream we should get to high-end hospitals like the Nairobi Hospital, Kenyatta National Hospital and other hospitals? This means that with this shared information, we can even share doctors and their advice and consultancy from the very high to the lower end. This will improve and bring down the cost of healthcare in this country.

However, as we do all this in this Bill, we must ensure that health centres and hospitals are equipped. Yesterday, I was proud when I saw Community Health Promoters (CHPs), whom I would soon want to call community health workers. That is because they will be a crucial and integral part of the healthcare system in this country. However, that is a matter for another day. We need to uphold them to a working level and not just be volunteers or promoters. They have several pieces of equipment that will keep data, including e-waste, M-Health, and M-Mobile. However, you may realise that those same gadgets are not in hospitals and health facilities we have around the country. This must go concurrently with improving not only medical equipment in hospitals, but also human resources so that hospitals become centres where those ground-level health workers called health promoters will operate from and become their centres of operation.

Hon. Speaker, data protection has been spoken about as an essential aspect of this Bill - to protect the data of people who will have gone through the system, and how to dispose of waste in terms of data that will have gone into the system. Further, I also see it as an advantage. Somebody has spoken about this. It must have been one of the Hon. Members. The research component that has been brought to bear by this Bill is very good because information will be there. Therefore, we will be able to discern the most prevalent diseases in this country and new diseases that enter the system, the country and the health sector, and take interventions that will handle it. This is very good. It will promote research. When doing the Third Reading, the Hon. Chair, Hon. Pukose, who is up here with me, will need to see how we can also use the collected data to give projections and enhance research on the most prevalent diseases in this country, and undertake the required mitigation to deal with them moving forward.

Prevalently and largely, this is a good Bill that takes our health sector to another level. It is a blockbuster in demystifying health issues and creating space within hospitals where we have very many files that keep equipment. We had this in several sectors. It is now being removed so that we do not have many files. How many times are people in villages told to go and buy books? I know most of you come from those areas where you are asked to buy a book before starting treatment. You must buy books each time you approach a hospital simply because we are not digitised. This is a blockbuster in making this sector more efficient to assist Kenyans.

With those very few remarks, I support the Bill.

**Hon. Speaker:** Hon. Adan Keynan.

**Hon. Adan Keynan** (Eldas, JP): Thank you, Hon. Speaker. Article 43 of our Constitution defines access to universal healthcare services as the right to the highest attainable health standards. The World Health Organisation (WHO) defines universal health coverage as access to promotive, preventive, curative, rehabilitative and palliative health services. However, certain things in this Bill need to be re-looked.

First, we used to have the National Health Insurance Fund (NHIF) as a department of the Ministry of Health. That gave birth to the NHIF Act. The NHIF Act has had certain lacunas because of changing realities. It is those lacunas that this Bill attempts to address through the

digitisation of health records, promotion of health tourism, provision for telemedicine and provision of health information systems. More importantly, we come from very remote villages like where I came from. The issue of monitoring patients remotely is critical. I remember in the second constituency I represent we got our first medical doctors four years ago. You can imagine the challenges those people have been going through. With this Bill, some of those challenges can be reduced. This will also reduce administrative costs.

Data protection and privacy will also be very important. Inter-operability is also taken care of. You can have one hospital in the furthest part of the world having an exchange programme with another hospital. Health innovation is also critical. There are certain things we need to look at. Some countries like Germany and the United Kingdom (UK), succeeded in providing social healthcare mechanisms. In Africa, our neighbour, Rwanda, a small country, has had a very successful social healthcare mechanism. Others are countries like India, Indonesia and Ghana in West Africa. These things are critical.

However, there are certain things, like the definition of a household, over which we must also sound an alarm. Where I come from or where you come from, a household is completely different from one in Europe. Therefore, we will be amending the Bill to provide for a household as an African household, not a Western one. For example, if you talk of Adan Keynan's household, I can assure you that you will speak of tens of people. A household in Western Europe means a man, a wife and a child. You can imagine if you define the household of Hon. (Dr) Moses Wetang'ula. It is a chain. We will be looking at these things to bring amendments and real life.

Equally, we are also doing over-legislation. Some things will be done administratively. The fact that we need to modernise and inject a bit of modernism and efficiency into our healthcare system does not mean we over-legislate everything. Some require administrative pronouncements. I have looked at this Bill. We want to cure everything. We are defining qualifications for the chair and the top-quality assurance officer. These things require administrative efficiencies rather than legislation. We also need to protect the officers who are in NHIF now. It is like we are assuming that we are starting from zero. Some officers have diligently served the NHIF. Therefore, their right to a decent job must also be protected in this Bill.

I am aware this is a country of regions, tribes and colleagues. That is the foundation of the nation called the Republic of Kenya. We must be careful because, right now, the information out there is that part of the provisions of this Bill is employment opportunities and exit to those who are there. If that is the agenda, I assure you it will not succeed. If the agenda is to modernise, we will be there to support this Bill.

**Hon. Martha Wangari** (Gilgil, UDA): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes. There is a point of order.

**Hon. Martha Wangari** (Gilgil, UDA): Hon. Speaker, with all the respect I have for Hon. Keynan, I think he is mixed up with the Bills. He is debating the Bill in the Order after this. For convenience and the relevance rule, I think he should stick here.

**Hon. Speaker:** I have noticed so. Since he says he is winding up, let him wind up.

*(Laughter)*

**Hon. Adan Keynan** (Eldas, JP): No. Sorry. I think you have limited your horizon of appreciation of this Bill, my dear sister. You need to look at the Bill holistically.

**Hon. Speaker:** Wind up.

**Hon. Adan Keynan** (Eldas, JP): Let me say and read this. There is no confusion at all. The bit I am trying to say is this: If you look at both the letter and spirit of both Bills, there is a bit of reference to existing staff. I am sounding an alarm. Get this. Even as you operationalise

the qualifications that you have given, by the time we pass this, I can assure you the next thing you will see is opportunities and vacancies for directors. Let us accept that is the reality. That is what I am alluding to. I understand the Bill. After we are done with this, I can bet that is the next thing we will be seeing. It is good, but we should also have regard for those who are currently there because this country has some of the best human resource capitals. That is the bit I am trying to say. I am not in any way insinuating any improper motives on the good Chairman, my friend (Dr) Pukose.

Finally, there is one thing we must accept as a country. We have legislated and done everything. What we require is goodwill. I do not know how we should have it. I am told you have your Hippocratic Oath in the medical field. There is something we need to inject so that, once we have professionals in this field, the challenges NHIF has had will not be there.

Therefore, as it is, subject to the provisions for which I will bring amendments, like the definition of a household so that it contextualises the African framework, it is a good Bill. We support it. I hope it will inject fresh blood and energy into our health sector.

I support.

**Hon. Speaker:** Let us have Hon. Mary Emaase.

**Hon. Mary Emaase** (Teso South, UDA): Thank you for giving me the opportunity Hon. Speaker. I rise to support the Bill on Digitisation of Health Systems. I want to go straight to the aspect of integration. The fact that there will be a linkage between hospitals in the counties and the national Government means there will be reduced costs. As it is right now, you will find that if a patient, for example, has been attended to at a Level 3 or 4 hospital, and there is a referral to a Level 5 hospital, the same investigations and tests that were undertaken end up being repeated before the patient can be attended to. Having this digitisation in place will help reduce costs not only for the patients, but also for the service providers. This will also ensure that there is better management of the patient. That is because then there is access to the history of the health conditions. Therefore, this patient can get better and timely treatment, and there will be a better experience for the patient.

I am also happy with this Bill because it addresses the security issue. Issues of personal health treatment are a private matter. This Bill seeks to enhance the security of health data, which will also build confidence in the patient. Therefore, many patients and Kenyans will be encouraged to go to the hospital to seek treatment instead of self-treatment, where people just walk into a chemist and buy medication for an imagined treatment arising out of fear of the security of their data where they go to seek treatment.

Also, the general digitisation of healthcare systems will eliminate many inefficiencies in the health sector. For instance, it will also provide an audit trail. We have been having issues with Kenya Medical Supplies Authority (KEMSA) with the medications where medicines have been delivered, and they cannot be traced to whom they were prescribed. With this digitisation, we shall know what quantity of drugs, for example, went to Busia County, and that can be traced to which patients were prescribed this medication. It will be very easy to get this kind of information. Also, this will help us fight corruption in the health sector. With digitisation it will be easy to trace most of these inefficiencies within the sector. I still noticed that a lot of data is still collected manually. So, issues of reporting data will be shared with the national Government and internationally and it will ensure enhanced reporting.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): On a point of order.

**Hon. Speaker:** Hon. Emaase, hold your horses. Hon. Chepkonga, what is your point of order?

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon Speaker. As you know, I believe in order and so, I rise under Standing Order No.95. You must have heard my good friend, Hon. Keynan mixing this Bill with the next one. There is the Sugar Bill, which is very

important, and we are all sitting here to ensure that we pass it. In fact, everybody who has stood has supported this Bill. Would I be in order to request you to call upon the Mover to reply?

*(Several Members spoke off the record)*

**Hon. Speaker:** Let Hon. Emaase finish first.

**Hon. Mary Emaase** (Teso South, UDA): Thank you, Hon. Speaker. I am also sitting here waiting to prosecute the Sugar Bill. But I was on my last point, and I was saying that the digitisation of the systems in the health sector will also...

*(Technical hitch)*

**Hon. Speaker:** Hon. Members, is it the mood of the House that we call upon the Mover to reply?

**Hon. Members:** Yes.

**Hon. Speaker:** Let me give Hon. Robert Mbui as the last speaker. Hon. Ichung'wah recollect your issues and reply thereafter. Hon. Mbui.

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Speaker, for giving me this opportunity to also give my opinion on this Bill. The issue of digitisation is all over now, and almost all sectors of the economy are getting digitised. It is a good idea for us to digitise our health sector; of course, as we say, all dreams are valid. However, as we go through this, it is important to understand the positives and some of the challenges we may find in this setup. The advantages are obvious, and many Members have talked about them. First, I believe that treatment will become cheaper because there is a sharing of resources. One technician can serve many hospitals at the same time. That means the equipment can be shared, making it easier and cheaper. Also, it would be faster because you can get instant feedback. The history of every medical patient becomes easily accessible. Therefore, if there is any settlement or need to settle a medical dispute, all the information is readily available. I would also imagine that...

**Hon. Speaker:** What has happened?

**Hon. Robert Mbui** (Kathiani, WDM): That is what I was going to add: how technology actually works. If possible, in future, I propose that they find a way to connect this system with the one for the registrar of persons so that those who lose their lives in hospitals can also be immediately recorded, so that we can issue their certificates. Of course, the agency has its work cut out for it because for them to ensure that the digital data of patients is protected is a tall order. We have to look at it this way: many of the systems we already have in this country are sometimes prone to failure. Look at almost all our state corporations, NHIF, National Social Security Fund (NSSF), and Pay as You Earn (PAYE); the minute many people log in to do their end-of-month returns, suddenly, most of those systems do not work. You can imagine the number of patients. If many patients log into the system, it must be very well done. We must be cautious about the technology and system we put up because that system may also be a problem.

We also have the issue of hackers. We have had our systems hacked in the past. We have to be very careful that we do not have any possibility of people hacking into the health system because, if that were to happen, they could corrupt data and, of course, jeopardize our peoples' lives. It is something that we need to look into.

For this health and digital system to work, we must also have Information Communication Technology (ICT) and Wireless Fidelity (Wi-Fi). We are talking about our dispensaries being able to send data to hospitals in the city, Level 4 and Level 5. Where is this digital connection? We were promised a digital connection in our markets, but it is still not there in our villages. So, as we are coming up and proposing to pass this, this will likely end

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*



up being hot air. We talk about it, pass it, and cannot implement it because we do not have the infrastructure. I am not opposing it; I am just posing a challenge.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): On a point of order.

**Hon. Speaker:** Order, Hon. Robert. Let us hear a point of order from the Hon. Deputy Speaker.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Thank you, Hon Speaker. It is a point of information to Hon. Mbui. He is being a pessimist, and if he believes that technology does not work, you should stop carrying and using your phone. In fact, you are speaking on a microphone here in this House courtesy of technology. You are speaking in this House, recorded by *Hansard* courtesy of technology. Are you telling us that we must stay frozen in time and remain in the stone age times just because you fear technology and that you are a pessimist? He is a beneficiary of technology. In fact, the voting that went on in this country that you were elected on was courtesy of technology. So, you should give up your seat first if you do not believe in technology.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Mbui, wind up.

**Hon. Robert Mbui** (Kathiani, WDM): Hon. Speaker, I would like to ignore that because I have talked about promises on Wi-Fi in our markets and villages, which is still not there. That is a fact. So, we are likely to pass this Bill, but dispensaries in Kathiani cannot process this information. Hon. Speaker, can I have information from the Whip of the Minority Party?

**Hon. Speaker:** Order, Hon. Mbui! You cannot get the information because he has not sought to inform anyone. Additionally, you are not supposed to solicit information while on the Floor.

**Hon. Robert Mbui** (Kathiani, WDM): Hon. Speaker, have you heard him?

**Hon. Speaker:** I have not heard anything. Go on, Hon. Robert Mbui.

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Speaker. I am not opposing the Bill. I am raising challenges that we are likely to face in its implementation. Otherwise, as I said, all dreams are valid. We need to work towards making this proposal work. Finally, even after the technology...

**Hon. Junet Mohamed** (Suna East, ODM): On a point of information Hon. Speaker.

**Hon. Speaker:** Do you want to be informed by Hon. Junet?

**Hon. Robert Mbui** (Kathiani, WDM): Yes, I want to be informed by my Whip.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Speaker, thank you for your indulgence. I want to inform the Deputy Leader of the Minority Party that, though he is not opposing the Bill, he means that technology can fail you when you need it most. Imagine a technology that fails you at the hour of need. What will you do about it? That is what he is trying to point out. He is not opposed to digitalisation at all. He is just informing the House that technology can fail and so, we must be prepared. The other day, we were told that 25,000 markets would be digitalised. Some worked while others did not work. When people were on board a matatu, it did not work. But after descending, it worked. So, that is what he is trying to tell you.

Thank you very much, Hon. Speaker.

**Hon. Robert Mbui** (Kathiani, WDM): Hon. Speaker, as I finish...

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Chepkonga, what is your point of order?

**Hon. Robert Mbui** (Kathiani, WDM): I do not want his information.

**Hon. Speaker:** He is not informing you. He is on a point of order.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon. Speaker. I rise under Standing Order 91 on factual of statements. The Whip of the Minority Party purported to want

to inform my very good friend, Hon. Mbui, but ended up informing the Deputy Speaker, who was on a point of order. My very good friend, Hon. Mbui, knows and should have brought that information to this House that, when the Principal Secretary for Information, Communication and the Digital Economy appeared before the Committee, he even gave one of his markets to be connected. So, I do not know which technology failure he is talking about. He knows telecommunication was liberalised in 1999, and that is why he walks around with a mobile phone which has never failed. He gets me when he wants me. I do not know this technology which is going to fail. The statement in itself is inaccurate.

**Hon. Speaker:** Okay. Hon. Mbui, wind up.

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Speaker. I would have loved to ignore my Chairman, but as I said before, I am not opposing the Bill. I am just highlighting the challenges we are likely to face. As he says, a market in my constituency is being connected, but dispensaries are not. We are dealing with issues of dispensaries here.

Finally, we must be very careful so that as we pass very good legislation like this one, we also get the right people to manage the technology in our hospitals. My question is: When we will have this technology, who will manage it? It means that we will likely end up increasing the number of personnel working in dispensaries. Who will carry that burden? Is it the county or national Government? Some dispensaries are not functional because they do not have enough staff.

With those remarks and concerns, I support the dream. Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, pursuant to the point of order raised by Hon. Chepkonga, I will put the question.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. As I reply, let me thank all Members, including Hon. Robert Mbui, who has closed by supporting the Bill with reservations. It is also okay to be a pessimist. Hon. Mbui knows the Cabinet Secretary for Information, Communication, and the Digital Economy was in his backyard about three weeks ago. This is because I have heard him divert to issues to do with connectivity of markets. He knows the Cabinet Secretary, Eliud Owalo, was in Makeni County to launch the connectivity of markets. Several bloggers, who are well known to Hon. Robert, were all over online bashing the Cabinet Secretary for commissioning connectivity to our markets. But this is the beauty of technology. I am happy that Hon. Mbui supports this Bill with his pessimism. He has said that it was a dream. Indeed, every good idea begins with a dream. The dream to connect digital services to healthcare facilities in this country will be a reality when we approve this Bill. Let me thank all Members who have contributed to this Bill, including Hon. (Dr) Nyikal, who has immense knowledge of this country's health sector and has served as the Director of Medical Services.

**Hon. Speaker:** Leader of the Majority Party, do you want to be informed by Hon. Keynan?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I do not desire to be informed in replying. He can inform me in the next Bill.

As I was saying, Hon. (Dr) Nyikal, having served as the Director of Medical Services, knows the challenges in the medical sector in this country. Those challenges include areas with very low coverage of doctors and access to consultants and technological challenges in terms of the equipment accessible to patients across the country. Therefore, this Bill will, in a very significant manner, change the whole architecture of our healthcare system and make sure that

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

universal health coverage becomes a reality under the Kenya Kwanza Administration's Manifesto christened "The Plan".

Hon. Speaker, with that, I beg to reply and urge all of us to support this Bill. Thank you.

**Hon. Speaker:** Thank you, Leader of the Majority Party. I will now put the Question.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to Committee of the whole House)*

**Hon. Speaker:** Next Order.

THE SOCIAL HEALTH INSURANCE BILL  
(National Assembly Bill No.58 of 2023)

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Kimani Ichung'wah (Kikuyu, UDA):** Thank you, Hon. Speaker. I beg to move that the Social Health Insurance Bill (National Assembly Bill No.58 of 2023) be now read a Second Time.

Allow me to begin by thanking the Departmental Committee on Health under the able leadership of the Chairman, Hon. Pukose, and the Vice-Chairman, Hon. Patrick Ntwiga. As mentioned earlier, when I moved the Digital Health Services Bill, this Committee sat through the recess period to listen to many stakeholders. Many of them were interested in this Bill because, in a big way, it changed the management of the National Health Insurance Fund (NHIF) as we know it. Members will appreciate the challenges that have bedevilled NHIF from the days of Clinix Healthcare facilities to the recent times of St. Peter's Orthopaedic Hospital and other facilities in Meru. Now and then, the Government has had to crack the whip to deal with the Board or Management of NHIF because of issues that touch on corruption. This Bill speaks to matters touching on corruption in the governance and management structure of NHIF. We have had a mongrel of an organisation in NHIF that has grown over the years.

Several amendments have been made to the NHIF Act, and many reforms have been effected in the health insurance coverage of Kenyans in order to enhance the capacity of NHIF. Part of these reforms included the upward revision of premiums in this House in 2015, and the expansion of the NHIF benefit package, which previously had only inpatient care. They have now added outpatient care and several other specialised services.

Members will also appreciate the care for certain illnesses, like the provision of dialysis services under NHIF and chemotherapy and radiotherapy services that have become payable under NHIF.

*[The Speaker (Hon. (Dr) Moses Wetang'ula) left the Chair]*

*[The Deputy Speaker (Hon. Gladys Boss) took the Chair]*

They have also had various reforms in the human resource structure, the functional organisation structure of NHIF, and the Information, Communication and Technology (ICT). Just as we have just spoken about the Digital Health Bill, there have been various ICT-related reforms relating to the automation of several core functions, including claims management, member registration, and premium contribution. Today, Kenyans can contribute their

premiums by dialling on their phones. We have had to make several amendments to the NHIF Act in this House.

Hon. Speaker, the Social Health Insurance Bill of 2023 seeks to accelerate the progress that we have made in those reforms and actualise Universal Health Coverage (UHC) as we promised under the Kenya Kwanza Administration in our campaigns last year. While those reform initiatives have yielded significant progress, several gaps remain, especially from a recent analysis that shows that, among others, NHIF operates under a very passive regime and is, therefore, a passive buyer or purchaser of health services rather than a strategic purchaser of health services.

The NHIF is also plagued by inefficiency and governance challenges, as witnessed recently. Just the other day, several high-ranking officers at NHIF were forced to relinquish their positions, including the former CEO, because of governance challenges and inefficiencies in the system.

The NHIF has also turned out to be financially unsustainable under its current structure. It is against this backdrop that the Government proposed a complete paradigm shift in the provision of social health insurance as proposed in this Bill, and one that would seek to, among others things, repeal the current NHIF Fund Act of 1998. The principal object of this Bill is to put a legislative framework that will regulate the provision of social health insurance and promote the implementation of UHC as was espoused in our Vision 2030 and reinforced by the Kenya Kwanza Plan of 2022. It will also ensure that all Kenyans can access affordable and comprehensive health services.

The Bill will repeal the National Health Insurance Act (No.9 of 1998) upon enactment. This Bill will regulate the provision of social health insurance, reducing the current high out-of-pocket expenses by many Kenyans on healthcare. In doing this, we will fulfil the provisions of Article 43 of our Constitution on social rights, which includes the right to access affordable healthcare. That is what we seek to provide under UHC.

The paradigm shift I spoke to seeks to address primary healthcare to enhance preventative and promotive care to reduce the demand for healthcare commodities. Members will know that the current state has a curative rather than a preventive and promotive approach. Therefore, we are shifting from more of curative to preventative and promotive approaches that will come under primary healthcare. Currently, we have non-comprehensive vertical services. We are moving to comprehensive and integrated services under this new Bill, which will be realised through the Digital Health Bill that we have just passed. We currently have a fragmented primary healthcare structure, and we endeavour to shift to primary healthcare with networks that strengthen service delivery right from Level 1 and 2 to Level 3.

Lastly, we have under NHIF, a financial support system that is not sustainable as we speak. Therefore, we are moving to a very sustainable financing model, where Kenyans paying Ksh500 will now enjoy lower rates at the rate of Ksh300. We are moving to a sustainable system where Kenyans who before could not access health care because they could not afford it, today under the primary healthcare fund, so long as they are members of NHIF or have registered with the Fund, will be able to access primary healthcare at their local dispensaries at Level 1, 2 and 3 without having to pay since the Social Health Insurance Fund will cater for their health care.

Over and above that, Kenyans have suffered immensely. As I moved the Digital Health Bill, I spoke of instances where families have agonised as to whether to sell their land or dispose of other valuable assets to be able to sort out medical bills, especially in cases where a family member suffers from a chronic illness, be it cancer or diabetes. The cost is out of reach for millions of Kenyans, and the Chairman of the Departmental Committee on Health will tell you that less than 7 per cent of the Kenyan population can afford quality health services provided by our health services sector. This Bill seeks to ensure that no Kenyan is left behind in the

provision of accessible, affordable, and quality healthcare, whether you suffer from chronic illnesses or are among those who are categorised as indigents or even the elderly in our community, or people who have no access to any productive sources of income. Under this new architecture of NHIF under the Social Health Insurance Fund, those people can access healthcare again; the Social Health Insurance Fund will cater for that.

As I said, the Bill promotes the attainment of Universal Health Coverage, and that is why I am speaking right from primary healthcare to the chronic illnesses that will be catered for by this Bill. By realising Universal Health Coverage in the country, it seeks to ensure that all Kenyans have access to affordable and comprehensive quality health services. This is by providing health coverage to older persons, indigents and other vulnerable persons in our society, including persons in lawful custody. Being in prison in this country is almost like a death sentence because if you fall sick in our prison services, you are our candidate for going to heaven or anywhere else because access to healthcare is almost impossible under our current regime. But we are making sure with this Bill that even those in society who are in correctional services have access to affordable and meaningful quality healthcare.

Part III of the Bill seeks to create the Primary Healthcare Fund, which will receive monies appropriated by the National Assembly, grants, gifts, donations, monies allocated for that purpose from fees and levies that they administer, and monies accruing to or received by the Fund from any other source. The Primary Healthcare Fund will care for Kenyans in primary healthcare facilities, be it Level 1, 2 or 3 hospitals or local healthcare dispensaries. The Chairperson of the Committee will tell you that, as they engaged with stakeholders in the healthcare sector, they learned that many Kenyans who are suffering from chronic illnesses like cancer or other critical illnesses would not have progressed to that critical stage if they had received proper healthcare at the primary healthcare level. That is what the Bill seeks to cure. A Kenyan should be able to walk into a Level 1, 2 or 3 facility or even a local dispensary and get the correct diagnosis.

Let me go back a bit. Beyond primary healthcare in dispensaries and Level 1, 2 and 3 hospitals, if you watched and followed what the President was doing at Uhuru Park yesterday, he was not commissioning development in a hostile country, as some bloggers say. The President was commissioning Universal Healthcare services by commissioning community health volunteers (CHVs) who have been working without pay but are now being incorporated into our country's mainstream healthcare sector. The national Government and county governments will pay them. Thousands of community health promoters and volunteers will receive a stipend and the bags you saw commissioned at Uhuru Park yesterday.

Contrary to what that blogger said, the President was not commissioning development in a hostile country. There is no hostility in a country dealing with a dysfunctional healthcare system. Healthcare begins with community health volunteers. With their bags, they should be able to walk into your home, take your temperature, diagnose your illness, find out whether you have COVID-19, and tell you if you need to go to hospital. They will probably administer paracetamol if you have a minor headache because they are trained for that. They will be able to measure your blood pressure and blood sugar levels. They will offer proper medical advice on what kind of service you need to seek and from what facility. The Primary Healthcare Fund will now care for you at the primary healthcare facility level. If you are a member of this Fund, you need not worry about the bills because they will be sorted out.

Part IV of the Bill speaks to the creation...

*(Hon. Brighton Yegon, Hon. Kilel Richard, and  
Hon. Linet Chepkorir consulted loudly)*

Hon. Speaker, please protect me from the Member for Konoin and the Member for Bomet Central, laughing like we are in a Sot Technical Training Institute classroom.

**Hon. Deputy Speaker:** Order, Hon. Members.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I hear they are discussing Hon. Toto's transformation.

*(Laughter)*

We must protect her from Hon. Brighton and Hon. Kilel. We should especially protect her from that laughter by Hon. Brighton Yegon. I want them to listen because if you go to Longisa Hospital in Bomet County, many patients who ought not to have been referred there are taking up bed space. They would not be there if they had accessible and affordable primary healthcare. That is why the Members from Bomet County should listen.

Part IV of the Bill establishes the Social Health Insurance Fund. This Fund will take up most of the tasks currently under the NHIF.

Part V of the Bill creates the Emergency, Chronic, and Critical Illnesses Fund, which I have already spoken to. I have mentioned that this Fund has made many families across our country destitute. Previously, when went home every weekend, we dealt with fundraising cards that had been dropped off in our constituency offices. Members of Parliament will tell you that they are in not less than 100 or 200 WhatsApp groups created for fundraising for health bills in their constituencies. Some of us, like Hon. Junet and I, get invitations even from people who do not hail from our constituencies. Those are the challenges that we must deal with as leaders. There is no better way...

*(Hon. Junet Mohamed spoke off the record)*

Hon. Junet is very disruptive. He is now saying that the fundraising cards are from people from Bomet. The last person who added me to a WhatsApp group was from Suna East Constituency. He was fundraising for a medical bill.

*(Laughter)*

Those are our challenges as leaders. It behoves us to confront those challenges now and not tomorrow. We cannot deal with them by continuously attending fundraisers. We must create funds such that if one has a chronic or critical illness in this country, they can walk into a hospital, get admitted, get the right medication, and go home knowing their family will not become destitute because of hospital bills.

The Emergency, Chronic and Critical Illnesses Fund will serve many families across this country. Let nobody lie to you. We have fundraised for our family members in our WhatsApp groups as Members of Parliament because healthcare is unaffordable even to us.

Hon. Speaker, if you speak to former Members of Parliament, they will tell you that having left the Parliamentary Service Commission's medical scheme, one of their biggest challenges is being able to afford healthcare and health insurance coverage. I am not saying that former Members of Parliament suffer from critical or chronic illnesses, but these are the things that we live with, and we must offer solutions.

I invite all of us to rise to the occasion and create this Fund that will sort out Universal Healthcare. It has been tried before. Former President Mwai Kibaki's administration tried, but it did not work. The Jubilee regime also tried, but after seeing the results in four pilot counties, they courageously declared it had failed. We cannot afford to fail this time around. That is why a lot of thought has gone into creating the system.

