

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 11th March 2020**

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]***PRAYERS**

Hon. Deputy Speaker: Order Members! We are just short of the required quorum. Therefore, I order that the bell be rung for 10 minutes.

(The Quorum Bell was rung)

Order Members! We now have the required quorum. Therefore, business will begin.

PETITION

REGULATION OF DIGITAL MONEY LENDING IN KENYA

Hon. Deputy Speaker: On this particular Order, I see Hon. Anthony Oluoch. Is he in the House? Hon. Anthony Oluoch, Member for Mathare.

Okay. We will go to the next Order.

ORDINARY QUESTIONS

Hon. Deputy Speaker: On this particular Order, we will start with Ordinary Questions. I do not see any Questions by Private Notice. So, we will go to Ordinary Questions. To start us off will be the Member for Mogotio, Hon. Daniel Tuitoek.

Question No.046/2020

CRITERIA FOR ALLOCATION OF ROAD EMERGENCY FUND TO COUNTIES

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question No.046/2020 to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

(i) Could the Cabinet Secretary explain the criteria for sharing the funds under the Road Emergency Fund for Fiscal Year 2019/2020 among the 47 counties?

(ii) How much is to be allocated to each of the 47 counties and what is the justification applied in sharing the said funds during the period?

(iii) If the funds have already been shared, how much has already been disbursed to each county?

Hon. Deputy Speaker: That particular one will be replied to before the Departmental Committee on Transport, Public Works and Housing.

Next is the Member for Keiyo South, Hon. Daniel Rono.

Question No.047/2020

COMPENSATION FOR LAND SURRENDERED TO FLUORSPAR MINING COMPANY

Hon. Daniel Rono (Keiyo South, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question No.047/2020 which is directed to the Cabinet Secretary for Petroleum and Mining. This matter has been pending for long.

(i) Could the Cabinet Secretary give the status of compensation of persons and organisations that surrendered land to Fluorspar Mining Company in 1974 to pave way for mining, indicating the total number of those that surrendered, those who have been paid, and those yet to be paid?

(ii) Could the Cabinet Secretary indicate when the said individuals and organisations will be paid their compensation funds?

(iii) Are there plans by the Ministry to revive the Fluorspar Mining Company?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you, Hon. Kamlesh. That one will be replied to before the Departmental Committee on Environment and Natural Resources.

Next is the Member for Kuria East.

(Hon. Caleb Kositany spoke off record)

Yes, what is it?

Hon. Caleb Kositany (Soy, JP): Hon. Deputy Speaker, you have referred to the Member for Keiyo South as Hon. Kamlesh. Do we have such a Member in the records of the House?

Hon. Deputy Speaker: Well, I do not know. You know, Hon. Caleb, you have many names and nobody complains when those names are mentioned. I am told that is a name where Hon...

Yes, let us hear from Hon. Member for Keiyo South.

Hon. Daniel Rono (Keiyo South, JP): Hon. Deputy Speaker, it is true many people have many names such as the likes of Sonko. Kamlesh, as you rightfully put, is a political name on the ground. So, I am normally called that on the ground and more particularly when I have money, Hon. Deputy Speaker.

(Laughter)

Otherwise, when I do not have money, I am normally called by the usual name Rono. But when I am in between, I am called Maestro, the name of the company that I run. That is the position, Hon. Deputy Speaker.

Hon. Deputy Speaker: Now I hope that settles the matter with Hon. Caleb Kositany. I actually called him by his proper names until I realised he was behaving like he has some money today.

So, I thought I would refer to him by that name. Hon. Kositany, really, that is not a major issue. Those are his names. They are his alliances. We can leave that for another day. Otherwise, his official name is Hon. Daniel Rono, Member for Keiyo South. The rest we will leave for another day.

Question No.048/2020

ELECTRICITY CONNECTIVITY IN KURIA EAST CONSTITUENCY

Hon. Deputy Speaker: Let us have the Member for Kuria East, Hon. Maisori Marwa. Very interesting. He is not in. So, that one will be deferred.

(Question deferred)

We will go to Statements and we have Hon. Wangwe.

STATEMENT

DISCRIMINATORY TREATMENT OF STUDENTS AT BUKURA AGRICULTURAL COLLEGE BY HIGHER EDUCATION LOANS BOARD

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Deputy Speaker. I stand to request for a Statement pursuant to Standing Order No.44(2)(c), regarding discriminatory treatment of students admitted to Bukura Agricultural College by the Higher Education Loans Board (HELB) in the disbursement of Tertiary and Vocational Education and Training (TVET) loans and bursaries. The right to education is a fundamental economic and social right guaranteed to all the people of Kenya under the provisions of Article 43 of the Constitution. Despite the provision of Section 11 of the HELB Act, 1995, Students Loans and Bursaries Fund, Bukura Agricultural College is a TVET institution established by the Bukura Agricultural College Act, 2009. Despite the college being a public institution accredited by TVET where students are annually placed by the Kenya Universities and Colleges Central Placement Service (KUCCPS), students admitted to the institution have been denied HELB loans and bursaries.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Education and Research. In his Statement, the Chairperson should inform the House the following:

- (i) What criteria does HELB apply to disburse loans and bursaries to students admitted to all public TVET institutions?
- (ii) Why does HELB not grant loans and bursaries to students admitted to Bukura Agricultural College?
- (iii) What urgent measures does the Ministry of Education intend to put in place to ensure that students admitted to Bukura Agricultural College access loans and bursaries from HELB during the current 2019/2020 Financial Year.

