



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. III NO. 111**

## THE HANSARD

Thursday, 28<sup>th</sup> November 2024

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

**Hon. Deputy Speaker:** I direct that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

**Hon. Deputy Speaker:** Serjeant-at-Arms, ring the Quorum Bell for a further five minutes.

*(The Quorum Bell was rung)*

Members at the Bar, please, walk in. We can start.

PAPERS

**Hon. Deputy Speaker:** Hon. Members, allow me to reorder the Order Paper just before Hon. Osoro starts. When we get to Order No.6, we shall move to Order Nos8 to 15 and then get back to Order No.7.

You may proceed, Whip of the Majority Party.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Deputy Speaker, I beg to lay the following Papers on the Table:

1. Reports of the Auditor-General and Financial Statements for the year ended 30<sup>th</sup> June, 2024, and the certificates therein in respect of:
  - (a) Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase III (Turbi-Moyale) No.P-ZI-DBO-095 Loan No.21001500255546 – Kenya National Highways Authority.
  - (b) Mombasa Gate Bridge Construction Project (1) Loan Agreement No. KE-P34 - Kenya National Highways Authority.
  - (c) Nairobi Metropolitan Services Improvement Project (IDA Credit No.5102-KE) – State Department for Housing and Urban Development).
  - (d) Samatar-Wajir Road Project Loan No.13451P, 13/779 and 995 - Kenya National Highways Authority.
  - (e) National Urban Transport Improvement Project-IDA Credit No.5140-KE – Kenya Railways Corporation.
  - (f) Horn of Africa Gateway Development Project Grant/Credit Number 6768-KE - State Department for Roads.
  - (g) South Sudan Link Road Project (Ref:No.2020/62/065 and BMZ No.2020/83/939 – Kenya National Highways Authority.

- (h) Bagamoyo-Horohoro Lunga Lunga-Malindi Road Project (Phase I) ID No:PZI-DBO-129 - Kenya National Highways Authority.
- (i) Merille Marsabit Road Rehabilitation Project (KE/001/09) Loan Agreement No.KE/FED/2009/021-655 – Kenya National Highways Authority.
- (j) Nairobi - Thika Highway Improvement Project Lot III Government Concessional Loan Agreement No.(2009) 39 Total No.(290) – 1290003022009110585 - Kenya National Highways Authority.
- (k) National Urban Transport Improvement Project-IDA Credit No.5140-KE – Kenya National Highways Authority.
- (l) Nairobi-Thika Highway Improvement Project LOT I and II (Credit No.2100150015544) Project No.P-KE-DBO-018 – Kenya National Highways Authority.
- (m) Improvement of rural roads and market infrastructure in Western Kenya Project Credit No.BMZ 2007-65 123 (KFW) – Kenya Rural Roads Authority.
- (n) East Africa Trade and Transport Facilitation Project (IDA Credit No. 4148-KE) - Kenya National Highways Authority.
- (o) Arusha - Namanga-Athi River Road Development Project No.P-ZI-DBO-040 - Kenya National Highways Authority.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Next Order.

## MOTION

### CONSIDERATION OF REPORT ON THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL (National Assembly Bill No.11 of 2024)

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Ethics and Anti-Corruption Commission Bill (National Assembly Bill No. 11 of 2024).

*(Moved by Hon. Kimani Ichung'wah on 27.11.2024 – Afternoon Sitting)*

*(Resumption of consideration interrupted on 27.11.2024 – Afternoon Sitting)*

*(Question put and agreed to)*

## BILL

### *Third Reading*

### THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL (National Assembly Bill No.11 of 2024)

**Hon. Deputy Speaker:** Mover.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Deputy Speaker, I beg to move that the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No.11 of 2024) be now read a Third Time.

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I request Hon. Oundo to second.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Deputy Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

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

## MOTION

### CONSIDERATION OF REPORT ON THE KENYA ROADS BOARD (AMENDMENT) BILL (National Assembly Bill No.18 of 2024)

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Kenya Roads Board (Amendment) Bill (National Assembly Bill No.18 of 2024).

*(Moved by Hon. Kimani Ichung'wah on 27.11.2024 – Afternoon Sitting)*

*(Resumption of consideration interrupted on 27.11.2024 – Afternoon Sitting)*

*(Question put and agreed to)*

## BILL

### *Third Reading*

### KENYA ROADS BOARD (AMENDMENT) BILL (National Assembly Bill No.18 of 2024)

**Hon. Deputy Speaker:** Mover.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Let us finish this.

Hon. Deputy Speaker, I beg to move that the Kenya Roads Board (Amendment) Bill (National Assembly Bill No.18 of 2024) be now read a Third Time. I request Hon. Ferdinand Wanyonyi to second.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Deputy Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

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

## MOTION

CONSIDERATION OF REPORT ON THE KENYA  
REVENUE AUTHORITY (AMENDMENT) (NO.2) BILL  
(National Assembly Bill No.35 of 2024)

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Kenya Revenue Authority (Amendment) (No.2) Bill (National Assembly Bill No.35 of 2024).

*(Moved by Hon. Kimani Ichung'wah on 27.11.2024 – Afternoon Sitting)*

*(Resumption of consideration interrupted on 27.11.2024 – Afternoon Sitting)*

*(Question put and agreed to)*

**BILL**

*Third Reading*

THE KENYA ROADS BOARD (AMENDMENT) BILL  
(National Assembly Bill No.18 of 2024)

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you very much, Hon. Deputy Speaker. I beg to move that the Kenya Revenue Authority (Amendment) (No.2) Bill (National Assembly Bill No.35 of 2024) be now read a Third Time.

I request Hon. Rachel Nyamai to second.

**Hon. Deputy Speaker:** Hon. Rachel Nyamai.

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Hon. Speaker, I second.

*(Question proposed)*

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

**Hon. Deputy Speaker:** I proceed to put the Question.

*(Question put and agreed to)*

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

**Hon. Deputy Speaker:** Next Order.

**BILLS**

*Second Readings*

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO.3) BILL  
(National Assembly Bill No.44 of 2024)

*(Moved by Hon. Kimani Ichung'wah on 27.11.2024 – Afternoon Sitting)*

*(Debate concluded on 27.11.2024 – Afternoon Sitting)*

*(Question put and agreed to)*

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

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 4) BILL  
(National Assembly Bill No.45 of 2024)

*(Moved by Hon. Kimani Ichung'wah on 27.11.2024 – Afternoon Sitting)*

*(Debate concluded on 27.11.2024 – Afternoon Sitting)*

*(Question put and agreed to)*

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

THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL  
(National Assembly Bill No.48 of 2024)

*(Moved by Hon. Kuria Kimani on 27.11.2024 – Afternoon Sitting)*

*(Debate concluded on 27.11.2024 – Afternoon Sitting)*

*(Question put and agreed to)*

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

THE UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL  
(National Assembly Bill No.15 of 2024)

*(Moved by Hon. Kimani Ichung'wah on 27.11.2024 – Afternoon Sitting)*

*(Debate concluded on 27.11.2024 – Afternoon Sitting)*

*(Question put and agreed to)*

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

THE LAND CONTROL BILL  
(National Assembly Bill No.39 of 2023)

*(Moved by Hon. (Dr) Ojiambo Oundo on 18.10.2024 – Afternoon Sitting)*

*(Debate concluded on 27.11.2024 – Afternoon Sitting)*

*(Question put and agreed to)*

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

**Hon. Deputy Speaker:** Next Order.

## QUESTIONS AND STATEMENTS

**Hon. Deputy Speaker:** Hon. Members, we have several requests for Statements.  
Hon. Abdi Bare, Member for Tarbaj.

### REQUEST FOR STATEMENT

SECURITY SITUATION IN SHEBTAKURROW AREA, TARBAJ CONSTITUENCY.

**Hon. Hussein Abdi** (Tarbaj, UDA): Thank you, Hon. Deputy Speaker.

Pursuant to Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security, regarding the security situation in Shebtakurrow area of Tarbaj Constituency.

On 15<sup>th</sup> September 2024, an incident of insecurity occurred along the Wajir-Mandera Road in the Shebtakurrow area, between Kotulo Sub-county and Wargadud Location. Two lorries, a Mitsubishi Fuso of Registration Number KCR 887U and an Isuzu FVR 90 of Registration Number KDP 723S, being driven from Mandera to Wajir, were ambushed by unidentified individuals. The attackers set both vehicles ablaze, leaving them completely destroyed, but the drivers managed to escape unscathed. The motive of the heinous attack remains unknown, causing fear and anxiety among the locals on the state of security in the area.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following:

1. A report on the status of investigations into the incident, including whether any arrest(s) have been made since the incident was reported to Kotulo Police Station under OB No. 09/15/09/2024;
2. The measures put in place by security agencies to ensure that the Wajir-Mandera Road which is part of the Horn of Africa gateway developmental project that is currently ongoing is not disrupted by further incidents of insecurity; and,
3. The long-term strategies in place to address and permanently resolve the persistent issues of insecurity in Tarbaj Constituency and the entire northern region of Kenya.

**Hon. Deputy Speaker:** I have exercised my discretion to allow the Member for Lafey to say something. Give him the microphone.

**Hon. Abdirahman Mohamed** (Lafey, JP): Thank you, Hon. Deputy Speaker for giving me this opportunity. I take this opportunity to thank Hon. Hussain, the Member for Tarbaj, for requesting for this Statement. I also have a concern. One owner of the said vehicle is from my constituency and the other one is from the neighbouring constituency of Mandera South. This incident happened in September this year. Up to date, the Member for Mandera South and I, have been following-up on this matter. We have made sure no other incident happens in that area and brought the communities together.

I kindly request the Committee to help us with this issue because since September, we have not received a report from the security department. We held a meeting with them and they assured us that they would give us a report in due course. Almost four months later, we do not

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have any response. We kindly request the Chairman of the Departmental Committee on Administration and Internal Affairs to give us a response before we go on recess.

**Hon. Deputy Speaker:** I do not see the Chairman of the Departmental Committee on Administration and Internal Affairs. Majority Whip, I leave this to you. Probably, they can do what the Hon. Speaker directed yesterday for a similar case, that instead of writing a letter to the Ministry of Interior and Coordination of National Government, you should summon the Principal Secretary.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you, Hon. Deputy Speaker. It may not be practical to get a response in two weeks owing to the fact that we are proceeding for recess and the East African Legislative Assembly (EALA) games are starting next week. The earliest possible we will respond appropriately when we resume.

**Hon. Deputy Speaker:** I have directed that the relevant Committee summons the Principal Secretary to appear before them. This can be done in the course of next week, so that we can dispense with the matter before recess. They should not write a letter and wait for a response. I think waiting until February will be too long. The next Statement is by Hon. Machua Waithaka, the Member for Kiambu.

#### STATUS OF INTERNET CONNECTIVITY IN ICT HUBS WITHIN KIAMBU CONSTITUENCY

**Hon. John Waithaka** (Kiambu, UDA): Hon. Deputy 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 Communication, Information and Innovation regarding the status of internet connectivity in ICT hubs within Kiambu Constituency.