I know that there are fears whenever there are changes. Some skeptics do not believe things can change for the better. I assure Kenyans that this new Social Health Insurance Fund will sort out issues of Universal Healthcare and affordable healthcare. Upon enactment of this Bill and others which are being considered in the Senate, and which will be transmitted here – as I am sure that we will transmit these two Bills to the Senate. We will ensure that no families in Kenya will be declared destitute on account of lack of access to affordable healthcare of a family member.

There has been a lot of lobbying because, as I said, people are fearful whenever there is a change in a system. This includes the staffers of the NHIF who, with this Bill's enactment, will lose their jobs. I want to assure our hardworking staffers at NHIF that you will not lose your jobs so long as you have not engaged in corruption and are diligent workers. No Kenyan will lose a job on account of a Bill being enacted. You are being asked to reapply so that the new organisation gets the best out of the NHIF, and others can be redeployed elsewhere.

From healthcare providers, NHIF, as it is today, has been a cash cow, as I mentioned from the days of Clinix in the Mwai Kibaki Administration. Those who have attempted to loot NHIF under this administration... I must thank the Cabinet Secretary for Health, Hon. Nakhumicha, for the quick action she took to ensure that governance within NHIF is proper, and nobody takes advantage of funds being contributed by Kenyans to provide affordable healthcare.

The cartels managing by proxy and the governance structures of NHIF today are running scared. I know they are mobilising and lobbying, including private hospitals, medical health insurance providers, and insurance companies in this country. They have taken advantage of Kenyans on a matter as dire as their healthcare. It is up to us here today to stop taking advantage of Kenyans when they are most vulnerable during sickness by people who are minting billions in the businesses they run.

Hon. Deputy Speaker, I know all those cartels are listening to me. I want to announce to them, as I quote what His Excellency the President said, *mambo ni mangapi?* The cartels who have benefited from NHIF *mambo ni matatu*. This Bill will sort out those cartels. I know many of them have proposed amendments, which I have seen being shuttled between one Member to another. I want to assure them we shall stand guard during the Committee of the whole House not to protect this Bill, but to protect Kenyans who have suffered over the years. It is time we become leaders and put the interests of our people ahead of our own.

I want to plead even as we propose amendments in the Committee of the whole House when that time comes, we shall deal with amendments that will help us realise universal health coverage within the shortest time possible. So, we can actualise the dreams Kenyans have had since Independence. That they can walk to a hospital, access affordable and quality health care, and walk back home without worrying about hospital bills.

It is a dream Kenyans have dreamt and a vision we can realise together not just within our lifetime, as my deputy is whispering, but within the life of this Session of Parliament or this debate and upon enactment of this Bill.

Hon. Deputy Speaker, with those very many remarks, allow me once again to move and request the Chair of the Departmental Committee on Health, Hon. (Dr) Pukose, to second.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. (Dr) Pukose, proceed.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Deputy Speaker. Allow me to thank the Members of my Committee, beginning with my Vice-Chair, Hon. Patrick Ntwiga Munene, Member for Chuka/Igambang'ombe, Hon. Martin Pepela, Hon. Cynthia Muge, Hon. Mary Maingi, Hon. Pauline Lenguris, Hon. Anthony Kibagendi, Hon. Bishop Titus Kamala, Hon. (Dr) Joshua Odongo Oron, Hon. Julius Sunkuli Lekakeny, Hon. Reuben

Kipng'ok Kiborek, Hon. Martin Owino (Wuod chief), Hon. Duncan Maina, Hon. (Prof.) Guyo Jaldesa and Hon. (Dr) James Nyikal.

Hon. Deputy Speaker, these Members gave a lot of their time to ensure that we do not just process these two Bills, but we processed four Bills during this holiday. We have a Bill on Kenya Drugs Authority, which I tabled the report. We have a Bill on Assisted Reproductive Technology by Hon. Millie Adhiambo, and I will table the Report tomorrow. Two other Bills have been processed by these Members during this recess.

Among them, I want to single out Hon. Cynthia Muge, who was on maternity leave. Her baby is only four months old, and she created time to come to Mombasa and process those bills. That is a very commendable commitment. It shows how committed Members of this Committee are when it comes to House business.

Allow me also to thank the various partners, NHIF, Ministry of Health, and in particular, my legal team led by Ms. Faith Sialai and my Lead Clerk, Mr. Aralle Hassan, for leading the Parliament Secretariat to do the great job we have done today.

This Social Health Insurance Bill is creating a paradigm shift as far as social health insurance is concerned. In particular, I want to thank His Excellency President (Dr) William Ruto for guiding this process and ensuring that we can deliver this Bill in the shortest time possible. I want to thank all the Members who came for public participation and contributed to this Bill. I will not be able to mention them. For this Bill, we had 25 memoranda that were sent to the Committee, with some members appearing before us to make their contributions. As you are aware, NHIF has been a thorn in the flesh. There has been a lot of corruption and, as we speak, this Committee is carrying out fraud investigations by close to 30 or 40 hospitals in the NHIF scheme. This must come to an end.

This Bill creates three Funds: The Primary Healthcare Fund, the Critical Emergency and Chronic Illnesses Fund and the Social Health Insurance Fund. Primary Healthcare Fund will be at Level 1, Level 2 and Level 3 hospitals. The healthcare promoters are called Primary Care Networks (PCNs). Every PCN will be in charge of 100 households. As you saw yesterday, His Excellency President William Ruto launched the distribution of the gadgets for 100,000 community healthcare providers at Uhuru Park. This is a commendable contribution to the healthcare in this nation. The national Government pledged a 50:50 share in remuneration of healthcare promoters who have been working as volunteers for many years without anybody giving them a single cent. Yesterday, the national Government agreed to pay them 50 per cent and then the county governments would pay 50 per cent. After moving from one house to another, they will have something to give their families when they go back to their houses.

Healthcare promoters are critical contributors to healthcare in this nation. My friend and a member of my Committee, *Wuod* Chief, Hon. Martin Owino, is a primary healthcare specialist. Given his experience, he has contributed immensely to the Committee's many decisions in supporting primary healthcare, which is the first call of health service. Those are the people who will look at health at the grassroot level to make sure that they refer you to the right place, even for illnesses that take time to be identified. They will refer you to either a dispensary or a health centre. From there, you will get your service. There is also the Emergency, Chronic Illnesses and Critical Illnesses Fund.

Today in the morning, members from my community in Endebess appeared before the Bipartisan Committee headed by the Leader of the Majority Party and Leader of the Minority Party in the Bomas of Kenya to present that Mount Elgon be made County No.50. Unfortunately, when they were going back, they were involved in an accident. I thank Moi Teaching and Referral Hospital for attending to them urgently. They were treated and some of them went home. Two people are still admitted there. When we have this Fund in place, such emergencies will always be taken care of.



We have people who are on renal dialysis. After they exhaust their money in the National Health Insurance Fund (NHIF), they often pay for enhancement. They will not pay for it now because there will be funds for critical care, chronic illnesses and emergency cases. We know our society is also made up of the elderly, including senior civil servants and former Members of Parliament. They will now access the Chronic Illness Fund. However, we have provided for you to negotiate with the NHIF on how you can have an enhancement. In the past, enhancement was prone to abuse where somebody paid, but the services he accessed were more than what he paid for. We must also cut that abuse.

I know there are worries about the transition of NHIF staff. We have agreed that within one year of transition, the Board will carry out an assessment. We do not want to create a vacuum. We will give the Board an opportunity to carry out an assessment of those working in NHIF to see who is competent and has the necessary skills to carry out several functions. Those ones will be retained. If there is a mismatch, as reported in the Consultant's Report which was commissioned by the World Bank... For example, if you are a geologist, what are you doing in NHIF? You should be taken to the Geology Department within the Public Service to offer your geology services. You cannot be serving in NHIF!

We want the Board to sit down and look at those who are competent to offer services. We have people in NHIF who are corrupt. Why should they still be there? We are talking of areas like procurement where somebody went to court to protect himself from being transferred. What business does such a person have in NHIF? We want to make sure that NHIF is able to offer services. Leader of the Majority Party quoted the Head of State. He said that *mambo ni matatu*. A person can either be moved to Public Service, retire voluntarily, or if one is competent, then we retain them. We want NHIF to also perform. *Haya mambo ni matatu ya Rais. Lazima tuyafuate*.

Hon. Deputy Speaker, the Social Health Insurance Fund will be presenting its budget to the National Assembly for approval. Once it is approved, it cannot be amended, unless through a supplementary paper that will still come to the House. This is to control abuse. In the past, NHIF would make a budget proposal and present it to the Board. Then, the Board would implement it but the process was prone to abuse. It will now be up to the National Assembly Departmental Committee on Health to approve that budget. Once it is approved, you can only make amendments through a supplementary budget. This is a complete shift from what it was before, where people sat and came up with proposals; with some of them costing billions of shillings. This is where we are talking about cartels. The Leader of the Majority Party said that there are cartels which think they can bring amendments to this Bill so as to continue doing what they have been doing. You have been warned that it will not happen. We will ensure that things are done in a proper and transparent manner.

**Hon. Junet Mohamed** (Suna East, ODM): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. Junet?

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Deputy Speaker, I do not doubt the competence of the Chairman of the Departmental Committee on Health, Hon. (Dr) Pukose.

Amendments in this House can only be brought by a Member of Parliament. There is no Member of Parliament here whose name is a cartel. If you think the people from NHIF want to bring amendments, they have no avenue to do it here. It is only a Member of Parliament who can do it. Every Member is entitled to bring an amendment to a Bill. It is his right constitutionally. I can see the Leader of the Majority Party is trying to tutor you. Every Member is entitled to propose an amendment as he wishes. Whether it will be carried or defeated is another issue. The amendment can be carried on the Floor of the House or it can be defeated. Do not gag Members. You are using very serious and intimidating words that nobody might even attempt to propose an amendment in this Bill. When did you transform from a serious medical practitioner to a serious threat and warmonger in this House?

*(Laughter)*

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Let me allow Hon. (Dr) Pukose to respond and then you can raise your point of order.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Junet. I have consulted with the Leader of the Majority Party. It is about 'sponsoring of amendments.' I am not talking of this or that side of the House. This House is alive to and is aware of the fact of cartels out there which are sponsoring amendments through Members, with a view to continue their corrupt practices at the NHIF.

**Hon. Deputy Speaker:** Thank you, Hon. (Dr) Pukose. You have clarified the matter. Leader of the Majority Party, do you still have a point of order?

*(Hon. Kimani Ichung'wah spoke off the record)*

He has answered you. Proceed, Hon. (Dr) Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Deputy Speaker. I also want to thank Hon. Junet for being alert. I hope he will also be alert to the amendments sponsored by cartels. We want to streamline NHIF to be a transparent fund that offers services to our people. A sick Kenyan in Migori and another in Endebess deserve quality, affordable and efficient healthcare services.

With those few remarks, I second.

*(Question proposed)*

**Hon. Deputy Speaker:** The Member for Nyeri Town, Hon. Maina Mathenge.

**Hon. Duncan Mathenge** (Nyeri Town, UDA): Thank you, Hon. Deputy Speaker. I stand to support this Bill. I am a Member of the Departmental Committee on Health and today is the greatest day for me as an elected Member of Parliament. Before coming to this House, I had proposed amendments to the existing NHIF Act to cushion Kenyans against the costly and out-of-pocket expenditures that have led very many families to financial catastrophe and ruin.

This Bill helps us as a House to realise the constitutional right to health for Kenyans. It helps us move a step closer towards the realisation of the Abuja Declaration, 2001 on health financing. It also helps us move closer towards the realisation of Sustainable Development Goal 3 (SDG 3) on health. Therefore, this is not just a phenomenal moment for this House; it is a momentous occasion for every Kenyan and every Member of Parliament who cares about the welfare of the people who elected us.

This Bill guarantees every Kenyan, at every level, to access health services without worrying whether they can afford it or not. It allows all Kenyans, whether earning a living or not, in prison or not, or people living in Kenya who are not Kenyans, to access medical care here. This Bill puts into perspective the dream of every Kenyan child in terms of infant and child mortality by assuring the survival of every mother and child. It also assures the right of every Kenyan to sexual and reproductive health and access to medical treatment in case of an accident, either by road or any other form of accident.

Therefore, I urge all Kenyans to call upon their Members of Parliament to stand with them in supporting this Bill during the Committee of the whole House. Kenyans must also be vigilant. As it has been claimed here, we are aware that some amendments are being sponsored by the same people who have always exploited and benefited from the sick people in our country. I pray that when we get to the Committee of the whole House, every Member of

Parliament will forget the possibility of making an extra buck by bringing an amendment that is not in the interest of the ordinary Kenyan citizen. In my view, this Bill will be a measure of our patriotism as legislators.

This Bill will help the Kenya Kwanza Government to deliver on its promise of Universal Health Care (UHC). The issue of UHC cuts across both the Kenya Kwanza Coalition and the Azimio la Umoja One Alliance during the campaigns. In this instance, we legislators must forget our political persuasions and stand with the ordinary Kenyans.

Lastly, healthcare for those who are of low means has been sustained through fundraisers in this country. In a week, every Member of Parliament has to participate in between five and 10 fundraisers. This includes fundraisers for people who just happen to have seen you on television and know that you are a legislator. Kenyans have cried for long. It is time we legislators heeded and sort out the cries of Kenyans for a better healthcare system.

I thank you, Hon. Deputy Speaker. I support.

**Hon. Deputy Speaker:** The Deputy Leader of the Majority Party, Hon. Owen Baya.

**Hon. Owen Baya (Kilifi North, UDA):** Thank you, Hon. Deputy Speaker. First, I want to thank the Committee for doing a great job and the Kenya Kwanza Government for implementing its Manifesto under the Bottom-up Economic Transformation Agenda (BETA).

Healthcare is one of the greatest headaches in this country. Families become bankrupt because they are forced to sell all their assets to take care of the sick amongst them. For a long time, we have had an animal called NHIF. Kenyans have put in a lot of money in NHIF with the hope that it will help them sort out their medical bills. That they will not have to sell their assets or have their kin detained in hospitals. However, the NHIF has let this country down! It is about time we reformed the NHIF to ensure that we have Universal Health Coverage that will take care of everyone.

Hon. Deputy Speaker, you, I and many other big organisations have medical schemes that take care of us. However, many Kenyans do not enjoy the same in terms of their medical needs. Those Kenyans look up to the Government for healthcare services. The Kenya Kwanza Government says that something can be done about the healthcare insurance system by reforming NHIF and making it more efficient. This is by taking care of chronic diseases like cancer. The Social Health Bill 2023 is the panacea to medical bills.

I take cognisance of some interesting things that are coming up. One, the Digital Health Bill is linked to this Social Health Insurance Bill. Two, apart from treatments, patients can transfer data to other facilities to get better treatment without them travelling. We will have the opportunity to use the much-talked-about telemedicine. This has not happened before because we do not have the requisite law. We are now putting this in place to ensure that telemedicine and sharing of information become a reality.

Hon. Deputy Speaker, it is also important to note that health insurance coverage in this country is very low, which puts its effectiveness and efficiency in doubt. With this new scheme that the Government will roll when we pass this Bill, we will ensure that we have more and more people that can join. If you have an organisation that is efficient and effective, Kenyans will have the confidence to pay when asked for money for a service or tax. The problem that we have is accountability on the tax collected. I believe in a tax system that is just and accountable. If you receive that money, you are supposed to be accountable to citizens by ensuring that you provide them with services. As we reform the NHIF, it is also important to speak to the county governments which are the providers of this service. What are they doing to ensure that we have well-stocked hospitals? What are they doing to make sure that there are doctors who ensure that we have an accountable system in place and that NHIF pays for what a patient requires?

The principle objective of this Bill is to put in place a legislative framework to regulate the provision of social health insurance, promote an implementation of universal health

coverage and ensure that all Kenyans have access to affordable, comprehensive and quality health services. As we do all these things, it is very important to end corruption in hospitals so that our citizens can get quality health care services. Corruption has even led to the dismissal of a managing director at the NHIF. Corruption has riddled NHIF for many years now. How do we ensure that we reform the NHIF? We cannot just pass a law here and say we have reformed the NHIF. We need to go into that organisation and dismantle whatever is there and assemble a new organisation that will take care of the health of Kenyans.

I want to inform the House that there has been a lot of lobbying from people who work for the NHIF. They have a problem with the clauses at the end of the Bill on transition provisions concerning the NHIF staff. They have even lobbied me and said: “We want to be automatically absorbed”. This brings forth the question: How do you reform an organisation by taking everything out and changing the name? By doing that, can you say that you have reformed? The Human Resource Department at NHIF needs to rethink. Have they been providing quality services to Kenyans? Have they been truthful to the call to ensure that Kenyans have a universal health care system that works? This is the time to separate the chaff from the maize and say that the bad eggs within NHIF cannot join the new organisation. I support that. I also want to see fairness in ensuring that Kenyans that have done well continue to do well; those that have not done very well should pave way for others so that we have an organisation that will ensure universal healthcare is achieved.

Hon. Deputy Speaker, two things matter to me: Good education and health for our children. A healthy nation is a wealthy nation. This will ensure that this country moves forward. In developed countries like the United States of America, healthcare is always one of the key agenda during an election period. Every presidential candidate will give his own idea of how he or she will provide good healthcare. Kenya Kwanza used the idea of a good healthcare system to ensure that we win the votes. The people that Hon. Junet described as “a certain animal” never gave a good and credible proposal on healthcare, but Kenya Kwanza did. This is the time to implement what we campaigned on. We will do this within our time. We will do it not just in time, but in this particular Session of Parliament. We must bring these refreshing and revolutionary ideas into the healthcare system of this country.

**Hon. Deputy Speaker:** Thank you, Hon. Members. I know we have not asked for a reduction of time on this debate but, because there is a lot of interest, I want to humbly ask if we can each speak briefly so that the other Members can participate.

Hon. Junet Mohammed.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Deputy Speaker, thank you for according me this opportunity. It is said that when the only tool you have is a hammer, you think the only problem that exists is a nail. The problem in this country, and it has existed not only in this regime but in previous regimes since Independence, is that we think every problem that confronts the country requires legislation. We keep on legislating, which is good for us as Parliamentarians because it keeps us busy. We do our work, but does legislation address the issues that we are facing as a country? The issues Kenyans are facing today are majorly administrative in nature. Kenyans are suffering. The health care system is a problem and has been so for many years. People are going out of the country to seek healthcare. The elephant in the room in the healthcare system, especially in relation to the existing institutions like NHIF, is corruption. If that is sorted out, then every Kenyan will get quality service from the healthcare providers.

I am not opposed to this Bill at all but, as a House, we must share issues that are of concern to us in terms of what we are doing. We want to transform the NHIF into a social health insurance. That is a good and noble act. Unless we fight corruption in the health sector head on, we will not get any value for the public money. The medical equipment and other supplies that were delivered to counties in the last regime have become obsolete. Some of the

counties will not tell you whether or not they benefitted from the equipment. They were just vendor-driven. The Leader of the Majority Party can bear me witness that, that model has not worked completely.

The first clause should be that corruption is punishable by death in the health sector. If there was a clause like that, then the health care providers would do the right thing. The NHIF model was borrowed from the National Health Service (NHS) of the United Kingdom (UK). If you go there, you will realise that they still have problems with their system. However, corruption is not one of those problems. The quality of medication a poor person gets is the same as the one a rich man gets. It is all because of NHS. The NHIF was supposed to be a model of the NHS. Until we bite the bullet and deal with the cartels and the corruption in the health sector, even if we bring ten or fifteen Acts of Parliament, nothing will change. I can promise you.

There are very good things that have been proposed in this Bill, for example, the Critical Illness Fund, which is very important. Many Kenyans are suffering. There are people who have cancer or diabetes and are not getting the right attention from health care providers. The Fund will help many people. However, in my view, let us also not condemn the whole institution of NHIF. It has also done some good work. Let us sieve the chaff from the wheat.

In this Bill, I expected a transition clause that says that when the new institution is created, people who are working in NHIF will no longer be in service, but should be given priority according to their qualifications and competence. Instead of employing 6,000 or 10,000 people... Where will you take all those existing staff? They are also Kenyans. Some of them are competent and diligent. They have worked very well in serving the institution and the country. We should have a transition clause that provides that priority will be given to those people who are working at NHIF and who have a good track record and have done a good job. We should consider people who have dignity and have no corruption cases. Everyone's file is there and it can be perused.

The other thing I do not agree with in this Bill is that it proposes that the new institution will outsource claims management to five or so private companies. What will be the work of this institution, if it cannot process the claims? The biggest predicament and problem is corruption in the form of claim processing. Hospitals were getting money that they do not deserve. Now you want to outsource from CIC Insurance Group, Britam Holding PLC and other insurance companies. What is the work of the Board? What is the work of the NHIF? It is not NHIF now. What is the work of the new institution we are creating? Why can we not let the NHIF do it? Those ambiguities must be addressed in this Bill if we are to achieve anything. Nobody on the Floor of this House can oppose any proposal to make the healthcare of Kenyans better. All of us have a duty and are bound to support. You do not know when you will become sick. You might be feeling well today and yet, be the next victim. Only God knows how long you will be healthy. We are duty bound to support any proposal to improve things.

*(Hon. Kimani Ichung'wah spoke off the record)*

Hon. Ichung'wah, stop sending other Members to me. Just stand up and face me if you have issues, please. I am here *bwana*. Face me. Do not send others.

*(Laughter)*

**Hon. Cynthia Muge** (Nandi County, UDA): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. Muge? Let us allow Hon. Muge to raise her point of order. Hon. Junet, you address people through the Speaker. What is your point of order, Hon. Muge?

**Hon. Cynthia Muge** (Nandi County, UDA): Thank you, Hon. Deputy Speaker. I am listening to Hon. Junet and it seems like he has not read the Committee Report. There is a Bill that has gone through the process in the Committee. In fact, the Committee has made amendments on most of the issues he is touching on. The amendments are well stipulated in the Report. I encourage the Hon. Member to go through the Report. It is not only the Leader of the Majority Party who has the monopoly of knowledge to raise points of order and what not. Every Member has the capacity to do so. We should all be encouraged to read.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** There are too many points of order. What is your point of order, Prof. Oundo?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): My point of order, Hon. Deputy Speaker, is that what is being debated here is the Bill; not the Committee Report. We need to take time to educate these new Members on the process. It is the Bill and not the Committee Report.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Members, I think you stand guided that it is the Bill that is being debated. Leader of the Majority Party, what is your point of order? I think there was another one. Let us get to the Leader of the Majority Party first.

*(Hon. Junet Mohamed spoke off the record)*

You have already completed your time.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Deputy Speaker, it is actually Hon. Junet who invited me by saying that I am tutoring Hon. Cynthia Muge. Whereas I have no problem tutoring Hon. Cynthia because she is a very diligent legislator, she was mentioning exactly what she has said. It is true we are debating this Bill. However, we are debating it after a Committee of this House has considered the Bill and tabled a Report that informs part of the issues the Committee seeks to amend.

Therefore, when speaking to a Bill, it is always good to refer to the Committee Report. They have taken almost two weeks looking at the Bill and proposed amendments. Therefore, we may also be speaking to things that will no longer be part of the Bill. What I took issue with is Hon. Junet actually belittling Hon. Cynthia Muge that she has to be tutored. Knowing she is a very diligent Member from Nandi County where my ancestors hail from, Hon. Junet must, indeed, apologise to Hon. Cynthia Muge. She is a very diligent legislator. Hon. Junet, you must agree with me on that one.

**Hon. Deputy Speaker:** She is with a lot of experience right from the county assembly where she excelled and was distinguished. Hon. Makali Mulu. I will get to you, Hon. Junet.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you very much, Hon. Deputy Speaker.

What I wanted to say is something I have said in this House many times. It relates to what Hon. Ichung'wah has said. This House started business at 2.30 p.m. this afternoon. The Report we are discussing and the other one on digital health, which we are expected to have read, were tabled together after 2.30 p.m. If we want to be fair to Members so that they do not debate the Bill as it is, let us allow Members time to read these reports. Otherwise, we will have misinformation. This is a Report of a Committee that has sat for two weeks.

Hon. Ichung'wah, why have you changed after sitting on that seat?

*(Laughter)*

We have known you for too long that you have always been a sober person. Anyway, let me stop there. He is my friend.

**Hon. Deputy Speaker:** Hon. Junet, I think you have like a minute left.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Deputy Speaker, I want to confirm that Hon. Ichung'wah is sober. I know he does not drink. That bit I know.

Let me first say that the proposal in the Committee Report is not final. It is a proposal. I can agree with you and disagree with the Committee. As a Committee, you are just proposing amendments to certain clauses. I can oppose your proposals. It does not mean that the Report of the Committee is final. *Mheshimiwa* Muge, that is the situation in this Parliament. I do not know how it was in the county assembly. Here, I can disagree with the Report of the Committee. Anyway, I apologise for saying that *Mheshimiwa* Ichung'wah was misleading you.

*(Laughter)*

In conclusion, we must address those issues of concern to the people and the House, if we are to carry this Bill as it is. I am happy the Chairman of the Committee has come back. As I said, the elephant in the room is corruption. Let us come up with a way to deal with it in the health sector. Chairman, how do you want to outsource claim management? How? What is the work of those institutions?

**Hon. Deputy Speaker:** Hon. Junet, you are repeating yourself.

**Hon. Junet Mohamed** (Suna East, ODM): With those many remarks, we are going to bring amendments to address those issues. We will make sure those amendments are carried because they are good for the country. I support the Bill. Thank you very much.

**Hon. Deputy Speaker:** Thank you. Hon. Members, just in the interest of allowing other Members to speak, let us keep our comments as short as possible and try not to repeat yourselves. I think we will have the Hon. Member for Mathare, Anthony Oluoch. He will be followed by Hon. David Ochieng'.

**Hon. Anthony Oluoch** (Mathare, ODM): Thank you, Hon. Deputy Speaker. Let me begin from a point Hon. Ichung'wah mentioned when he was moving. I agree with him entirely. I think he said one is a candidate of condemnation to death if one has the misfortune of being committed to any institution in our country, be it the cells or prisons. I say this against the context of Article 43(2)(a) of the Constitution. It clearly states: "Every person is entitled to emergency healthcare and shall not be denied emergency assistance". If you look at Articles 28 and 29 of the Constitution, they buttress this point by saying that: "Every person has an inherent dignity and the right to that dignity respected and protected". Article 29 concludes by saying: "Every person has a right not to be treated to cruel, inhumane, and degrading treatment". Any person who is predisposed to certain conditions - high blood pressure, diabetes or asthma - is such a person who is predisposed to emergency care and must be treated as such. Even as we seek to pass this Bill, I would support very strongly if there are provisions that extend those emergency treatments and social insurance to persons who are in our prisons and cells. They are entitled to their rights, notwithstanding the limitations of their confinement.

Hon. Deputy Speaker, I say this from experience. When I was recently arrested for reasons I will not say here... It was a public arrest and I was held incommunicado for 19 hours.

*(The Deputy Speaker (Hon. Gladys Boss) left the Chair)*

*[The Temporary Speaker (Hon. Martha Wangari) took the Chair]*

Hon. Temporary Speaker, you will be horrified to note that in spite of being a Member of Parliament, I was denied emergency medical treatment for 19 hours! What would happen to

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

ordinary citizens? If this Bill is going to address the question of emergency medical treatment, especially in light of this new regime of health insurance that is being proposed would be extended to persons not withstanding their confinement, then it is a good thing. One of the things I have noticed is what we have just debated and concluded, that is, the Digital Health Bill. We are now debating the Social Insurance Bill, but both seem not to remember that in primary health, there is a category of people or medical practitioners called the traditional health practitioners. I hope that the Chair is listening to me. Those are the first point of call to many Kenyans at the local level. They are the first point of call before they can get access to dispensaries, Level 1, Level II or to whatever level of treatment. So, when you talk about a new dispensation, how do you digitise without bringing into bracket traditional health practitioners? If we are going to comprehensively deal with the question of universal comprehensive health, we cannot do it outside the context of traditional health. I am saying this also against the context of the question of research because we have extended the issues of research as part of what we want to do in terms of Universal Health Care.