- (iv) Could the Ministry provide a list of beneficiaries and the amount of HELB loans and bursaries disbursed to students of other agriculture and agricultural related institution's courses in the last three years?

Thank you.

Hon. Deputy Speaker: That one, of course, goes to the relevant committee which is the Departmental Committee on Education and Research. Before we go to the next Order, Hon. Tom Oluoch, Member for Mathare, was not in when he was supposed to present a petition. Considering that we do not have a heavy morning, it will be prudent for me to give him an opportunity now. It was supposed to be presented this afternoon and I understand that is the reason he did not make it on time. For good reasons, we have decided that we have him present the petition this morning. So, let us hear that particular petition.

PETITION

REGULATION OF DIGITAL MONEY LENDING IN KENYA

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Deputy Speaker. When you referred to me as Hon. Olago, you know Hon. Olago Aluoch is my father at home. So, for good reasons, we should stick to lanes. At home, they will wonder why I am being called by my father's name. He is literally my father at home.

I rise to read public Petition No. 008 of 2020.

Hon. Deputy Speaker: I did not get that particular one. What did you say was your issue?

Hon. Anthony Oluoch (Mathare, ODM): You referred to me initially before you corrected yourself as Olago Aluoch and Olago Aluoch is my father, literally. He is a brother to my father. So, when you call me that, people will wonder why I am being referred to by my father's name and I will have a lot of issues to explain at home. So, I thought I should bring that to your attention.

Hon. Deputy Speaker: Do you have a problem with your father?

(Laughter)

Hon. Anthony Oluoch (Mathare, ODM): I will be asked why I am being referred by my father's name. That is on a light note. He is still alive.

Hon. Deputy Speaker: That is supposed to be a real promotion. I will remember Hon. Tom Antony Oluoch.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, again, Hon. Temporary Deputy Speaker. I rise to read Petition No. 008 of 2020 regarding regulations of digital money lending in Kenya.

I, the undersigned, on behalf of Kenyan citizens whose names are attached, draw the attention of the House to the following:

THAT, there are more than 50 mobile and online credit providers in Kenya and over 19 million Kenyans are active mobile loan borrowers, 40 per cent of whom have multiple loans from six to 10 mobile lending apps according to a survey by the Kenya National Bureau of Statistics (KNBS).

THAT, digital lending platforms like Tala, M-Shwari and Fuliza by Safaricom, KCB M-Pesa, Timiza by Barclays (now Absa), Branch, Shika Ipesa, Berry, Okash, Zenka among others continue to lure and trap borrowers into unnecessary borrowing and a vicious cycle of expensive loans by raising loan limits upon repayments of the initial loans; easing their accessibility on internet and non-disclosure of full lending terms, making it easy for Kenyans, especially jobless youth to borrow for betting or to pay previous loans instead of investments.

THAT, digital borrowing has become a social menace responsible for suicides, divorce, family breakups and increased listing of loan defaulters by the Credit Reference Bureau (CRB), with a recent report by the CRB indicating that more than 2.7 million Kenyans are already blacklisted for defaulting mobile loans.

THAT, the lenders charge an exploitative interest rate as high as 19.1 per cent instead of 13 per cent recommended by the Central Bank of Kenya compared to giving between 6.5 per cent and 7.3 per cent interest on savings.

THAT, mobile loans are expensive due to short term loan repayment, high facilitation fee charged, and transaction charges that have pushed average lending rates to about 19 per cent.

THAT, considering mobile lenders are not recognised as financial institutions under regulation and supervision by the CBK under the Banking Act, they operate bereft of regulations, including tax obligations.

THAT, due to lack of proper regulation, mobile money lenders infringe on clients' rights to privacy by accessing customers' contacts to call friends and family about the borrowers' debt status.

THAT, minimal efforts which have been made by the Central Bank of Kenya to address mobile money lending and claims of money laundering by the mobile lenders have not yielded substantive reforms.

THAT, issues in respect of which this Petition is made are not pending before any court of law, constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Finance and National Planning –

(a) investigates the operations of all mobile money lending platforms in the country with a view to stopping unregulated money lending and subjecting all non-compliant mobile lenders to applicable money lending regulations; and,

(b) recommends to the Central Bank of Kenya, in conjunction with the Communications Authority of Kenya, to audit the operations of all digital money lending platforms and formulate regulations to govern digital money lending, including provisions for full disclosure of involved upfront charges and applicable interest rates as soon as practicable.