In June 2022, the Ministry of Information, Communications and the Digital Economy initiated a partnership with the Kiambu Town Constituency National Government Constituencies Development Fund (NG-CDF) Office to enhance digital connectivity in four youth centres. The partnership aimed to establish fully equipped ICT hubs at Nnumberi Youth Centre, Ting'ang'a Youth Centre, Kihingo Youth Centre and Gichocho Youth Centre in conjunction with Telkom Kenya. In furtherance of this initiative, on 14<sup>th</sup> June 2022, the Kiambu NG-CDF Office remitted payments of Ksh1,169,257 to Telkom Kenya for each of the four centres, amounting to a total of Ksh4,677,028.

Despite these payments and the critical nature of this project for youth employment and digital inclusion, Telkom Kenya has neither installed the internet services nor provided any explanation for the delay. The constituency office has made multiple follow-up attempts, including formal communications through letters referenced KBU/CONST/040/2024 and KBU/CONST/052/2024, dated 5<sup>th</sup> September and 23<sup>rd</sup> October 2024 respectively. However, these efforts have borne no fruit as there has been no communication from Telkom Kenya.

Hon. Deputy Speaker, it is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Communication, Information and Innovation on:

1. Report on the status of implementation of the project by the Ministry including reasons for failure by Telkom Kenya to install internet services in the four youth centres despite receiving full payment of Ksh4,677,028.
2. Specific plans and implementation timelines for the installation of internet services in all four youth centres.
3. Framework for monitoring and ensuring timely implementation of digital infrastructure projects that support the commitment of the Government to create employment for youth through digital innovation, including measures to hold service providers accountable for project implementation delays.



Hon. Deputy Speaker, we really need to know the status because we are very ready to implement internet connectivity in our youth centres. But we have been frustrated by Telkom Kenya. So, I urge the Chairperson to avail a report as soon as possible.

**Hon. Deputy Speaker:** Hon. Ngusya, what is it?

**Hon. Charles Nguna** (Mwingi West, WDM): Thank you, Hon. Deputy Speaker. The Statement by the Member has come at the right time. I hosted the Ministry of Information, Communications and Digital Economy in my constituency and I had invited the youth who use the ICT hubs, which have created employment opportunities. Shockingly, I learnt that only 110 constituencies have undertaken this initiative of establishing ICT hubs. One key concern which was raised in that forum is slow internet. I request that as they answer the issue of ICT hubs in Kiambu, they also address countrywide issues, so that our young people can access fast and reliable internet.

**Hon. Deputy Speaker:** On this issue, the most efficient way given that we are going on recess is for the Committee to summons the Principal Secretary. He is the only one who can put pressure on Telkom Kenya. Do you agree, Member for Kiambu? So, I direct the Majority Whip to ensure that this happens. He does not seem to be taking notes. Yes, Hon. Mugambi.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Deputy Speaker. This Statement is very important. His Excellency the President has been talking about ICT hubs, but the Ministry is letting him down, yet this is one of his flagship projects. There is a bit of disconnect between the constituency offices and the Ministry. As a matter of priority, they should bring a response because some of us will be implementing ICT hubs this long recess. The NG-CDF Board has released some money. I have partners and I will launch this project in my constituency. We will have five ICT hubs and hope that by July, everything will be operational. If the Telkom Kenya and internet issues are not addressed, we will be unable to implement the project well.

**Hon. Deputy Speaker:** I agree and hope that the Majority Whip will ensure that the Departmental Committee on Information, Communication and Innovation convenes a meeting next week before we go on recess.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Deputy Speaker, for clarity, I take instructions and must oblige with the principle of adequate timeline for summons and responses. If the summons are served upon the Ministry of ICT and Digital Economy tomorrow, they will seek to appear before the Committee on Monday or Tuesday, next week. We will be proceeding on recess. How soon would they be required to make their report and have it tabled before this House? It beats logic. At the end of it all, we will end with reports tabled in February. But I agree with you. We will instruct the Committee appropriately. The Chairman should summon the Ministry.

**Hon. Deputy Speaker:** The logic behind the rule of giving them time to respond is because it can be a complex matter that requires them to seek information from another State Department. ICT is at the top of the Government agenda. I think it has been a subject of discussion among Members, and it has been put on their desks. It is something they must deliver. So, it will not take rocket science for the Ministry to respond. They must have a list of how many they have done and whether they listen to the issues. I hope the Member for Kiambu and any other Member with a similar problem will attend that meeting and that the matter can be resolved. We have to be efficient.

Hon. (Dr) Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Hon. Deputy Speaker, with the time limit we have before we go on recess, this is something that many of us have been following. I even discussed this with the Principal Secretary, who directed me to the person responsible. My ICT hub has been operational, but the problem is the internet, which has not worked. So, the Ministry needs to present a list of all constituencies with ICT hubs and indicate the actionable

programmes. If the Cabinet Secretary comes to respond generally, it will not assist us. We have been following him. The principal secretaries just talk but are not doing anything. We call the people he directs us to, and they promise to do something, but they do not. It is very frustrating. I have spent money asking Safaricom to see if it can assist. Hon. Nguna agrees with me. Something has to be done. They indicated that they had put up a cyber network, which is supposed to be free through the Konza City project. But nothing is happening.

I do not know whether the Principal Secretary and the new Cabinet Secretary have an idea of the frustrations Kenyans, especially the youth, are going through. The President goes to a place and says we put up an ICT hub that people can access, but on the ground, people know that these things are not working. It makes the President's statement look ridiculous. People say the Head of State has good intentions, but his people - the Principal Secretary and the Cabinet Secretary - are not doing what they should at the Ministry.

**Hon. Deputy Speaker:** That is why I am saying this is a very urgent matter Whip of the Majority Party. I hope you take the sentiments of Hon. (Dr) Pukose, which must be in the letter summoning the Principal Secretary to explain the frustrations that Members of Parliament face. As I said, it does not require time.

Let us move to the next one, Member for Nandi Hills, Hon. Bernard Kitur.

#### ILLEGAL HARVESTING OF HUMAN ORGANS IN ELDORET CITY

**Hon. Bernard Kitur** (Nandi Hills, UDA): Thank you, Hon. Deputy Speaker. I wish to request a Statement from the Chairperson of the Departmental Committee on Health regarding the alarming rise of illegal organ harvesting, particularly kidney harvesting, in Eldoret City and its environs. In June 2024, a distressing case was reported to me by Mrs Leah Chepkorir regarding her 22-year-old son, Mr Ammon Kipruto Melly.

According to the report, her son's kidney was harvested at Mediheal Hospital after it was cured by the facility, with an offer to donate the organ at a fee of Ksh600,000. Thereafter, he developed medical complications associated with organ harvesting. Subsequently, this incident was reported to Langas Police Station under Occurrence Book No.41, dated 31<sup>st</sup> August 2024.

This is just one among many undocumented cases of illegal organ harvesting by a syndicate operating within the country. Multiple reports have implicated Mediheal Hospital, which is claimed to be facilitating illegal kidney transplants and organ trafficking, raising significant concerns about possible collusion between the hospital and criminal syndicates who exploit medical infrastructure for illicit organ trade.

The legal framework governing organ harvesting in Kenya is outlined in Section 80 of the Health Act. This legislation stipulates penalties of up to Ksh10 million or imprisonment of up to 10 years for organ harvesting or trafficking. However, these penalties appear insufficient to deter perpetrators of this illicit trade, who operate in secrecy.

It is against this background that I request a statement from the Chairperson of the Departmental Committee on Health on the following:

The current status of the investigation regarding the case of Mr Amon Melly, reported to Langas Police Station, and the scope and the status of the investigation into allegations of illegal kidney harvesting by Mediheal Hospital.

1. The measures being implemented to ensure compliance with ethical standards and national laws regarding organ donations and transplants by healthcare institutions.
2. The strategic initiatives undertaken to identify and dismantle local and international criminal syndicates involved in illegal organ harvesting.

3. The protective measures being implemented to safeguard vulnerable population from illegal organ trade.
4. The comprehensive support framework established for victims and survivors of organ harvesting, including compensation, medical care and counselling services, along with specific rehabilitation programmes currently in place or planned for implementation.

**Hon. Deputy Speaker:** Chairperson of the Departmental Committee on Health, this is not an issue to ask the Ministry of Health. It is an issue to raise with the Directorate of Criminal Investigations (DCI) or the Inspector-General of Police (IG). I took a family to report a similar incident at Langas Police Station less than three weeks ago. The Officer Commanding Police Station (OCS) confirmed that they have been investigating such matters for several years. You must talk to criminal investigators because it has been happening for a while. Investigations have been going on for three years. You will summon the IG because the investigation is the issue.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Deputy Speaker, for adding your voice. It is a very weighty matter the Committee will have to investigate. We will also look at the law. There is a lacuna in terms of the law as far as organ transplant is concerned.

The Bill by the Kenya Tissue Transplant Authority came to this House, had issues, and was withdrawn. We currently have a Bill in our drafting office that is undergoing pre-publication scrutiny. Therefore, we will soon have a law that will govern that matter.

Meanwhile, those are very serious allegations that even the public must be concerned about. When you talk about people harvesting organs from unsuspecting Kenyans and trafficking them, that means that the matter goes beyond our borders. Therefore, we agree with your direction that we have to call the Inspector-General of Police. We will also have to visit Eldoret and Langas, where the matter was reported, to find out what the authorities have done so far. We also need to go to Mediheal Hospital to determine the number of organ transplant cases. We will also request members of the public and anybody with information to volunteer it to the Committee so that we can prepare a comprehensive report.

In view of the fact that we are going on recess, I ask you, Hon. Deputy Speaker, to use Standing Order 1 to ensure that the matter does not lapse so that the Committee can conduct thorough investigations during recess and report to the House when we resume.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Pukose, as the Chairman of the Departmental Committee on Health, you can request the substantive Speaker to be allowed to sit during recess or, at least, convene your Committee.

However, there are two aspects at play. The law is being developed, but there is also the fact that criminality has occurred. Offences have occurred in terms of illegal organ harvesting and trafficking. I know that Hon. Nyikal and Hon. Nyamai wanted to weigh in on this. I will allow them to speak.

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Thank you very much, Hon. Deputy Speaker. I want to support the Statement by the very active young Member of Parliament. I agree with you, Hon. Deputy Speaker, that this is not only a health matter but also a criminal issue. I am sure that Hon. (Dr) Pukose is equal to the challenge. This is happening not only in Kenya but also in the whole of Africa.

Initially, it was about poverty, but now it is about people lengthening their lives by acquiring the organs of younger people, believing that those organs can help them live longer. It is a complicated matter. The Committee not only needs to be assisted by experts in the Ministry of Health, but they should also go to the Ministry of Interior and National Administration because that matter is not just about health. It concerns poverty, people's health,

people lengthening their lives, and crime. It is a complicated matter, but I believe that Hon. Pukose can deal with it.

Thank you for giving me a chance, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Deputy Speaker. The matter before us is extremely important, and I applaud the Member for raising it. I support what the Chairman of our Committee indicated, that this is a criminal matter. It is also a professional matter; therefore, we must look at it. We will not only look at the police aspect but also the professional aspect because organ harvesting and trafficking require the involvement of professionals. It probably involves not just one professional but several of them.

If given time, our Chairman can seek permission from the substantive Speaker to look at all aspects of the matter and ensure that the various laws are enforced, the professionals involved are taken to task, and the criminals are charged.