When we talk about research, we have lost a lot of innovation in traditional health and I will just mention an example. Prof. Arthur Obel. What he invented would have sorted the issue of HIV/AIDS. This was dismissed because traditional health is equated to *uganga* (magic) and yet, we know that it is not true. Traditional health is an alternative and we must bring this equation into the problem of solving the universal health issues against the context of this new Bill. As we discuss this Bill, we must also remember that health is a devolved function. As we put this new institution in place, the Authority being proposed and the Exchequer and the resources that will follow it... We must remember that this regime promised that it will devolve all the functions. Now, devolving all the functions includes devolving all the resources that go with it. This is so that the national Government should only remain with the question of policy and creation of an enabling environment to ensure that we have a social universal healthcare system.

We have a regime or a situation in which we throw taxation at every problem. I am sure with this new Authority or Board that is being created, Kenyans must brace themselves for more taxes. As we put in more taxes in order to ensure that there is social comprehensive health for every Kenyan, we must remember the question of equity and equalisation which is entrenched in our foundational principles under Article 10 of the Constitution. This is so that we do not have all Kenyans contributing towards tax but, when it comes to benefits of taxation and realising the benefits of infrastructure that comes with it, it is only certain parts of this country that benefit. Let the Social Welfare Insurance be something that can benefit somebody from Turkana as it benefits somebody in Mathare or Ndhiwa constituencies.

I want to conclude by agreeing that with regard to issues of governance, there is an attempt to address them in this Bill. However, if the attempt is merely to replace certain level of cartels so that we create other monopolies and other duopolies, then that fight against corruption will be a zero-sum game and will not amount to anything.

I thank you Hon. Temporary Speaker and support this Bill with reservations.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Member for Ugenya.

**Hon. David Ochieng'** (Ugenya, MDG): Thank you very much. The main intention of this Bill is to repeal the Act and create a new system of governing and managing the provisions of social health in the country.

I start by saying that I support this Bill in its current form with amendments that will be provided going forward. I believe this Bill should have started at Clause 4.

*(Loud consultations)*

Hon. Temporary Speaker protect me because I cannot hear myself. If you may, please.

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*



**The Temporary Speaker** (Hon. Martha Wangari): Hon. Members, please, lower your consultations.

**Hon. David Ochieng** (Ugenya, MDG): Thank you, Hon. Temporary Speaker. I would have imagined that if you wanted a more serious surgery in this sector, the first Clause after Clause 3 would have been a declaration that no public servant would seek medical services from the private sector. I would have wanted a provision that says this Parliament shall not approve a budget of any institution, Judiciary, Executive or Parliament that would take private insurance, and then tell Kenyans to provide social health. However, if you still allow, we parliamentarians have our own medical scheme. Officers in the Judiciary have their own medical scheme too. So, we are still throwing most of the Kenyans under the bus. I imagine if we want to do a thorough job, we should carry all Kenyans in this basket. That way, we will be sure of seriousness in sorting out this issue.

This Bill, in its current form, I agree with what it provides for but there must be a provision and concerted effort to ensure that facilities in the dispensaries, health centres, Level 3 and Level 4 hospitals are provided with basic standardised equipment and personnel. That way, we can talk of moving towards achieving social health. However, merely renaming it and channelling the funds into what you are now calling primary, emergency and chronic will not help much. We will need to move amendments to this Bill to ensure it deals with very important issues, for example, quality of medical services, so that people can get services wherever they are. Where I come from in Ugenya, people travel 40 to 50 kilometres to get X-Ray services. Out of about 40 dispensaries in my county, only three or four have laboratories. The facilities do not even have a microscope for testing malaria. So, if our health facilities are not at a level where they can provide quality services, we will not go anywhere.

The cost of provision of quality services in this country is terrible. Today you will go to Kenyatta National Hospital and do an X-Ray. But when you visit another doctor with the same X-Ray, you will be told that you have to do another one on the same issue. The same applies to MRI. If, say, you do one at Nairobi Hospital, if you go to Kenyatta National Hospital with the results, you will be told to do another one on the same issue. We will not sort out corruption in this sector, if we do not get our hands into those kinds of malpractices. It is now almost a cliché that every public hospital has a pharmacy along the road that is run by either the head of that public service, a doctor in that public service hospital or something of the sort. That is why most public hospitals do not have medicine.

Hon. Temporary Speaker, I agree with what is being proposed, but we should get to the crux of the matter, which is adequacy. There are dispensaries and health centres that saw their last doctor four months ago. The doctor comes once a week and the hospital is run by a nurse. The Bill has not handled those issues. If we do not deal with the management of the NHIF in the right way, it will just be a situation of same monkeys, but different forests. I hope that the Kenya Kwanza Government will not end up in the same situation that we have seen before, where you re-organise a system to bring in your people. Let us not do that. Let us make honest, genuine and effective changes to our social health system, so that we can be proud of what we are doing.

I agree with Hon. Junet and all those who have asked why we want to outsource an authority to manage our funds. We are even putting that in the Bill. Why do we want to put it in law that we will give work to some private medical providers? We are not creating work for the private sector. The NHS in the UK, which we are borrowing from, is completely and entirely managed by the Government. There are no intermediaries. I thought that I would see provisions for the establishment of the authority. We have just concluded the Second Reading of the Digital Health Bill. Of the monies paid for health provision, 40 per cent goes to the management of health records. I thought that with the kind of changes that we are making, the cost of provision of services would go down to ensure that we are doing the right thing.

I was very happy yesterday when I saw the President launching the Health Promotion Framework. That is the way to go. Most of our monies go into treating ailments that could have been prevented much earlier. I request Members of Parliament, the Ministry of Health and county governments to invest more in prevention of diseases and promotion of health. That is the way to go. People in our villages die from simple ailments that could be dealt with through civic education on lifestyle and how to deal with basic healthcare.

I have been looking at the issue of transitioning the NHIF. We cannot declare the workers guilty. No one has charged them, put them under any microscope, and said that they are not fit. We cannot leave their fate to a new Board that will come in tomorrow, and which has instructions to clean up the Fund. What are they cleaning? No one has been judged to be corrupt or bankrupt. No one has been charged with malfeasance. We must give them a fair hearing before we ask them to leave.

We must also start reducing the wage bill by reducing the sizes of the boards that we set up. This Board has 11 members. Why do we need 11 members? We just need four or five members for quorum. Why do we need to disaggregate and apportion positions by stating that the Central Organisation of Trade Unions-Kenya (COTU) and the Kenya Medical Association (KMA) will be on the Board? Why should they be on the Board? I will also want Parliament and the LSK to be on that Board. Why not have lean boards that can do the work in the bodies that we will create going forward? When we have bigger boards, politics come in and we are unable to move. I request the Leader of the Majority Party to only propose five members for the Board. If the Principal Secretary for Health is on the Board, why do we need the Director-General for Health? Why do we need the Attorney-General on this Board? The Attorney-General always provides legal services to all Government institutions. If we were to come up with provisions to reduce the size of the Board, I would be very happy.

Finally, we have given the Cabinet Secretary a lot of powers in this Bill. Almost every clause talks about the Cabinet Secretary doing this or that. The Cabinet Secretary cannot tell us the benefits that we will get from an insurance scheme that we are paying for. Parliament should set up the benefits that we will get. Kenyans should know early enough that if they are paying, this is what they will get. We cannot leave regulations that have very far-reaching implications to the Cabinet Secretary. Going forward, we will come up with proposals to make the Bill all-encompassing with serious surgical provisions that will make healthcare as good as it can be.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you. Deputy Whip of the Majority Party.

**Hon. Naomi Waqo** (Marsabit County, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to add my voice to this very important Social Health Insurance Bill. I have been looking forward to this opportunity because I know how important this Bill is. Kenyans have been facing challenges in terms of healthcare facilities and management of the NHIF. Kenyans have suffered in different ways because of lack of accountability and many other things. Through the Bill, we will transform the health sector and promote the implementation of Universal Healthcare in every part of the country. We will also ensure that all Kenyans receive equal opportunities in terms of service delivery. I appreciate the work of the Departmental Committee on Health in coming up with this Bill. The Bill clearly indicates what it will do to serve Kenyans.

Part II of the Bill establishes the Social Health Authority. This Authority will be a body corporate with perpetual succession and common seal and shall, in its corporate name, be capable of various things. If we take all those factors into consideration, we will transform our country. One of the factors that has helped me to accept this Bill is that the Authority will manage, control and administer its assets in such a manner and for such purpose as best promotes the objects for which the Authority is established. In Kenya, we have many policies

which we, unfortunately, do not follow. We have many laws and regulations in place, but we suffer as a country because we do not follow them. That is why we have a big problem to this day. If we enact this law, there will be hope for our country.

The Authority will also invest the funds that are not immediately required for its purposes in the manner provided in this Act under Section 38. In the past, people have saved a lot under the National Social Security Fund (NSSF). Accounting for that money has been a problem. If we put proper measures in place to ensure that those monies are saved and that they benefit everyone, we would have achieved a lot as a country. If the story remains the same where Kenyans pay but the money is mismanaged and it cannot even be traced, we will not achieve our goals. I believe that we will achieve this under the Kenya Kwanza Government because we have committed Members. Together with that, we should have qualified personnel placed in their relevant fields. This way, we will be able to control everything.

Part III of the Bill provides for a Primary Healthcare Fund whose object shall be purchase of primary health care services for health facilities. Hon Temporary Speaker, today, if you go to hospitals and dispensaries, you will find that people do not get anything from them. They are referred to private hospitals or pharmacies to buy Panadol or other medicines. This happens in all health centres and dispensaries in this country. Most times, we concentrate on big towns, cities and where we have financial muscles. If we ensure the Primary Healthcare Fund is made available in every part of this country, then we will touch everybody's life even at the grassroots level. Therefore, this Bill, if passed by the National Assembly or assented to by the President, will transform peoples' lives.

Part V of the Bill provides for the establishment of the Emergency, Chronic and Critical Illnesses Fund. In the recent past, many Kenyans have been traveling to different parts of the world, especially India. The traffic is so huge and as Members have said, we mostly collect funds through WhatsApp groups and fundraising in the villages. This has really exhausted most of us. Sometimes, you feel embarrassed when a neighbour or family member is sick and needs medical attention, but you cannot assist. Even Members or opinion leaders are forced to keep borrowing money to be socially relevant in their villages.

The Emergency, Chronic and Critical Illnesses Fund will help Kenyans in every part of this country who are suffering from chronic illnesses. Today, many people have blood pressure or diabetes due to the frustrations and problems they are facing. The young and the old alike have been diagnosed with cancer and other illnesses that need a lot of money for treatment. This Fund will be a big relief to everybody in this country, especially caregivers and those who are already affected by different illnesses.

Hon. Temporary Speaker, I support this Bill and it is my prayer that it will be implemented soon. As I finish, I want to touch on Part VIII of this Bill on the Dispute Resolution Committee. Clause 44(1) states:

“(1) A person aggrieved by a decision made under this Act may, within one month from the date of the decision, appeal to the Dispute Resolution Committee for a review of such decision.”

This means that people with disputes or who are aggrieved will have a chance to bring forth their complaints and be catered for by that committee. This assures us that things will be different. I also want to state that those of us already in employment should note that Kenyans are suffering economically. So, all the qualified staff working in this area should be retained and those who are due for promotion should be promoted.

Thank you, Hon. Temporary Speaker, I support.

**The Temporary Speaker** (Hon. Martha Wangari): Next is the Deputy Speaker.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Thank you very much, Hon. Temporary Speaker, for giving me an opportunity to lend my voice to this extremely important

transformational Bill. I think today is an important day in the history of Kenya. It is 13 years since we promulgated the Constitution, 2010, which provides under Article 43(1)(a) that:

“(1) Every person has the right-

(a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care”.

The Social Health Insurance Fund that has been established will be publicly funded. The difference is that this Fund will not only cover those who are employed or are under a payroll as was designed by the soon to be repealed National Hospital Insurance Fund (NHIF), but also those in informal employment. Formerly, the only people who could access the highest attainable possible healthcare were those in formal employment. We know that only 4.7 million Kenyans are in formal employment while 16 million are in informal employment. Since it is publicly funded, it will give us the opportunity to save ourselves from the predatory nature of private insurance.

Private insurance today will do anything not to pay an invoice that has been provided. They will do anything to claim that you had a pre-existing condition. I have had a personal experience where an insurance company said that the patient I had taken to the hospital had a pre-existing condition even though it was diagnosed for the very first time in that particular hospital. They got away with it. Also, from my own experience, private insurance companies are also rejected by most top hospitals and doctors in this country. Most doctors will tell you that they will fill a thousand papers; spend time filling out forms and doing paperwork and send to a private insurance company which will take three months to pay. Anybody can testify to that.

Very recently, I was at a hospital along Parklands Road where I took my patient. The hospital said that they accept National Health Insurance Fund (NHIF), but not private insurance. They refused to accept Jubilee Insurance even though the person had a comprehensive cover. They said that insurance takes too long to pay them and yet, private insurance companies demand upfront payment of premiums. So, they will receive the money in advance but delay as much as possible to pay others. It is our hope as Kenyans that a publicly funded and financed health insurance will save us from this mess.

Looking at the current structure as set out in this Bill, this Authority has taken many lessons from the failures of NHIF. We know that for a long time, many private hospitals benefited more from NHIF than public hospitals. In the last few years, we know of hospitals that were ranked as the highest single beneficiaries of NHIF payments and yet, they did not have the highest number of patients. It is mind-boggling that private hospitals that are only operating in two towns in Kenya were receiving NHIF payments ahead of Kenyatta National Hospital (KNH) and Moi Teaching and Referral Hospital (MTRH). We hope that with this new management and design, those processes will be a thing of the past.

I know Hon. Junet has raised the fact that legislation is not everything. I must tell Hon. Junet that the only way to implement Article 43 of our Constitution is by legislating because implementation is done through legislation. You cannot begin to implement a Social Health Insurance Fund without having legislation. I know he talked about National Health Scheme (NHS), but you cannot compare NHS with what we had as NHIF. NHS covers every single person whether employed or not, yet NHIF only covers those who are employed. We hope that with the National Health Insurance Authority, it will cover everyone regardless of whether they are in formal employment or not. That is what has been set out in this Bill.

Many Members, including Hon. Ochieng', have raised the issue saying that it is about time the public service passed that money to this public insurance instead of paying for private insurance so that we can pull resources to cover those who are unable. I was happy when I spoke to the Chairperson of the Departmental Committee on Health, Hon. Pukose. He explained to me that previously under NHIF, it had been introduced that there would be

enhanced covers that people could pay for. This would cover us. The private insurance would cover us too, but at some point, it was abused. Under this new Bill, there is a different methodology where institutions can approach the insurance fund, authority and the board...

**Hon. Justice Kemei** (Sigowet/Soin, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Order, Deputy Speaker. Hon. Justice, what is out of order?

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Thank you, Hon. Temporary Speaker. I would not have wanted to interrupt when the Deputy Speaker is speaking, but having listened carefully to the Bill, I would have also wanted to raise issues on primary health, corruption...

**The Temporary Speaker** (Hon. Martha Wangari): If you are moving a Motion, move and mention the Standing Order.

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Under Standing Order 95, would I be in order to ask that the Leader of the Majority Party to be called upon to...

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Member, the Mover of the Bill is not in the House. The Deputy Speaker, continue.

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Okay. Thank you, Hon. Temporary Speaker.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Thank you, Hon. Temporary Speaker. This is a very important Bill. Every single Member who is here would like to lend their voice to this Bill; reason being all of them have been fundraising for health care for their constituents every single day during their tenure and they continue to do so. In fact, this weekend, they shall continue to do so. I am happy that in this Bill, there is provision for institutions such as Parliament and the Judiciary to engage the Board of the Authority to apply for enhanced covers which can be in lieu of private insurance. Imagine if Parliament, the Ksh200 million or so that they spend on getting insurance for Members, can now pull that to help other Kenyans and to also get similar benefits that they were getting.

Hon. Members, I plead with all of you to support this Bill. That is why I am responding to some of the issues that were raised. I know a Member raised the issue where the Authority may have a discretion to outsource the processing of claims. That is not very far-fetched. We realise that if we get the statistics, almost 60 per cent of the monies collected by NHIF has been going to administration and human resources, instead of paying for health care for various Members.

This Bill is very welcome and I thank the Committee for the immense effort that it has put in. I know that in the past six years that I have been the Member for Uasin Gishu, I have been holding free medical camps and bringing in doctors from overseas. I hope that we will now be able to afford this and not have to ask for charity. Our people should be treated at the comfort of their homes. They should also afford the best care and the best doctors they can possibly get.

With that, I fully support this Bill. Thank you very much, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): We will now have the Member for Butula, Hon. Joseph Oyula.

**Hon. Maero Oyula** (Butula, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this very important Bill. Health matters in this country have been very painful. This Bill is timely and will help the ordinary *mwananchi* to get proper treatment. The Authority should be able to control the Fund properly. There has been a lot of corruption in NHIF. I believe that this new Fund will control any looting of public funds.

Another good development is the creation of a claims section, which has been the worst area. The claims that were done in the past prioritised private hospitals. Public hospitals lined up for payment after private hospitals had been funded. That clearly showed that there was

collusion between NHIF and staff of private hospitals to the point that many people constructed hospitals with the aim of getting a lot of funding from NHIF. I hope that, with this new Bill, that practice will be curtailed.

I also want to talk about the regulations. I hope and pray that proper regulations are put in place by the Cabinet Secretary and be passed through the Departmental Committee on Health. The regulations should be seen to control the movement of funds from NHIF to hospitals. They should also cover staff matters. It is important that all claims that leave the Fund are properly verified. We have had difficulty getting a patient registered or included in the list of contributors, but with this, I am sure that every citizen of this country will have an opportunity to register and be attended to in any public hospital. I would expect that we contribute more to this Fund and reduce reliance on private insurance companies as much as possible. This will ensure adequate funds to cover Kenyans so that we do not send a lot of them out of the country.

Hon. Temporary Speaker, the other problem that I see us solving is reducing the funding to private hospitals, which is heavier than that of public hospitals. So, if this can be controlled, I am sure that the funds will be utilised and will be invested as indicated in the Bill. The funds will be invested in very safe companies.

I support this Bill and congratulate the Committee that has come up with this idea. It is timely. I urge this House to support.

**The Temporary Speaker** (Hon. Martha Wangari): Member for Kwanza.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Speaker, thank you very much for giving me the opportunity. At the very outset, I support this Bill. I hope that we had supported this Bill like yesterday - not even today - so that it can replace the NHIF which, as you know, has been very difficult. I think most Members have mentioned the same thing and I quite agree with them that NHIF has not been doing very well.

However, somebody said that we are going to leave out the NHIF employees. That is not true. Once this is passed, I am sure the persons who are working in NHIF and have experience and are not corrupt will be absorbed by this particular agency that we have said is coming to replace NHIF. I think it is the right thing to do. I have just come from Kitale and I can tell you the last three days, it was nothing else but people coming and asking for assistance. When you tell them: 'You have a card, go to the hospital', they tell you that the card is not even accepted. We must do something about this.

I support this Bill because it will actually make our Kenyan people able to access the affordable insurance. Of course, the most important thing is that it is a transformation because we are now going to move forward. We cannot live in the past. We are now moving into a new Fund which will ensure that we do not rely more on the private insurance companies. The other thing is that it is affordable. From what I am seeing in the Bill and from the report by the Committee, it is affordable. As a Member of Parliament, you fundraise every other time for this and that. I am sure with the passage of this insurance company, there will be nothing like that. For example, we fundraise a lot of times when we are at home. I know some Members of Parliament do not even go home because of that kind of obligation that people have to do at home. There is a fundraising here and there and somebody is...

The other thing that I also want to agree with in this Bill is in Part IV. There is this Emergency, Chronic and Critical Health Fund. This will take care of people who, as mentioned here, need healthcare. Those are the people who have chronic diseases like cancer. This Emergency, Chronic and Critical Illness Agency will take care of people who are not able to access the other Fund that had problems.

Therefore, as we pass this Bill, let Members take time to encourage Kenyans to register as members. I am told that instead of them paying Ksh500, they will pay Ksh300 for the same. Hon. Members, once we pass this Bill, and I see the Chairman is here, let us encourage people

in our constituencies to register with this organisation that will be able to assist us in whatever we are going to do. Most people have talked about the Bill and I quite agree with all the contributions. We wholly support this Bill so that we can have a change that is better than what we have been having. Of course, I agree that those working at NHIF and are corrupt will not be absorbed by this agency.

With those few remarks, I thank the Departmental Committee on Health and the Chairman for coming up with this nice Bill.

Thank you.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you. Member for Seme.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you Hon. Temporary Speaker, for giving me this opportunity. This is a very well-intentioned Bill although it has some problems. Because of the work that has been done in the Committee, I support fully this Bill.

This is basically about health financing, with a history as far back as 1965. It has gone through many stages until now we are at the Universal Health Coverage (UHC), through the Ngilu Bill. Many of us do not realise that UHC came through the Ngilu Bill that was not signed, but was presented to the World Health Organisation (WHO). It is what motivated the concept of UHC. We are convinced that this Bill will result in a more effective replacement of the current NHIF. The difference between this Bill and the NHIF Act is that it has three Funds. The Social Health Insurance Fund is different from NHIF because everyone will be covered, with the indigents being paid for by the Government. There is even a provision that those who wish to pay but do not have funds can be supported with funds that they can pay back. Therefore, everybody will be supported.

We have proposed, through the Committee, that the Primary Healthcare Fund must also cover Level 1 hospitals. It was intended to cover Levels 2 and 3, but it must cover Level 1 hospitals as well. The Chronic and Critical Illness Fund and Primary Healthcare Fund are supported from the Exchequer. It is only the Social Health Insurance Fund that is supported through contributions. All these Funds will be managed by one Authority. This Bill will create an Authority which will manage all the three Funds. There will be need, and the Committee has said so in the Report, for things to be done very carefully. Otherwise, it may be difficult at the time of implementation.

This Bill also creates a process through which enhanced schemes, particularly in Government, where people pay extra for private insurance, can be managed by the Social Health Insurance Fund. This was a problem before, but now the Fund has been designed in such a way that we hope it will not be loss-making. This Bill creates a claims management office. Here is where the Committee has made a big difference. I have the advantage to know what the Committee did. In my view, I would have opposed this Bill if this area was not looked into. Health insurance is about claims. If anybody manages them, you have given the private sector the money. We will move an amendment to ensure that it does not happen. We cannot assume that our people are corrupt and that the ones in the private sector who will manage them are not. Let us deal with corrupt people and run our systems. So, I support the amendment.

The Bill also creates the Dispute Resolution Committee which we looked into. A Committee within the same Authority cannot resolve the dispute which it has. We have recommended to have a tribunal which has extra powers outside the Authority. That is something that will work. This Bill also creates the process of managing the budget in such a strict way. It will have to come to the National Assembly. That is very supportive of what we want to do.

We have also noticed that there is a lot of power that has been given to the Cabinet Secretary. It is good because it is an effort to keep a close watch on the Social Health Insurance. However, it can be abused. As a Committee, we have recommended that all this will be done in consultation with the Board. I support this amendment. However, there are three important

things that we must look into. Outsourcing insurance claims is out. In the transition, you cannot take all Kenyans and declare them jobless just because of a new Bill. We will go by what normally happens. Let those people be taken in. The new Board has the authority and can go ahead and weed out whom they do not want. However, you cannot say that on the day that this Bill will come into effect, all those people will be jobless.

Without outsourcing the claims, transition, insurance cover for Level 1 hospitals and how the Cabinet Secretary will operate, I support this Bill. It will take us a long way.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you, Hon. Members. We still have business under Order No.12. Even if time is not limited, if we speak for less time, more Members will contribute. Member for Nandi County.

**Hon. Cynthia Muge** (Nandi County, UDA): Hon. Temporary Speaker, thank you for giving me this opportunity to contribute to this Bill. I am a member of this Committee which has made me understand my role as a Member of Parliament. This is among the first Bills that we, as a Committee, were processing.

The reason a Bill has a process is to allow for weeding out unnecessary, misplaced or not so well thought out ideas. This is exactly what this Committee did. In its wisdom, it went through this Bill. As it was put by Hon. Junet Mohamed, the wisdom of the Members on the Floor of the House is supreme. That is what will have the final say. As a Committee and being Members of the House who represent different constituencies and counties, we have noted a few issues that are in this Bill. We have to do our bits in trying to see how we can remedy them.

We had submissions from many institutions and individuals. The enumeration can be 50. We all agreed that this Bill upholds the right to access affordable and comprehensive health services in this country. This is one of the most progressive Bills because we are progressing from the older NHIF. If you remember, NHIF was providing for outpatient services only. This Bill has gone ahead and provided inpatient services. When we are dealing with the current NHIF, we almost term it as an institution that only pays for students boarding expenses in the hospital or, maybe, I should say 'lodging expenses'. This Bill is very progressive. It has considered older persons. It has considered the indigent, vulnerable people, and those who are under lawful custody. People who are under lawful custody have a share in this Bill and they will be covered by the funds that are created. As it has been noted by several Members, this Bill has created the Critical, Chronic and Emergency Fund. People used to sell their land and most of them died out of depression, instead of diseases killing them. This Bill seeks to address that issue.

I have an issue with the Bill, especially on the transition clause. As you know, this is a House of politicians and representatives. The transition clause says that, as soon as the new authority comes into effect, all the other employees will be rendered jobless. That is an emotive issue that must be handled with care. As a Committee, we looked into that issue and spoke about retooling, assessment, and giving the employees of the National Health Insurance Fund (NHIF) time to see where they will fit, be it in the Public Service or wherever else so that we have uneventful transition process.

This Bill is going to put an end to exploitation. It is going to ensure that nobody dies out of depression for not paying for services. The Bill is important and significant to women. You know, every family depends on a woman. When someone is sick, be it a parent, a spouse or children, it is the woman who bears the brunt. This Bill will ensure that women have an easier time dealing with members of their families or community when they are ill. I support this Bill and I want to ask the House to support it. Members will have an opportunity to propose amendments with regard to what they are uncomfortable with in the Bill. I want to encourage everyone to do the same so that, at the end of the day, we have a comprehensive Bill that puts into consideration the voices and concerns of everyone and provides solutions.



Like it has been said by Hon. Members, passing this Bill is one process. The other process is implementation. In implementation, some nuts have to be tightened to ensure that the administrative issues that Members are alluding to are dealt with so that we have a very effective social health insurance cover for Kenyans. With that in place, Kenyans can access quality and efficient health care services. I support.

**The Temporary Speaker** (Hon. Martha Wangari): Member for Tigania West.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you, Hon. Temporary Speaker, for giving me the opportunity to also add my voice to this debate. This Bill is a true manifestation of what inclusivity is all about. I believe and hope that in the ongoing discussions, such things will take centre-stage. Inclusivity in health care is very important. First, the disadvantaged will benefit from the disaggregation in terms of different categories. Here, I am referring to the primary healthcare, social insurance and the chronic, emergency and critical illnesses. With respect to critical illnesses, we have had serious problems in this country. People have gone bankrupt because of supporting people with illnesses that, at the end of the day, lead to death.

Looking through the clauses of the Bill, especially the provisions in Part III on Financial Provisions, and Part IV and Part V, the sources of financing are more or less similar. If somebody wants to contribute to either of these funds, what will be the clearing House? How shall we be guiding those contributions? There is need for us to look at it again and see whether we need to have them distinctly or we should have them as chapters within the Bill.

Hon. Temporary Speaker, on the roles and responsibilities of the Chief Executive Officer (CEO), I noticed that the marginal notes are missing. The functions are not properly described in the Bill, although they start from Clause 14(2). The other issue is the appointment of the CEO which we have left it fairly open. The legislation is such that he shall hold office for such terms, on the advice of the Salaries and Remuneration Commission (SRC). First of all, the term needs to be specified within this Bill. Secondly, the SRC basically looks at the emoluments. They do not look at the terms of engagement. Public Service Commission (PSC) basically looks at the terms of engagement of an individual into the Public Service. We should look at how to relate the PSC and SRC when it comes to mentioning them explicitly in these legislations. I am of the opinion that the SRC is consulted whenever the PSC makes a determination. Therefore, we do not see the need to bring in SRC.

The other issue that we need to look into in improving the Bill is the CEO having a minimum of a Bachelor's degree from a university recognised in Kenya. This being healthcare, we need to bring in some health element or connotation in this respect.