And your petitioners will ever pray.

Thank you.

Hon. Deputy Speaker: Very well. Let me give a chance to a Member or two. Hon. Mutua Baraza, Member for Kimilili.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Deputy Speaker. I rise to oppose this Petition for two reasons. One, His Excellency the President, through his reservations, did away with capping of interest rates. Kenyans are turning to these digital lending applications because they cannot access loans.

Hon. Deputy Speaker: I have given you opportunity to comment. So, please, do not go into opposing.

Hon. Didmus Barasa (Kimilili, JP): If we are to regulate money lending applications, then the whole banking sector needs to be relooked at. Kenyans are going for these loans because they cannot access loans from the major banks because of the stringent conditions, including being listed with the CRBs. For this reason, I do not support the Petition.

I thank you.

Hon. Deputy Speaker: Hon. Barasa, maybe what you need to do, if you have strong feelings as I can see, is to appear before the Committee when this Petition will be considered. When the report will be brought to the House, you will have an opportunity to oppose or support. For now, you can only make brief comments.

Hon. Sankok, and that should be the last one.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Deputy Speaker. Although I rarely agree with Hon. Anthony Oluoch, on this issue, he is perfectly right. The interest rates charged by the mobile money lending applications do not include facilitation and transaction fees. The loan is accessed through one's mobile phone and one has to incur a lot of transaction fees to send the money to their bank account, withdraw or send it to whoever they want. So, we really need to ask the Communications Authority of Kenya and other institutions to control these money-milking machines.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: As we get to the next Order, let me get an indication from the Chair of the Committee on Education and Research on the matter raised by Hon. Wangwe. What are the likely timelines? Is the Chairman here? Okay, we will make sure that he does it in good time.

Next Order.

BILL

Second Reading

THE NATIONAL YOUTH COUNCIL (AMENDMENT) BILL

(Hon. Gideon Keter on 26.2.2020)

(Debate concluded on 4.3.2020 - Morning Session)

Hon. Deputy Speaker: On this Bill, what remained was for the Question to be put. I can confirm that we have the required numbers, so I put the Question.

(Question put and agreed to)

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

Hon. Members, as we get to the next Order, I would like to rearrange the Order in which the Bills will be transacted in Committee. I notice the Chair for the second Bill is running late. Therefore, I would like to move the Bill to be the end. So, we will start with the Kenya Institute of Curriculum Development (Amendment) Bill and then we will consider the Employment

(Amendment) Bill, then the Equalisation Fund Bill, and the Livestock and Livestock Products Marketing Board Bill will be the last. I would like the House to stand guided.

We can go to the next Order. Just a minute, I am surprised I am told the Chair of the Committee on Agriculture and Livestock is running late and he is here.

Hon. Ali Wario (Bura, JP): I am the Chair for Labour and Social Welfare Committee, Hon. Deputy Speaker.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Sorry, I agree. We will proceed in that manner.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairlady
(Hon. (Ms.) Jessica Mbalu) in the Chair]*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order Members. Those who are leaving the Chamber, I give you a minute so that we can have some order in the House before we move to transact the business before us.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Deputy Chairlady. I am concerned that after the Deputy Speaker, Hon. Cheboi, left the Chair and before you took the Chair, some Members were already seated even before you bowed. I am taking this personally as a woman Member of Parliament representing Kitui South to request Members that they need to give the same respect to the Chairperson as they give to male chairpersons or speakers. I noted that some of the Members were already seated even before the Chair took her seat. So, I wanted this to go on record. It is extremely important that we give you the respect that you deserve.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Member for Kitui South, by the time I was taking the Chair, the Members were in order and they all procedurally did what they are supposed to do. Of course, there has to be a transition of the Speaker leaving the Chair and I taking the Chair to conduct the Committee of the whole House. So, I think nothing was out of order.

THE KENYA INSTITUTE OF CURRICULUM DEVELOPMENT (AMENDMENT) BILL

Hon. Members, we are now in the Committee of the whole House. As the Deputy Speaker directed, we will start with the Kenya Institute of Curriculum Development (Amendment) Bill (National Assembly Bill No.33 of 2019).

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

Hon. Members, we are through with the Committee of the whole House on the Kenya Institute of Curriculum Development (Amendment) Bill (National Assembly, Bill No.33 of 2019). Let me call the Mover to report. Hon. Emanikor, the Floor is yours.

Hon. (Ms.) Joyce Emanikor (Turkana CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Kenya Institute of Curriculum Development (Amendment) Bill (National Assembly, Bill No.33 of 2019) and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, we proceed with the next Bill as was directed by the Deputy Speaker, Hon. Cheboi.

THE EMPLOYMENT (AMENDMENT) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, we are now in the Committee of the whole House on the Employment (Amendment) Bill (National Assembly Bill No.15 of 2019).