I support the move by the Member and the suggestion by our Chairman of the Committee.

**Hon. Deputy Speaker:** Hon. Tongoyo.

**Hon. Gabriel Tongoyo** (Narok West, UDA): Thank you, Hon. Deputy Speaker, for giving me an opportunity. The issue the Member for Nandi Hills raised is very serious, and it should be of great concern to Kenyans. I remember that in the last Parliament, a similar issue was reported in some of the dailies accusing the same facility. The country was going for elections around that time, so some people thought the issue had to do with politics.

As alluded to by the Chairman of the Departmental Committee on Health, it is true that there is a lacuna in law. A Bill by Hon. Mwenje is trying to cure that lacuna. Unfortunately, some local newspapers ran ahead of the House and said many bad things about that issue. Notwithstanding that setback, this is purely a criminal case. Kenyans should also be more sensitised about that vice. With the many instances of Kenyans disappearing, there is a more significant cause for worry. There could be a strong correlation between this matter and the disappearance of some Kenyans. There have been many allegations relating to the same.

I agree with you that as much as we should pursue the legal aspect, the Directorate of Criminal Investigations (DCI) and other investigatory institutions should work speedily and thoroughly investigate those cases. The culprits should be apprehended if found guilty.

**Hon. Deputy Speaker:** The next request for a Statement is by the Member for Changamwe, Hon. Omar Mwinyi.

GRIEVANCES BY EMPLOYEES OF ASHTON APPAREL (EPZ)  
LTD AND MOMBASA APPAREL (EPZ) LTD

**Hon. Omar Mwinyi** (Changamwe, ODM): Thank you, Hon. Deputy Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I rise to request a Statement from the Chairperson of the Departmental Committee on Labour regarding the grievances by employees of Ashton Apparel (EPZ) Ltd and Mombasa Apparel (EPZ) Limited.

On 26<sup>th</sup> October 2023, I raised concerns in the House regarding the unfair labour treatment of Ashton Apparel (EPZ) Ltd employees and Mombasa Apparel (EPZ) Limited. Thereafter, you directed the Departmental Committee on Labour to look into the matter. In November 2023, the Departmental Committee on Labour held consultative meetings with the EPZ workers' representatives in Parliament, where the workers' grievances were first deliberated.

On Friday, 2<sup>nd</sup> February 2024, the workers' representatives held a follow-up meeting where a return-to-work formula was agreed on. Sadly, the employees of the above-mentioned Export Processing Zones (EPZ) companies continue to face significant challenges, including

victimisation, denial of rights, and hindrance to exercising their freedom to join a union. Those actions not only violate their rights but also discourage the workers from voicing their concerns about issues affecting their welfare, safety, and fair treatment in the workplace, contrary to Article 41 of the Constitution. The persistent violation of workers' rights by the two companies calls for the comprehensive intervention by this House.

It is against this background that I request a Statement from the Chairman of the Departmental Committee on Labour on the following:

1. Status of implementation of the return-to-work formula agreed on between Ashton Apparel (EPZ) Ltd, Mombasa Apparel (EPZ) Ltd and the workers' representatives on 2<sup>nd</sup> February 2024;
2. Challenges faced, if any, in the implementation of the return-to-work formula agreed on; and,
3. An inquiry into the alleged violation of the constitutional rights of the workers by Ashton Apparel (EPZ) Ltd and Mombasa Apparel (EPZ) Ltd and recommendations for lasting solutions to the matter.

Thank you, Hon. Deputy Speaker.

If you may allow, Hon. Deputy Speaker, I would like to give the current situation as it stands. It is unfortunate that the Ministry of Labour and Social Protection, which is supposed to be the one that safeguards the workers' interest, is trying to work with the management to thwart any effort the workers may have or emancipate themselves from victimisation and violations of their rights in companies. Right now, the company has sacked close to 400 employees. What is interesting is that they sack and employ new ones so that they remove the ones who are in the union; thus, the number that is required is not achieved. I would like you to have this matter dealt with next week so that we can have something to start with before we go for recess. It can continue during our recess until the matter is sorted out.

Thank you.

**Hon. Deputy Speaker:** Whip of the Majority, let me leave this matter to you. Please ensure they take appropriate action on this matter since I do not see the Chairperson for the Departmental Committee on Labour present.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Much obliged, Hon. Deputy Speaker. I hope that Hon. Mwinyi will understand the limited timelines that we have to dispense of this matter. Nonetheless, we commit to having it handled as soon as possible. Thank you very much.

#### UNFAIR DISMISSAL OF EMPLOYEES AT KIPTAGICH TEA ESTATE IN KURESOI SOUTH CONSTITUENCY

**Hon. Speaker:** The Statement by the Member for Kuresoi South, Hon. Joseph Tonui.

**Hon. Joseph Tonui** (Kuresoi South, UDA): Hon. Deputy Speaker, I rise to request a Statement from the Chairman of the Departmental Committee on Labour regarding the Mistreatment and Unfair Dismissal of Employees at Kiptagich Tea Estate, located in Kuresoi South Constituency.

Hon. Deputy Speaker, Kiptagich Tea Estate entered into a Collective Bargaining Agreement (CBA) in January 2023 for two years with 150 employees on permanent terms, under which they were to be paid Ksh18.46 per kilogramme of tea plucked. However, the factory violated this agreement by unilaterally reducing the payment to Ksh8 per kilogramme, which is a significant breach of the agreed-upon terms. The employees have encountered numerous injustices, including low wages, unfair dismissal and intimidation through excessive police force when advocating for their rights.

Further, introducing tea-plucking machines has resulted in abrupt termination without prior consultations, while others have allegedly been pressured into resigning.

Hon. Deputy Speaker, it is against this background that I seek a statement from the Chairperson of the Departmental Committee on Labour and Social Welfare on the following:

1. Measures taken by Kiptagich Tea Estate to reinstate the dismissed tea-pluckers and compensate them for unfair dismissal and lost of income.
2. Steps being taken to address the mistreatment, unfair dismissal, violations, and breach of the CBA and employee contracts at Kiptagich Tea Estate.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you. Again, this is still under the same Departmental Committee on Labour. Hon. Osoro, you will ensure this reaches the Chairperson who is not in.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Much obliged.

**Hon. Deputy Speaker:** Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

*[The Temporary Chairlady (Hon. (Dr) Rachael Nyamai) in the Chair]*

#### THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO.3) BILL (National Assembly Bill No.44 of 2024)

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Members, you may be seated. We are in the Committee of the whole House. We will start with the Public Finance Management (Amendment) (No.3) Bill (National Assembly Bill No.44 of 2024). I can see the Chairman of the Departmental Committee on Finance and National Planning is here. So, we may proceed.

#### *Clause 2*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 2 of the Bill be amended in the proposed New Section 186G (1) by deleting the words, “The County Treasury” appearing immediately after the words, “Controller of Budget;” and substituting therefor the words, “The National Treasury”.

This proposed amendment seeks to clarify the reports submitted to various entities by the Accounting Officer and the county government in case of a transfer of a function from the National Government to a county government. It clarifies that the report would be submitted to the National Treasury and Economic Planning instead of the County Treasury. This was more of a drafting error.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): I do not see any interest in this.

*(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 2 as amended agreed to)*

*New Clause 1A and 1B*

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 1—

Amendment of Section  
94 of Cap 412A

1A. Section 94 of the Public Finance Management Act is amended in subsection (1) (a) by inserting the following new subparagraph immediately after subparagraph (ii)—

“(iia) has persistently delayed or failed to remit employee salaries statutory deductions including taxes, pension, social health insurance and cooperative societies deductions;”

Amendment of Section  
109 of Cap 412A

1B. Section 109 of the Public Finance Management Act is amended by inserting the following new subsections immediately after subsection (7)—

(7A) The Controller of Budget shall not approve any withdrawals from the County Revenue Fund if—

(a) a county government has committed persistent material breach as defined in section 96 of this Act;

(b) has persistently delayed or failed to remit statutory deductions including taxes, pension contributions, social health insurance, and cooperative societies deductions.

*(The new clause was read a First Time)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): I now call upon the Chairman to move Second Reading of the New Clause 1A and 1B.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the new Clause 1A and 1B be now read a Second Time.

These New Clauses came out of public participation. We have had county governments failing to remit statutory deductions to the respective entities like Pay as You Earn (PAYE), National Social Security Fund (NSSF), Taifa Care and pension deductions, which they have already deducted from the employees and remitting them to the respective entities. This requirement will mean that the Controller of Budget will not approve withdrawals from the County Revenue Fund (CRF) where those statutory deductions have not been remitted to the statutory entities.

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Charles, do you want to comment on this?

**Hon. Charles Nguna** (Mwingi West, WDM): I thank the Chairman for bringing up this issue. This will cure and bring discipline in terms of the statutory remittance by the employers.

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Many of our staff have been suffering. It is not just those here in Parliament but staff in other public institutions. They have been suffering because of institutions delaying remittance of statutory deductions: taxes, pension money, and social insurance schemes.

I fully support. I very much thank the Chair for bringing such an important amendment Bill. Thank you.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): The Member for Buuri, Hon. Rindikiri Mugambi.

**Hon. Mugambi Rindikiri** (Buuri, UDA): This is a very important amendment because many organisations are very insensitive to the welfare of workers. We have even seen many people pass on. When they go to claim their final dues, they are told there were no submissions of statutory deductions. This amendment is very important because it will bring discipline. A county that is not responding on a monthly basis shows how unresponsive it is. I suggest that it is not counties only. It is all public institutions. This law should apply there. Many universities and institutions have gone down, and many are being sold out. Many others are collapsing and leaving workers without benefits.

I support this amendment. Moving forward, I request the Chair to make sure that all public institutions get the same standards of operations. I thank you, Hon. Temporary Chairlady.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Silvanus Osoro, Whip of the Majority Party.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you very much, Hon. Temporary Chairlady.

I also join other Members who have spoken ahead of me in support of what the Chair of the Departmental Committee on Finance and National Planning has moved. It is important to realise that remittance of the statutory deductions is paramount. We have had challenge all along because of a lacuna in law. Thus, remittance of statutory deductions has always been put on trial. I think this amendment will cure that challenge entirely to give relevant authorities like the Controller of Budget power or a bit of some retributive measures including not approving withdrawals from the County Revenue Fund if such deductions have not been remitted.

I also support that. Thank you very much, Hon. Temporary Chairlady.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you, Whip of the Majority Party.

*(Question, that new clause  
be read a Second Time, put and agreed to)*

*(Question, that new clause  
be added to the Bill, put and agreed to)*

#### *New Clause 1A*

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 1—

Amendment section 117	of Can.	1A. Section 117 of the Public Finance Management Act is amended— (a) in subsection (1) by deleting the expression “by the 28th February” appearing immediately after the words “county assembly,” and substituting therefor the expression “by the 7th March”;
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(b) in subsection (6) by deleting the word “fourteen” appearing immediately after the words “not later than” and substituting therefor the word “twenty-one”.

*(The new clause was read a First Time)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): I call upon the Mover to move the Second Reading of New Clause 1A. Chair, you will move Second Reading because it is a new clause then proceed to explain.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Temporary Chairlady, I beg to move that the New Clause 1A be now read a Second Time.