The other issue that I found to be important is the membership of the Board. I have serious concerns on it. Clause 7 (1)(g) of the Bill describes one of the Board members, being a person who is not a public officer, with proven experience in matters of health insurance, health financing, financial management, health economics and healthcare administration. I think that is too broad. Getting such a person is a mirage. Let us look at the existing institutions. If we want someone who has experience in insurance, we have the Association of Kenya Insurers (AKI). Let us insist on getting somebody from a representative body or an association of actors in this area.

We also need to look at Clause 7(1)(h) of the Bill on the membership of the Board. We are talking about four persons, not being public officers, nominated by the following:

1. Kenya Medical Association (KMA) which is distinct and we know what it is.
2. The Informal Sector Association which I do not know whether it is the *Jua Kali* Sector or not.
3. Healthcare providers which is interesting. We need to know who is a healthcare provider. We need to fix this to a body that will help us resolve who can join this Board.

4. Central Organisation of Trade Unions (COTU), Kenya, which is okay.

On appointment of the Board members, we need to specify that they shall come in at different times to carry on the institution memory. That is not very clear. I did not find it in the Bill.

Hon. Temporary Speaker, towards the end of the Bill, there is the issue of social health. We understand what social health insurance is, but it is used in this Bill without definition. We need to define social health. As much as we know the meaning of other terms, its definition needs to come out clearly.

Hon. Temporary Speaker, with those few remarks, I support the Bill.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you. Member for Lagdera.

**Hon. Abdikadir Mohamed** (Lagdera, ODM): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute to this Bill. I was an employee of NHIF for 10 years. I understand the NHIF Act thoroughly. I have noted that this Bill does not have much difference from the current NHIF Act. I am saying this because they have only increased the scope of the contributors and beneficiaries. All the other things are the same. My colleague said that this is the panacea for corruption and cartels, but it is not. Medical providers and contributors remain the same. This Bill does not indicate to us how to fight corruption and cartels in the Social Health Insurance Fund. There is nothing that touches on corruption and cartels. What we have here is the same thing as the NHIF Act. There is no much difference. It is only that it increases the scope of contributors and beneficiaries. Everything is the same. Case management is the same. I do not see anything that is new here, that can rein in on corruption and cartels.

If you look at the clause on appointment of the Chief Executive Officer, Clause 14 (b) talks about an Advocate of the High Court of Kenya. I am wondering whether there is any Advocate of the High Court who is not a lawyer, or does not have a law degree. It is like this thing is being limited to law degree holders. On the section that says that one has to have a minimum Bachelor's degree from a university recognised in Kenya and is an Advocate of the High Court of Kenya, who is this advocate who is not a holder of a law degree? Do we have any other person having another degree and who is an Advocate of the High Court of Kenya? That part needs some change.

Also, on staffing, right now, NHIF staff have panicked. Most of them are saying they might lose their jobs just because of the way we have framed the transition clause. We should not break the law. If we move NHIF staff to the Public Service, where they earn lower salaries, we will be breaking the law. We can add a clause for them to be paid. They can be laid off and paid severance pay.

The Bill is good as it is even though it is not much different from the previous NHIF Act. The only difference is the enhanced contributions. Some few words have been changed; contributions to tariffs or premiums and also increased beneficiaries and scope of the illnesses that it covers. Otherwise, it is all the same.

I support the Bill.

**The Temporary Speaker** (Hon. Martha Wangari): Member of Parliament for Funyula.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Temporary Speaker. I thought I had lost my eyes. I was not seeing the microphone working.

At the outset, let us make it very clear to the nation that medical attention is a very critical human right and we cannot afford to deal with it in a casual manner.

*(Loud consultations)*

Hon. Temporary Speaker, there is a lot of noise. Over the years, we have had various models of funding Medicare in this country and the world at large. Some have been successful

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

and some have failed. Some have ended up in pain and some in joy. We have had NHIF for many years. Truth be told, it has done its bit. It has helped where it ought to have helped. Occasionally, it has let Kenyans down in many instances.

*(Loud consultations)*

**The Temporary Speaker** (Hon. Martha Wangari): Order, Hon. Members. For those who are consulting, please, note that there are rooms behind the Speaker. Please utilise that space because those numbers are growing by the minute. Member of Parliament for Funyula, continue.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Speaker, it is in order to look at past experiences and make amendments to the financing model and even change the law. The Bill with us here, the Social Health Insurance Bill, is probably merely an upgrade of the current NHIF Act. It is just a mere way of trying to institutionalise and give legal framework to whatever is already happening. In a way, it is a good idea. The Bill has very progressive provisions, but it has also some extremely dangerous provisions. It will cause many problems in the sector if it is allowed to pass the way it is.

Number one is the appointment of the Chairperson of the Authority. We have had instances where the President or the Executive has appointed and we have had trouble. Is it possible that we look at competitive recruitment process this time round? That is so that whoever is appointed is somebody who knows he or she has been appointed to work.

**Hon. Njeri Maina** (Kirinyaga County, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Member for Kirinyaga, what is out of order?

**Hon. Njeri Maina** (Kirinyaga County, UDA): Hon. Temporary Speaker, I am very embarrassed seeing that it is my senior in the profession speaking. I rise on a point of order pursuant to Standing Order 95; that the Mover be called upon to reply.

**The Temporary Speaker** (Hon. Martha Wangari): The Member for Kirinyaga was a lawyer the last time I checked. The Hon. Member for Funyula is a land economist. I am not sure. I am a bit confused.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Yes. I am a land economist. I have trained a majority of the land economists you see here. Because of my training, probably, I know a bit of law. Since I am also a Kenyan, the law affects me and so I know it.

Hon. Temporary Speaker, allow me to only deal with a few issues. First, we need clarity on this Primary Healthcare Fund. This clarity must be told to the people of Kenya. It is not very clear the way it is framed. Which levels is it serving? Which services is it offering? Is it fully funded by Government? Is it a pre-condition that one must be a member of the Social Healthcare Fund to access primary healthcare or benefit from the Primary Healthcare Fund? The people of Kenya are asking some of these issues. What is it we are looking at? Are we looking at Level 1, Level 2 or Level 3 hospitals? Are these outpatient services? Can anybody who is unwell walk there to get outpatient services and yet, their benefits that accrue from social insurance will not be affected? Are the services we are going to get and the social health insurance fund diminishing in nature? That, if my benefits category is this and I have gone to hospital several times for factors beyond my control, does it mean I will not get medical cover when I fall sick next unless my sickness is an emergency or a critical ailment? These are the kind of questions Kenyans are asking me. I am receiving many texts even while seated here.

I might have to refer to the Constitution on the second issue. It is very critical. If you look at Clause 26(5), it reads: “Any person who is registerable as a member under this Act shall produce proof of registration with the Social Health Insurance Fund as a pre-condition of

dealing with any or accessing public services”. This is to some extent, unconstitutional. You cannot force it. Being a Kenyan is voluntary. I choose to be Kenyan. I may be born Kenyan and I do not have to take citizenship of Kenya. Why would you make it compulsory that every Kenyan must belong to this Fund? If one does not belong, they will not get services like going to school, accessing public service offices, boarding the Standard Gauge Railway (SGR) train, or boarding Kenya Airways aeroplanes. It is because these are public entities.

Again, there is a provision under Clause 27(3). It says those under 2(b) - those who are not in salaried employment - will pay premiums annually, in advance. With the high poverty index in this country, limited income, and the stress people are going through, requiring that one pays annually in advance to be eligible for services is something not attainable. It is untenable and unachievable. This requirement will disenfranchise a very large number of people who have been contributing monthly the Ksh500 to build up for purposes of getting their cover. We will need to relook at it.

Hon. Temporary Speaker, here, again, we are saying any employer who does not remit the deductions on time will be penalised 10 per cent or 10 times what was supposed to be contributed. You and I know that even the Parliamentary Service Commission (PSC) funding for office operations and salaries delay. So, by the time the office managers are supposed to pay and they have no money, who bears the cost and the penalty? These are the challenges that we must critically look into.

The most unacceptable clause is the one setting aside other suitable entities to be involved in claim management. Many of us here know that, probably, there is more corruption in the private sector that is undocumented and un-talked than there is in the public sector. Many of us who are professionals, and I speak for majority, know that for you to be given a contract in the private sector, you almost have to pay 40 or 30 per cent. Introducing private sector players is now to expand levels of corruption and layers upon layers of corruption. These special claims management office must be strengthened and given adequate resources to undertake that function in order to avoid cases of privatising corruption.

As I conclude so that I can give my colleagues a chance, Clause 40(2)(b) says payment of salary will be a charge on the Fund of the Authority. Under Clause 41(2) they set an amount not exceeding 5 per cent for administrative expenses. I would want to beseech and request the Committee and those who will be proposing amendments to make sure the salary is part of the administrative expenses and that it does not exceed 5 per cent. This Bill is so monumental. It is very important to the lives of Kenyans. I would have wished the House Leadership to allow a little more time for Members to go prepare amendments to be considered in the Committee of the Whole House. Tomorrow afternoon seems too soon. We are getting into a lengthy Committee of the Whole House and we will not have time to prepare.

Hon. Temporary Speaker, I support.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Injendi Malulu.

**Hon. Malulu Injendi** (Malava, ANC): Thank you very much Hon. Temporary Speaker. I rise here a very happy person because this Bill really focuses on the ordinary *mwananchi* who is suffering and continues to suffer medically. What is so impressive about this Bill is the primary healthcare part of it. Most of the persons who are suffering and who are not in a position to work and be productive are the poorest of the community. Those are persons who sometimes have diseases such as high blood pressure and diabetes. Because they cannot access those simple services, the diseases get serious and it causes their families a lot of suffering in terms of medical expenses.

The other thing that I am very happy with in this Bill is the Social Health Insurance Fund. We know the kind of money we have been paying for our medical insurance. With the new proposed rates of 2.5 per cent and 2.75 per cent, we will now contribute enough money that can assist persons who are not in a position to access healthcare in this country. I am a

victim of what has been happening. Most weekends we are involved in fundraisings to help families cover their medical bills. With this kind of insurance, we will find some rest. Additionally, families will not sell their property to access medical services.

Just the other day, I was at the Nairobi Hospital with a patient. The bill accumulated to a huge figure. We now have to do a fundraising to raise Ksh2.8 million. I look at this family and wonder where we shall get the Ksh2.8 million from. This is a person who was hit by a vehicle that sped off and left the person for dead. Fortunately, he was rescued by an ambulance and taken to the Nairobi Hospital. With the kind of economy we are experiencing, I am sure we may not be able to raise that money. Ultimately, the bill will force the family to sell some property.

I ask the Committee to fast-track this Bill so that it can be implemented to help families. The person who should know the importance of this when it is passed, is the common *mwananchi*, the hustler. They are the persons who suffer most because they do not have any medical cover. I would urge for something on the NHIF card. Most families have a challenge keeping or renewing the card now and then. I would urge that when it comes to contributions, all beneficiaries should use their ID card only. This should be sufficient enough to identify a person who wants to access services from the insurance cover. Otherwise, I support this Bill strongly. I urge that we fast-track it for purposes of ensuring that Kenyans who are suffering, medically, access health services.

Thank you, Hon. Temporary Speaker.

**Hon. Harrison Kombe** (Magarini, ODM): On a point of order, Hon. Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): What is your point of order, Hon. Kombe?

**Hon. Harrison Kombe** (Magarini, ODM): Thank you, Hon. Temporary Speaker. Looking at the mood of the House and pursuant to Standing Order 95, I wish to move that the Mover be called upon to reply.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you, Hon. Kombe. I will give Hon. Makali Mulu a chance and then I will put the question.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Speaker. I really appreciate. I have been waiting for this opportunity for long. I want to be very brief so that you put the question. I had two concerns, but I am happy that when Hon. Nyikal spoke, my concerns were addressed. My first concern is on the issue of outsourcing claims. If we accept that as a House, we will be creating the biggest cartels in this country. So, this is a provision we must amend as the Committee has recommended. I hope that this amendment will be carried in this House.

The second concern was the issue of the current staff members of NHIF. The drafting of the Bill is very poor. I recommend 100 per cent transition of all staff members of NHIF as currently constituted when we get to effect this Bill. We will then use the internal appraisal system to determine who is fit to remain or exit. Let us not allow people to exit before they are taken on board by the new Authority. If those two matters are addressed, I will support this Bill 100 per cent. It is generally good and it will be a positive step towards providing primary and universal healthcare to the Kenyan population.

Hon. Temporary Speaker, I support. Thank you.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Members, a Member has risen in his place under Standing Order 95.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, let me thank all those Members who have contributed in support of this Bill for recognising that Universal Health Coverage for Kenyans is something that is long overdue. With the passage of these Bills, plus the Health Facilities Improvement Bill and the Primary Health Care Bill that are in the Senate and the Digital Health Bill...

**Hon. Peter Masara** (Suna West, ODM): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Member for Suna West, what could be possibly out of order?

**Hon. Peter Masara** (Suna West, ODM): I have been advised by my Whip on what I wanted to ask. I will step it down.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Member, you have been tutored by the Whip of the Minority Party.

**Hon. Peter Masara** (Suna West, ODM): I have been whipped.

**The Temporary Speaker** (Hon. Martha Wangari): Leader of the Majority Party, continue.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Masara is the immediate neighbour of the Whip of the Minority Party in Suna West and, therefore, he must be compliant to what the Whip of the Minority Party says. I thank the Whip of the Minority Party.

Hon. Temporary Speaker, this is in recognition of the fact that healthcare has been a major challenge to the people we represent. The enactment of these two Bills that we have considered this afternoon... The Health Facilities Improvement Bill and the Primary Health Care Bill are being considered by the Senate in Turkana County Assembly. When they are relayed to this House, I will beg for the same support because these four Bills will constitute that transformative bottom-up agenda on the health sector as we promised during the campaigns. It is in the Manifesto that we sold to the people of Kenya.

As I thank all the Members who have contributed, let me once again... I still had reservations pertaining the fate of the staff at NHIF. I know it is something that Hon. Junet spoke about as he contributed. This Bill is not firing anybody. Not a single member of staff, other than he or she who will opt out to either retire or do other things in life, will be fired. This Bill guarantees the staff at NHIF that they will continue being officers or staff of NHIF for a transitional period of one year as the Social Health Insurance Fund Authority is being set up. The Authority shall recruit staff and priority shall be given to those staff who are already working with the Fund. Those who opt to retire, may opt to retire. Those who want to be redeployed in the Civil Service, will be redeployed.

With those many remarks. I beg to reply and thank all the Members for the great support. Thank you.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you, Leader of the Majority Party. Having ascertained the numbers, I proceed to put the question.

*(Question put and agreed to)*

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

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Temporary Speaker (Hon. Martha Wangari) left the Chair]*

## IN THE COMMITTEE

*[The Temporary Chairman (Hon. David Ochieng') in the Chair]*

THE SUGAR BILL  
(National Assembly Bill No.34 of 2022)

*(Resumption of consideration interrupted on 14.9.2023 – Afternoon Sitting)*

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Members, as you may remember, during the Special Sitting on 14<sup>th</sup> September, we dealt with this Bill in the Committee of the Whole House up to Clause 17. We will resume from Clause 18. I am reliably informed by Hon. Wangwe and Hon. Mutunga that they have sufficiently consulted on all the amendments, and that we may move a bit faster today.

Order, Members. I want us to start immediately.

*Clause 18*

**The Temporary Chairman** (Hon. David Ochieng'): There is an amendment to Clause 18 by the Member for Suba, Hon. Caroli.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you very much, Hon. Temporary Chairman. The issue was addressed in a previous amendment. I was trying to address the artisanal use of sugar to produce jaggery or *sukari nguru* at home.

**The Temporary Chairman** (Hon. David Ochieng'): Are you moving your amendment or are you withdrawing it?

**Hon. Caroli Omondi** (Suba South, ODM): I am withdrawing it because the issue has been addressed. My proposal was that we have industrial jaggery but there is another proposal that...

**The Temporary Chairman** (Hon. David Ochieng'): Thank you. The amendment is withdrawn.

*(Proposed amendment to Clause 18  
by Hon. Caroli Omondi withdrawn)*

*(Clause 18 agreed to)*

*Clause 19*

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Caroli, you also have an amendment to this clause. Are you withdrawing it or are you still pursuing it?

**Hon. Caroli Omondi** (Suba South, ODM): I withdraw it.

*(Proposed amendment to Clause 19  
by Hon. Caroli Omondi withdrawn)*

**The Temporary Chairman** (Hon. David Ochieng'): Let us move to the Chairperson of the Committee.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, the Committee does not have an amendment to Clause 18.

**The Temporary Chairman** (Hon. David Ochieng’): Members, I plead that we all be attentive. We are now on Clause 19. Hon. Caroli has withdrawn his amendment. We are now considering the Committee’s amendment.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 19 of the Bill be amended—

- (a) by deleting sub-clause (4);
- (b) by deleting sub-clause (6);
- (c) by deleting sub-clause (8);
- (d) by inserting the following new clause immediately after Clause

Conditions  
of a license.

19—

19A. (1) A license issued under this Act shall be subject to such conditions as the Board may determine and as prescribed in regulations.

(2) Every license shall, unless earlier revoked, expire on 30<sup>th</sup> June next following the date of issue.

**The Temporary Chairman** (Hon. David Ochieng’): You have to explain what the amendment is about. Provide an explanation.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, we propose to delete sub-clauses (4), (6), and (8) so that we can consolidate them into a clause of their own. The reason is that it is important to delete this provision based on the application of procedures for licensing, which is the best practice. So, after the regulation, we need to provide for conditions of licensing.

*(Question of the amendment proposed)*

**Hon. Members:** Put the Question.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo, we are prosecuting the Chairperson’s amendments.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): There is a further amendment to Clause 19 by the Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I beg to move:

THAT, Clause 19 of the Bill be amended—

- (a) in sub clause (2) by inserting the following new paragraph immediately after paragraph (b)—  
“(c) it is satisfied that the applicant has sufficient financial capacity to commence milling and support growers and retailers.”
- (b) in sub clause (4), by deleting the words “30<sup>th</sup> June” and substituting therefor the words “31<sup>st</sup> December;”
- (c) in sub clause (6), by deleting the words “1<sup>st</sup> June” and substituting therefor the words “1<sup>st</sup> December.”

My amendment involves three issues, but I will only move paragraph (a) and wish to drop paragraphs (b) and (c). This is in view of the of amendments carried by the Chairperson.

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*



**The Temporary Chairman** (Hon. David Ochieng’): What are you moving now?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I am moving Clause 19 in an amended form, only in relation to (a) in sub-clause (2) by inserting the following new paragraph immediately after (b)—

“(c) it is satisfied that the applicant has sufficient financial capacity to commence milling and support growers and retailers”

This is one of the conditions for the license.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question of the amendment proposed)*

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, Clause 19(2)(a), which Hon. Oundo wants to amend, indicates that we are satisfied that the applicant is financially sound and solvent. Clause 19(a) reads: “... it is of the opinion that the applicant is fit and proper”. Fit and proper in our opinion includes the financial sustainability and solvency. The Committee does not go with Hon. Oundo’s amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Wangwe, do you want to say something on this one?

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Temporary Chairman. I wish to agree with the Chairperson on the issue of qualifying in terms of financial capability that you cannot be able to really estimate. Instead, it is good to leave it as open as the Committee has recommended in (2)(a) so that it gives a wider range rather than narrowing it down to financial ability. If you put it in those terms, how about other factors which will come through? It means you have narrowed yourself rather than opening up to discussion.

**The Temporary Chairman** (Hon. David Ochieng’): I will give the Floor to Hon. Kemei.

**Hon. Justice Kemei** (Sigowet, UDA): Thank you, Hon. Temporary Chairman. I want to support the views of the Chairperson and promoter of the Bill. That when we use the term ‘fit and proper’ it is all encompassing and covers all aspects of the suitability of the candidate. I want to support the Chairperson’s position.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Caroli for one minute.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you very much, Hon. Temporary Chairman. I think we are not understanding that the concept of fit and proper is in law. Fit and proper is a financial test for individuals and not corporates. This is because the license applicant for milling could be a company registered yesterday and there would be no track record to determine fit and proper. So, it cannot be fit and proper. That is why I was proposing in the amendments that it should be ‘financially sound and solvent’, which is something you can test and prove. Being ‘fit and proper’ is a test for individuals who want to be directors in financial institutions, but not corporates. It is the wrong concept here.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Masara, you have 30 seconds.

**Hon. Peter Masara** (Suna West, ODM): Hon. Temporary Chairman, I had almost a similar opinion. When you are talking about corporates, it is a totally different thing. What the Chairman is proposing is just right for individuals. When it comes to corporates, somebody can register a company today in the morning. How will you test its fitness? The issue of financial fitness and capability should be described and expanded when amending this particular clause.

**The Temporary Chairman** (Hon. David Ochieng’): Finally, Hon. K’Oyoo.

**Hon. James K'Oyoo** (Muhoroni, ODM): Thank you very much, Hon. Temporary Chairman. I want to support the sentiments expressed by Hon. Caroli Omondi. We cannot take this anyhow because we will open doors to brokers to get licenses and sell to other people. We must tighten the requirement of financial fitness.

**The Temporary Chairman** (Hon. David Ochieng'): You have to decide on being fit and proper, and financial suitability.

*(Question, that the words to be inserted  
be inserted, put and negated)*

*(Question, that the words to be left out  
be left out, put and negated)*

*(Clause 19 as amended agreed to)*

#### Clause 20

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Chairman.

**Hon. John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 20 of the Bill be amended—

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A person shall not import or export sugar crop, sugar or sugar by-products without a valid license issued by the Board in accordance with regulations made under this Act.”

- (b) by inserting the following new sub-clauses immediately after sub-clause (1)—

“(2) A holder of a valid import or export license shall not import or export sugar crop, sugar or sugar by-products unless they have obtained a pre-import or pre-export approval from the Board in accordance with regulations made under this Act.”

“(3) A person who imports sugar into Kenya shall, prior to importation —

- (a) provide evidence that the sugar they intend to import is not available in the local market;  
(b) provide a sample of the sugar to be imported and pre-import verification certificate from the country of origin; and  
(c) obtain pre-import approval from the Board”.

- (c) by inserting the following new clause immediately after Clause 20—

Safeguard measures.

20A. (1) The Board shall ensure, subject to such regional and international trade agreements to which Kenya is a party, that all sugar imports into the country are subject to all the prevailing import duties, taxes and other tariffs.

(2) Despite sub-section (1), the Board shall ensure that—

- (a) sugar shall be imported in the country only when there is sugar deficit and for a specific tonnage; and
- (b) importers report to the Board on their imports, sales and stock as may be determined by the Board.

(3) The Government shall introduce other safeguard measures as may be necessary to protect the industry from unfair trade practices.

(4) A person who contravenes the provision of this section commits an offence and shall be liable, on conviction, to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or two million shillings, whichever is the higher, or to imprisonment for a term not exceeding ten years, or to both.

The amendment clarifies the provisions on sugar imports and exports, and licensing. It also spells out the conditions for licensing in a better way.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): Member for Likuyani, you have a further amendment in Clause 20. You are only moving...

**Hon. Innocent Mugabe** (Likuyani, ODM): Hon. Temporary Chairman, I wish to withdraw that amendment. It has been overtaken by events.

*(Proposed amendment to Clause 20 by Hon. Innocent Mugabe withdrawn)*

*(Clause 20 as amended agreed to)*

*(Clause 21 agreed to)*

Clause 22

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson. When I say ‘Chairperson’, I mean the Chairperson of the Departmental Committee on Agriculture and Livestock.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 22.

**The Temporary Chairman** (Hon. David Ochieng’): What is in the Order Paper, Hon. Chairman?

**Hon. John K. Mutunga** (Tigania West, UDA): It proposes that Clause 22 of the Bill be deleted.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 22 deleted)*

#### Part IV

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Members, this is a heading. There is a proposal to change the heading in Part IV.

Hon. Chairperson.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the title under Part IV be amended by deleting the words “ESTABLISHMENT OF THE KENYA SUGAR RESEARCH INSTITUTE” and substituting therefor the words “ESTABLISHMENT OF THE KENYA SUGAR RESEARCH AND TRAINING INSTITUTE”

The idea is that we are renaming the Kenya Sugar Research Institute to Kenya Research and Training Institute to introduce the aspect of training.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Part IV as amended agreed to)*

#### Clause 23

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 23 be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) There is hereby established a body to be known as the Kenya Sugar Research and Training Institute.”

We are amending this to introduce the training aspect in the research institute.

**The Temporary Chairman** (Hon. David Ochieng’): I propose you also move the marginal note so that we do it together. There is a marginal note to clause 23.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the marginal note be amended to read as follows, “Establishment of the Kenya Sugar Research and Training Institute.”

Hon. Temporary Chairman, we are also amending the marginal note to reflect the same, that is, ‘Establishment of Sugar Research and Training Institute.’

**The Temporary Chairman** (Hon. David Ochieng’): Order. Order, Members!

*(Hon. Wanami Wamboka stood in his place)*

Hon. Wamboka, resume your seat.

*(Loud consultations)*

*(Hon. David Kiplagat stood in the aisle)*

Hon. DK (David Kiplagat), resume your seat too.

*(Loud consultations)*

Okay. That was a good break.

*(Hon. Wamboka consulted loudly)*

Hon. Wamboka, keep your cool and let us proceed.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Marginal note agreed to)*

*(Clause 23 as amended agreed to)*

*Clause 24 (1)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Members, Clause 24 has a couple of amendments so we will take it slowly. I request you to be attentive. We will deal with sub-clauses. So, I propose we start with Hon. (Dr) Oundo’s amendment first on sub-clause (1) because he is deleting and substituting.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I am looking at Hon. DK (David Kiplagat) to see if he is carrying a paper, which is very dishonourable of him. Anyway, he is my friend.

Hon. Temporary Chairman, I beg to move:

THAT, Clause 24 of the Bill be amended —

(a) by deleting sub-clause (1) and substituting therefor the following new sub clause—

(1) The Institute shall—

- (a) undertake research and coordinate research to enhance the development of the sugar industry in order to meet national development goals;
- (b) promote, co-ordinate and regulate research in sugar producing crops and attendant diseases and pests;
- (c) expedite equitable access to research opportunities, information, resources and technology;
- (d) disseminate research findings and technology to the Board, growers, millers, the government, training institutions and other key stakeholders; and
- (e) participate in the development and periodic review of training curriculum for the key technical skills in the sugar industry.

Hon. Temporary Chairman, I am proposing to amend sub-clause (1) so as to expand the mandate of the institute to include other matters that have not been included. This is mostly to emphasise the issue of training and research.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

Hon. DK, resume your seat.

*(Question of the amendment proposed)*

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, Hon. Oundo’s amendments are covered majorly by the Committee amendments. Therefore, if the Committee presented the amendments before, Hon. Oundo’s amendments would have just fallen. I propose that we take the Committee’s amendments.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, what do you mean by that? We are not under the Committee amendments yet. You need to give proper direction on that issue. What are you saying?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Chair, it is good for you to indicate whether you are supporting the amendment or not. We will not beat you up.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, maybe, it is semantics. I am not supporting Hon. Oundo’s amendments because they have been taken up by the Committee’s amendments.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Temporary Chairman, I wish to agree with the Departmental Committee Chairman. His amendments are in line with what Hon. Oundo is proposing. We need to reject this amendment and align with the Committee’s amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

Hon. Nyikal, Lastly.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, it is not just enough to say that they are in line. You must indicate what they are in line with so that we can understand. It is normally assumed that Members who do not understand these amendments can let them pass. The Chairman should tell us what Hon. Oundo is proposing and how it is in line with the Committee’s amendment so that we can make a decision.

*(Question, that the words to be left out  
be left out, put and negated)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, move your amendment now. This is subclause (1).

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 24 of the Bill be amended—

(a) in sub-clause (1)—

(i) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) promote, co-ordinate and regulate research in sugar, sugar crop, sugar by-products, sugar technologies and management practices.”

(ii) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) expedite equitable access to research information, resources, sugar technologies and innovations and promote the application of research findings in the development of sugar industry.”

Hon. Temporary Chairman, Clause 24 has been majorly amended by the Committee to capture the broadened scope in the varietal focus of the research institute and also the functions of the research institute and loop in dissemination of technologies, innovations and management practices.

We have moved from sub-clause to sub-clause amending up to the end. The issue is to make sure that we have broadened the scope sufficiently. This takes care of the kind of technologies and innovations that are coming from the research institute and the dissemination of these technologies and innovations and the management practices.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, this is sub-clause (1). Like I said, we are dealing with sub-clause by sub-clause. I will be proposing the question for sub-clause (1).