(Clause 2 agreed to)

Clause 3

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair of the Departmental Committee on Labour and Social Welfare, Hon. Ali Wario, we are waiting for you. I know he is in the consultation room. Is the Chair consulting? Can I have the Mover? Member for Emuhaya Constituency, I can see you want to say something. Please, go ahead.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, a few minutes ago, the Chair and the Mover of this Bill were consulting. They might have thought the first matter would take a little bit longer. That is why they may not be in the House. However, as an interested party in labour issues, I know they are working on it to actually expedite the process.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member for Kimilili, do you want to say something?

Hon. Didmus Barasa (Kimilili, JP): No.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali, Member for Kitui Central, do you want to say something?

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Chairlady, I am wondering whether the Member, who is a Member of that Committee, is in order to say that the Chair and the Mover of the Bill are consulting while the Order Paper is very clear on what is supposed to be done this morning.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali, we cannot hear you.

Hon. Makali Mulu (Kitui Central, WDM-K): I was wondering whether it is in order for the House to be informed that the Chair and the Mover are consulting while it is very clear in the Order Paper that this is now the subject under discussion.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali, it is procedural for Members to consult. This is the Committee of the whole House. We have an amendment to Clause 3. They have to put their house in order on the proposed amendment because we have a proposed amendment by the Chair. If they are not in agreement, as a matter of procedure, I will make a ruling.

Hon. Maanzo, the Floor is yours.

Hon. Daniel Maanzo (Makueni, WDM-K): While they consult and whereas it is perfectly in order for them to do so, I have seen there is also a further amendment by a Member of this House, Hon. Wangare, on the same. Can it be dealt with? However, if the consultations would go on further, then, probably, you could rule, as the Chair, that we proceed to another Order. We can suspend this particular one, so that they can prepare themselves adequately.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear the Member for Mwingi West. Do you want to comment on this one? I want to make a ruling.

Hon. Charles Nguna (Mwingi West, WDM-K): Hon. Temporary Deputy Chairlady, I do not want to comment on it. Let us proceed.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Kitui West, I do not know what is wrong with your microphone. Can you be on record? If you have no comments, let us move on.

Hon. Charles Nguna (Mwingi West, WDM-K): Hon. Temporary Deputy Chairlady, I repeat that I do not want to comment on it. Let us proceed with the other business on the Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We proceed with the other business in the Order Paper. Hon. Nguna did not want to comment on this one. The Speaker had made a ruling that the Employment (Amendment) Bill (National Assembly Bill No.15 of 2019) was the second one to be debated in the Committee of the whole House. The Chair and the Mover are still consulting. I am sure they want to reach an agreement on the same. I need to make a ruling on this because they will not keep us here with their consultations.

I also want the Chair to note that they should be ready always. He was here when the ruling was made. I am sure such consultations, even with the Committee Members, should have been done earlier in order for us to make progress in the Committee of the whole House. I order that we report progress on this. We will not wait for Members who are not ready because we have other business before the House to transact.

The Member concerned to report progress. Members, how do you own a Bill and you do not know the process or the procedure? This consultation, I am sure they are not in agreement, but I want to order as a matter of procedure and in my capacity that we report progress and move to the next business. Can we report progress?

PROGRESS REPORTED

THE EMPLOYMENT (AMENDMENT) BILL

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Temporary Chairlady. I beg to move that the Committee do report to the House its consideration of the Employment Amendment Bill, National Assembly Bill No.15 of 2019 up to Clause 2 and its approval thereof with amendments and seek leave to sit again.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. That is the order, I put the Question for reporting.

(Question proposed)

(Question put and agreed to)

THE EQUALISATION FUND BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, with that, we can now move to the next Bill, which is the Equalisation Fund Bill, 2019. Let us have the clerks in charge of the Bill. Even as we move to the next Bill, this should sound as a warning to the Chairs. They should consult early enough to save the House some time.

(Clauses 3, 4 and 5 agreed to)

Clause 6

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by the Chairman. Please, move your amendment. We have to congratulate the Chairman because he is in the House on time and very ready.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Temporary Deputy Chairlady. You know the Departmental Committee on Finance and National Planning has very organised people and this has to be on record. We always deliver on time.

I beg to move:

THAT, Clause 6 of the Bill be amended in sub clause (2) –

- (a) by deleting the word “charging” appearing immediately after the word “holding,” under paragraph (b);
- (b) by deleting paragraph (c).

This means that the Equalisation Fund Board is charged with the utilisation of the Equalisation Fund and by giving them the word “charging”, to charge property, is inappropriate. We were of the view that they should not be given the power to charge movable or immovable assets of the board because they are not supposed to borrow any money. That is a special fund.

Hon. Temporary Deputy Chairlady, I want your guidance. Do I also execute (b), so that you put a Question on both of them? I have (b), which I think is almost the same. We are making sure the board operates in an appropriate manner and avoids issues like borrowing money. Part (b) is talking about borrowing money whereas (a) is talking about “charging”. So, we are removing the power from them to charge assets and to borrow money from elsewhere.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. I propose the Question.