The justification of this clause is that there is need to increase the timeline for submission of the County Fiscal Strategy Paper to county assemblies. The amendment of the Public Finance Management Act of 2012 is quite paramount to increase the period for consideration of the Budget Policy Statement from 14 days to 21 days. It is very necessary because it allows a comprehensive scrutiny of proposals contained in the statute. The timeline was 14 days. It was not sufficient to scrutinise the Budget Policy Statement. This new clause is to, at least, extend the timeline by another seven days so that the whole Budget Policy Statement is scrutinised well and re-looked comprehensively towards a justifiable end.

Thank you very much, Hon. Temporary Chairlady. I support and move.

*(Question, that the new clause  
be read a Second Time, proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you. Let us hear the Chairman.

**Hon. Kuria Kimani** (Molo, UDA): Two very important documents inform the budget process of the national Government and county governments. The Budget Policy Statement is for the national Government and the County Fiscal Strategy Paper is for county governments. Current provisions in the Public Finance Management (PFM) Act provide only 14 days for consideration. Therefore, committees have to rush completing this process and submit before the Budget and Appropriations Committee within 14 days. The extension from 14 days to 21 days will enable both the National Assembly and county assemblies have sufficient time to scrutinise the very important policy papers that inform the budgets of both the national and county governments respectively.

I thank you, Hon. Temporary Chairlady.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Charles Nguna.

**Hon. Charles Nguna** (Mwingi West, WDM): I just want to support the Mover and the Chairperson for this very important proposal. Even us as Parliamentarians have been struggling to peruse these policy documents. I think it is very difficult to understand the policy statements if all are struggling most of the time. The extension by another seven days is very important so that we read, digest and integrate them in our plans.

I support.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Member for Nyamira County.

**Hon. Jerusha Momanyi** (Nyamira County, JP): Thank you. I also rise to support the amendment as moved by the Mover. We sometimes make mistakes when things are done in a hurry. Moving of timelines from 14 days to 21 days has much justification. That is so that anything done to the Budget Policy Statement can be done so well so that there is nothing that can bring problems in between.

I stand to support. This will be good for our county governments.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you. Just to inform the House, we are dealing with Section 117 of the Public Finance Management (PFM) Act. It focuses on the County Fiscal Strategy Paper. We will later come to the Budget Policy Statement (BPS) at another time. This concerns counties. We may proceed.

*(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)*

*Long Title*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

**Hon. Kimani Kuria** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the long title of the Bill be amended by inserting the words, “the two levels of government pursuant to” immediately after the word “between”.

The justification of this amendment is to insert words which were omitted during the publication of the Bill. It is more of a cleanup.

*(Question of the amendment proposed)*

There is no interest in this.

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

*(Long Title as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): I call upon the Mover to move reporting. Hon. Chairman.

**Hon. Kimani Kuria** (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the House reports its consideration of the Public Finance Management (Amendment) (No.3) Bill (National Assembly Bill No.44 of 2024) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Members, we are now going to move to the next Bill, the Public Finance Management (Amendment) (No.4) Bill (National Assembly Bill No.45 of 2024).

THE PUBLIC FINANCE MANAGEMENT  
(AMENDMENT) (NO.4) BILL

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(National Assembly Bill No.45 of 2024)

*Clause 2*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

**Hon. Kimani Kuria** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 2 of the Bill be amended-

1. In paragraph (a) the proposed new subsection (2C) by deleting the word “Act”, and substituting therefore with the word “provision”; and
2. In paragraph (b) in the proposed new subsection (2CA) by deleting the words “not later than five years from the date of coming into force of this Act”.

The proposed amendment in paragraph (a) seeks to provide clarity on the proposed amendment on the effective days of the debt threshold. It cures ambiguity on whether the effective date will be the date of the commencement of the Act or the provision as proposed in Clause (2)(a) of the Bill.

The proposed amendment in paragraph (b) seeks to cure ambiguity on the proposed new section 2C on the obligation of the Cabinet Secretary taking measures to comply with the debt threshold, as provided in the Bill. The use of the words “not late than five years from the date of coming into force of this Act” might be construed to mean that the measures being taken by the Cabinet Secretary could be taken within 10 years which is not the intention of the Bill.

This is the debate that we had yesterday where we sought clarity to the adherence to the 55 per cent debt as a percentage of GDP in present value terms will have to come into effect within five years and not after 10 years as may be construed as currently proposed on the Bill. This provides for that clarity which is the real intention of the Bill. I beg to move.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you Hon. Chairman.

*(Question of the amendment proposed)*

Hon. Osoro

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Temporary Chairlady, I support the amendment as proposed by the Hon. Chairman.

Ambiguity in law raises challenges and sometimes leads to abuse. It is paramount to when we say “not later than five years from the date of coming into force of this Act”, and we leave it blankly without specifying the timelines, we allow people to abuse it or the Cabinet Secretary can even get up to 10 years. This amendment by the Mover is timely. I support.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you very much. Hon. (Dr) Pukose, Member for Endebess.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you Hon. Temporary Chairlady. I support the amendment by Hon. Chairman. In the same breath, it clarifies leaving no ambiguity and no room for doubts on the time duration.

Thank you, Hon. Temporary Chairlady.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon, Kassim Tandaza, Member for Matuga.

**Hon. Kassim Tandaza** (Matuga, ANC): Ahsante Mhe. Mwenyekiti wa Muda. Ninaunga mkono mabadiliko ambayo mstahiki Mwenyekiti wa Kamati anapendekeza. Kwa wakati wowote ambao unapeana wizara nafasi ambayo haijulikani mwanzo na mwisho ni lini, basi kawaida hao huchukua muda wao wakutekeleza na kuhakikisha hili jambo halifanyiki kwa muda unaofaa.

Ninaunga mkono hoja hii. Ahsante.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Ahsante.

*(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 2 as amended agreed to)*

### Clause 3

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman you have an amendment.

**Hon. Kimani Kuria** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 3 of the Bill be amended-

1. In paragraph (a)-
  - (a) by deleting the words “paragraph (g),” and substituting therefore the words “paragraph (e)”;
  - (b) by renumbering the proposed new paragraph (h) as paragraph (ea);
  - (c) by renumbering the proposed new paragraph (i) as paragraph (eb);
2. In paragraph (b) in the proposed new subsection (6)-
  - (a) by deleting the words “subsection (1)(h)”, appearing immediately after the words “contemplated under” and substituting therefore the words “subsection (1) (ea)”;
  - (b) by deleting the words “subsection (1)(h)”, appearing immediately after the words “commencement of”, and substituting therefore the words “subsection (1) (ea)”.

These amendments seek to provide a logical flow of the proposed additional functions of the Public Sector Accounting Standards Board (PSASB). Now that we have given them a new function of ensuring migration from cash to accrual accounting, there is need to rename how those particular subsections appear in the Bill, and now as amended in the Act.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Charles Nguna, is your interest in this? No?

**Hon. Charles Nguna** (Mwingi West, WDM): No, proceed.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): I do not see any further interest in this.

*(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 3 as amended agreed to)*

*New Clause 1A*

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 1—

Amendment of  
Section 25 of Cap.  
412A

**1A.** Section 25 of the Public Finance Management Act is amended—

- (a) in subsection (7) by deleting the word “fourteen” appearing immediately after the words “not later than,” and substituting therefor the word “twenty-one”;
- (b) in subsection (9) by deleting the word “fifteen” appearing immediately after the words “not later than,” and substituting therefor the word “twenty-two”;

*(The new clause was read a First Time)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): I now call upon the Whip of the Majority Party to move Second Reading.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Temporary Chairlady, I beg to move that the New Clause 1A be now read a Second Time.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Do you want to explain before we give a chance to Hon. Chairman?

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Temporary Chairlady, the justification in this Clause is that there is need to increase the timeline of submission of the county assembly Fiscal Strategy Paper to the county assemblies.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman will have his time to explain, but now it is time for the Mover. We are moving well.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Temporary Chairlady, protect me from Hon. Johana Ng’eno.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Member for Emurua Dikirr, please be orderly. You may proceed, Whip of the Majority Party.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Temporary Chairlady, I had misplaced my notes. The amendment in the Public Finance Management (Amendment) (No.4) Bill, 2024 seeks to increase the period of consideration of the Budget Policy Statement (BPS) from 14 days to 21 days which is necessary to allow for comprehensive scrutiny of the proposals. One will not lose too much for waiting at least for another seven days for people to scrutinise the BPS and understand it better. The hurried nature of people trying to pull through it within the 14 days need to be extended, so that people can understand it.

I beg to move, Hon. Temporary Chairlady. Thank you.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Osoro.

*(Question, that the new clause be read a Second Time, proposed)*

Hon. Chairperson.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, Members are wondering why we have two Public Finance Management (Amendment) Bills separately. The Public Finance Management (Amendment) (No.3) Bill that we just passed includes county

functions. That is why we said that when you transfer funds, they must be accompanied by a transfer of funds. That is the reason we moved an amendment to increase the time for the County Fiscal Paper.

The Public Finance Management (Amendment) (No.4) Bill deals with the debt anchor. Because it does not concern counties, it will not be taken to the Senate. The first Bill will obviously be transmitted to the Senate. This other one that does not concern counties will only be processed in this House. That is why the amendment on the BPS processing days being increased from 14 days to 21 days falls squarely in this Bill. I wanted to make this clarification on why there are two Bills that amend the same Public Finance Management Act.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman.

*(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)*

*(Title agreed to)*

*(Clause 1 agreed to)*

## MOTION

### CONSIDERATION OF REPORT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO.4) BILL

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): I now call upon the Mover to move reporting.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the Public Finance Management Amendment (No.4) Bill (National Assembly No.45 of 2024) and approved the same with amendments.

*(Question proposed)*

*(Question put and agreed)*

### THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2024)

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Members, we are now moving to the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No.48 of 2024).

#### Clause 3

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman, I hope you are ready in this Bill. Please give him the microphone.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 3 of the Bill be amended in the proposed new subsection (4) by—

- (a) deleting the word “under” appearing immediately after the word “doubt, except” and substituting therefor the word “where a”; and
- (b) inserting the word “for” immediately after the word “provides”.
- This amendment provides clarity on this particular provision.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. (Dr) Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairlady, I request that we have more explanation. Seeking clarity does not give us substance. It is that clarity that is being done through this Bill that we need to know what it is. Let us have it before we comment.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): I do not see any other interest in this amendment, Hon. Members.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairlady, I sought clarity and it looks like the Mover is ready. We are passing an extremely important Bill.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman, did you hear the clarification he sought?

**Hon. Kuria Kimani** (Molo, UDA): Yes.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): You may proceed.

**Hon. (Dr) James Nyikal** (Seme, ODM): He should have heard it first. Sorry to say this, but it is okay.

**Hon. Kuria Kimani** (Molo, UDA): Sorry, Hon. Temporary Chairlady. Hon. Members, Clause 3 of the Bill says:

Section 4 of the principal Act is amended by inserting the following new subsection immediately after sub-section (3)—

(4) For the avoidance of doubt, except under bilateral or multilateral agreements between Government of Kenya and any other foreign government, agency, entity or multilateral agency provides use of foreign or international financing procurement procedures and guidelines, this Act shall apply to foreign funded procurement for goods, works and services by Government of Kenya.

If you read the words “for the avoidance of doubt, except under” we are deleting the word “under” and substituting it with “where a”.