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, sub-clause (1) as amended by the Committee is basically by deleting paragraph (a) and substituting it with a more enhanced paragraph. If you allow me, I can read these paragraphs.

**The Temporary Chairman** (Hon. David Ochieng’): That is okay.

**Hon. (Dr) John K. Mutunga**: Hon. Chairman, the only difference between our provision and what Hon. Oundo has provided is the fact that we are starting with a new provision about conducting research. A research institute is not a musical institution. Its pure mandate is basically to conduct research; to promote, coordinate and regulate research in sugar, sugar crop and sugar by-products, technologies and management process. Therefore, we are covering the entire value chain and the operations. Sub-Clause (b) talks about research dissemination. Our amendment says:

“Expedite equitable access to research information, resources, sugar technologies and innovations, and promote the application of research findings in the development of the sugar industry.”

Therefore, we have taken care of the entire sugar value chain.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Yes, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo**: With tremendous respect to Dr .Mutunga because he is a scholar as I am, he is not being truthful to the House and the nation. We have changed the heading of the institute to establishment of the Kenya Sugar Research and Training Institute. The amendments they have moved under (a) and (b) only deal with research and dissemination

of research findings. In our amendment and in view of the amendment, I had expanded to include more. I can drop part of it. We can ignore a part of it but I had indicated, “Participate in the development and periodic review of training curriculum for key technical skills in the sugar industry.”

I just wanted to go on record, Hon. Temporary Chairman, so that whoever will read *The Hansard* many years to come will read that here we are just being typically political as is our nature. We cannot talk about training institutes and not refer to training matters at all. Research is research dissemination. However, here we are saying that this is a training institute. How do you train if you do not have a curriculum? How do you train if you do not participate in the development and periodic review of the curriculum in view of the changing technology, crop husbandry and business environment? This is a complete industry.

I just wanted to go on record that the Chairman, with tremendous respect, has misled his colleagues on that side and the nation at large. Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): I do not think that he has misled anybody. You just disagree.

*(Hon. (Dr) John K. Mutunga stood in his place)*

Hon. Chairman, resume your seat.

He is just taking a different view from yours. I think that should be respected. We should not cast aspersions using strong words like lied and misled when the issue is disagreement on opinion. Hon. Oundo, that should be taken back. I encourage Members, that on these points of semantics, it is always good to approach the Chair or the person moving the Bill then you would get your amendments going very well instead of doing them in silos where you sit where you are and say you want to amend a Bill without consulting the person who has moved it. It works very well that way.

Hon. Mutunga, you have just had a chance. I will give this chance to Hon. Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): We, as the Departmental Committee on Agriculture and Livestock cannot take directives from the Chairperson. The Chairperson sat with us and we went through very many things to come up with this amendment. I want to diffuse what Hon. Oundo is saying, that the Chairperson misled us. I mean, we are not so illiterate. He should withdraw. How can you tell us that he misled us by doing what we are doing? We went through this together. We had time, the whole day, to do this amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Mutunga.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you very much for giving me an opportunity to defend myself especially from what my friend has said. With a lot of respect to the honourable professor, this is not a university. This is a research institute whose training content will only be innovations, technologies and management practices. He should know that. It is unfortunate he is exposing his university here.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Brighton, lastly.

**Hon. Brighton Yegon** (Konoin, UDA): Hon. Temporary Chairman, of course training and development will come with a curriculum. Some of the issues we are discussing will come under regulations. We do not need to over-legislate.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*



*(Clause 24(1) as amended agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): The next amendment is by Hon. Nyikal, on Clause 24(a). Please, go ahead.

**Hon (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, mine is simple and it will be very clear. If you look at what is in part (a), it puts the words ‘sugar and sugar.’ I re-word that by deletion and replaced it with ‘sugar and sugar crops.’ If you look at it, when we come to the definition later, in part (a), the whole paper is actually dealing with the issue of sugar as if the only crop that produces sugar is sugarcane. We know that even in Kenya, we have started to grow sugar beets.

All I am doing is that where we have ‘sugar’ or ‘sugarcane’ we include and ‘sugar crops’ so that later on, when a sugar beets factory in Laikipia becomes operational, we will not have to amend the law.

Thank you.

*(Question of the further amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chair.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, if Hon. Nyikal has looked at the Committee's amendments, he should have seen that we actually introduced ‘sugar crop’ in the definitions section so that it covers all sugar crops. Wherever we have ‘sugarcane’ we have ‘sugar crops’ because it is possible to have sugar beets or sugarcane.

We have changed that in every case. That is a single amendment but it has changed that aspect in the entire Bill. It is, therefore, already captured in the Committee's amendments.

*(Hon. Nyikal spoke off the record)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nyikal, you do not have the microphone. Give him the microphone.

**Hon (Dr) James Nyikal** (Seme, ODM): I know it is tedious but let us read these things word by word. The Chair may be right but when he was explaining, he just used the word ‘brought.’ That is why we want the word ‘import.’ The word ‘brought’ does not tell us that now you are introducing sugar beet.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nyikal, do you agree with his position?

**Hon (Dr) James Nyikal** (Seme, ODM): Yes, but it was not clear then.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question, that the words to be left out  
be left out, put and negated)*

*(Clause 24(1) agreed to)*

*Clause 24(2)*

**The Temporary Chairman** (Hon. David Ochieng’): This has various amendments by Hon (Dr) Nyikal and Hon (Dr) Oundo. I request that, in view of the amendments in (1), they consider whether they still want to pursue or drop them. Yes, Hon. Oundo.

**Hon (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, whatever the Committee has proposed is more or less in order. It is just a matter of semantics. Generally, the cleaner way to look at it is to look at sugarcane and sugar producing crops. They refer to sugar crops, which can still pass but there is no clarity like sugar producing crops. However, the choice is theirs if they wish. Of course, Hon. Kiplagat can direct them on how to vote. The choice is essentially theirs. I would really beg them that we expand from sugar crops to sugar producing crops in addition to sugarcane as the more progressive and clearer than sugar crop.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Chairperson, could you, please, read for us only the definition of ‘sugar crop.’

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): It says, ‘sugar crop’ means ‘a crop grown for the purpose of sugar production, including sugarcane and sugar beets.’

He wants us to add “producing.”

**The Deputy Chairman** (Hon. David Ochieng’): Thank you. Let us have Hon. Nyikal.

**Hon (Dr) James Nyikal** (Seme, ODM): That amendment still falls short of our expectation. Let me tell you why. It cannot be sugar beet and sugarcane. If you say sugar crop, then you have taken everything in the definition. My friend, there are technical things that votes cannot change. The fact that there are other plants that produce sugar cannot be changed by that piece of paper that you are waving. We cannot amend this Bill again next year because somebody was waving a piece of paper and did not want to accept that there are other plants that produce sugar. The amendment is the same. We support it except for the definition of the term “sugar crop”. If we limit it to beet...

**The Temporary Chairman** (Hon. David Ochieng’): Thank you very much. I want to direct as follows. Hon. Oundo, hold your horses. It is not good to just listen to yourself. It is always good to listen to others too. Definitions of various words and terms are normally dealt with at the end.

*(Hon. (Dr) James Nyikal spoke off the record)*

Order, Hon. Nyikal. I am sure that if you, Hon. Oundo, Hon. Wangwe and the Chairperson put your heads together, by the time we get to the definitions, you will have come up with a definition that captures everything so that we do not have to keep defining what a sugar crop is. We have time before we get to the last clause. Can the four of you, quickly, work on that so that you agree on who will move the further amendment to define that term in the way that you want it to be captured?

Hon. Mutunga.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): In view of Hon. Nyikal’s amendment, we propose to remove paragraph (l).

**The Temporary Chairman** (Hon. David Ochieng’): Is that Hon. Nyikal’s amendment or your amendment?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): It is Hon. Nyikal’s amendment. Clause 24(l) states: “breed sugarcane varieties suited for various agro-ecological areas of Kenya.”

**The Temporary Chairman** (Hon. David Ochieng’): If you have the Order Paper, Hon. Nyikal’s amendment is on page 1218.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Page 1218.

*(A Member spoke off the record)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Mutunga, sometimes it does not cost much to just consult. As I have said, if the four of you could consult, by the time we

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

finish, you could have an agreed definition so that we do not have to go back to it at every clause.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): I have just noted in my footnotes that Hon. Nyikal's amendment falls as long as we adopt Hon. Oundo's amendment. The reason is that in that particular paragraph...

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Chairperson, we are not considering any of the amendments. Hon. Oundo and Hon. Nyikal have so far just made general comments. I advised them to consider withdrawing their amendments. We are not considering anybody's amendment. We are not on any particular amendment by the two Members. We are consulting on the definition of the term "sugar crop". None of them has moved any amendment. I requested them to consider ceding their amendments based on what you said earlier.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I noted that the Committee may have committed that particular amendment. That is the reason I am talking about Clause 24(1). In respect to paragraph (1), I would like to propose a further amendment by inserting...

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Chairperson, I wish you could listen to me.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Okay.

**The Temporary Chairman** (Hon. David Ochieng'): So far, we do not have a single amendment on the Floor to Clause 24(2). You have not moved any amendment. I had proposed to Hon. Nyikal and Hon. Oundo, based on your definition of 'sugar crops', to consider ceding ground. If that is not possible, I suggest we go clause by clause. Go on, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): If we are listening to the Chairperson, he is clearly saying that the Committee might have overlooked expansion of the definition, which is common. He is saying it is possible to make further amendments to paragraph (1) and include an expanded version of the definition.

**The Temporary Chairman** (Hon. David Ochieng'): That is not what the Chairperson said.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): That is what I heard.

**The Temporary Chairman** (Hon. David Ochieng'): Order! That is not what he said.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Sugar, sugarcane and sugar producing crop or sugarcane area and sugar crop are just matters of semantics. Probably, I will take your advice – that, we focus on the Mover of the Bill and (Dr) Nyikal just for two minutes and agree.

**The Temporary Chairman** (Hon. David Ochieng'): If you had done that long ago, we would have moved so well.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, we were here just the other week, and we made some progress but...

**The Temporary Chairman** (Hon. David Ochieng'): We are making progress. It is just that all of you are doctors. So, you think we must...

**Hon. Peter Masara** (Suna West, ODM): Hon. Temporary Chairman, we are progressing well but I have a concern.

**The Temporary Chairman** (Hon. David Ochieng'): Yes.

**Hon. Peter Masara** (Suna West, ODM): Ordinarily, when movers of amendments are in concurrence, the amendments are merged and read at the same time. Today the Departmental Committee Chairperson is in concurrence but the other two Members continue to propose their amendments. That means there was no concurrence. For example, what you are saying now...

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Masara, we are trying to get concurrence.

**Hon. Peter Masara** (Suna West, ODM): Hon. Temporary Chairman, I do not know if I used the wrong language.

**The Temporary Chairman** (Hon. David Ochieng’): No. We are trying to get concurrence from the Members.

**Hon. Peter Masara** (Suna West, ODM): It is important when there is concurrence, the clause is read to all Members. This is because when these Members were consulting, we were not there. Some of us have interest in specific amendments and that is why we are here. So, the Chairperson needs to be...

**The Temporary Chairman** (Hon. David Ochieng’): Thank you, Hon. Masara. So, this is how we will move. The Chairperson will move his amendment on Clause 24(2). If it is carried, Hon. Oundo and Hon. Nyikal will look at what has been passed and then decide whether to move their amendments or not. That is what we will do. Hon. Chairperson, move your amendments to Clause 24(2). We shall move as directed.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, the amendments to Clause 24 (2) are for purposes of correcting, aligning and improving the definitions of all the provisions up to paragraph (x). They are many and we have a further amendment being proposed. What Hon. Nyikal is proposing does not fit quite well.

Therefore, we need to amend paragraph (1) by inserting the words “and promote” immediately after “breed”. Based on our further amendment, it should read:

“(v) by inserting the words “and any other sugar crop” immediately after the words “breed and promote sugar crop varieties suited for various agricultural reasons in Kenya.”

We did not amend sugar crop and it now reads sugarcane. That is the amendment we are taking from Hon. Nyikal.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Members, we will vote on the Chair’s further amendment. Hon. Chair, you know you have moved a further amendment to what you are proposing here, right?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Yes. I propose that we further amend paragraph (1) of sub clause 2 of Clause 24 to substitute the words “sugar cane” with “sugar crop”.

*(Question of the further amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): Let us hear Hon. Oundo before I put the final question on this.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I plead with my colleagues on the other side, especially Hon. DK. This is not a contest between Kenya Kwanza and Azimio Coalition. It is about the sugarcane farmers. Please, let us listen to each other. Do not shout at each other. Let us not spend all the time in supremacy battles. Those amendments are perfectly in order. I drop my amendments in favour of the Committees’ amendments. That is how sober people do their things.

*(Proposed amendments by Hon. (Dr) Ojiambo Oundo  
on Clause 24, sub-clause 2 dropped)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo, what you have just done with Hon. DK is what is done during Committee of the whole House. When you have an

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

issue, you just approach your colleague and have a discussion. I encourage Members to do so, so that we move with speed. Has Hon. Nyikal also dropped his amendments?

**Hon. (Dr) James Nyikal** (Seme, ODM): It is the same principle. If we had consulted we would have solved all of them but we have chosen to deal with the amendments one by one. That is okay but we would have consulted first then move one by one and agreeing to all of them.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. (Dr) Nyikal, what stopped you? I advised that that could happen but you kept to your seat and so did Hon. Oundo and the Hon. Chairman.

**Hon. (Dr) James Nyikal** (Seme, ODM): I went there but they did not see me. Do I go now and we consult each other?

**The Temporary Chairman** (Hon. David Ochieng’): The Hon. Chair and Hon. Nyikal, please do the honours. Two minutes then we proceed.

*(Loud consultations)*

We cannot put the question because we want to put the question on Clause 24 sub-clause 2 once, not many of them.

*(Hon. (Dr) John K. Mutunga and Hon. (Dr) James Nyikal consulted at the Bar)*

Hon. (Dr) Nyikal, is there progress in your consultations?

**Hon. (Dr) James Nyikal** (Seme, ODM): Yes.

**The Temporary Chairman** (Hon. David Ochieng’): Okay. Please go ahead.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, we have agreed. We can now proceed in virtually all of them. We have agreed that where they have put “sugar crop” when we get to the definitions section, we will change that definition and everything will be fine.

**The Temporary Chairman** (Hon. David Ochieng’): Will you then, please, go on record that you are dropping your amendment on Clause 24, sub-clause 2?

**Hon. (Dr) James Nyikal** (Seme, ODM): Yes, I will go ahead and say so.

**The Temporary Chairman** (Hon. David Ochieng’): Please, go ahead.

**Hon. (Dr) James Nyikal** (Seme, ODM): Having consulted with the Chair on his amendments on Clause 24 and the sub-clauses, I drop mine. When we amend clause 2 later, it will be in line.

*(Proposed amendments by Hon. (Dr) James Nyikal on Clause 24, sub-clause 2 dropped)*

**The Temporary Chairman** (Hon. David Ochieng’): Thank you very much.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 24 as amended agreed to)*

Clause 25

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 25 and substituting therefor the following new clause:

Management of the  
Institute

1. The management of the Institute shall vest in the Board of Directors which shall consist of -

(a) A chairperson appointed by the Cabinet Secretary through a competitive process in consultation with the Public Service Commission.

(b) One person nominated by sugarcane growers’ apex body. (c) One person nominated by sugarcane manufacturers’ apex body.

(d) One person nominated by the input supply system.

(e) One person nominated by universities.

(f) The Principal Secretary for the time being responsible for the National Treasury or a representative appointed in writing.

(g) The Principal Secretary for the time being responsible for Agriculture or a representative appointed in writing.

(h) The Director General of the Kenya Agricultural Livestock and Research Organization.

(i) The Managing Director who shall be an ex-officio member.

2. A person shall not be appointed as a chairperson of the Board of Directors of the Institute unless the person holds at least a degree or its equivalent in agricultural research or a related field from an institution recognised in Kenya and has ten years’ experience in the sugar industry.

The Committee reconstituted the entire Institute Management Board, bringing on board research and other relevant qualifications.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Member for Busia.

**Hon. Catherine Omany** (Busia County, ODM): Thank you, Hon. Temporary Chairman. I am hurting. There are people born and raised planting sugarcane and understand everything that entails sugar, but there are people here representing someone’s interest and not Kenyans’ interest. You cannot be a Member of Parliament and be on two sides. It seems that someone has already gone through this...

**The Temporary Chairman** (Hon. David Ochieng’): Order!

**Hon. Julius Melly** (Tinderet, UDA): On a point of order.

**The Temporary Chairman** (Hon. David Ochieng’): What is out of order, Hon. Melly? Use the microphone next to you.

*(Loud consultations)*

**Hon. Julius Melly** (Tinderet, UDA): Hon. Temporary Chairman, I want to point out that the Member for Busia is completely out of order to insinuate that some Members in the House are working for another person just by taking a clear position on this particular Bill. We are systematically better farmers than you and that is why we have a caucus with other Members to take care of our interests.

**The Temporary Chairman** (Hon. David Ochieng’): Member for Busia, I want to repeat that it is always good to be measured in your contributions. As I said earlier, let us avoid casting aspersions on any Member’s beliefs or position. I will not allow a point of order on this matter. I have just proposed the question on the Chairperson’s amendment to Clause 25. I will be taking comments on that.

Member for Kiminini, your contribution is on Clause 25, right?

**Hon. Bisau Kakai** (Kiminini, DAP-K): Thank you, Hon. Temporary Chairman, for this opportunity. Where I come from, we do not plant sugarcane. I am here in solidarity with brothers and sisters who come from sugarcane-growing areas. There is a lot of poverty in those homes. The direction in which Members are taking on this Bill is shocking. Please, get serious. This is a House of records. What we are contributing to this Bill is very important. Even as we stand in solidarity, get serious. This is a very important Bill.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Justice Kemei.

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Thank you, Hon. Temporary Chairman, for this opportunity. We are here for the sake of the sugar industry in this country. Some of us believe in the sector so much that we do not want to lose this Bill. You have guided us that if there are issues of contention, we can caucus. We just caucused on one issue of contention and we passed it unanimously. I want us to encourage that spirit instead of shouting at each other while we could move faster with some intellect put into the matters at hand.

Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Order. Hon Members. You are missing a point. It is currently past 8.00 p.m. Every Member seated here today has an interest in this Bill, which is why they are not at home. Let us leave the idea of thinking that you are more important, or that your point is more important, than others. Let us stop casting aspersions on each other’s positions. I want us to deal with Clause 25. Let us leave that. Let us stop casting aspersions on each other’s position.

*(Hon. Catherine Omanyoko spoke off the record)*

*(Loud consultations)*

I want us to deal with Clause 25.

*(Hon. David Kiplagat spoke off the record)*

Hon. DK, is it on Clause 25?

*(Hon. David Kiplagat spoke off the record)*

No.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place)*

*thereof be inserted, put and agreed to)*

*(Clause 25 as amended agreed to)*

*(Clause 26 agreed to)*

*Clause 27*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, before I propose my amendment, I would like Members to respect each other. When somebody says that some Members have no brains, I would like that statement withdrawn. I think that it is very wrong for the Hon. Member from Busia to have said that, because she referred to Members on this side. That is extremely wrong. The second thing...

**The Temporary Chairman** (Hon. David Ochieng’): Was that on record?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): It was on record.

The second thing, is that we should not look at who grows sugar today to do a good law. We are doing a law for this nation and for posterity. We are not doing a law for sugar growers, western Kenya, or any part of Kenya. Coast Province grows sugar. There are sugar trials in Central Kenya. What are you talking about here? We are doing a law for Kenya. So, there is nobody who is biased here, and I am not the Chairman of a Committee that is led by anyone. The Hon. Member needs to withdraw her comments.

*(Hon. Catherine Omanyoo spoke off the record)*

*(Loud consultations)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, move your amendment.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 27 of the Bill be amended—

(a) by deleting paragraph (b) and substituting therefor with the following paragraph—

“(b) such monies as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act.”

(b) by deleting paragraph (c) and substituting therefor with the following paragraph—

“(c) monies from any other source as approved by the Board of Directors and Ministry responsible.”

(c) by inserting the following new paragraph (d)—

“(d) levies and fees accrued from rendered services and products.”

The idea is to broaden the sources of financing and recognise the fees and levies that the Kenya Sugar Research Institute may earn.

**The Temporary Chairman** (Hon. David Ochieng’): That is very clear. Thank you very much.

*(Question of the amendment proposed)*



*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Hon. (Dr) James Nyikal spoke off the record)*

*(Clause 27 as amended agreed to)*

*(Hon. David Kiplagat waved papers)*

Hon. Kombe.

**Hon. Harrison Kombe** (Magarini, ODM): Thank you, Hon. Temporary Chairman. Some of us are being agitated by the waving of a paper. We know we are doing something for Kenya, and whatever is going to pass will pass without the paper.

Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. DK, going forward, you shall not wave that paper.

*Clause 28*

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 28 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new subclause—

“(1) There shall be a Managing Director of the Institute who shall be appointed through a competitive process by the Board of the Institute and whose terms and conditions of service shall be determined by the Board in consultation with the Public Service Commission in the instrument of appointment or otherwise in writing from time to time.”

(b) in the marginal note by deleting the words “Director General” and substituting therefor the words “Managing Director”;

(c) by deleting sub-clause (2) and substituting therefor the following new subclause—

“(2) A person shall be qualified for appointment under this section if the person—

(a) holds a doctorate degree in agricultural studies, agronomy plant genetics and breeding, soil science or a related field from a university recognized in Kenya;

(b) has at least ten years knowledge and experience from a relevant field;

(c) has at least five years’ experience in a position of senior management; and

(d) meets the provision of Chapter Six of the Constitution.”

The idea here is to change the title of the head of the Sugar Research Institute from a Director-General to a Managing Director. Because this is an institute and not a research organisation as we know it.

**Hon. Members:** Put the question.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Hon. (Dr) James Nyikal spoke off the record)*

**The Temporary Chairman** (Hon. David Ochieng’): Order, Hon. Nyikal. We have just voted on that one.

*(Hon. (Dr) James Nyikal spoke off the record)*

Order, Hon. Nyikal.

*(Loud consultations)*

*(Hon. (Dr) James Nyikal spoke off the record)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nyikal, you are off the mic. We are past what you are talking about.

*(Hon. Gabriel Tongoyo spoke off the record)*

Hon. Tongoyo, I think we are able to handle that without anything. It is done! We are going to the next amendment.

*(Hon. (Dr) James Nyikal spoke off the record)*

Order, Hon. Nyikal. The options available to you are the following. Resume your seat. The option available to you, which I propose to you, and you know it very well, is to recommit that clause and then you will have a chance to talk about it at that time.

*(Hon. (Dr) James Nyikal spoke off the record)*

**The Temporary Chairman** (Hon. David Ochieng’): Okay, go ahead.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, what happens normally is that you can have an amendment which has many parts. When the mover is moving the amendment, it is good to explain all parts. You can take one part. In this case the part we have taken is actually a very small bit on changing the title. The part that is remaining is very important because it deals with qualifications of the person. My colleagues, in all honesty, it is better to raise all those issues and then we debate them. Let us do that as we proceed.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nyikal, what I have been doing without fail on every clause is that I have not skipped a single step. After proposing a question, I normally pause before I put the question. I do that for every clause. On this clause, you did not carry your hand up to say anything. It has to go on record that way too. When I

proposed the question, no one rose to say that they wanted to contribute on that particular amendment. Not you and not anyone else. But the point is made.

Hon. Oundo, you have an amendment to Clause 28.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I see Hon. Nyikal is turning his head because he has been told to do this and that. It does not matter. You will go on record. Whatever happens, he will be on record.

**The Temporary Chairman** (Hon. David Ochieng’): Let him be.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I beg to move:

THAT, Clause 28 of the Bill be amended in sub-clause (1) by inserting the words “in consultation with the Salaries and Remuneration Commission” immediately after the words “instruments of appointment”.

The amendment to Clause 28 is procedural and standard. This is in line with the constitutional provisions that salaries and remuneration of any State officer are set by the SRC. We can as well ignore it, but that is the procedure. That is what I wanted to put on record. Members can say no. It is business that the courts will deal with.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Chair.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, as I said earlier during debate on the previous clause, we do not need to bring in SRC into a sub-sectoral Bill because the Public Service Commission does consultations before they define the terms and conditions of engagement. One of the institutions they consult is SRC. You do not have to really include it in the Bill. That is over-legislating.

When I spoke about Clause 28, I forgot paragraph (c).

**The Temporary Chairman** (Hon. David Ochieng’): That is per se.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, Clause 28(2) is also amended by deleting what is in the Bill and substituting it with...

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Mutunga, we have already voted on that clause.

*(Question, that the words to be inserted  
be inserted, put and negated)*

*(Clause 28 as amended agreed to)*

#### Part V

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I beg to move:

THAT, the heading of Part V of the Bill be amended by deleting the words “APPOINTMENT OF CROP INSPECTORS” and substituting therefor the words APPOINTMENT OF SUGAR INDUSTRY INSPECTORS.”

This stems from the general trend we discussed in the definition in Clause 2. It comes from the definition of the sugar industry that it is an entire value chain process from the farm, production and all the way to the retail. In that view, I am proposing that when you are looking at appointment of crop inspectors, you are only be dealing with a small section of the entire value chain. That is why I am proposing that part to be changed to “Appointment of Sugar Industry Inspectors” so that we encompass the entire value chain process.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I agree with Hon. Oundo’s amendment.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Part V as amended agreed to)*

Clause 29

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 29 and substituting therefor the following new clause.

Appointment of  
Inspectors

- “29. (1) The Board shall appoint qualified sugar industry inspectors for purposes of undertaking its functions under this Act or any other written law.”
- (2) Notwithstanding any other provisions of this Act or any other written law, the sugar industry inspector shall comprise of –
- (a) a crop inspector;
  - (b) a factory inspector;
  - (c) a warehousing and transportation inspector; and
  - (d) any other inspector that the Board may consider necessary.”
- (3) A person shall not be appointed as a sugar industry inspector unless such person holds an academic or professional qualification prescribed by the Kenya Sugar Research Institute.
- (4) The Kenya Sugar Research Institute shall maintain a register of persons qualified to be appointed as sugar industry inspectors.
- (5) A person shall not be appointed as a sugar industry inspector unless such person is registered by the Kenya Sugar Research Institute.
- (6) The Board may appoint any other government agency as a sugar industry inspector for purposes of this Act.
- (7) The Cabinet Secretary shall make Regulations for the better implementation of the provisions of this Section”

Consequent to the amendments in Part V, I propose that Clause 29 is amended to incorporate crop inspectors, factory inspectors, warehouse and transport inspectors and any other inspector that the Board may consider necessary, and providing

qualifications, appointment process, training and capacity building along the value chain.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I agree with Hon. Oundo’s proposed amendment except Clause 29(4) and (5). The only problem is that we need to change from Kenya Sugar Research Institute to the Board because these are the functions of the Sugar Board.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo, can you consult with Hon. Chairman, so that you move a further amendment? This will clean up the Bill.

*(Hon. (Dr) Ojiambo Oundo consulted with  
Hon. (Dr) John K. Mutunga)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Mutunga, do you want to move your further amendment so that we put the Question together?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move a further amendment to Clause 29:

THAT, Sugar Research Institute in Sub-clauses 3, 4 and 5 be changed and referred to as the “Sugar Board.”

The inspectors are managed, organised and coordinated by the Sugar Board.

*(Question of the further amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 29 as amended agreed to)*

*(Clauses 30, 31 and 32 agreed to)*

*Clause 33*

**The Temporary Chairman** (Hon. David Ochieng’): Chairperson.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 33 of the Bill be amended by inserting the following new paragraph immediately after paragraph (c) —

“(d) Sugar Development Levy.”

The idea is to include the Sugar Development Levy as a source of funding for the Sugar Board.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 33 as amended agreed to)*

Clause 34

**The Temporary Chairman** (Hon. David Ochieng’): Chairman.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 34 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) The Cabinet Secretary shall in consultation with the Board, by order in the Gazette, impose a levy on domestic Sugar not exceeding four per centum of the value and a four per centum of CIF value on imported sugar to be known as the Sugar Development Levy”.