(Question of the amendment proposed)

I invite the Member for Makueni, Hon. Daniel Maanzo. Do you want to comment on Clause 6?

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. If we had kept the word “charge” together with the amendment in (b), we would have given the board powers it does not have under the Constitution or even under the Act of Parliament generally. We know the purpose of the Equalisation Fund is to develop areas which may have been left behind over the years in development. These people can only get money from the National Treasury through the Budget, but cannot raise their own money internally for the same purpose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Alego-Usonga, Hon. Atandi Onunga.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Temporary Deputy Chairlady. I support the amendment because of some experience we have had with county governments when they are waiting for money from the Exchequer. They even take loans from commercial banks because they expect resources from the Treasury. Therefore, we are conversant with this behavior and we are certain that we will not allow the Equalisation Fund to utilise resources that they do not have by way of borrowing. So, this amendment is timely and I think it is going to ensure that the Fund does what it is supposed to do as opposed to going over their mandate.

Thank you.

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

(Clause 6 as amended agreed to)

Clause 7

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have two proposed amendments. Chairman, please, move your proposed amendment.

(Several Members stood on the aisle)

Order, Members! Those who are standing on the walk way, can you resume your seats. We need some order in the House. You can greet while in your seats.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended –

(a) in sub clause (1) –

(i) by deleting the words “from a marginalised community appointed” appearing immediately after the word “chairperson” under paragraph (a);

(ii) by inserting the words “or a person designated in writing by the Principal Secretary” immediately after the word “water” appearing in paragraph (b);

- (iii) by inserting the words “or a person designated in writing by the Principal Secretary” immediately after the word “roads” appearing in paragraph (c);
- (iv) by inserting the words “or a person designated in writing by the Principal Secretary” immediately after the word “health” appearing in paragraph (d);
- (v) by inserting the following new paragraph immediately after paragraph (d)-
 “(da) the Principal Secretary in the Ministry for the time being responsible for matters relating to National Treasury or a person designated in writing by the Principal Secretary;”
- (vi) by deleting the paragraph (f) and substituting therefor the following new paragraph –

“(f) three persons appointed by the Cabinet Secretary;

(b) in sub-clause (4) by deleting the word “ten” appearing immediately after the word “exceeding” and substituting therefor the words “one hundred” under paragraph (d).

Under (a), we are amending sub-clause (i) to delete the words “from a marginalised community appointed”. Given that the Bill is proposing that the chairperson should come from marginalised community, we are of the feeling that once the chair has been appointed, he will work for the best interest of the country and not for the marginalised communities. Therefore, the word is discriminative and we are proposing to delete it.

Then, on the subsequent (ii), (iii) and (iv), we are giving the power to the Principal Secretary to appoint a representative to attend board meetings when he is not available.

In the other amendment under (v), there is a small error which was captured. Part (v) is saying the amendment is about inserting a new paragraph. I am proposing to delete that and replace it with the words “by deleting paragraph (e) and substituting therefore the following paragraph” because it was an error. The rest is the same. We are saying that:

“(da) the Principal Secretary in the Ministry for the time being responsible for matters relating to National Treasury or a person designated in writing by the Principal Secretary”.

We are only deleting a further deletion of an amendment to make it clearer. What we were referring to as (da) is already used in the Bill. Under (vi), a further amendment is being proposed to include:

“The Principal Secretary in the Ministry for the time being responsible for Arid and Semi-Arid, who was not included on the list as a board member.”

The justification for that is that this State Department...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, I have the Order Paper. You are moving the whole Clause 7, but with some reservations on your proposed amendment on sub clause 1(i). If you look at the original Bill, you are talking of proposing a deletion thus:

“from a marginalised community appointed”

When you do that, you leave the statement in suspense because it will read thus:

“The chairperson from... by the President with approval by the National Assembly.”

It is a statement that is hanging. I do not know whether you can correct it or you move a further amendment to it.

Hon. Joseph Limo (Kipkelion East, JP): In Clause 7(1)(a), we are proposing that the words “from marginalised community” be deleted. We are proposing that it should be a person appointed by the President with the approval of the National Assembly.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, do you want to discard what is on the Order Paper, which reads:

“from a marginalised community appointed”

Hon. Joseph Limo (Kipkelion East, JP): Yes, we are deleting the words “from marginalised community appointed”.

I think there was an error there because we should not delete the word “appointed”. We should stop at the words “from a marginalised community” and what remains is “appointed by the President.” So, I agree that this is an error on the Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You agree it is an error. You are on record and that has been taken so that we can have some flow in language. Please, carry on.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I will proceed to (vi), where we are deleting paragraph (f) and substituting therefor the following new paragraph

– “(f) three persons appointed by the Cabinet Secretary;”

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman, now that you have corrected yourself in sub-clause (i), I would direct that you move with it first, so that we can dispense with it.