When you check the next words “provides use of foreign” they are not correct grammatically. So, we are inserting the word “for” after the word “provides”. That is why I clarified that the amendment brings out logical and grammatical flow of the language. It does not change materiality of the Clause, Hon. Temporary Chairlady.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman. Hon. Nyikal, would you like to comment in a minute?

**Hon. (Dr) James Nyikal** (Seme, ODM): Yes, Hon. Temporary Chairlady. I will comment now. It must be clear to us when we are using foreign procurement procedures in our country. I understand that and I know the implications. This is not the time to discuss it. It is the main substance of the Bill, but at this point the amendment makes it clearer. Therefore, I support it.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Dr. Nyikal.

*(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 3 as amended agreed to)*

*(Clauses 4, 5, 6, 7, and 8 agreed to)*

*Clause 9*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman, do you have an amendment?

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 9 of the Bill be amended—

(a) in paragraph (a) by deleting the proposed new subsection (4) and substituting therefor the following new subsection

“(4) A debarment under this section shall be for a specified period of time of not less than three years and not exceeding six years.”

(b) in paragraph (b) by deleting the expression “(5)” and substituting therefor the expression “(4A)”

This proposed amendment is seeking to provide a range of periods of disbarment in line with international best practice and the second proposed amendment is seeking to correct an error. The Act currently has subsection 5 and the new subsection should therefore be 4A. The second section is correcting a numbering error. The first one was to make sure that the debarred period of entities that are involved in illegalities in the procurement process adheres to best practice which is now specified to be a period not less than 3 years and not exceeding 6 years.

*(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 9 as amended agreed to)*

*(Clause 10 agreed to)*

*Clause 11*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman, do you have an amendment?

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 11 of the Bill be amended—

(a) in paragraph (a) in the proposed new subsection (6A) by deleting the words “less than” and substituting therefor the words “up to”;

(b) in paragraph (b) in the proposed new subsection 15—

(i) by inserting the words “exhibiting unfair competition” immediately after the word “A foreigner”;

(ii) by deleting the words “exhibiting unfair competition” appearing

immediately after the words “as being Kenyan”.



This is seeking to cure, if you read what is provided for in the Bill in clause 6A, that any procurement of less than Ksh1 billion shall be awarded to a local firm. The simple understanding of this would be any procurement of less than Ksh1 billion, which would mean that 1 billion shillings will not be included as the amount that is mandatory to be awarded to a local firm. So, this is providing clarity by saying that all procurements up to Ksh1 billion shillings. Ksh1 billion will be included as the amount that qualifies for a local firm so that there is no ambiguity. Otherwise, you will have tenders being quoted at Ksh1 billion and saying that local contracts cannot qualify because the law talks about below Ksh1 billion. This is to make sure that Ksh1 billion is included as a threshold or a requirement for tenders that should be solely be one or reserved for local firms.

The other one, as I said, is to provide clarity and to correct a grammatical error in the drafting.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Osoro.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you very much, Hon. Temporary Chairlady. The first proposed amendment attempts to cure the lacuna that would exist with the use of the word “less than”. The word here is “less than”, which would imply that the exact amount of Ksh1 billion does not fall within the ambit of a local firm or a foreign firm. The second part proposes to clarify that the offence relates to a foreigner exhibiting unfair competition. We all agree that sometimes the issues of unfair competition arising from tenders where able and well-resourced foreign companies elbow out the local companies because of such ambiguity and lack of clarity like in this Bill or the Act as currently is. This particular part seeks to clarify that the offence is an offence that relates to a foreigner exhibiting such unfair competition to the detriment of the local contractors, or local business people.

I support.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Charles. Members who want to contribute may press the intervention button.

**Hon. Charles Nguna** (Mwingi West, WDM): Hon. Temporary Chairlady, while I support this clause, I would like to emphasise that the Hon. Chairman should have included “able and competent local firms”. We have been giving some of these firms' contracts and they end up doing a shoddy job or even delaying the execution of services to our people because they do not have the capacity and financial muscles to deliver the project. We have to come up very strongly, and say “able, capable and competent”. It must be emphasised on this matter.

Thank you.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Rindikiri Mugambi, Member for Buuri.

**Hon. Mugambi Rindikiri** (Buuri, UDA): This is very important because I have seen many foreigners taking advantage of this clause the way it was before. Up to or less than can mean anything up to Ksh100,000. The Committee brought this at the best time when we have seen so many foreign companies come here and start doing jobs that need to be done by very simple contractors, even in our rural constituencies.

One sector that is very common and notorious for this is the road sector. I am happy to see our Chairman come in because the roads that are supposed to be done by local contractors have been taken over by foreigners who are exploiting this clause. I commend the committee for making it up to including Ksh1 billion and therefore it cuts off the foreigners who misuse that clause.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Members, make quick comments.

Hon. Joseph Cherorot, Member for Kipkelion East.

**Hon. Joseph Cherorot** (Kipkelion East, UDA): Thank you, Temporary Chairlady. I stand to support the clause of up to Ksh1 billion. In this country, we have many foreigners who have taken advantage of Kenyans, especially when it comes to contracts. My friend and colleague has mentioned that we have to say those who have got the capacity. I think those who are involved, especially the institutions who are involved in tendering are able to do due diligence with the companies that are going to be giving contracts. This clause will protect Kenyans from being exploited by foreigners.

Thank you. I support.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you. I am trying to trace your card, Member for Nyamira. Do you have your card? Okay, you may make your comment.

**Hon. Jerusha Momanyi** (Nyamira County, JP): Thank you, Hon. Temporary Chairlady. I rise to support this clause. Kenyans are also growing. The people within our country who also need to grow have been hampered because of the billionaires who come from outside. We also need to protect our people.

If this clause remains the way it is, our people will always be locked out. So, this amendment will open doors for Kenyans to have fair competition with foreigners when tendering.

Thank you, Hon. Temporary Chairlady. I support.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Parashina Sakimba, Member for Kajiado South.

**Hon. Parashina Sakimba** (Kajiado South, ODM): Thank you, Hon. Temporary Chairlady. I also want to support the amendments by the Chairman. I have evidence where foreigners take advantage of the local business people. The Naivasha Special Economic Zone was awarded to a contractor from Turkey. This contractor pretended that he had money. He is now busy looking for loans in our local banks like Equity Bank. For the last four years, he has done nothing. I would like the Chairman to inform us, if there are ways of determining if a foreign contractor has money. A foreigner can indicate they have Ksh1 billion yet they have Ksh10,000. Thank you.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you, Member for Kajiado South. Hon. Members, bearing in mind this is Committee of the whole House, you should make very quick comments. This is because you already debated during the Second Reading. When you get a chance, make a quick comment so we can make progress. Hon. Dr Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Chairlady. What ill is being cured in paragraph (b)? Is it somebody misrepresenting himself as being a Kenyan or unfair competition? To me the ill appears to be some misrepresenting themselves as being a Kenyan. Where does the unfair competition come in? Can I get a little more explanation on this?

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Are you seeking clarification from the Chairman?

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

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

**Hon. Kuria Kimani** (Molo, UDA): Thank you, Hon. Temporary Chairlady. I have listened to what Hon. Nyikal has asked. I also want to share the sentiments of Hon. Members about a firm being awarded a contract knowing very well they are incompetent. The Bill is

curing this in clauses which are further ahead. For example, clause 14 is bringing in conduct of due diligence. It states:

“(2) The conduct of due diligence under subsection (1) includes but is not limited to obtaining confidential references from persons with whom the tenderer has had prior engagement, visiting contractor's offices, inspecting the plant and equipment and completed works, in addition confirming the validity of the documents presented.”

So, this time around, it is not just about fabricating papers to show you are competent. Now, an accounting officer will have an obligation to write confidential letters seeking clarification on whether the work was done. Failure to do so will be an offence.

Also, if the tenderer supplies substandard goods, you will note that clause 26 states:

“(2A) A person who certifies or delivers substandard goods or works that are incomplete, nonexistent or whose quality is below the specifications contained in the contract commits an offence.”

This offence is punishable by law with a fine of Ksh1 million and imprisonment not exceeding 10 years. Most importantly, you are supposed to make a loss twice the amount of that contract. There are hefty fines for not doing due diligence and awarding a firm that is not competent. If the firm knows it is incompetent there are fines for bidding work yet they know they are unqualified.

On Hon. Nyikal's question about unfair competition. This is where foreigners come to Kenya and register their firm as local using local identification. If this House approves these amendments, this will be an offence on both the foreigner and Kenyan who agreed to be used by a foreigner to register a firm to appear like a local one. Whereas, the beneficial owners are foreigners.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman that explanation is very clear. I will give a chance to the Chairman of the Departmental Committee on Transport and Infrastructure. Then, I put the question. We have taken too long on this clause.

**Hon. Ruku GK** (Mbeere North, DP): Thank you, Hon. Temporary Chairlady. I rise to support the amendments by the Chairman of the Departmental Committee on Finance and National Planning.

In the road sector, the local contractors are disadvantaged and not given an opportunity to construct roads. This is because of unfair competition where foreigners have more capacity and commitment. I also see that Members of Parliament prefer to work with the foreign contractors. A Member of Parliament will lobby to have their project done by a foreigner. I want to beseech Hon Members to support our local contractors. So, that we can build their companies, better their lives and ability to compete with foreigners.

We must do whatever it takes to support our people so that they are not unfairly disadvantaged when implementing projects within their ability. For example, putting murram on our rural roads should not be done by foreign companies disguised as local ones. We must allow our people to do these projects so they can better their lives.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Members, I will now 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)*

*Question, that the words to be inserted*

*be inserted, put and agreed to)*

*(Clause 11 as amended agreed to)*

*(Clauses 12, 13, 14, 15, 16 and 17 agreed to)*

#### Clause 18

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 18 of the Bill be amended in the proposed new subsection (1A) by deleting the word “Authority” and substituting therefor the words “accounting officer”.

Clause 18 of the Bill says that upon completion of an evaluation and the successful tenderer is established, the Authority shall notify the other tenderers of the award. Now, the one who will be awarding the tender and informing the tenderer is the accounting officer and not the authority. So, we are deleting the word “authority” and substituting therefor with the words “accounting officer”. This was a drafting error which we are correcting in the Committee of the whole House.

**The Temporary Speaker** Hon. Rachael Nyamai: Thank you, Hon. Chairman.

*(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 18 as amended agreed to)*

*(Clauses 19 and 20 agreed to)*

#### Clause 21

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Chairman, you have an amendment.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 21 of the Bill be amended—

(a) in the proposed new subsection (3) by deleting the word “Authority” and substituting therefor the words “accounting officer”;

(b) in the proposed new subsection (4) (b) by deleting the word “Authority” and substituting therefor the words “accounting officer”.

This amendment seeks to do the same thing that I explained under Clause 18. The words used in Clause 21(3) is that “the Authority shall ensure that priority is given to citizen contractors in sub-contracting tenders that have been allocated to citizen contractors”. That should not be the work of the Authority but that of the accounting officer. So we delete the word ‘Authority’ and substitute therefor the words ‘accounting officer’.

*(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 21 as amended agreed to)*

*(Clauses 22 and 23 agreed to)*

#### *Clause 24*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Chairman, you have an amendment.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 24 of the Bill be amended in paragraph (a) by deleting the expression “(7)(a)” and substituting therefor the expression “(8)(a)”.