(b) by deleting sub clause (6);

(c) by deleting sub clause (7) and substituting therefor the following new sub clause —

“(7) The Sugar Development Levy collected under sub-section (2) shall be appropriated as follows—

(a) fifteen per centum shall be applied for factory development and rehabilitation;

(b) fifteen per centum shall be applied for research and training;

(c) forty per centum shall be applied for cane development and productivity enhancement;

(d) ten per centum shall be applied for infrastructural development and maintenance and shall be managed by Kenya Rural Roads Authority;

(e) fifteen per centum shall be applied for the administration of the Board; and

(f) five per centum shall be applied for the furtherance and exercise of the functions of sugarcane farmers organisations”.

(d) by deleting sub clause (8).

The idea is to redefine the roles. First of all is to define the percentage of the levy and then to distribute the levy in view of the different user categories.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Kemei,

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Thank you, Hon. Temporary Chairman. I was looking at Hon. Wangwe and I thought that you would have given him a chance earlier.

I want to support the proposed amendment by the Chair. What is happening is that we have allocated money for use in the Sugar Board by various institutions. We want to ring-fence that funding so that at any given time there will be no change. For example, we have proposed that 40 per cent will go to farmers, 15 per cent will go to the millers and 15 per cent will go to the research institutions. So, basically the detail is to ring-fence the money that will be allocated to the Sugar Board.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

Hon. Melly, do you have anything to say on this?

Hon. Wangwe, as Hon. Melly gets to his seat.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Temporary Chairman. This is just to emphasize on what *Mheshimiwa* Kemei has said. The gist of the whole Bill is on this Clause. Colleagues, it is important that we get it right. The sharing of resources that will come out of the Sugar Development Levy (SDL) should be properly understood, especially on two issues; cane development, which is properly dealt with and the issue of factory rehabilitation. If you get the factory acquisition wrong, you will not get cane development right.

Thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Chairman. My amendment has been captured by Hon. Chairman. However, I have realised that he has levied 4 per cent. That is why we were trying to consult. To promote the local industry, I am proposing that the local sugar be levied at 2 per cent and 4 per cent on the imported sugar. I think the Hon. Chairman has captured that quite well.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nyikal. Hon. Melly, you have to go on record to withdraw your amendment because it has been covered.

**Hon. Julius Melly** (Tinderet, UDA): Hon. Temporary Chairman, I was in the process of consulting the Chairman of the Departmental Committee on Agriculture and Livestock on the percentages. Farmers of locally produced sugar should be levied 2 per cent and the imported sugar at 4 per cent to discourage importation. I hope you captured that quite well, Hon. Chairman.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Yes.

**The Temporary Chairman** (Hon. David Ochieng’): I made a request to you. You should go on record to say whether you are withdrawing the amendment or you want to move it.

**Hon. Julius Melly** (Tinderet, UDA): If Hon. Chairman has not captured it quite well, I will move it.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman’s amendment has already been carried. We have already voted on it.

*(Hon. (Dr) John K. Mutunga spoke off the record)*

Give him the chance to speak.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, let me explain something to Hon. Melly. In the Common Market for Eastern and Southern Africa (COMESA) trading system, it is discriminatory for us to put a lower levy percentage than what is there. It is against the law. We cannot do that.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you, Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): I withdraw the amendment.

*(Proposed amendment by Hon. Julius Melly on Clause 34 withdrawn)*

**The Temporary Chairman** (Hon. David Ochieng’): Thank you very much. Hon. Nyikal, move your amendment.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, I beg to move:

THAT, Clause 34 of the Bill be amended in sub clause (5) by deleting the word “five” and substituting therefor the word “three” immediately after the words “a sum equal to”.

My amendment reduces the penalty which is indicated as 5 per cent per month. Somebody who fails to pay a levy every month is added 5 per cent of that amount. I am proposing that we change it to 3 per cent. As much as these things are punitive and deterrent, when they are too high, just like in the case of the NHIF, they become restrictive. People cannot pay and there is nothing you can do about it. My proposal is to reduce it from 5 per cent to 3 per cent.

*(Question of the amendment proposed)*

**The Temporary chairman** (Hon. David Ochieng’): Hon. Chairman.

**Hon. (Dr). John. K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, the Committee did not amend that clause. In view of the explanation that Hon. Nyikal has brought to the Floor of the House, it makes sense to have a lower levy because it is a penalty.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 34 as amended agreed to)*

*Clause 35*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman.

**Hon. (Dr) John. K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move that Clause 35 be amended as per the Order Paper.

*(Loud consultations)*

**The Temporary Chairman** (Hon. David Ochieng’): Do we have an amendment in Clause 35?

**Hon. (Dr) John. K. Mutunga** (Tigania West, UDA): Basically, it is to correct some typographical error.

There is no amendment to Clause 35.

**The Temporary Chairman** (Hon. David Ochieng’): Do we have an amendment to that particular Clause?

**Hon. (Dr) John. K. Mutunga** (Tigania West, UDA): No. We do not have an amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. This Clause does not have an amendment.

*(Clause 35 agreed to)*



*Clause 36*

**The Temporary Chairman** (Hon. David Ochieng’): Chairperson.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 36 of the Bill be amended by inserting the word “of” immediately after the word “thirtieth”.

The idea is to correct a typological error, where we are inserting an ‘of’ between thirteen and June.

*(Question of the amendment proposed)*

*(Question that the word to be inserted,  
be inserted put and agreed to)*

*(Clause 36 as amended agreed to)*

*(Clauses 37, 38 and 39 agreed to)*

*Clause 40*

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I beg to move:

THAT, clause 40 of the Bill be amended in sub clause 2 by deleting paragraph (b) and substituting therefor the following new paragraph –

“(b) four other members, being persons with expert knowledge in economics, trade, law, agriculture, research and engineering with at least five years’ experience in arbitration, all of who shall be appointed by Chief Justice through a competitive recruitment process.”

I want the Chairman of the Committee to listen so that we can agree. Clause 40 relates to the appointment of members of the Sugar Arbitration Tribunal. I make these proposed amendments in view that a tribunal is now a quasi-judicial body and its appointment must be in line with probably the Judicature Act. That is why we are proposing amendments to Clause 40(2).

Hon. Temporary Chairman, the appointment of members of the tribunal proposed under section (b) should be the exclusive reserve of the Chief Justice without having to go through the cumbersome process of having to consult the Attorney-General and the Council of Governors. It is going to bog down the process. It is in line with all other tribunals that we have been passing here in various Acts of Parliament.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Chairman.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, we agree with the proposal by Hon. Oundo.

*(Question, that the words to be left out)*

*be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 40 as amended agreed to)*

#### Clause 41

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 41 of the Bill be amended—

(a) in sub-clause (1)-

- (i) by deleting the word “sugarcane” and substituting therefore the word “sugar crop” in paragraph (a);
- (ii) by deleting paragraph (b) and substituting therefor the following new paragraph—  
“(b) disputes between sugar crop farmers and the following-
  - (i) out grower institutions;
  - (ii) millers;
  - (iii) other interested parties”

The idea is to replace the word ‘sugarcane’ with ‘sugar crop’ as we discussed earlier and further improve on the scope through recognition of the growers.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo, you have an amendment that is almost similar to that.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): We have already agreed on the text. I drop my amendment because it is already covered.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Proposed amendment by Hon. (Dr)  
Ojiambo Oundo on Clause 41 withdrawn)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 41 as amended agreed to)*

#### Clause 42

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson.

**Hon. (Dr) John K Mutunga** (Tigania West, UDA): I beg to move:

THAT, Clause 42 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub clause—

“(1) The Tribunal shall expeditiously determine any dispute before it but in any case, shall determine a dispute within a period of three months from the date the dispute is lodged”.

The idea is to enhance clarity because we have redefined the roles.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you very much, Hon. Temporary Chairman. I just want to support the Chair of the Committee on that amendment. The Committee has put the period of solving a dispute to be within three months. The condition of three months is good. I support it.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): I think there is also an amendment from Hon. Shabbir.

**The Temporary Chairman** (Hon. David Ochieng’): Let us deal with this one first.

**Hon. (Dr) James Nyikal** (Seme, ODM): Okay.

**The Temporary Chairman** (Hon. David Ochieng’): Go ahead.

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Hon. Chair, the idea of saying any dispute is to be resolved within a period of three months was to deal with cases and disputes in the sugar industry. They would take a long time. We wanted to give it a timeline so that issues are sorted out within that period and it remains in law that it should be done within that period.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nyikal, do you have delegated authority from Hon. Shakeel?

**Hon. (Dr) James Nyikal** (Seme, ODM): Yes, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Proceed to move the amendment.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, I am moving this amendment on behalf on Hon. Shabbir, who is away and has authorised me through that letter. The amendment is on Clause 42(2).

I beg to move:

THAT, Clause 42 of the Bill be amended in sub clause (2) by inserting the words “within thirty days” immediately after the words “High Court”.

What that means is that an appeal shall die from the decision of the High Court, within thirty days, on point of law and order. What he is doing is say that appeal should be within 30 days. It is just putting the days within which an appeal should be done. After that, it probably lapses. That is the only amendment.

*(Question of the amendment proposed)*

**Hon. (Dr) John K Mutunga** (Tigania West, UDA): I do not agree with the amendment by Hon. Shakeel. It is interfering with the court processes. They have their procedures and rules. We are likely to interfere with court processes if we fix a timeline.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. The Hon. K’Oyoo.

**Hon. James K’Oyoo** (Muhoroni, ODM): I want to plead with the Chair to accept Hon. Shakeel’s suggestion. The courts should not be allowed to take as long as they want. We must give them specific periods within which to execute their mandate.

**The Temporary Chairman** (Hon. David Ochieng’): Finally, Hon. (Dr) Oundo.

**Hon. (Dr) Oundo Ojiambo** (Funyula, ODM): Hon. Temporary Chairman, there is already a precedent in this country. Election petitions, constitutional petitions and petitions on presidential elections have very clear timelines. People can drag cases. As they drag them, the farmers suffer most. Hon. Chair and Committee Members, we plead with you. Please.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Melly, do you want to say something on this?

**Hon. Julius Melly** (Tinderet, UDA): Hon. Chair, I support Hon. Shakeel’s amendment. At times, farmers are in trouble. They may petition endlessly. You will find them suffering yet courts are giving them much injustice. Let us allow them to have a timeline.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 42 as amended agreed to)*

*(Clauses 43, 44, 45, 46, 47 and 48 agreed to)*

#### Clause 49

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chair, I beg to move:

THAT, Clause 49 of the Bill be amended—

(a) in sub-clause (1), by deleting paragraph (c) and substituting therefor the following new paragraph-

“(c) environmental standards and issues as set by the body for the time being responsible for public health; and”

(b) by deleting sub-clause (2)

The idea is to enhance clarity with respect to paragraph (c). Also, in sub-clause 2, we need to provide for quality control measures, the fact that quality control measures do not give rise to an offence notwithstanding.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 49 as amended agreed to)*

*(Clause 50 agreed to)*

#### Clause 51

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chair, I beg to move:

THAT, the Bill be amended by deleting Clause 51.

This is to move to Clause 20 as Clause 20(A) because it provides for sugar imports and we are discussing all the issues of import around that area.

*(Question of the amendment proposed)*

*(Question, that the words to be left out,  
be left out put and agreed to)*

*(Clause 51 deleted)*

#### Clause 52

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chair, I beg to move:

THAT, Clause 52 of the Bill be amended—

(a) by deleting sub-clause (4); and,

(b) by deleting sub-clause (5);

The idea is to develop it as a stand-alone clause

*(Question of the amendment proposed)*

*(Question, that the words to be left out,  
be left out put and agreed to)*

*(Clause 52 as amended agreed to)*

#### Clause 53

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chair, I beg to move:

THAT, Clause 53 of the Bill be amended —

(a) by deleting sub-clause (2);

(b) in sub-clause (3) by deleting the expression “sub section (2) and substituting therefor the expression “sub section (1);

(c) by inserting the following new clause immediately after clause 53—

General penalty.

53A. (1) A person who contravenes any of the provisions of this Act commits an offence.

(2) A person convicted of an offence under this Act for which no other penalty is provided shall be liable—

(a) in the case of a first conviction, to a fine not less than one million shillings or three times the market value of the sugar in respect of which the offence is committed, whichever is greater, or to imprisonment for a term not less than one year, or to both such fine and imprisonment; and

(b) in the case of a second or subsequent conviction, to a fine not less than three million shillings or three times the market value of the sugar in respect of which the offence is committed, whichever is greater, or to imprisonment for a term not less than two years, or to both such fine and imprisonment.

Basically, if we delete sub-clause 2, then subclause 3 will refer to subsection (1) instead of Subsection (2) because subsection (2) has already been deleted.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng): Hon. Didmus Barasa if he is in the House. His amendment is subsequently dropped.

*(Proposed amendment by Hon. Didmus Barasa on Clause 53 dropped)*

Let us have Hon. Shabbir.

**Hon. James Nyikal** (Seme, ODM): Hon. Temporary Chairman, that is actually just to add to Clause 53(3). It is in reference to what the agreement shall include. He is saying that after 53(a), we have (aa) “the right of a grower to grow sugar crop on their land” so that when the agreements are being prepared, that be included in the substance of the agreement.

**The Temporary Chairman** (Hon. David Ochieng): Chair?

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chair, please deal with the proposer.

*(Question of the further amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): I agree with the proposal.

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 53 as amended agreed to)*

*(Hon. Nabii Nabwera rose in his place)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nabii, do you have an issue?

**Hon. Nabii Nabwera** (Lugari, ODM): Hon. Temporary Chairman, I have an amendment on that clause.

**The Temporary Chairman** (Hon. David Ochieng’): There is a new clause which you will have a chance to move. I am aware of that. Just relax Hon. Nabii. We will come to you at the right time.

*Clause 54*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 54.

The justification is that governance of private sugar mills should be in accordance with the Articles of Association to enable them to do their work. We do not want interference.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, propose what you are proposing. From what you have said, you are not clear. You are proposing a deletion. Just be on record.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I propose that Clause 54 be deleted.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 54 deleted)*

Hon. Oundo, you know the effect of that resolution. Your amendment automatically falls because there is nothing to amend any more.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I appreciate. That is okay.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*Clause 55*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 55.

**The Temporary Chairman** (Hon. David Ochieng’): Why are you deleting?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, Clauses 55 and 54 basically provide for what we think is not correct. Private sugar mills allow individuals to sit on the Board.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question of the amendment proposed)*

Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, I thought that the whole concept of this Bill is to protect farmers. We know that the problem has been with millers. So, my understanding on what has been going on is that we try as much as possible to

protect farmers. If millers can have, at least, one of their persons in their companies, they will have more information. I thought that was the idea and it sounded reasonable to me in the concept of protecting farmers.

So, I oppose the amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Nabii.

**Hon. Nabii Nabwera** (Lugari, ODM): Hon. Temporary Chairman, I think by deleting that clause, we are being retrogressive. I can give you an example. Butali Sugar Company, which is one of the best performing private sugar companies performs because it has a representative of out-growers on the Board. Actually, the Chairperson of Butali Out-Growers is part of the Board of Butali Sugar Company. It is the only factory in this country that pays farmers within seven days. That is because a representative of farmers is on the Board. He ensures that the interests of farmers are put on the table for discussion. So, I would want to persuade the Chairman of the Departmental Committee on Agriculture and Livestock, with a lot of humility, to allow the amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Members, we have just deleted Clause 54, which contained the issue of percentages and all that. Remind yourselves by checking the Bill.

Hon. Martin Peters Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): I just want the Chairman of the Departmental Committee on Agriculture and Livestock to explain the harm of having a representative from private growers. In Ndhiwa, which I represent in this House, we have a private one and their participation in sugar issues is very helpful to farmers. Just help us get it right. What is wrong with them being represented in those boards?

Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Kemei. Hon. Chairman, just a minute.

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Hon. Nabwera has referred to a situation that has not been legislated on, but which works. Therefore, we were of the opinion that since we are dealing with private entities, there is no way we can determine the boards of private entities. However, we would encourage them to bring on board farmers by private arrangement like the way they have done in Butali Sugar Company. We cannot legislate on such arrangements.

Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Because you are a big man Hon. Chairman, you have to wait.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you. Looking at the spirit of the Bill when we were here with Hon. Justice Kemei, Hon. Member for Tinderet and yourself, the spirit on that clause was that we do not condition private millers on who and how much or what percentage they are supposed to hold by just allowing them to, maybe, invite an out-grower organisation or farmer representative organisation and engage that party at their own will as long as they sit on the Board and make decisions that affect farmers at that time.

That is why if you look at the clause it is very plain. I would want to indulge my Hon. Chairman, that we look at it from that angle and spirit and say we invite the growers to be at that level. Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Chairman, finally.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you. If we look at the spirit of Clause 54, it is specific that 51 per cent shareholding in a private mill sugar factory goes to the farmers. That is punitive. We know we can have arrangements, and we went to all the regions and visited about 11 sugar mills out of 16.



We are speaking from a background...

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, we are done with that now. We are already in Clause 55. Clause 55 is inviting out-growers to the Board. It does not have any percentages of holding shares. In fact, it does not have shares. It does not have any issue to do with shares.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): I think we had considered all of them. We might have to go by the mood of the House.

**The Temporary Chairman** (Hon. David Ochieng’): I think, it will have to go either way.

*(Question, that the words to be left out be left out, put and negated)*

We go to Hon. Nyikal.

*(Hon. Justice Kemei spoke off the record)*

Well, that is okay. Let us hear what he has to say. Hon. Kemei.

**Hon. Justice Kemei** (Sigowet/Soin, UDA): I know we have passed that one but with due respect and with the understanding that we cannot legislate in vain, we cannot have something without any practical implications in law. I want us to be guided properly because, if, for example, he owns Company A and we are saying in Company A, he must ask 51 per cent to come from somewhere else, how would that be practical?

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Kemei. I want to repeat this.

*(Hon. Justice Kemei remained upstanding)*

Just resume your seat if you do not mind. The clause that talked about percentages was Clause 54, and it has been deleted.

The clause you have just voted on now is Clause 55, and it talks about private sugar millers inviting representatives from out-grower organisations to sit in their boards. They do not get any percentage of the shares and there is no requirement to give them any shares. They are just on the Board. That is what is contained in Clause 55.

Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, I beg to move:

THAT, Clause 55 of the Bill be amended in sub-clause (3) by deleting the word “two” and substituting therefor the word “three” immediately after the words “term not exceeding”.

Now that the Clause has survived, I have something to amend in the spirit of strengthening farmers. Millers and farmers are the backbone of the sugar industry. If they coexist and work together, everything else works. Goodwill does not always work. Sometimes the Government invests resources in an institution to protect public good.

Clause 55(3) states that a person appointed as a director shall serve for a term not exceeding two years. I propose to amend it to three years because serving on a board for two years will not result in any meaningful contribution. If one serves for three years, they will spend a year learning about the job, and then they will make meaningful contributions during the next two years before they leave.

That is the import of my amendment, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 55 as amended agreed to)*

*Clause 56*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson.

*(Loud consultations)*

Order, Members. Let your consultations be in low tones.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 56.

The Committee recommends that Clause 56 be deleted because we have moved the Third Schedule into the Regulations. The Clause is referring to provisions that have already been deleted from the Bill.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 56 deleted)*

*Clause 57*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 57 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “county governments and” immediately after the words “in consultation with.”
- (b) in sub-clause (2)-
  - (i) by inserting the words “and collection centres” immediately after the words “weighbridges” in paragraph (d);
  - (ii) by inserting the following new paragraphs immediately after paragraph (i)-
    - “(j) the conditions with respect to the delivery, measurement, examination and testing of sugarcane;
    - (k) the seizure by an inspector of books, documents and sugarcane which, in the opinion of the inspector, may afford evidence of a contravention of this Act and the doing of such

other things as may appear to the inspector to be necessary for ascertaining whether compliance has been made with this Act;  
(l) penalties for non-adherence to sugar industry agreements”

- (c) by deleting sub-clause (3).
- (d) in sub-clause (4) by deleting the words “twelve months” and substituting therefor the words “six months”

We need to include county governments in sub-clause (1) and properly define the collection centres. We also wanted to include more areas in the regulations in respect to sub-clause (2). We also propose to delete sub-clause (3) because it refers to constitutional provisions which we do not need to include in the Bill.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I just want to indulge the Chairperson in the spirit of the expanded definition of the term “sugarcane and sugar-producing crop”. Amendment b(ii) proposes the insertion of a new paragraph (k) which talks about: “the seizure by an inspector of books, documents and sugarcane which, in the opinion of the inspector, may afford evidence of a contravention of this Act and the doing of such other things as may appear to the inspector to be necessary for ascertaining whether compliance has been made with this Act;” We probably need to expand that definition to include “sugarcane and sugar-producing crop.”

Secondly, we have also expanded the role of an inspector in the sugar industry. Therefore, the seizure should probably also include any other item, plant or machinery that is used in the sugar industry. I suggest that the amendment be moved in an amended form to capture the new arrangements that we have in the books.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson, can you respond to that? Do you want to first consult your team?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): I need to first consult my team.

**The Temporary Chairman** (Hon. David Ochieng’): Please, go ahead.

*(Hon. (Dr) John Mutunga consulted the Committee Members).*

Give the Hon. Chairperson the microphone. He is back. Hon. Chairperson we are waiting for you.

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, we have agreed to further amend the term “sugar cane” to read ‘sugar crop’ in view of the spirit of the Bill and the definitions.

**The Temporary Chairman** (Hon. David Ochieng’): Please move the further amendment formally therefore.

**Hon. (Dr) John Mutunga** (Tigania West, UDA): I beg to move:

THAT, Clause 57(2)(ii) of the Bill be further amended by deleting the words ‘sugar cane’ and substituting therefor with the words ‘sugar crop’.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question of the further amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): We have an amendment by Hon. Shakeel on the same clause.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, I beg to move: THAT, clause 57 of the Bill be amended in subclause (2) by inserting the following new paragraphs immediately after paragraph (g)—

“(ga) long-term leasing of state-owned mills by private investors including capping of leases to fifteen years and structured review every five years and rights and obligations of parties to such leases;”

Hon. Shakeel proposes to add another consideration under delegated powers and the import is basically to bring the leasing issue with more specific terms into the provisions for which the Cabinet Secretary can make delegation.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question of the amendment proposed)*

Hon. Chairperson, proceed.

**Hon. (Dr) John Mutunga** (Tigania West, UDA): The Committee was of the opinion that the Privatisation Act is sufficient. So, there is no need of bringing it now.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Yes, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I want to urge Dr Nyikal on his delegated authority given to him by Hon. Shakeel to drop that amendment because we passed the Privatisation Bill the other day. I think it is a more comprehensive and substantive Act dealing with leasing, privatisation and the rest. We are a legislation making body; so him and I are always here. We know the laws passed unlike others who come when they have special interest.

**The Temporary Chairman** (Hon. David Ochieng’): We said you do not need to cast aspersions.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): No.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, I am persuaded that those details are too descriptive and I want to drop that amendment.

*(Proposed amendment by Hon. Shakeel Shabbir dropped)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 57 as amended agreed to)*

*(Clauses 58, 59, 60, 61 and 62 agreed to)*

*New Clauses 17A and 17B*

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 17—

Registration  
of millers.

17A (1) A person shall not conduct the business of a miller unless he or she is registered by the Board and the premises in which the business is conducted is specified in the register in accordance with regulations made under this Act.

(2) The Board shall issue to every miller registered under this section, a certificate of registration specifying the premises at which milling may be carried on by the miller.

(3) No fee shall be charged in respect of any registration or certification of registration made or issued under this section.

(4) In issuing certificates of registration under sub-section (3), the Board shall satisfy itself that the premises upon which milling may be carried out meets the environmental standards set by the National Environmental Management Authority and the miller has been issued with a certificate of safety by the relevant county government.

(5) A miller may offer extension or other services to growers.

(6) Every miller registered under this section shall conduct business in accordance with this Act and any regulations made thereunder.

(7) A person who contravenes the provisions of this section commits an offence and shall upon conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings or to both.

Registration  
of a grower  
to a factory

17B. (1) A miller shall not purchase sugar crop from, or accept sugar crop delivered by, a grower and a grower shall not sell or deliver sugar crop to a miller, unless that grower is registered in respect of the factory of the miller for the supply of sugar crop.

(2) No miller shall, without reasonable cause, refuse to accept or collect sugar crop for the manufacture of sugar delivered by a grower in accordance with a cane supply agreement.

(3) A miller or a grower who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not less than one million shillings or three times the market value of the sugar in respect of which the offence is committed, whichever is greater, or to imprisonment for a term not less than one year, or to both such fine and imprisonment.

*(The new Clauses were read a First Time)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairman, move Second Reading of the new Clauses 17A and 17B.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move that the new Clauses 17A and 17B be now read a Second Time.

**The Temporary Chairman** (Hon. David Ochieng’): Go ahead.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Clause 17A is about registration of millers. It provides for registration of millers and the various categories that are recognised as millers. Clause 17B is on registration of the growers to a factory.

The import of this amendment is to provide for the institution of millers by the Board and the institution of growers to a factory and the offences, in case of contravention of the provisions.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Members, this is on pages 1205 and 1206 in the Order Paper.

*(Question, that the new clauses be read a Second Time, proposed)*

Yes, Hon. (Dr) Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I want my colleagues from the sugarcane growing areas, especially in western and Nyanza to pay very particular attention to these amendments. They look good and workable on paper because they protect commercial interests...

*(Several Members spoke off the record)*

Coast and Rift Valley are also sugarcane growing areas. I pass through Muhoroni, Tinderet and all those areas.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo, to be on the safe side, just say sugarcane farmers.

**Hon. (Dr) Oundo Ojiambo** (Funyula, ODM): Sugarcane farmers. The import is that once you register, you enter into a sugar supply or purchase agreement. You cannot break or breach it. If you do so, there are penalties.

Does this, in any way, introduce zoning through the back door? From my understanding, nothing stops you if you are in Awendo to register to supply sugar to Miwani. There is this fear that New Clause 17B introduces zoning. It does not introduce it. You can sell anywhere as long as it makes commercial sense.

If you are from Busia Sugar Company, you can go and buy sugarcane from Nzoia, Kanduyi or Kwanza. You can ask Hon. Wanyonyi or my sister to grow sugarcane and then you go and buy. I want to support the amendment. I plead with my colleagues to support it. It tightens up because we are in business.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Chairman. I support the Chairman in this amendment. As Hon. Oundo has put it, the contract is between the farmer who is the supplier and the factory which is the purchaser. The interest of the farmer is well catered for in the supply agreement.

Similarly, the interest of the miller, who provides loans to the farmer, is catered for. We have farmers who want to abscond from supplying sugarcane and yet they have taken the loans. There will be no poaching of sugarcane anymore. Before your cane is harvested, you must show the supply contract agreement which is very important.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you very much. Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you very much, Hon. Temporary Chairman. This Clause is very important. Many a times, this Clause is anchored in the Regulations at the mercy of the Cabinet Secretary. He prepares the Regulations and then forwards them to Parliament for approval. It has been a game of cat-and-mouse. Now that it is

in the main Bill, I am pretty sure that farmers in the villages will stand tall. They will henceforth be protected. However, they should be warned that they should no longer supply sugarcane to any party that they have not contracted. That is the tricky part. This is an issue of the law and the penalties apply.

Thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. David Ochieng’): Okay. I will listen to one person who has not spoken this evening; Hon. Shinali.

**Hon. Bernard Shinali** (Ikolomani, ODM): Thank you, Hon. Temporary Chairman. Maybe I have not caught your eye because of where I am sitting.

As I support this amendment, we also have millers who contract many farmers who may not harvest on time. I hope the regulations will cure this. Where I come from, I have seen farmers suffer just to procure a permit to harvest sugarcane. I hope the regulations will cater for this such that when the cane is ready, it is harvested on time to avoid loss to farmers.

**The Temporary Chairman** (Hon. David Ochieng’): I believe Hon. D.K. has earned a right to speak this evening. Go ahead.

*(Laughter)*

**Hon. David Kiplagat** (Soy, UDA): Thank you, Hon. Temporary Chairman. If there is a Member who comes from a non-sugar-producing area, but supports the sugar sector, that Member is none other than me. That is why I am here until the Bill is over to ensure that we support and bring sanity to the sugar sector.