Hon. Members, with that import and the correction of the word “appointed” by the Chair...

Let us have Member No.001

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady. I totally oppose the deletion of the words “from a marginalised community” There is nothing about us without us. There is no way we can be discussing a fund that is targeting...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member, where are you, as a matter of procedure?

Hon. David ole Sankok (Nominated, JP): I am on Clause 7(i).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): No, I have not even proposed the Question. I thought there was something out of order or you wanted to contribute on this one? Okay, Hon. Members, allow me to propose the Question, so that you can discuss the amendment.

(Question of the amendment proposed)

Let us have Hon. Sankok David.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady. I oppose the deletion of the words “from a marginalised community” because nothing about us without us. There is no way we can be having a fund targeting the marginalised communities and then you appoint somebody from a non-marginalised community. It does not make sense. If you represent persons with disabilities, you must be one of them. If you are representing a fund that oversees issues of marginalised communities, you must come from a marginalised community.

I totally oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well, Member for Samburu North.

Hon. Alois Lentoimaga (Samburu North, JP): Hon. Temporary Deputy Chairlady, I also oppose that change. We have experienced much neglect. That is why the Constitution has given us an opportunity to get more resources to bring us slightly to the level where other counties are.

Some of the bureaucrats who were there before did not care about marginalised areas. So, one of our own will understand us better. He will put aside more resources and share them out equitably amongst the marginalised counties. After all, this Fund has only a timeline of 20 years, after which it will cease to function.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well, Member for Kilifi North. Please, let us focus on sub-clause (1)(a) only.

Hon. Owen Baya (Kilifi North, ODM): On sub-clause 1(a), you cannot bring a cow to chair a meeting of goats. Let the goats chair their meeting. It is not right for us to say that we are removing that sub clause. The Fund is meant for the marginalised communities. Let them chair it and handle their funds.

So, I oppose the amendment by the Committee Chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You oppose. Member for Moyale.

Hon. Qalicha Wario (Moyale, JP): Hon. Temporary Deputy Chairlady, as you know, the lifespan of this Fund is 20 years. Already, we are done with about eight years. The purpose of having the chairperson from a marginalised area is to ensure that we are serious with the Equalisation Fund. So, let us retain the amendment.

The Equalisation Fund is anchored in the Kenya Constitution. So, we are not adhering to the Constitution. We are trying to ensure that we retain the amendment, so that the chairman can come from a marginalised area, hoping that the Fund administrators will be serious and adhere to the Constitution.

So, I oppose the proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Lastly, let me hear from the Member for Kisumu.

Hon. Shakeel Shabbir (Kisumu East, Independent): Hon. Temporary Deputy Chairlady. I want to correct my brother here. The Constitution does not reserve positions for any distinguished persons.

This is against the Constitution of this country. You cannot say “a”, “b” and “c” are marginalised. It will not be right for us to remove this clause from the Bill. Let us allow this clause to remain and then, administratively, if there are two people at the same level and one is from a marginalised community and the other is not, the vetting committee will decide.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Members you are just commenting. Hon. Shabbir, are you opposing or supporting?

Hon. Shakeel Shabbir (Kisumu East, Independent): I support the amendment and say that those opposing it are in breach of the Constitution.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I see a lot of interest in this. Let me consider gender and give a chance to Hon. Emanikor.

Hon. (Ms.) Joyce Emanikor (Turkana CWR, JP): Hon. Temporary Deputy Chairlady, I rise to oppose the amendment. What is the essence of equalisation? It means there are communities that are not at par with the others. Removing marginalisation is defeating the very purpose for which the Equalisation Fund exists.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, I can see there are more than 10 Members who want to speak on deleting the word “marginalisation”. Members, please, allow me to put the Question because you know the procedure of the House. You need to take a vote and that is why I am alerting you. Member for Alego-Usonga, we do not raise our hands in Parliament.

(Several Hon. Members stood in their places)

Members, for purpose of the record, I will put the Question. I want to warn you that being too loud does not mean you have your vote on this.

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

(Amendment to Clause 7(1)(a) negatived)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, please, move your next clause. Members, as a matter of procedure, you know numbers count. Chairperson, are you ready to move Clause 7(1)(b). Let us have Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I think it is important for us to go on record that in future, people can make reference.

(Hon. David ole Sankok consulted loudly)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order, Hon.001! Order! Order Members! Yes, Hon. Makali.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Chairlady, I want to go on record that the amendment which has passed is unconstitutional and I rest my case.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali, you have made your statement and know the procedure of the House. The clause has been brought on the Floor of the House and Members have voted. I wish you had mobilised more to say yes or no. This is a House of procedure. Hon. Makali Mulu, as a matter of procedure, if you want to make changes to this, you can still recommit. Members have passed it by taking a no. Hon. Chair, please, move Clause 7(1)(b).