This is to cure a referencing error.

*(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 24 as amended agreed to)*

*(Clause 25 agreed to)*

#### *Clause 26*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Chairman, you have an amendment.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 26 of the Bill be amended in paragraph (a) by deleting subparagraph (ii).

This part provides for classified procurement methods and procedures but does not contain any orders issued either by the Authority or the review board. It deals with the methods of procurement of goods, works and services. It seeks to provide for clarification on different procurement methods.

*(Question of the amendment proposed)*

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

*(Clause 26 as amended agreed to)*

#### *Clause 27*

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**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Chairman, you have an amendment.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 27 of the Bill be amended in the proposed new section 177 in subsection (1)(a)(i) by deleting the words “not less than” appearing immediately after the words “a term of” and substituting therefor the words “not exceeding”.

This amendment seeks to rationalise the penal provision for a natural person and to make it commensurate to the offence. Section 177(a)(i) states that a natural person shall be liable, upon conviction, to a fine not exceeding Ksh1 million or to imprisonment for a term of not less than 10 years, or to both. This amendment changes ‘for a term of not less than’ and substitutes therefor ‘not exceeding’. This is not just in line with good legal drafting but also seeks to provide that the penal provision for a natural person is commensurate to the offence that may have been committed.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Whip of the Majority Party, Hon. Silvanus Osoro.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you very much, Hon. Temporary Chairlady. When we say that the retributive nature is commensurate to the offence, we mean that you cannot have similar terms of penalties of a chicken thief and a murderer. When you leave out the words ‘not less than,’ then you give the trial chamber an open cheque to define the number of years to hand the person. The judge will even give him 30 or 50 years, which is very punitive. Therefore, when you use the words ‘a term not exceeding’ it is commensurate because the judge cannot prescribe a term exceeding 10 years in punishing offenders. The justification is very clear. The current provision leaves the situation open, which is very dangerous. A malicious bench can sentence a person to 100 years, which is not commensurate to the charges.

Thank you very much, Hon. Temporary Chairlady. I support.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Thank you very much for that justification.

*(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 27 as amended agreed to)*

*Clause 2*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Chairman, you have an amendment.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 2 of the Bill be amended—

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

- “(a) in the definition of “asset” by inserting the words “or virtual or digital assets” immediately after the words “proprietary rights”;
- (b) in paragraph (b) by deleting the definition of “local firm” and substituting therefor the following new definition—

Cap 486 “local firm” means a company incorporated in Kenya under the Companies Act or any other written law whose shareholding is wholly owned by a Kenyan citizen.

The term ‘digital assets’ is meant to include other assets such as crypto-currencies, token codes or other numbers held in digital form and generated through crypto-graphic means or otherwise. The proposed definition of ‘local firm’ limits the Act to companies incorporated under the Companies Act. Therefore, the definition should include entities registered under other Acts of Parliament. Businesses that operate in Kenya are not necessarily companies registered under the Companies Act. They could include partnerships registered under different Acts. Changing the definition of ‘local firm’ is also to include other firms registered under different Acts such as sole proprietorships and partnerships. There is also insertion of the words ‘virtual and digital’ in the definition of the word ‘assets’. This is to ensure that digital and virtual assets are recognised as assets in that space.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Irene Mayaka.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Chairman. I support this amendment. It will be in line with the current standards worldwide, but I also challenge the Chairman of the Committee. There is need for conversations on including crypto-currency as a legal tender in our country so that it is in line with the laws.

Hon. Temporary Chairlady, I support the second part because majority of the young people in this country do not have companies, but instead have partnerships. That provision will incorporate them and ensure that they benefit from the new law.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. (Dr) Makali Mulu, Member for Kitui Central.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Chairlady. I did not want to contribute to this.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Silvanus Osoro, Whip of the Majority Party.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you, Hon. Temporary Chairlady. Hon. Irene Mayaka may have missed this, but I wish to clarify that when the term “digital assets” is used, it carries everything with it, namely, cryptocurrencies, token codes and several other digital formats. Her concern was specifically on the cryptocurrencies which are included under digital assets.

I support the amendment.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Lastly, let us hear from Hon. Charles Ngusya, Member for Mwingi West. Did you intend to speak on this amendment?

**Hon. Charles Nguna** (Mwingi West, WDM): Sorry, Hon. Temporary Chairlady. However, the amendment is very clear and straightforward.

*(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 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Members, I now call upon the Mover to move reporting.

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

What is out of order, Hon. (Dr) Nyikal? Please give him the microphone so that we can hear him.

**Hon. (Dr) James Nyikal** (Seme, ODM): It seems as though the amendment to Clause 27 is already catered for in the principal Act, therefore, I do not understand what we are correcting. The amendment seeks to remove the words “not less than” and replace them with the words “not exceeding”. However, Section 177(1)(a) of the principal Act, which is being amended, already has the words “not exceeding”. Therefore, I am not sure what we did there.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Nyikal, unfortunately, we cannot go back to Clause 27. In terms of procedure...

**Hon. (Dr) James Nyikal** (Seme, ODM): I just want it to be noted, so that you know what to do about it.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Osoro.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Hon. Nyikal may have got it all wrong again. We are not amending the term “not exceeding one million”. That has not been amended. We were amending the punitive timeline. The Act previously stated that a person would be imprisoned for a term of “not less than ten years”. We were amending that phrase so that it states that one would be imprisoned for a term “not exceeding ten years”.

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): That is noted. The amendment was very clear. Hon. (Dr) Nyikal was working on something else as we were discussing Clause 27, which is allowed. Hon. Members, in terms of procedure, we cannot go all the way to the end of the consideration of the Bill and then go back to Clause 27.

I had called the Mover to move reporting. Chairman of the Departmental Committee on Finance and National Planning, move reporting.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the Committee reports to the House its consideration of the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No.48 of 2024) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

*[The Temporary Speaker (Hon. Omboko Milemba) in the Chair]*



**The Temporary Speaker** (Hon. Omboko Milemba): We will begin with the Public Finance Management (Amendment) (No.3) Bill (National Assembly Bill No.44 of 2024).

### MOTION

#### CONSIDERATION OF REPORT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO.3) BILL

The Temporary Chairlady.

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Public Finance Management (Amendment) (No.3) Bill (National Assembly Bill No.44 of 2024) and approved the same with amendments.

**The Temporary Speaker** (Hon. Omboko Milemba): Mover

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Speaker, I would like to thank the Members for their good contributions to the Bill. The clarifications they sought helped us to understand the Bill much better. I appreciate the remarks by Hon. Mayaka (CPA). I wish to notify you that the recognition of virtual and digital assets as legal tender in this Republic is a discussion that the Departmental Committee on Finance and National Planning is very well-versed on. We have proposed a Bill that is before the Parliamentary Budget Office and the Select Committee on Budget and Appropriations for money Bill certification. Therefore, when we come back from our long recess, we will table a Bill seeking to establish a virtual assets authority to regulate virtual assets in this country.

We are the leaders in the use of virtual and digital assets across the continent. The only countries that are ahead of us are Nigeria and South Africa. Operationalising those assets in our country without a proper legal framework is a huge risk in terms of corruption and money laundering. Our country has always been a leader in terms of financial institutions and we will also be a leader in establishing a financial institution to manage virtual assets and digital currencies.

Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Murwithania to second the Motion for agreement with the report of the Committee of the whole House.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker. I second.

*(Question proposed)*

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, we shall postpone putting of the Question to the next Session.

*(Putting of the Question deferred)*

We now proceed to the Public Finance Management (Amendment No.4) (National Assembly Bill No.45 of 2024).

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Temporary Speaker. I beg to report that the Committee of the whole House has considered the Public Finance Management (Amendment No.4) Bill, (National Assembly Bill No.45 of 2024) and approved the same with amendments.

Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Mover.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Speaker, I beg to move that Public Finance Management No.3 (National Assembly Bill No.44 of 2024) be read a Third Time, and I request Hon. Josses Lelmengit...

**The Temporary Speaker** (Hon. Omboko Milemba): Order! You may take that again. Clerks-at-the-Table, give him the requisite notes for his use.

**Hon. Kuria Kimani** (Molo, UDA): Thank you, Hon. Temporary Speaker, and sorry for that.

I beg to move that this House do agree with the Committee on the said Report, and I request Hon. Josses Member for Emgwen to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Josses Lelmengit** (Emgwen, UDA): Hon. Temporary Speaker, I second. Thank you.

*(Question proposed)*

**The Temporary Speaker** (Hon. Omboko Milemba): Again, Hon. Members, we postpone putting of the Question to the next Session.

*(Putting of the Question deferred)*

Finally, let us deal with the Public Procurement and Assets Disposal Amendment Bill, (National Assembly Bill No.48 of 2024). Hon. Chairman, proceed.

**Hon. (Dr) Rachael Nyamai** (Kitui South, JP): Thank you, Hon Temporary Speaker. I beg to report that the Committee of the whole House has considered the Public Procurement and Assets Disposal (Amendment) Bill (National Assembly Bill No.48 of 2024), and its approval thereof with amendments.

Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Mover.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Speaker, again, I want to thank the Committee for the great discussion that we had yesterday during the Second Reading and the great insights that you have given and enriched this Bill on ensuring that procurement in this country benefits Kenyans, and that it can be used as a tool of economic development, making sure that we seal all the loopholes that are used by scrupulous contractors and tenderers to rip off money that belongs to Kenyans by denying us the value for money for our projects, for delayed projects and also for delayed payments. We are hoping that this Bill will address all those matters. We also look forward to seeing the accounting officers and entities making sure that they adhere to the law, and hopefully, that this Bill passes through the Third Reading.

I beg to move that the Public Procurement and Assets Disposal (Amendment) Bill, (National Assembly Bill No.48 of 2024) be... Sorry.

I beg to move that the House do agree with the Committee in the said Report, and I ask the Hon. Naisula Lesuuda to second.

**The Temporary Speaker** (Hon. Omboko Milemba): Is she in the House?

*(Hon. Naisula Lesuuda spoke off the record)*

**The Temporary Speaker** (Hon. Omboko Milemba): Be on record, please. Is there a microphone near you? There is one. Proceed.

**Hon. Naisula Lesuuda** (Samburu West, KANU): I strongly second.

*(Question proposed)*

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, we shall postpone the putting of the Question to the next Session.

*(Putting of the Question deferred)*

Next Order.

## BILL

### *Second Reading*

#### THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL No.58 OF 2022)

*(Moved by Hon. Joyce Kamene on 18.10.2024 – Morning Sitting)*

*(Resumption of debate interrupted on 18, 10.2024 – Morning Sitting)*

**The Temporary Speaker** (Hon. Omboko Milemba): Mover, had you been seconded? It is time to second now. Nominate a person to second for you.

**Hon. Joyce Kamene** (Machakos County, WDM): Thank you, Hon. Temporary Speaker. I would like to request the Hon. Member of Parliament for Mwingi West, Hon. Charles Nguna, to second the Motion.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Charles Nguna, go ahead.