I can see Hon. (Dr) Oundo smiling. We have travelled and extensively discussed with all the stakeholders, including farmers, in the western belt region, and one thing that is clear is that the issue of zoning is a no-go zone. We only support the contracts between the miller and the farmer, if at all they enter into a contract, to develop the sugarcane, but competition in the sector should be allowed. For farmers to get their desired profits, zoning should not be allowed. We support the Committee’s amendments. We want to bring sanity to the sugar sector by not supporting express zoning.

*(Hon. (Dr) James Nyikal raised his hand)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. (Dr) James Nyikal, you will get a chance shortly.

*(Question, that the new clauses be read a Second Time, put and agreed to)*

*(Question, that the new clauses be added to the Bill, put and agreed to)*

*New Clause 19(A)*

THAT, Clause 19 of the Bill be amended—

Conditions of a license.	<p>(d) by inserting the following new clause immediately after clause 19—</p> <p>19A. (1) A license issued under this Act shall be subject to such conditions as the Board may determine and as prescribed in regulations.</p>
-----------------------------	--

(2) Every license shall, unless earlier revoked, expire on the 30<sup>th</sup> June next following the date of issue.

*(The new clause was read a First Time)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move that the new clause 19A be now read a Second Time.

*(Question, that the new clause be read a Second Time, proposed)*

*(Hon. (Dr) Ojiambo Oundo raised his hand)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. (Dr) Oundo, allow me to put the Question first. You will talk next.

*(Question that the new clause be read a Second Time, put and agreed to)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

#### *New Clause 20A*

That the bill be amended by inserting the following new clause immediately after Clause 20:

20A. (1) The Board shall ensure, subject to such regional and international trade agreements to which Kenya is a party, that all sugar imports into the country are subject to all the prevailing import duties, taxes and other tariffs.

(2) Despite sub-section (1), the Board shall ensure that—

(a) sugar shall be imported in the country only when there is sugar deficit and for a specific tonnage; and

(b) importers report to the Board on their imports, sales and stock as may be determined by the Board.

(3) The Government shall introduce other safeguard measures as may be necessary to protect the industry from unfair trade practices.

(4) A person who contravenes the provision of this section commits an offence and shall be liable, on conviction, to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or two million shillings, whichever is the higher, or to imprisonment for a term not exceeding ten years, or to both.

*(The new clause was read a First Time)*

**The Temporary Chairman** (Hon. David Ochieng’): Mover.

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move that New Clause 20A be now read a Second Time.

Clause 20A is about the safeguard measures. The clause has been moved from 50(1) to 20A as a rearrangement issue.



*(Question, that the new clause be read  
a Second Time, proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Yes, Hon. Nyikal.

**The Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, I support this, but I think it is not sufficient. Sub-Clause (2) states that:

“Despite sub-clause (1), the board shall ensure that sugar shall be imported in the country only when there is a deficit.”

Does it mean that the board then will be regulating when the sugar comes in and who brings it? In my view, it sounds like the sugar can come in and it does not tie that any sugar that comes subject to (a) must pass through the board; that the board must give some authorisation. It would have been clearer to say that no sugar will be imported without the authority of the board. I propose that before (a), we introduce an amendment to say that no sugar will be imported without authorisation from the board. We want to tie it so that any sugar that comes subject to (1) because of the international agreement, only the board can make it come in. This has been our biggest problem. I think we should move an amendment before (a) that no sugar shall be imported without the authority of the board and then you bring the rest in.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. K’Oyoo.

**Hon. James K’Oyoo** (Muhoroni, ODM): Thank you very much, Hon. Temporary Chairman. The biggest problem in the industry has been careless importation of sugar into the country. As I support this amendment, a stricter rule should have been imposed such that when somebody imports sugar, there must be real reason and good enough notice which is made public. When the ship is about to dock, there should be bold statements that a Merchant Vessel (MV) loaded with sugar of a certain quantity, imported from a certain country is coming into Kenya courtesy of the Kenya Sugar Board. We had the Sajjads during Moi’s era. We had the Rais during Uhuru’s era. Now there are also emerging Rais. We know them. They are two. One of them is Hon. G.G. We know they have appetite for money and they are acting for big people. We want this thing to be taken care of properly. We are the people who are being hurt.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): I agree with my two colleagues that this has to be very specific, very clear and very definite especially on imports. The board should be the one to give the nod. The amendment here is not very clear and categorical. Importers like the barons are killing the industry. It is not clear. If we do not come out clearly on what is tonnage, the amount to import, the deficit and the timing... Importation should be only during the period we have deficit, not every other time. Two, I also ask that we make sure it is the board that determines, and not any other person. This one is very amorphous.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Kemei.

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Hon. Temporary Chairman, I support this entirely. Let us not pretend. Sugar is regulated in the whole world. We are giving the responsibility of regulation to the Kenya Sugar Board. We must let the Board determine the quantity to be imported and the time sugar has to be brought into the country. It is only the Kenya Sugar Board, nobody else, to authorise importation of sugar. However, I would have wanted Hon. (Dr) Nyikal to come out clearly. He had an idea that we would have taken on board if he had explicitly put it so that we can tighten the controls of the importation of sugar. I agree with my colleagues that apart from poaching, it is the biggest problem we have in the country.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Woud Chief.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Temporary Chairman. Clause 2(b) does the counter-productive to the whole thing. Chairman of the Committee, I want you to listen to this because you mean well. However, you take away the power of the board by what you have put here that the importers report to the board. Actually, it is the opposite. The board should determine the sales and the deficiencies. I think we will get it if we can reverse that.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Bishop Kosgei, if you have something to say on this, there you are. Take the next microphone.

**Hon. (Dr) Jackson Kosgei** (Nominated, UDA): Thank you so much, Hon. Temporary Chairman.

I would also support that the board be in charge to determine importation. That would mean it is regulating the environment unlike now. It is sometimes scattered between other authorities. This is where, if I may use the word, cartels use to get away in bringing sugar into the country and sometimes polluting our tastes. I support this amendment and the improvement on this part to give more power to the board.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo, could we listen to the Chairman first? Maybe what he is saying may settle the matter.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, we proposed amendments to Clause 20. They had that language. We made it very sharp. I would like to read Clause 20. Clause 20(1) says that: “A person shall not import or export sugar crop, sugar or sugar byproducts without a valid licence issued by the board in accordance with the regulations made under this Act”. Clause 20(2) reads that: “A holder of a valid import or export license shall not import or export sugar crop, sugar or sugar byproducts unless they have obtained a pre-import or a pre-export approval from the board in accordance with the regulations made under this Act”.

Clause 20(3) reads that: “A person who imports sugar into Kenya shall, prior to importation —

- (a) provide evidence that the sugar they intend to import is not available in the local market;
- (b) provide a sample of the sugar to be imported and pre-import verification certificate from the country of origin; and
- (c) obtain pre-import approval from the board”.

So, Clause 20(A) is just enhancing Clause 20.

**The Temporary Deputy Chairman** (Hon. David Ochieng’): Members, allow me to put the Question because I think that will settle the matter. Thank you very much.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(Question, that the new clause be  
added to the Bill, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): We had another new clause proposed by Hon. Caroli, but I do not see him in the House. We, therefore, drop it.

*(New Clause proposed by  
Hon. Caroli Omondi dropped)*

*New Clause 22A*

THAT, the Bill be amended by inserting the following new clause immediately after Clause 22 —

Duties of millers  
and retailers

“22A. (1) Every miller shall supply sugar and other sugar products to the domestic market in a package that satisfies the trade principle of traceability.

(2) Every retailer shall sell sugar and sugar products in a package that satisfies the trade principle of traceability.

(3) The Cabinet Secretary shall within six months of the enactment of this Act, make regulations for the better implementation of the provisions of this Section.

(4) Any person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding two years or a fine not exceeding one million shillings or both.”

*(The new clause was read a First Time)*

**The Temporary Chairman** (Hon. David Ochieng’): Mover.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I beg to move that New Clause 22A be now read a Second Time.

The gist of this proposal or amendment is the concept of traceability that we should be able to trace the sugar from the factory to the end retailer. If in the event a scrupulous trader or merchant imports sugar into the country, we should trace and identify it. It is on page 1221 for my colleagues who have not picked it. That is why we are saying that every sugar miller shall supply sugar and other sugar products to the domestic market in a package that satisfies the trade principal traceability.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Members can read for themselves.

*(Question that the new clause be read a  
Second Time, proposed)*

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, Clause 22(A) as proposed by Hon. (Dr) Oundo is already provided under Clause 4(n) and I would like to read Clause 22(4)(n). Sub-clause 4(n) gives the board the power to enforce and monitor.

**The Temporary Chairman** (Hon. David Ochieng’): Sub-clause 4(n) of which clause?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): It is Clause 4(2)(n). Yes, it is 4(2)(n). Chair, it reads: “Enforce and monitor compliance with the standards along the sugar value chain.” Let me explain what monitoring standards means. It is monitoring and compliance with the standards along the value chain which means there are many other standards apart from traceability. Traceability is just one of the standards. So, it is presumed that as they monitor the standards, traceability is one of them and it is demanded in the international trading system. Traceability is one of the things that you have to declare in advance.

**The Deputy Chairman** (Hon. David Ochieng’): Hon. (Dr) Oundo, you want to make it back and forth.

**Hon (Dr) Ojiambo Oundo** (Funyula, ODM): It is just a basic principle of drafting that normally such clauses as Clause 4 says that the functions of the board or the authority will go further to break down and give it teeth. Standards is standard by either KEBs, but it is the question of traceability. Many of us are aware that you will find sugar branded as Mumias yet Mumias is not producing. You go to the supermarket, find sugar branded Nakumatt, or

Carrefour. When did Carrefour start producing sugar? It is just reinforcing that we must have a sense of traceability so that even for public health purposes and international trade practices, the question of traceability should become key. That is why I am pleading with my colleagues to buttress it because it does not offend any other clause in the Bill.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

### *New Clause 53A*

THAT, Clause 53 of the Bill be amended —

(c) by inserting the following new clause immediately after Clause 53—

General penalty. 53A. (1) A person who contravenes any of the provisions of this Act commits an offence.

(2) A person convicted of an offence under this Act for which no other penalty is provided shall be liable—

(a) in the case of a first conviction, to a fine not less than one million shillings or three times the market value of the sugar in respect of which the offence is committed, whichever is greater, or to imprisonment for a term not less than one year, or to both such fine and imprisonment; and

(b) in the case of a second or subsequent conviction, to a fine not less than three million shillings or three times the market value of the sugar in respect of which the offence is committed, whichever is greater, or to imprisonment for a term not less than two years, or to both such fine and imprisonment.

*(The new clause was read a First Time)*

**The Temporary Chairman** (Hon. David Ochieng’): Did you get it?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Yes, New Clause 53A.

Hon. Temporary Chairman, I beg to move that New Clause 53A be now read a Second Time.

New Clause 53A is about general penalty. New Clause 53A(1) states that a person who contravenes any of the provisions of this Act commits an offence. New Clause 53A(2) states that a person convicted of an offence under this Act for which no other penalty is provided shall be liable—

(a) in the case of a first conviction...

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson, you do not have to read the amendment. Just move it as it is on the Order Paper.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move that New Clause 53A be now read a Second Time.

*(Question, that the new clause be read a Second Time, proposed)*

Yes, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I totally support the Committee. We must make provisions for general penalties in any Bill in the event they are not expressly prescribed.

I support the amendment.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

#### *New Clause 53A*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Members, there is a proposed New Clause 53A by Hon. Caroli Omondi who is not in the House. The amendment will be dropped.

*(Proposed New Clause by Hon. Caroli Omondi dropped)*

There is another New Clause 53A proposed by Hon. Nabii Nabwera, Member for Lugari.

THAT, the Bill be amended by inserting the following new clause immediately after Clause 53—

Sugarcane  
Pricing  
Committee.

53A. (1) There shall be a Sugarcane Pricing Committee (hereinafter referred to as “the Committee”).

(2) The Committee shall comprise of—

- (a) a nominee of the Board;
- (b) one person nominated by the sugar manufacturers’ apex body;
- (c) two persons nominated by the sugar growers’ apex body;
- (d) the Principal Secretary responsible for matters related to agriculture or a representative appointed in writing;
- (e) the Principal Secretary responsible for finance or a representative appointed in writing;
- (f) two representatives from county government nominated by the Council of Governors; and
- (g) a nominee of the Sugar Research and Training Institute.

(3) The main objectives of the Committee shall be to—

- (a) review sugarcane prices in consultation with the Sugar Research and Training Institute;
- (b) provide a mechanism that remunerates farmers for other products delivered from the processing of cane;
- (c) ensure adherence to negotiated cane pricing formula;
- (d) transition to payment based on quality; and
- (e) enforcement of contracts between farmers and millers.

- (4) The Committee shall come up with the pricing formula and in doing so shall take into account the—
- (a) pricing mechanisms for all other cane related charges paid by the farmer;
  - (b) an index that takes into consideration delayed harvesting;
  - (c) transportation cost per tonne per kilometre of sugarcane; and
  - (d) inflation and adjustment cost of production.
- (5) The Board shall offer secretariat services to the Committee.
- (6) The sugarcane prices set by the Committee under subparagraph (3) shall be reviewed after three months provided that the Committee may, with prior approval of the Board, undertake an early review of the sugarcane pricing.

*(The new clause was read a First Time)*

**Hon. Nabii Nabwera** (Lugari, ODM): Hon. Temporary Chairman, I beg to move that New Clause 53A be now read a Second Time.

Hon. Temporary Chairman, the clause on pricing had been put in the Third Schedule. I propose to introduce it in the main body of the Bill because of the issue of pricing to the farmer and the whole sugar industry. I was the joint secretary of the taskforce that eventually negotiated this Bill. The issue of pricing is critical to a farmer. One of the things that is also new in clause 53A is the issue of inflation and adjusted cost as a consideration when developing the pricing formula.

**The Temporary Chairman** (Hon. David Ochieng’): We are on Page 1225 of the Order Paper on New Clause 53A. It is talking about the new Sugarcane Pricing Committee as a marginal note.

**Hon. Nabii Nabwera** (Lugari, ODM): It provides for the responsibilities of the committee and factors considered when developing the pricing index.

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson, do you want to consult or contribute?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): I want to contribute.

**The Temporary Chairman** (Hon. David Ochieng’): Go ahead.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, we had not looked at the Sugarcane Pricing Committee which right now is domiciled at the regulatory body’s headquarters. It is important to have a pricing committee. So, in consideration of the mood of the House and what the Member has provided, we can adopt this clause.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Chairman. I also want to say that it is very important and vital to have a pricing mechanism especially in the sugar sub-sector. The body to carry this out is the committee although for pricing, there has to be a very clear formula. I think in the earlier Sugar Bill, the sugar pricing formula was scientific and was arrived at through a scientific process. So, as we consider this, I want to ask Hon.

Nabii to relook into it because an *ad-hoc* committee will not just sit. It must have very clear procedures and a formula on how to arrive at pricing.

As we look into this, we have a very important unit called the Sugar Testing Unit which should be part and parcel of the pricing. I ask Hon. Nabii to relook and add that particular aspect.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Temporary Chairman. I support this amendment. Considering what has happened...

**The Temporary Chairman** (Hon. David Ochieng’): Just before you move, I request Hon. Melly and Hon. Nabii to talk. Go ahead.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): I thank Hon. Nabii and support this amendment which is coming at a time when there is a rush. In the last six months prior to the closure of the factories, you would wake up in the morning and the cane price is Ksh4,500. After one, two, three or seven days, the price rises to Ksh4,600 and it moved up to Ksh5,500. That price uncertainty is a very bad practice in the industry. Looking at the way the amendment is done, on Clause 53A(6), by setting a period of reviewing after three months’ time, that is good enough to check on issues of inflation, cane production and all the parameters of cane availability.

I support.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, I am really convinced that the whole Bill is protecting farmers. Leaving some groups to do pricing on their own will not work. I support Clause 53A because it is broad enough and has given the objectives.

Under sub-clause 4, you can introduce the suggestions that Hon. Melly was saying and taking into consideration all other factors. Therefore, I support.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. *Wuod* Chief.

**Hon. Martin Owino** (Ndiwa, ODM): If you want to know where farmers lose, it is this one. I support it only if we can add something like “technical” in sub section (g) where it reads “technical nominee of the sugar research” especially on the sugar sucrose content. That is the main thing why the pricing sometimes is high. If they produce a mere nominee of the research institute, then it does not make sense. Hope Hon. Nabii noted that. If we can have a technical person from the Kenya Sugar Research and Training Institute (KSRTI), that would help.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Kemei.

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Hon. Temporary Chairman, I support the amendment by Hon. Nabwera. We have consulted and there is a pricing formula that is with the KSRTI. We have agreed that if only he can, in this amendment, bring on board the formula from KSRTI, then we are good to go.

**Hon. Nabii Nabwera** (Lugari, ODM): Thank you, Hon. Temporary Chairman. After the consultation to enrich the provision, we are adding Sub section 4(e) that KSRTI shall provide a formula to guide the committee.

**The Temporary Chairman** (Hon. David Ochieng’): It is Sub section (e) because it is amending Sub-clause 4.

**Hon. Nabii Nabwera** (Lugari, ODM): Sub clause 4(e). That is where it fits.

**The Temporary Chairman** (Hon. David Ochieng’): I hope that is captured; that it shall take into account the formula provided by KSRTI. I hope that is captured. Have we agreed on that? Hon. Oundo, let us make progress. Go ahead.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): On Part 3 of the Third Schedule, that particular provision which you are moving to the main body of the Bill, probably we need guidance. Do we, at this moment, move a further amendment to delete Part 3?

**The Temporary Chairman** (Hon. David Ochieng’): It was written already, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): It follows automatically?

**The Temporary Chairman** (Hon. David Ochieng’): Yes, it passed.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, probably when we come to it, because I also had an amendment to Third Schedule, Part 3, which is now being lost, I do not know how we will deal with it. We need guidance. This was to tighten it up.

**The Temporary Chairman** (Hon. David Ochieng’): I hear you, Hon. Oundo. Can we deal with it when we get there because it is on the Order Paper? We are coming to it.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): It is okay.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(Question, that the new clause be  
added to the Bill, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Members, you will realise that we now have two Clauses 53A. We will clean up the numbering as usual, so that should not worry anyone. Thank you.

#### *First Schedule*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nabii Nabwera, you have an amendment.

**Hon. Nabwera Nabii** (Lugari, ODM): I beg to move:

THAT, the Bill be amended by deleting the First Schedule and substituting therefore the following new Schedule:

#### DELINEATION OF SUGAR CATCHMENT AREAS

<b>Sugar Catchment Area</b>	<b>Counties</b>
Central Region	Kisumu, Kericho and Nandi
Upper Western Region	Bungoma and Trans Nzoia
Lower Western Region	Uasin Gishu, Kakamega, Busia, Siaya and Vihiga
Southern Region	Homa Bay, Kisii, Migori and Narok
Coastal Region	Kwale, Lamu and Tana River

I propose that it be read a Second Time.

**The Temporary Chairman** (Hon. David Ochieng’): This is not a new clause. Just say that you are proposing to amend the Schedule.

**Hon. Nabwera Nabii** (Lugari, ODM): I propose to amend the First Schedule on delineation of sugar catchment areas.

**The Temporary Chairman** (Hon. David Ochieng’): What is the reason? Give us some justification.

**Hon. Nabwera Nabii** (Lugari, ODM): First, having been in the sugar industry and looking at the practicability of farmer relationships, you will find that farmers in Kakamega and those in Uasin Gishu are symbiotically related to two factories, that is Butali and West Kenya. In fact, as part of their relationship, directors of Butali Sugarcane Outgrowers



Company, which serves Butali Sugar Company, are from both counties. Similarly, farmers in Kisumu, Kericho and Nandi are symbiotically and functionally related. For this, I propose and request my colleagues to accept the amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question of the amendment proposed)*

*(Loud consultations)*

**The Temporary Chairman** (Hon. David Ochieng’): I have already given a chance to the Chairperson.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I would like to start by defining a catchment area as per this Bill. A sugar catchment area is defined as a specific geographical area where farmers are clustered within a suitable sugar catchment area for purposes of election to the board under the First Schedule. These farmers must elect their own to represent them at the board. Designation of the catchment areas will be in relation to how these farmers function, how clear the representative will be of the issues in their backgrounds, and the extent to which farmers will feel fully represented. Hon. Nabii intends to amend the provisions of the Bill as it is. I would like to say that we have not come to a consensus as at now.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson, I know you are a very diplomatic man. The language used in this Parliament is either you are opposing or supporting. I know you are a modest man. You either say you are supporting or opposing. We know you are a diplomatic man, but the language here is you either oppose or support.

*(Hon. (Dr) John K. Mutunga spoke off the record)*

Do you oppose? Thank you. Hon. David Kiplagat. You each have 30 seconds.

**Hon. David Kiplagat** (Soy, UDA): Hon. Temporary Chairman, I oppose Hon. Nabii’s amendment because he is trying to remove technically the Rift as a catchment area, pushing part of the Rift to Nyanza, and putting part of it to Western, purposely to deny the Rift the directorship, which is very wrong.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Hon. Temporary Chair, I want to tell Members that I started my politics in the Sugar Board, way back in 2005. If you are supposed to be a director of any region, you must have the numbers from farmers. For purposes of record, the catchment area is for representation of farmers. When you look at the politics in the sugar industry, it will be very difficult when you divide a region into two. They will not win a direct position in the Nyanza region, neither will they win in the Western region. So, I support the position taken by the Chairman to have the directorship of the election of directors for the board from the Schedule as actually discussed by the Chairman. Where we have Nandi, Uasin Gishu, and Kericho on one side, and then we have Bungoma, Trans Nzoia and other regions defined. The proposal by Hon. Nabii will disenfranchise farmers in those particular regions.

I oppose.

**The Temporary Chairman** (Hon. David Ochieng’): The last two.

*(Hon. James K’oyoo spoke off the record)*

I will come to you, Hon. K’oyoo. Let us hear Hon. Hillary.

**Hon. Hilary Kosgei** (Kipkelion West, UDA): Thank you, Hon. Temporary Chairman. This is not the first time this Sugar Bill is coming before us. There is a Bill that was brought before this House by Hon. Wafula Wamunyinyi. This thing had been settled completely and the regions as proposed by the Chairman had been completely settled and agreed upon. What my brother, Hon. Nabii, is trying to do is to probably reinvent a wheel or rather to push a populist agenda on behalf of his region, which is not helpful to this country.

I oppose.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Rutto of Kesses Constituency.

**Hon. Julius Rutto** (Kesses, UDA): Thank you, Hon. Temporary Chairman. I also rise to oppose the amendment by Hon. Nabii Nabwera only on the virtue of the provision of the Constitution of the Republic of Kenya. The spirit of the Constitution seeks to address the issue of equity, representation and inclusivity. Some proposals actually seem to support and enhance issues to do with discrimination. Regions like Uasin Gishu, which are new frontiers in the aspect of sugar growing, require a lot of attention and proper representation because the challenges along such areas are unique compared to the other regions which have been predominantly sugar belt areas. Therefore, a provision for this is very important in this particular...

I oppose this. Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Let me give this side, Hon. Kemei. You have had a good chance this evening. Let me give someone else.

Let me hear. Hon. K’oyoo.

**Hon. James K’oyoo** (Muhoroni, ODM): Thank you very much, Hon. Temporary Chairman.

From the outset, I want it known that this is not a political decision. We are not looking for votes for a political party. This is sugarcane growers having their interests catered for in the Sugar Board. The Chairman's Report takes care of what has been there, been tested and worked very well. It is true that parts of the Rift Valley grow sugarcane. Parts of Kericho and a huge chunk of Nandi grow sugarcane. Uasin Gishu is a bit of it. I do not think we are going to be disenfranchised if the Chairman's prescription is allowed to take...

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Finally, Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Temporary Chairman, this is a very tricky issue. Colleagues, this is a very crucial issue. It has two elements. There is the element of inclusivity. We left out a crucial area, that is, Kisii. It is not covered. Using this matrix, we have lumped more in the lower region as per this item. Therefore, whereas the amendment by Hon. Nabii might not be in the direction that my colleagues like the Chair wants, still, there is another element of correction. I would have loved that... I do not know what kind of language to use, but we reach a level where we sit down and draw a consensus, then come before you.

**The Temporary Chairman** (Hon. David Ochieng’): I want the consensus now. I request those who are concerned to work on including Kisii if it is not included. Can you work on that for two minutes so that you agree? That will be better. Yes, Hon. Kemei has delivered the consensus.

*(Several Members consulted in the gangways)*

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Hon. Temporary Chairman, I agree with you entirely that we should have consensus on this amendment. However, from the outset, this amendment is unfair because it looks at farmers aggregated in various factories. Sugarcane

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

growing is expanding to other areas. We should not look at factories and base our decisions on that. If we grew sugarcane in Kerio Valley, it would be as competitive as any sugarcane grown in Brazil.

I oppose the amendment. Unless we have consensus on it, it is unfair.

**The Temporary Chairman** (Hon. David Ochieng’): Are you done? Can we decide on the amendment either way?

*(Several Members consulted in the gangways)*

Thank you, Members. That is enough time for consultations. Resume your seats. Hon. Members, we have to make progress. Please, resume your seats.

Hon. Nabii, this will go either way.

*(Loud consultations)*

Hon. Members, resume your seats. This has to go either way. Hon. Nabii, resume your seat, please. Do you have anything to say or we move on to put the Question? The Chairperson of the Committee, any progress on your talks?

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I do not think we are making very good progress. We would like to move a further amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nabii, we are discussing your amendment and that is why I want to hear from you.

**Hon. Nabwera Nabii** (Lugari, ODM): Yes, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. David Ochieng’): I want to hear whether you have reached a consensus.

**Hon. Nabwera Nabii** (Lugari, ODM): Hon. Temporary Chairman, we have not reached a consensus.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Members, this will go either way.

*(Question, that the words to be left out be left out, put and negated)*

Hon. Chairperson to move the further amendment.

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move that the First Schedule be further amended...

**The Temporary Chairman** (Hon. David Ochieng’): No, you are amending and not further amending.

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Thank you, Hon. Temporary Chairman.

I beg to move that the First Schedule by Hon. Nabii be amended to include Kisii County in the southern region. We would also like to amend the word ‘region’ to remain as ‘catchment’.

**Hon. Members:** Put the Question!

**The Temporary Chairman** (Hon. David Ochieng’): Let me propose the amendment then you can debate it.

*(Question of the amendment proposed)*

Go ahead, Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Chairman. If we change the whole thing and use the word ‘catchment’ instead of the word ‘region’, we will have to change the definition of the word ‘catchment’ and state clearly that regions are specifically representations from specific areas, then define the word ‘regions’ as we consider his amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Members, this is for clarity. The amendment proposed by the Chair is as follows:

One, wherever the word “region” appears, you replace with “catchment.” Two, you go to southern catchment and add the word “Kisii.”

Those are the two amendments that have been proposed by the Chair. That is what we are dealing with.

*(Question, that the word to be left out  
be left out, put and agreed to)*

*(Question, that the word to be inserted in place  
thereof be inserted, put and agreed to)*

*(Question, that the word to be added  
be added, put and agreed to)*

*(First Schedule as amended agreed to)*

#### *Second Schedule*

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Second Schedule be amended by deleting paragraph (1).

The reason is that the Second Schedule is already provided for in Clause 8 of the Bill.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Second Schedule as amended agreed to)*

#### *Third Schedule*

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting the Third Schedule.

The Third Schedule was fully moved to the regulations as per the Ministry’s guidance.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Third Schedule deleted)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Members, the upshot of that is that Hon. Oundo’s and Hon. Didmus Barasa’s amendments fall *in limine*.

*(Fourth Schedule agreed to)*

Clause 2

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended—

(a) by inserting the following definitions in their proper alphabetical sequence—

(i) “jaggery mill” means bare minimum technology equipment used to crush sugarcane to produce sugarcane juice which is processed through boiling to produce jiggery;

(ii) “industrial sugar” means a white crystalline carbohydrate used as a sweetener and preservative sugar, which complies with the specifications set by the body for the time being responsible for setting standards;

(iii) “sugar beet” means any plant or part of a plant of the genus Beta or any of its hybrid that is grown for sugar production;

(iv) “sugar crop” means a crop grown for the purpose of sugar production including sugarcane and sugar beet;

(v) “sugar manufacturers’ apex body” means a national body, composed of sugar and jaggery millers registered under the Societies Act, with the main objective being to lobby for the interests of the registered millers;

(b) by deleting definition of “agreements” and substituting therefor the following new definition —

“agreements” means agreements specifying the standard provisions governing the rights and obligations of growers, millers, out-growers, transporters and other value chain actors in the sugar industry;

(c) by deleting definition of “farm gate.”