(Hon. Members consulted loudly)

Order! Order Members! Members, if you have anything, you can raise it through the right procedure. The Chairperson brought a proposed amendment and Members, out of their numbers, voted. From where I am seated, I am non-partisan. Chair, please, carry on.

(Hon. Charles Nguna and Hon. Shakeel Shabbir stood in their places)

Order! Hon. Nguna and the Member for Kisumu East. Please, resume your seats. You are out of order. Hon. Member for Kisumu, I gave you time to speak and you took your vote.

(Hon. Shakeel Shabbir spoke off record)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, you are protected. Hon. 001, you are totally out of order. I protect the Member for Kisumu East. Hon. 001, you cannot point at the Member for Kisumu East with your crutches. Hon. 001 wants to go on record

to apologise. Please, give him the microphone. Member for Kisumu East, I am protecting you. As a matter of procedure and order in the House, I order Hon.001 to apologise and we move on.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady. I apologise because I almost fell down and my crutches almost hit him. So, I apologise for almost falling down.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairman, please, move your proposed amendment. We must move on.

(Hon. Shakeel Shabbir stood in his place)

Hon. Member for Kisumu East, you are out of order! No! I gave you time to speak.

(Hon. Shakeel Shabbir spoke off record)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You can sort yourselves out there. He has apologised. Member for Kisumu East, you are out of order. I order you to resume your seat because I have protected you. Hon.001 has apologised for almost falling down. Unless, you are a doctor to know how people fall. Chairman, please, carry on.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, it is understandable that the matter we are prosecuting is heavy. Therefore, before you put the Question, I wanted to explain further. Anyway, it has gone that route, but the intention was very good. We should not allow laws to balkanise the country in terms of where you come from when it comes to appointments. It has taken that route and the law will take its course.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended –

(a) in sub clause (1) -

(ii) by inserting the words “or a person designated in writing by the Principal Secretary” immediately after the word “water” appearing in paragraph (b);

We are amending to allow the Principal Secretary to appoint a designated person in writing to represent him or her in the board. We are adding value by allowing the Principal Secretary responsible for water to have an opportunity to designate another person in writing to represent him or her in the board. That is the objective of the amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Kioni, the Member for Ndaragwa.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairlady, in supporting this amendment, let me say this: Why six years down the line we have not been able to implement the Equalisation Fund is because it was declared unconstitutional. If we carry on with amendments, it will be unconstitutional. We will be here for generations before this thing is implemented. We need to be very careful with the amendments we put forward. I also believe that some of the things we have done are unconstitutional. We will be back through the same

route. This may never benefit our people if we do not carry the whole country in the amendments that we have.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali, let me hear you.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Chairlady, I also want to support this amendment as it is in order. If you are not there, somebody can be appointed to sit in your place. So, to me, this is a procedural amendment and I support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kamket, I can see you have an amendment which is almost the same. I do not know whether you have consulted the Chair.

Hon. Kassait Kamket (Tiaty, KANU): I support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You support the Chairman's amendment. Before I put the Question, do you want me to give you a chance to prosecute yours?

Hon. Kassait Kamket (Tiaty, KANU): Hon. Temporary Deputy Chairlady, actually I have similar amendments. If the Chairperson's amendments are carried, then my amendments would be superfluous.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is the procedure. It is only wording which is different. I do not know whether you have consulted the Chair.

Hon. Kassait Kamket (Tiaty, KANU): I have consulted with the Chair.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, move the next one. Yes, Hon. Baya.

Hon. Owen Baya (Kilifi North, ODM): Hon. Temporary Deputy Chairlady, what I would like to say is that the amendments suggested in 7 (b), (c), (d), (e) and (f) are all the same. Why do we not just handle all of them at ago? They are the same.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Those are details the Chair is supposed to be taking. You are on record. Let us have the Chair to move. The request by Hon. Baya is that you move them together. What was important is Sub-clause (7)(1)(a). As I directed, procedures of the House must be followed. Chair, why do you look confused today? Please move your other amendments. We have a lot of business to transact.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, you will have to excuse us for the consultations because, if we carry on with this Bill the way it is and the head is already rotten, it will be very difficult. So, we are talking among ourselves so that we will actually recommit the first one. We have to make sure that this Bill is constitutional so that it can help Kenyans.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, thank you for admission of the same. Even before you present it here as a proposed amendment, you must always consult.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I have to move these things in a very orderly manner, as I have done it before. In fact, before you put the Question, I had raised my intention to explain further. It was very painful to lose it. It will be

unconstitutional, if we are not careful. We do not want it to go that direction. So, for the interest of the Bill, when the Chair intends to explain further, please give me the opportunity. Otherwise we are very organised and prepared.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Exhaust your explanation, unless a Member requires some clarification. No one had required clarification. You must be thorough also.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended –

(a) in sub clause (1) –

(iii) by inserting the words “or a person designated in writing by the Principal Secretary” immediately after the word “roads” appearing in paragraph (c);

Paragraph (iii) is actually the same as what I have just done. We are giving the opportunity for the Principal Secretary (PS) in charge of roads to designate an officer to represent him or her in writing.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair is already noting that some of his proposed amendments may not be in order or he wants the Members to be keen as they make their ruling.