**Hon. Charles Nguna** (Mwingi West, WDM): Thank you, Hon. Temporary Speaker for giving me this opportunity to second this Motion by an indomitable lady from Machakos, Hon. Joyce Kamene. Machakos people should be proud of having such a motherly Member of Parliament because she is factoring in almost everybody who is in school. The Higher Education Loans Board Bill is seeking to amend Act No.3 of 1995, which excludes students who are under 18 years from accessing the loan. Having education early is not a crime for people. I am one example of a person who finished secondary education before the age of 17 years, and I joined university at the age of 18 years. Some of our students come from very poor backgrounds, and they need these loans to access facilities so that they can continue with their studies. If you are below 18 years, you cannot access these credit facilities. It is important to follow the Constitution of 2010, which says that nobody should be discriminated against under any grounds. This law that came in 1995 discriminating the students who are under 18 years of age not accessing this loan amounts to discrimination, and we are breaking the Constitution of 2010. Everybody in this country must be treated fairly and equally without discrimination.

We are requesting the Bill to be amended so that even if a student has not reached the age of 18 years, he or she can use his or her guardian or parents as co-signatories so that all of them can access the loan.

With those few remarks, I strongly second this Motion. I urge all the Members who are in the House to approve it.

Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Who gets the first bite? It is Hon. Rindikiri Mugambi.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you for this opportunity.

Our children deserve education. The lucky ones like Hon. Charles Nguna whose parents took them to school early enough to be ready for university at the age of 17 years need to be

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accommodated. What you see now is that a majority of our children are going to school early. Some push themselves to university even before they reach the age of 17 years. I think we need to start talking to doctors to tell us exactly what is happening. Some of our children are now able to grasp education at a very tender age. As Kenyans, we need to react as such.

It is true that no child should be disadvantaged. We need to re-look at the 18-year age cap in our laws. In America, I know one can enrol into the army at the age of 16 years. We have to be given the reason why we insisted that one can only be determined as a Kenyan citizen at the age of 18 years.

However, that is not the issue. In totality, funding for university education is the issue here— not only by the Higher Education Loans Board (HELB). One of the problems we have with the new model of funding education is that some children have no identity cards. Therefore, they are not in the system. Some cannot provide identity card numbers when asked to.

There is no reason somebody who is ready should not be given a loan. I think this is more of an administrative matter. I think we need to have a document for somebody who finishes his or her 'A' level studies. We used to use leaving certificates. The question is whether a leaving certificate is a legal document that a student can use to apply for higher education loans. I think it should be. We have parents and guardians on top of that. They can become points of reference. In any case, your parents sign your documents even if you are more than 18 years old. Strictly speaking, there is no reason why a 17-year old child who qualifies for higher education should be denied access to a loan that funds his or her education.

I thank Hon. Joyce Kamene for this. It may look simple but it will address a question that would be asked by a majority of our parents out there. We cannot blame them. My children went to the university aged 17 years. Lucky enough, they had passports and the privilege of using them. However, how many children have passports? We need to correct that misnomer. A child with a passport can use it yet one without an identity card misses service. How many children have passports? Advantaged people like Members of Parliament (MPs) can push for passports for their children. It discriminates children from poor families.

I support the amendment Bill. It needs to be executed as quickly as possible. We will have a big pool of children wanting to join universities by next year.

**The Temporary Speaker** (Hon. Omboko Milemba): As you speak on this, Hon. James Nyikal, I think your debate will need to be very deep. A particular law led to this. How are we mitigating it? Thank you, Hon. Members.

**Hon. James Nyikal** (Seme, ODM): Thank you for giving me opportunity.

Although it is a simple amendment Bill, it strides very many major principles. I am not sure about the law you are referring. I guess it is school entry age and the Education Act. You refer to the definition of childhood age and when one becomes an adult to get an identity card. It shows that we do not harmonise many of our laws. We have a law in an area conflicting with another law. This is another example where we put a law that conflicted with the law of when people should get identity cards. We should start thinking whether the definition of childhood and getting an identity card is an area that we should look at if it generates problems such as these.

Having said that, this is actually a problem in the education sector. As we now know, it is faced with a myriad of problems like policy issues that we cannot harmonise to operate properly. Our education system has problems funding university education. Again, this is a smaller bit of the bigger problem of funding university education.

The main issue with funding university education is just proxy means testing. It is as simple as that. People are now saying that they want to change band five and abolish band four and five. We need to find out how we got bands four and five. The proxy means testing would help if it was done properly. Even when we help children via the Bill we are discussing, they

will still face that other problem. This is to an extent curing discrimination. Our Constitution depicts or indicates that the state shall not discriminate against any person for reasons like age, sex, and so on. This is specifically discriminating against these children because of their age.

To that extent, I support the Bill. It is a simple Bill. There is nothing much. It is important that we correct that and all the other issues I have raised. A child can get to university before attaining the age of 18 years.

The Bill also brings another issue. Hon. Temporary Speaker, you are in the education sector. Do we have a law or any guidance on the right age to join university? A Member asked why children are getting there earlier. Do we have proper guidelines on when children should get to school? That is where the basic problem is. There would be no way children under certain ages would be in particular schools if we adhered to a proper guidance or law. Paediatricians would say the difference in child development was the reason. The childhood of people like Hon. Charles Nguna here demonstrate that some children develop faster. We also see this thing even in areas of sexuality. We should ask if the ages we are putting in place are correct. There may be changes in human biology where maturation occurs earlier. If that happens, do we need to look into that? This Bill looks at that and to me is clear. This is something we have to support. Children cannot suffer for the mere reason that they went to school earlier and performed well and because of that they are now getting into problems. Therefore, I support that we amend this to allow the children to get the support that they need.

I noted in Clause 2(b), where we are saying that if a child is below a certain age, parents will have to sign for them. I do not think it is just a matter of signing. This is getting into an agreement and taking responsibility. Parents are actually securing that loan. The parents are being guarantors. We need to look at it and perhaps amend to decide that if the child defaults later on when they are adults, they come around and claim that someone else signed because at that time they cannot be tied to the responsibilities of their parents of looking after them when they were young... If the parents are going to be guarantors, we need to get appropriate wording so that they are guarantors, or wording that indicates that when they become of age, they hold responsibility for the signatures that their parents gave when they were underage, and were allowed to get the loan despite what the laws in place indicate what age one can take legal responsibilities.

Those areas need to be looked at. Probably, we will look at them at the amendment stage.

I support.

**The Temporary Speaker** (Hon. Omboko Milemba): You have spoken for many of us. After the promulgation of the Constitution of Kenya, 2010, the Education Act was amended to provide the minimum age for one to join school. Later on, this House will have to also deal with that aspect since that is how we ended up there.

Secondly, the current generation of children grow very fast. We should not limit the time they should join school.

Yes, the Member for Kabuchai.

**Hon. Majimbo Kalasinga** (Kabuchai, FORD-K): Thank you very much, Hon. Temporary Speaker for giving me a chance to contribute. I affirm at the outset that I strongly support.

Firstly, this House and the government must understand that education has become dynamic. The days when students were forced to repeat classes because they had not performed well are long gone. During our time, if we did not manage to score a 50 per cent mark, we were forced to repeat class. That would add some years in one's primary school life. The dynamics in the current education system do not require one to repeat a class.

Secondly, the days are gone when those who were joining universities transited from Form VI. Forms V and VI added two years in a student's life. Therefore, students would join

university when they were above 18 years old. With the 8-4-4 system, a child who has not repeated a class finds himself in Form IV at the age of 16. This Bill has come at the right time. I commend Hon. Joyce Kamene for bringing it. The only urgent thing that we need to consider is timely funding by the Higher Education Loans Board (HELB). Let those students who are joining universities know their fate of how much they have been funded six months before joining. This will enable them to appeal, if they are not satisfied. The Appeals Board should consider their appeals one or two months before they join universities so that they can enjoy the fruits of their hard work.

We must also talk about adequate funding. The current university funding model has problems. I am getting calls because those students who appealed for being placed in the wrong bands have not been given feedback, yet they are going to sit for their end of semester examination. Most universities have a zero balance policy. If you do not clear your fees balance, you do not sit for the examination. You are not given an examination card. This Bill should be expedited, so that we move to a university funding model that will assist most of our students. If the current university funding model was there during our time, Hon. Temporary Speaker we would not be where we are today. We would not have graduated. This is the harshest university education funding model to have ever been put in place in Kenya. I am very happy because this Bill will cure the problems that we have at HELB.

I urge that we make the application for this funding very simple. During our time, we simply applied by filling up a form and taking it to the HELB office, and we got the money. There were not many complications. Currently, the system of application is digital. Students go to cybercafes, where operators fill in general information for every student. The information is generalised. Let us look at how the application system has been developed. We should come up with the simplest method of application. The students live with us. They stay in locations. Let the chiefs for those locations sign their application forms, and that should be sufficient. If we revert back to that system, we will solve the problems. Every child in this country lives in an area which has a chief, an assistant chief, and an Assistant County Commissioner. If we accept the signatures of those officers as sufficient for this purpose, we will solve the current problems.

Hon. Temporary Speaker, thank you for giving me the opportunity to represent the people of Kabuchai in this House by talking about this Bill.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Irene Mayaka.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Speaker. I stand to support this timely Bill by my good friend, Hon. Joyce Kamene. It is timely for many new parents whose children complete Form IV while they are way below the age of 18. The HELB has been very beneficial to a majority of us. As most Members have rightly put it, our children nowadays grow pretty fast. They are very sharp and exposed to the world. They know a lot of things at a tender age. Maybe, this is the right time to discuss the issue of reducing the age at which one can acquire a driving licence. A majority of countries, even in Africa, have already gone that direction. We should not be waiting until when a child is 18 years old to access some of these things.

Hon. Temporary Speaker, even as we support this Bill, just like the Hon. Member who spoke before me pointed out, we still have a lot of hiccups on the new university education funding model that need to be resolved. As we seek to pass this Bill into law, we should realise that we will be introducing additional problems if we do not sort out the existing issues. This is just to urge the Ministry of Education to look at some of these hiccups and resolve them quickly.

The issue I have with our country is that we do not like to apply grandfather systems. For example, if you are in a school that has made a decision to change their school uniform, what they do is that the new ones who join Form One are told to start buying the new school

uniforms as other students exit. It is the same thing with other systems. Even in the banking industry, when they change to a new system, they do not just switch into it. They, first of all, pilot it in one or two places. They sort out any issues they notice and then roll it out for general use.

I wish we had tested the new university education funding model on one institution before rolling it out. We should have students in one institution access this funding model digitally, identified and fixed the gaps before rolling it out to other institutions. That way, we would be able to cater for all students. As it is now, most students who have begun their first semester are not able to even access exam cards yet the exams are around the corner.

I support this very progressive Bill but as I have pointed out, we need to fix some of the issues affecting us in the country.

I submit.

**The Temporary Speaker** (Hon. Omboko Milemba): Woman Representative for Nyamira County, proceed.

**Hon. Jerusha Momanyi** (Nyamira County, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity so that I can also support the Member for Machakos County on the proposed amendments to the Higher Education Loans Board Act.