(d) by deleting definition of “mill gate” and substituting therefor the following new definition— “mill gate” means a site designed as such by the Board where sugar crops are received, weighed or tested;

(e) in the definition of “Institute” by deleting the words “Kenya Sugar Research Institute” and substituting therefor the words “Kenya Sugar Research and Training Institute.”

(f) by deleting definition “sugar” and substituting therefor the following new definition—

“sugar” means crystalline or liquid sucrose derived from sugar crop in any of its recognised commercial forms, intended for human consumption or other uses and

includes jaggery, raw, brown, plantation (mill) white and industrial sugar;

(g) in the definition of the term “sugar catchment area” by inserting the words, “and gazetted as such by the Cabinet Secretary for the time being responsible for agriculture” immediately after the words “under the First Schedule”;

(h) by deleting definition of “sugarcane growers apex body” and substituting therefor the following new definition—

“sugarcane growers apex body” means a national organization registered under the Societies Act whose membership shall comprise of mill level registered and contracted farmers’ institutions and groups championing the rights under a cane supply agreement and in the catchment areas listed under the First Schedule and gazetted as such by the Cabinet Secretary for the time being responsible for agriculture;

(i) by deleting definition of “stakeholder” and substituting therefore the following new definition- “stakeholder” means “a person with significant interest in the sugar industry and includes growers, out-growers, millers, transporters and other value chain actors in the sugar industry.”

This is to cater for omissions, to broaden the scope, to make some corrections and to improve clarity, and recognise some entrants into the definitions.

*(Question of the amendment proposed)*

*Question, that the words to be inserted be inserted, put and agreed to)*

*(Question, that the words to be left out be left, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Caroli had an amendment to this clause, but he is not in. So, his amendment stands dropped.

*(Proposed amendment by Hon. Caroli Omondi on Clause 2 dropped)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nyikal, you had an amendment similar to the Chair’s. Do you want to move it or we pass?

**Hon. (Dr) James Nyikal** (Seme, ODM): I had an amendment. What I was asking before that is: If you pass that amendment, how do these other amendments come in? I had an amendment for “sugar crop” which means a crop that is cultivated primarily for the manufacture of sugar or secondarily for the production of alcohol. In the amendment that we have, it is grown for the purpose of sugar production including sugar cane and sugar beet which is limited. As we talk, we know that sugar is being used in some factories to produce alcohol. I thought the definition would be complete. The only problem I have with the definition in the

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Chairman's amendment is that it limits sugar production to only two crops, namely, cane and beet.

Secondly, it also leaves out the use of sugarcane which we know is there even in the production of alcohol. Primarily, it is used to produce sugar and secondarily to produce alcohol. These are the ones that I wanted to bring in the amendments.

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Nyikal, can you approach... I will allow Hon. Nabii to move his amendment as you discuss.

*(Hon. Emmanuel Wangwe spoke off the record)*

Hon. Wangwe, do you have something to say on Hon. Nyikal's amendments?

**Hon. Emmanuel Wangwe** (Navakholo, ODM): I want to share something with Hon. Nyikal before he indulges Hon. Temporary Chairman. If you look at Hon. Chairman's proposal of sugar crop, it is not the way he has put it. It says: "Sugar crop means a crop grown for the purpose of sugar production first." Then it says: "Including". That does not mean it is limiting. There are other crops including sugarcane and sugar beets. It is wide enough.

*(Loud consultations)*

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Wangwe, join Hon. Nyikal and Hon. Temporary Chairman so that we can get a consensus.

*(Hon. Emmanuel Wangwe, Hon. (Dr) John K. Mutunga, Hon. (Dr) James Nyikal and Hon. Temporary Chairman, consulted)*

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Nabii, you can move your amendment as they consult. We will go back to them.

**Hon. Nabii Nabwera** (Lugari, ODM: Hon. Temporary Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by deleting the definition of the term "mill gate" and substituting therefor the following new definition—

"mill gate" means a site where sugarcane is received at the respective weighbridge.

The definition of mill gate is misplaced in the Bill. I have just brought out the true definition which reads, 'a site where sugarcane is received at the respective weighbridge.' What is defined in the Bill is not a mill gate.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng'): Hon. Chairman.

*(Loud consultations)*

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, we have defined mill gate as a site designed as such by the board where sugar crops are received, weighed and tested. We have changed that definition. It has been amended as it was in the Committee's amendments.

**The Temporary Chairman** (Hon. David Ochieng'): Just a minute.

*(Loud consultations)*

Hon. Nabii, look at that definition.

*(Hon. Nabii Nabwera spoke off the record)*

*(Laughter)*

*(Loud consultations)*

**The Temporary Chairman** (Hon. David Ochieng’): Members, this is enough consultation. Can this go either way so that we can decide? Resume your seats.

*(Question, that the words to be left out be left out, put and negated)*

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by inserting the following new definition in proper alphabetical sequence—

“retailer” means any person licensed to carry out retail business in Kenya and includes a supermarket, departmental store, retail shop, wholesale shop, distribution agency or a hawker.”

“sugar producing crop” means a crop that is cultivated primarily for the production and manufacture of sugar and secondarily for the production of alcohol”

It is just a minor definition. This is to take care of the sugar industry in totality. That is why I am proposing that we include the term 'retailer' to mean any person licensed to carry out retail business in Kenya, and include a supermarket, departmental store, retail store, retail shops, wholesale shops and the rest. The second part on the sugar producing crop, we will go with whatever agreement reached by Dr Nyikal and Dr Mutunga.

I would want to drop the second part and we adopt whatever agreement by the two Members. We should carry on the first one, in respect of retailer.

Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): We have an issue with Hon. Nyikal’s definition of sugar crop. I am told they have had discussions with the Chairman.

Hon. Nyikal, I get it that your position is that your amendment is not similar to the Chairman’s amendment and, therefore, you want to move it. Is that the position?

**Hon. (Dr) James Nyikal** (Seme, ODM): We have agreed with the Chairman. My amendment is acceptable to the Chairman.

**The Temporary Chairman** (Hon. David Ochieng’): The Chairman’s amendment has already been carried. I suggest that you move your amendment regarding the sugar crop and then we process it in the usual manner.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by inserting the following new definition in its proper alphabetical sequence—



“sugar crop” means a crop that is cultivated primarily for the manufacture of sugar or secondarily for the production of alcohol”.

We agreed that the first part up to the manufacture of sugar is okay. The only thing that was remaining is that sugar is also used for production of alcohol; methanol and ethanol. We will leave out a big part of the industry if that definition is left out. That is why I am proposing that the amendment be as on the Order Paper.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): After consultation, I gave a chance on this matter.

**Hon. (Dr) James Nyikal** (Seme, ODM): I thought we consulted.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Hon. Temporary Chairman, I indulge our senior Member, Hon. (Dr) Nyikal, that the Chair has expressly indicated that it includes, among other substances, alcohol and many others. You will even have new products coming in over the years because of scientific research and innovation. This one does not limit your definition. I propose that the Chair’s position carries the day because it includes what you wanted to put across. Even diesel is there. Hon. Temporary Chairman, I propose that we go as per the Chair’s position.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. (Dr) Nyikal, allow the Chair to say something on this.

**Hon. (Dr) James Nyikal** (Seme, ODM): I just want a clarification.

**The Temporary Chairman** (Hon. David Ochieng’): Maybe this is what he is going to do.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, we have the definition of a sugar by-product. A by-product includes ethanol, bagasse, and other things. They are already covered.

**The Temporary Chairman** (Hon. David Ochieng’): Where is that definition so that I direct the Member to it?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Let me show you. It is on the Bill, in the third definition.

**The Temporary Chairman** (Hon. David Ochieng’): It is the third definition. If you have the Bill, Hon. Nyikal, there is the definition of agreements, the board and by-products. Do you have the green copy? It is on Page 1082. Page three from the beginning. Hon. Nyikal, I implore upon you to reconsider.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Chair, I will consider and accept, but ethanol and methanol are not by-products. You will not have sugar if you reach methanol. Methanol and ethanol are a process farther. By by-products, it means you get your sugar and these others. Really, it does not carry the same meaning.

**The Temporary Chairman** (Hon. David Ochieng’): Okay. I suggest this be settled the way we normally do.

*(Question, that the words to be inserted  
be inserted, put and negatived)  
(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

Hon. Hon. Wangwe, Mover.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Temporary Chairman, I beg to move that the Committee do report to the House its consideration of the Sugar Bill (National Assembly Bill No.34 of 2022) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

*[The temporary Speaker (Hon. Martha Wangari) in the Chair]*

### MOTION

#### CONSIDERATION OF REPORT ON THE SUGAR BILL

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Deputy Chairperson.

**Hon. David Ochieng'** (Ugenya, MDG): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Sugar Bill (National Assembly Bill No.34 of 2022) and approved the same with amendments.

**The Temporary Speaker** (Hon. Martha Wangari): Mover.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Temporary Speaker, I beg to Move that the House do agree with the Committee in the said report. I also request Hon. Onyango K'oyoo to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. James K'oyoo** (Muhoroni, ODM) seconded.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I have a recommittal of Clause 34(d), (e), and (f).

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Melly, you need to move properly.

**Hon. Julius Melly** (Tinderet, UDA): Let me move properly.

Hon. Temporary Speaker, I beg to move that the House agrees with the Committee in the said report, subject to recommittal of clauses 6, 14 and 34.

I ask Hon. Kiplagat to second.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. DK.

**Hon. David Kiplagat** (Soy, UDA) seconded.

*(Question proposed)*

**The Temporary Speaker** (Hon. Martha Wangari): Let us have the Member for Seme.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Speaker, as we do that, it is important that we get the clear import of those recommitments.

**The Temporary Speaker** (Hon. Martha Wangari): Are you done, Hon. Nyikal?

**Hon. (Dr) James Nyikal** (Seme, ODM): Yes, Hon. Temporary Speaker. We want to know the import of every clause for recommitment.

**The Temporary Speaker** (Hon. Martha Wangari): That is okay. I will give the Chairman a chance to explain.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you, Hon. Temporary Speaker. Clause 6(1) has paragraphs (a) and (b). Paragraph (a) has to do with the appointment of the chairperson of the board. We recommit it to indicate that there shall be a non-executive chairperson, appointed by the President, who holds, at least, a degree or its equivalent.

**The Temporary Speaker** (Hon. Martha Wangari): Chairman, just to guide you. Give us only the implication of the recommitment; a simple, straightforward explanation of the three clauses. The other explanation will be done in the next session.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Speaker, with respect to Clause 6, the import of the amendment is to increase representation of sugar millers, taking into consideration the representation of private and public companies on the board. Further, it also aligns the appointment of the chairperson in line with the *Mwongozo* Code.

On the other hand, the importance of recommitting Clause 14 is to delete the phrase ‘Salaries and Remuneration Commission’, so that the Public Service Commission must consult the SRC. The importance of this amendment is for the recruitment of the CEO to be a competitive and transparent process that will be overseen by the Public Service Commission and not necessarily the SRC.

On Clause 34, the recommitment part has to do with the proportionate share of the Sugar Development Levy. In this case, the proportion allocated to the board becomes 10 per cent and the proportion allocated to the development and improvement of infrastructure becomes 15 per cent.

**The Temporary Speaker** (Hon. Martha Wangari): Therefore, I will put the Question.

*(Question put and agreed to)*

Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Temporary Speaker  
(Hon. Martha Wangari) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Chairman  
(Hon. David Ochieng’) in the Chair]*

THE SUGAR BILL  
(National Assembly Bill No.34 of 2022)

*(Recommitment of Clauses 6, 14 and 34)*

**The Temporary Chairman** (Hon. David Ochieng’): Order, Hon. Members. Could we resume our seats and proceed?

*Clause 6*

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): I propose that Clause 6 be amended as per the recommittal provision. Is there anything like that?

**The Temporary Chairman** (Hon. David Ochieng’): As per the Order Paper, Hon. Member.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 6(1) of the Bill be amended-

(a) by deleting paragraph (a) and substituting therefor the following new paragraph-

“(a) a non-executive chairperson appointed by the President.”

(b) by deleting paragraph (c) and substituting therefor the following new paragraph-

“(c) two representatives each elected by private and public owned sugar mills who are knowledgeable in sugar technology and value addition.”

**The Temporary Chairman** (Hon. David Ochieng’): Explain, please.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): The reason is that we have two issues here. Clause 6(1)(a) redefines the appointment procedure for the chairperson of the Kenya Sugar Board. The second part basically brings in the representation from the true sugar milling types of companies. Some are private and others are public.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): I want to strongly oppose this. The whole concept of this Bill has been the farmer and everything we have done is to give the farmer an opportunity. We were in meetings in Kakamega with some people. There have been meetings and what the farmers wanted is to have the board back and have control. What is in the Bill is what we accept. It gives the farmers the opportunity to elect a chairperson through their representatives in the board.

We are taking that and giving it to the President. Honestly, we cannot have everything being done... In the interest of farmers, do you think they will betray themselves? They have been looking for this Bill and they want it in every conference and meeting. The farmers have said.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you, Hon. Member.

**Hon. (Dr) James Nyikal** (Seme, ODM): I oppose that.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, given time in life and the life of this country, we must look progressively, entrench democracy and entrench the right of the people to make decisions for themselves. The farmers have been crying and I want to implore again with my colleagues that nothing is lost if the President does not appoint the chair. Honestly speaking, what is it that we are trying to protect?

In any case, 90 per cent of the funds for this board will come from levies and other places and there is going to be little money appropriated by the Government or the National Assembly. Let the farmers decide for only this case. The coffee and tea...

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Salasya.

**Hon. Peter Salasya** (Mumias East, DAP-K): I think this is an issue that led the other side to move out the last time we were discussing this Bill. My position is that there comes a

time when we have to make a decision and ask ourselves what is happening with other boards. We must be guided. I do not know who can guide us on this matter so that we can finish this issue once and for all. Thank you.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): I want to pick from where Hon. Salasya has just left. Majority of the boards, if you look at the Tea Bill and all the others, are proposing that the President appoints the chairpersons.

In this case, it is the nominal appointment, but most of the discussion is from the farmer. I do not see why Members are being jittery by allowing the President to appoint the chairperson. That will not take away the powers of the farmers or the interests of the representatives. I request Hon. Nyikal and other Members that just like it happens in other farmers' bodies such as the Coffee Board of Kenya, let the President appoint the chairperson.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Mutunga.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you very much, Hon. Temporary Chairman. This is a State corporation and not a farmers' organisation. It is a Semi-Autonomous Government Agency (SAGA).

*(Hon. (Dr) James Nyikal spoke off the record)*

Let me finish, Hon. Nyikal. You were given a chance to contribute.

If you look at the composition of the board, only five out of 11 members are elected. There are six other members who need to be influenced to make decisions. Those six members will always carry the day. There are also sectoral representatives on the board who will not even participate in elections. We also do not know the category of people that farmers will elect to the board. They just choose their representatives. There are no specific qualifications in the Bill about who should represent farmers.

Since this is a money Bill and we will need support at the end of the day, one source of funds is appropriation by this House. If we will appropriate funds to the board, we would like the Government to be fully involved. What is so special about the Sugar Board that the chairperson should be elected instead of taking our cue from other boards? I believe it is in order for the President to appoint the chairperson.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. K’Oyoo.

**Hon. James K’Oyoo** (Muhoroni, ODM): Thank you very much, Hon. Temporary Chairman. There comes a time when people have to wake up. We will not allow a situation where the President will soon be called upon to appoint the chairperson of a school committee. We are very serious. This is a farmers' organisation. Farmers have been crying wolf and the President has just been there. We have come up with the Sugar Board because nothing good has happened. Let farmers choose representatives who will elect the chairperson of the board.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Temporary Chairman. As Hon. Salasya said, this is a quasi-political clause which we need to decide on and move forward together. I support the proposal for the President to appoint the chairperson of the board. My colleagues may have a different idea, but I speak having also lost various clauses in the Bill. However, for the country to move forward, I propose that my colleagues join hands and let the President appoint the chairperson of the board.

**The Temporary Chairman** (Hon. David Ochieng’): I will give the last bite on this to...

*(A Member spoke off the record)*

I have just given an opportunity to two Members from that side. I have finished with that side. I will give one last opportunity to one more Member and then you can make a decision on that clause.

**Hon. Peter Kihungi** (Kangema, UDA): Thank you, Hon. Temporary Chairman. I wish Members could agree because we have compromised a lot on this Bill. One thing we must understand is that the Tea Board of Kenya holds elections across all regions, but the President appoints the chairperson. You know how tedious it is to be elected in a constituency. You now expect a person from a region with more than five governors to identify one good person to elect. Let us not look at the sitting President as not coming from the sugar region. One day, there will be another President from that region who will take responsibility for the operations of the board. Therefore, we should give the President an opportunity to pick the chairperson of the board.

**The Temporary Chairman** (Hon. David Ochieng’): Members have to decide one way or the other. Hon. Hilary, please, allow Members to decide.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Oundo, you had an amendment to Clause 6. Hon. Members, when you recommit a clause, the whole of it gets recommitted. You had an amendment to Clause 6.

**Hon. (Dr) Ojiambo Oundo**: Thank you, Hon. Temporary Chairman, allow me to check. I thought it was passed.

I beg to move:

THAT, Clause 6 of the Bill be amended by inserting the following new sub clause immediately after sub clause (3)—

“(4) A person shall not be elected to represent growers under sub-clause 1(b) unless such a person is a grower with a parcel of land of not less than two hectares or produces a sugar producing crop of a quantity not less than that prescribed by the Cabinet Secretary in regulations.”

I want to draw the attention of my colleagues to Page 1220. Basically, the import was that whoever is eligible for election as a farmer’s representative should be a sugar cane farmer defined by the number of his acreages under sugar or quantities of sugar that is not less than what is prescribed by the cabinet secretary in the regulations.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and negated)*

*(Clause 6 as amended agreed to)*

#### Clause 14

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Chairperson, proceed.

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 14 of the Bill be amended by deleting sub clause (1) and substituting therefor the following new sub clause (1) —

“(1) There shall be a Chief Executive Officer of the Board who shall be appointed through a competitive process by the Board and whose terms and conditions of service shall be determined by the Board in consultation with the Public Service Commission in the instrument of appointment or otherwise in writing from time to time.”

This clause basically removes the fact that when appointing the Chief Executive Officer (CEO), the consultation should be with the Public Service Commission and not the Salaries and Remuneration Commission. I explained earlier that one of them is very specific on personal emoluments and the other one has a broader scope on the determination of the terms and conditions of service.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question of the amendment proposed)*

Hon. Nabii go ahead.

**Hon. Nabwera Nabii** (Lugari, ODM): Thank you, Hon. Temporary Chairman. Sometimes I get concerned and very angry when very educated and knowledgeable people try to retrogress a country. When we have a corporate board...

**The Temporary Chairman** (Hon. David Ochieng’): Are we on Clause 14?

**Hon. Nabwera Nabii** (Lugari, ODM): Why should the board...

**The Temporary Chairman** (Hon. David Ochieng’): Order, Hon. Member! Are you on Clause 14 or you are still on Clause 6?

**Hon. Nabwera Nabii** (Lugari, ODM): I am talking about Clause 14.

**The Temporary Chairman** (Hon. David Ochieng’): Go ahead.

**Hon. Nabwera Nabii** (Lugari, ODM): Hon. Temporary Chairman, we cannot amend to say the board should consult the PSC. Let it appoint and own the process. It is a body corporate.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

Hon. Oundo, proceed.

**Hon. (Dr) Ojiambo Oundo**: Hon. Temporary Chairman, allow me to drop my amendments to Clause 14.

*(Proposed amendment by  
Hon. (Dr) Ojiambo Oundo on Clause 14 dropped)*

**The Temporary Chairman** (Hon. David Ochieng’): Thank you.

*(Clause 14 as amended agreed to)*

Clause 34

**The Temporary Chairman** (Hon. David Ochieng’): The Chairperson.

**Hon. (Dr) John Mutunga** (Tigania West, UDA): Thank you, Hon. Temporary Chairman.

I beg to move:

THAT, Clause 34 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub clause—

“(1) The Cabinet Secretary shall in consultation with the Board, by order in the Gazette, impose a levy on domestic Sugar not exceeding four per centum of the value and a four per centum of CIF value on imported sugar to be known as the Sugar Development Levy”.

(b) by deleting sub clause (6);

(c) by deleting sub clause (7) and substituting therefor the following new sub clause —

“(7) The Sugar Development Levy collected under sub-section (2) shall be appropriated as follows—

(a) fifteen per centum shall be applied for factory development and rehabilitation;

(b) fifteen per centum shall be applied for research and training;

(c) forty per centum shall be applied for cane development and productivity enhancement;

(d) ten per centum shall be applied for infrastructural development and maintenance and shall be managed by Kenya Rural Roads Authority;

(e) fifteen per centum shall be applied for the administration of the Board; and

(f) five per centum shall be applied for the furtherance and exercise of the functions of sugarcane farmers organisations”.

(d) by deleting sub clause (8).

The import of this amendment is to substitute the proportions of the Sugar Development Levy that goes to infrastructural development and maintenance to 15 per cent and that which goes to administration of the board to 10 per cent.

On the other hand, we would also like to propose that 15 per cent of the infrastructural development and maintenance is managed by the Kenya Rural Roads Authority (KeRRA).

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Mutunga, do you have the green copy of the Bill? Do you want to go to Clause 34 because what you are moving is not as per the Order Paper, but it is what you had proposed earlier? Just hold on. Just say that the clause is amended as follows and then you read out what you are amending.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 34 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub clause—

“(1) The Cabinet Secretary shall in consultation with the Board, by order in the Gazette, impose a levy on domestic sugar not exceeding four per centum of the value and a four per centum of CIF value on imported sugar to be known as the Sugar Development Levy”.

(b) by deleting sub clause (6);

(c) by deleting sub clause (7) and substituting therefor the following new sub clause —

“(7) The Sugar Development Levy collected under sub-section (2) shall be appropriated as follows—



- (a) fifteen per centum shall be applied for factory development and rehabilitation;
- (b) fifteen per centum shall be applied for research and training;
- (c) forty per centum shall be applied for cane development and productivity enhancement;
- (d) fifteen per centum shall be applied for infrastructural development and maintenance and shall be managed by Kenya Rural Roads Authority of the catchment areas;
- (e) ten per centum shall be applied for the administration of the Board; and
- (f) five per centum shall be applied for the furtherance and exercise of the functions of sugarcane farmers organisations”.

(d) by deleting sub clause (8).

The import of this amendment is to substitute the proportions of the Sugar Development Levy that goes to infrastructural development and maintenance to 15 per centum and that which goes to the administration of the board to 10 per cent. Further, the 15 per cent that shall go to infrastructural development and maintenance shall be managed by KeRRA of that particular county.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Temporary Chairman, remember earlier you had changed the word “regions” to “catchment areas”. Do you want to take that again and use the word “catchment areas”?

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Further, the 15 per cent that shall go to infrastructural development and maintenance shall be managed by KeRRA of that catchment area.

*(Question of the amendment proposed)*

**Hon. Julius Melly** (Tinderet, UDA): Hon. Temporary Chairman, the import of the amendment proposed by Hon. Chairman is that the distribution of the Sugar Development Levy is actually 40 per cent to the cane development. Earlier on, they had indicated infrastructure to be 10 per cent and the management of the board at 15 per cent. That one was very wrong since the roads are bad in the sugarcane growing areas.

So, let the infrastructure of the sugarcane growing areas have 15 per cent of the Sugar Development Levy and 10 per cent goes to the management of the board. If you compute this, you will realise that if you allocate 15 per cent to the board, it will be millions of shillings which will not do the core functions which are sugar production, transport and sugar development.

On the issue of catchment areas, we said that the money levied should go to the development of roads of the individual catchment area through KeRRA, so that the money does not go to areas which do not grow sugarcane. It should specifically go to catchment areas where that sugarcane comes from.

I support the amendment.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Nabii.

**Hon. Nabii Nabwera** (Lugari, ODM): Hon. Temporary Chairman, I support the amendment for the following reasons. The purpose of this Bill is one, to ensure productivity by the farmers. Two, we want to improve on profitability of the farmer. Three, because heavy machinery is used in the catchment areas, part of the money generated from the levy is ploughed back into the infrastructure sector in that area to ensure that the roads are redone for the people to use.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you, Hon. K’Oyoo. Please, take 30 seconds each.

**Hon. James K’Oyoo** (Muhoroni, ODM): Thank you, Hon. Temporary Chairman. I support this amendment. My memory is very bad. In the past, the defunct Sugar Board considered some factories. They bought them road construction equipment and the public never benefitted from them. In Kibos, in my area, we only saw them do some roads to some Indian shops. The roads are pathetic. We want the 15 per cent to benefit the catchment areas. If it is in Chemilil, Muhoroni and Kibos, the levy must benefit the farmers around that area. Our money should not be taken to benefit other constituencies.

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Mugabe will have the last bite of this. Go ahead, Hon. Mugabe.

**Hon. Innocent Mugabe** (Likuyani, ODM): Thank you, Hon. Temporary Chairman. I support the amendments made to the percentages. Clause 17A says that 15 per cent shall be applied for factory development and rehabilitation. Which factories? Does this mean that the levy will be taken even to private factories? This has not been defined. Where will this money go? Is it for private individuals?

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. I want the Chairperson to explain that before I put the Question.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Chairman, we went around and engaged the farmers, factory owners and other stakeholders. The efficiency of the factories determines the yield of the sugar from the cane. Inefficient factories lead to losses for the farmers. So, if the factories are inefficient because of lack of maintenance funds, then the farmers will lose more. It is logical to make provisions for the factories to borrow that money. They will not be issued with that money. If a factory cannot raise their own money to maintain the factory, then it can seek or borrow that money, in the form of a loan, from the board.

Initially, this money was to be managed by the Commodities Fund so that it is purely transactional and not relational.

**The Temporary Chairman** (Hon. David Ochieng’): Thank you. Hon. Hilary, you have been wanting to speak for a long time. You may proceed

**Hon. Hilary Kosgei** (Kipkelion West, UDA): Hon. Chairman, I want to support what Hon. James K’Oyoo and all the Members are pushing for here. The roads in sugarcane growing areas are pathetic. If we can ringfence funds specifically from the percentages set out in this Bill to go to these areas, we will not only be sorted in terms of infrastructure, but we will also access our factories easily. This will reduce losses and increase profitability to our farmers.

Simply put, I support.

*(Hon. Justice Kemei raised his hand)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Kemei, please allow me to put the Question. We cannot flog a dead horse; it has been flogged enough.

**Hon. Members:** Put the Question.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): Hon. Melly’s and Hon. Nyikal’s amendments were dropped. Therefore, consider them having been dropped.

---

**Disclaimer:** *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

*(Proposed amendments by Hon. Julius Melly and  
Hon. (Dr) James Nyikal on Clause 34 dropped)*

*(Clause 34 as amended agreed to)*

**The Temporary Chairman** (Hon. David Ochieng’): That is the end of this session. I call the Mover.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Temporary Chairman, I beg to move that the Committee do report to the House its consideration of the Sugar Bill (National Assembly Bill No.34 of 2022) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

*[The Temporary Speaker (Hon. Martha Wangari) in the Chair]*

**MOTION**

CONSIDERATION OF REPORT ON THE SUGAR BILL

**The Temporary Speaker** (Hon. Martha Wangari): The Chairman.

**Hon. David Ochieng’**: Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Sugar Bill (National Assembly Bill No.34 of 2022) and approved the same with amendments.

**The Temporary Speaker** (Hon. Martha Wangari): Mover.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said report. I also request Hon. Oundo Mudenyo, Professor, to second the Motion on agreement with the report of the Committee of the whole House.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I second, Hon. Temporary Speaker.

*(Question proposed)*

*(Question put and agreed to)*

**ADJOURNMENT**

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Members, the time being 11.14 p.m., the House stands adjourned until Wednesday, 27<sup>th</sup> September 2023, at 9.30 a.m.

The House rose at 11.14 p.m.

*Published by*  
Clerk of the National Assembly  
Parliament Buildings  
Nairobi