The Constitution of Kenya, 2010 provides that every child should get education. We are looking at the Higher Education Loans Board Act, which hinders any student who is below 18 years from accessing loans. This is discrimination of the highest order. The HELB assists students from very poor backgrounds. Those of us who went through colleges were taught that children come from different backgrounds. Sometimes you find fast learners and slow learners. Fast learners sometimes finish school before they reach the age of 18 years, which is the age limit contained in the Act for proceeding to university to access loans. We cannot continue to have an Act which is punitive. Even the legal framework of current university education funding model and the Board has loopholes which have caused some students to drop out of college.

University students are about to sit for end of semester exams. We know that the funding Board has been taken to court and, therefore, it cannot facilitate anything now. The Ministry has to give directives on what should be done about students who are supposed to benefit from the fund but they have not because of the pending court case. As a country, we should know that we are doing badly. We have made students drop out of universities and even go to places where we cannot trace them simply because of laws that do not make sense.

I want this House to pass this Amendment Bill. I also urge the Ministry to give good directions on what ages students are supposed to be in school, right from nursery. If such directives are there, then they are not followed. There are no good guidelines. The country is in confusion. We cannot waste students' lives because of laws that are confusing.

With those remarks, I support the Amendment Bill and urge this House to pass it.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Makali Mulu.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you very much, Hon. Temporary Speaker, for giving me this opportunity. I want to start by congratulating my sister, Hon. Kamene, for bringing this important Higher Education Loans Board (Amendment) Bill. The education sector in this country is facing a number of challenges. Some of the challenges are making the sector look like it is not working. Any attempt to minimise the challenges is welcome.

The matter being debated this afternoon, on the age of children who are joining universities, is very important. I am sure that all of us have been confronted by this challenge. In my constituency, a number of parents kept coming to my office to tell me that their children have been admitted into university but they cannot access the loan facility because they are underage. When I went to find out what it meant to be underage, I found that it means lacking

an Identification Card. It is on that basis that they were told they could not access the loan facility. What we forget is that there is no way any child in this country can join university in the First Year and leave at the end of the Fourth Year without attaining the age of 18 years. That means at some point in that process the student will be 18 years old, and he will have an Identification Card.

Therefore, as a country, we should think of a way of ensuring that a student who does not have a national identification card – because he is underage – accesses the loan facility through a proxy signatory. Upon attaining the statutory age of 18 and acquiring a national Identification Card, the proxy signatory can formally withdraw from that role and the student takes over. If that is done, our underage students will be facilitated.

As it has been rightly put by a Member, during our time, it was not possible to join university before you were 18 years old. Some of us went through a mandatory pre-university National Youth Service (NYS) programme, which delayed our joining university. By the time we joined university, we were almost 20 years old, which means we did not have age-related problems. However, because of what is happening today, children are joining school at age six or five. Since they are more intelligent than our generation, they go through their studies without repeating any class. They complete Form IV at the age of 17.

We must thank Hon. Kamene for her attempt to amend this law. I request Hon. Members to support this Amendment Bill so that students who come to us with such challenges can access university education without any problem. We all know that if we sort out this matter, it will offer the right direction in sorting out the other matters.

A number of Members have said that this sector has a lot of challenges. The other challenge that all of us are facing is banding of students. Students are put in different bands. A student can come to you and you know his home, parents and siblings yet he has been placed in Band Four when ideally he should be in Band One. When you try to get the rationale as to why he has been placed in that band, you fail to understand it based on his situation. A lot of things need to be streamlined in this sector. We need to support the Departmental Committee on Education and Hon. Kamene so that we streamline this important sector. If we do not get it right in our education sector, I want to say without fear of contradiction that future generations will be challenged; especially in terms of taking this country to the next level since human resource is the most important resource in any country in terms of development matters. We must improve the education sector by streamlining the issues raised in this Bill.

With those remarks, I support the Amendment Bill.

**The Temporary Speaker** (Hon. Omboko Milemba): Member for Emgwen.

**Hon. Josses Lelmengit** (Emgwen, UDA): Thank you, Hon. Temporary Speaker, for giving me a chance to support the Higher Education Loans Board (Amendment) Bill brought by Hon. Joyce Kamene. It will allow students who are below the age of 18 to access HELB loans without having to produce national identification cards. There is serious discrimination by HELB. They do not allow students below the age of 18 to access their loans. So, they deny them their right to education. This Bill is timely. I consider Hon. Kamene an iron lady because she criticises the Government in the right way.

This Bill defines her as a mother who is considering teenage students below the age of 18. I congratulate her. Institutions which provide loans like banks and HELB require national identification cards for verification of identity. They want to know the details of the student. Nowadays students have National Education Management Information System (NEMIS) numbers, in addition to the Kenya Certificate of Secondary Examination index numbers. So, they are known. They do not need national identification cards at the entry level. We will have Maisha Namba being used in future. So, probably, we might not need national identification cards.



The other reason for requiring national identification cards is for creditworthiness assessment. Students who are joining universities and tertiary colleges do not need to have their creditworthiness assessed. We know that the students are still studying. Their credit worthiness will be assessed later on, when they start doing businesses. Another reason is for tracking and recovery. During entry level, they can use whatever documentation they have: birth certificate, NEMIS number or index number. In that transition period, it can be done before the student completes her education. I beg to support this Bill and thank Hon. Kamene for coming up with it.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Elizabeth, woman Member for Meru County.

**Hon. Elizabeth Kailemia** (Meru County, UDA): Thank you very much, Hon. Temporary Speaker, for this opportunity to comment on this very important Bill. I thank Hon. Joyce Kamene for bringing such a timely Bill. We keep saying that education is an equaliser. I am beginning to wonder why this situation happened in the first place. No child should be discriminated against in any way, whether on age or otherwise, for her or him not to enter into any level of education, especially university education. The Ministry of Education has many challenges and age is the least of what should bother them. Hon. Kamene, I thank you most sincerely for bringing this matter up. It is very vital that all children, irrespective of their ages, get the education that they deserve.

Thank you, Hon. Temporary Speaker, for this opportunity.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Adams Kipsanai.

**Hon. Adams Korir** (Keiyo North, UDA): Thank you very much, Hon. Temporary Speaker, for this opportunity. I congratulate my friend and the Member for Machakos, Hon. Kamene, with whom we serve together on the same Committee, for bringing such a very important amendment. There is nothing in the word that we can compare with education. Education is an equaliser. It gives everyone an opportunity to serve in any position and to achieve anything that he or she aspires in life.

As it is, the Act is discriminatory. It goes against Article 53 of the Constitution, which guarantees every child the right to education. Saying that a child below 18 years is not qualified to benefit from government money because of being underage is discriminatory. There are many ways of identifying such a child: birth certificate, NEMIS number or parents' identification. We live in a democratic country and these are children of this country. Saying that they cannot benefit from government money to pursue their career is discriminatory. It is something that needs to be dealt with. Many children in this country are not able to go to school. Some come to our homes each and every time because they are looking for this important thing called education. We can as well use religious leaders or chiefs, if people suspect parents or guardians, to identify the children. Let us support Hon. Kamene's amendment. It will bring the sanity that we all require in the education sector.

Thank you very much, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Paul Biego.

**Hon. Paul Biego** (Chesumei, UDA): Thank you, Hon. Temporary Speaker, for this opportunity. At the outset, I support the Member for Machakos, who happens to be one of the Members with whom we go to the same church. I am very proud of her because she has thought like a mother and a Christian. If we want to transform Kenya into a middle-income country by enhancing access to education and ensuring that we have an educated workforce to drive economic development, some barriers have to be removed. This is one of those barriers.

Some children finish school while they are still young and it is not their mistake. They were probably sharp in school and, therefore, they did not repeat a class. Also, their parents may have taken them to school early. If a child finishes school by 16 or 17 years of age and

wants to join university, it will be discriminatory for that student not to be given a loan. Article 43 of the Constitution is very clear that every person has the right to education. If we do not support the amendment Bill by Hon. Kamene, many students will suffer.

I support the amendment Bill. Congratulations, Hon. Kamene, for bringing this amendment Bill. She is usually very controversial but on this one, we are together. Keep it up. I am here to support you.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Dido Raso.

**Hon. Ali Raso** (Saku, UDA): Thank you very much, Hon. Temporary Speaker. I congratulate Hon. Joyce for this wonderful amendment Bill. I am sure you do not know how many problems you would have solved, particularly for us Cushitic people, the people of the north, pastoralists, and nomads. For such people, getting an identity card is like climbing Mount Kenya without the necessary gear.

Why is that particular document compulsory? The Higher Education Loans Board considers an identity card as a priority document to identify young learners who join our universities. An identity card is a priority document. It is a very significant document that every Kenyan must have before one can open a bank account or get a job. Any person who lives in Kenya who does not have an identity card becomes an alien or a stateless person. It is a very important document.

If a document is compulsory, getting it should be made easy. That simply means that a Kenyan who applies for an identity card at the right age and time should get it within a week or a month. For those of us from Marsabit, the earliest you can get an identity card is within three months. It can take you years before you can access that document. However, if you impose those limitations on those entering universities and colleges, that simply means that they will never get higher education loan because they cannot be identified. We must consider other necessary documents that individuals can easily obtain like birth certificates, chief's letters, documents from church organisations or imams in mosques. Those documents can be used to identify an individual.

Hon. Joyce, for that reason, you do not know the magnitude of the problem you are seeking to solve by a dint of this Amendment Bill. It might appear as one line, but it is going to solve problems for millions of young Kenyans who want to access higher education or opportunities abroad or apply for passports without an Identification Card (ID Card). If that passport is a priority, together with other necessary documents, that young person can get that passport.

With those few remarks, I support.

**The Temporary Speaker** (Hon. Omboko Milemba): I call upon the Mover to reply.

**Hon. Joyce Kamene** (Machakos County, WDM): Hon. Temporary Speaker, I beg to reply.

Firstly, I take this opportunity to thank the Departmental Committee on Education, led by Hon. Julius Melly for having deliberated and prepared to table the Report on the Bill to this House.

Secondly, I sincerely thank all the Members of this House who have contributed to the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No.58 of 2022). I am motivated by the fact that Article 27 of the Constitution guarantees every person the right to equity and freedom from discrimination. This constitutional provision has not been taken into consideration. It is precisely about the bureaucracy that was there before, and more so when we were joining school in those early years. For example, when we were taken to join nursery school, there was a certain rudimentary criterion that was used to determine whether you were old enough to join school. I remember very well that I was told to put one hand over

my head and make sure that I hold the ear on the other side. I still wonder how such a method could be used to determine whether you qualified to join school.

My Bill, therefore, seeks to cure the discrimination and none consideration for award of higher education loans to our hardworking children who earn themselves places in universities and other institutions of higher learning before attaining the age of 18 years or obtaining national identification documents. The bureaucracy that we have experienced in our early years cannot be tolerated today.

The laws and regulations that we pass as a House ought to be facilitative and not prohibitive. We know that economic hardships make it hard for most children to join universities due to lack of fees. Access to Higher Education Loans Board (HELB) for all students is, therefore, necessary to ensure that children from underprivileged families do not miss out on university placements for lack of funding on account of their ages. Further, some students who have attained the age of 18 at times do not get issued with IDs promptly, which unfairly limits them from accessing education loans.

With those few remarks, I beg to reply.

**The Temporary Speaker** (Hon. Omboko Milemba): We shall postpone putting of the Question until the next sitting.

*(Putting of the question deferred)*

#### ADJOURNMENT

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, the time being 1.00 p.m., the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.

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