(Question of the amendment proposed)

I see no Member wants to contribute to this. I, therefore, move to put the Question.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, move the next one.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended –

(a) in sub clause (1) –

(iv) by inserting the words “or a person designated in writing by the Principal Secretary” immediately after the word “health” appearing in paragraph (d);

This is to also allow the Principal Secretary in charge of matters relating to health to designate an officer to represent him or her during the board meeting just the same way I did on the others.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Member for Isiolo South, Hon. Tepo Koropu, do you want to comment on this?

Hon. Abdi Tepo (Isiolo South, KPP): Hon. Temporary Deputy Chairlady, I had an intervention earlier. It is okay.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you, Hon. Member.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, move the next one.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended –

(a) in sub clause (1) –

(v) by deleting paragraph (e) and substituting with the following new paragraph immediately after paragraph (d)-

“(e) the Principal Secretary in the Ministry for the time being responsible for matters relating to National Treasury or a person designated in writing by the Principal Secretary;”

This paragraph remains, though the wording on the Order Paper is not very clear. Therefore, I am only substituting the drafting, but the principal content remains the same.

(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)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, you have the Floor.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairperson, when you look at the Order Paper, we had proposed to carry out an amendment on what is in Sub-Clause (f) on the Bill, which is proposing four persons.

We are proposing to reduce that number to three and introduce another amendment, which will bring in the Principal Secretary in the Ministry for the time being responsible for Arid and Semi-Arid Areas or a person designated in writing by the PS.

We realise that this is a very important Ministry because most of the beneficiaries are in the ASAL areas. Initially in our amendment of the Bill, the Principal Secretary in charge of that State Department was not included. Therefore, I am moving the following two amendments to take care of that under Clause 7(1) (vi).

I beg to move:

THAT, Clause 7 of the Bill be amended –

(a) in sub clause (1) -

(vi) by inserting the following new paragraph immediately after (e) —

“(ea) the Principal Secretary in the Ministry for the time being responsible for Arid and Semi-Arid areas or a person designated in writing by the Principal Secretary.

Then, we introduce (vii).

I beg to move:

THAT, Clause 7 of the Bill be amended –

(a) in sub clause (1) -

(vii) by deleting paragraph (f) and substituting therefore the following new paragraph -

“(f) three persons appointed by the Cabinet Secretary.

So, we are reducing the numbers, which were four, and also substituting with the Principal Secretary. In total, the number will remain the same, but we have rearranged the composition to make this Fund more effective.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Mogotio, Hon. Daniel Tuitoek.

Hon. Daniel Tuitoek (Mogotio, JP): I wonder what would happen in a board where we have several representations by the Ministries, and the independent appointees are less than them. It will be like the Government conducting its business all the time. Why there are four members here is to protect the fact that the board should not be represented by Government officials, rather it should have some independent board members. The amendment which is being proposed may tilt the membership of the board. I object to this kind of amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You oppose the proposed amendment. Let me get the Member for Emurua Dikir.

(Hon. Kipyegon Ngeno spoke off record)

The Member for Kilifi North, you have the Floor.

Hon. Owen Baya (Kilifi North, ODM): Hon. Temporary Deputy Chairlady, I appreciate the amendments that are being moved. The spirit here is to ensure that the marginalised communities have a say. You may end up having a board where all the Principal Secretaries — and they come with all their powers — sit. You then reduce the number of people that are appointed to represent the marginalised communities who are fewer. You realise that the interests of these people...

Look at (a) to (f). Probably the people to be appointed by the Principal Secretaries may not necessarily come from marginalised communities. You will have a board that is heavy on the other side.

Hon. Temporary Deputy Chairlady, I would also like to refer you to one thing. During the constitutional review process when this Equalisation Fund was being put in the Constitution, there was a lot of hue and cry from the people who do not come from the marginalised communities. Actually, if people did not fight for the Equalisation Fund, it would not be in the Constitution. Right now, we are doing a Bill and making amendments that dilute the purpose for which we have the Equalisation Fund.

We should have more people who represent the marginalised communities sitting in the board. If you say that the Principal Secretary in charge of ASAL areas does not come from the ASAL areas because it is the prerogative of the President to appoint them, you would be reducing the number of four and saying that the three plus one equals to four, but the weight of the argument is not the same. My suggestion is that the four remains and if the Chairperson wants to add another person, he or she might want to do so, but the four that represent marginalised areas should remain.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay, so you are opposing. This is a House of debate, Hon. Members.

Let us now have the Member for North Horr, Hon. Chachu Ganya.

Hon. Chachu Ganya (North Horr, FAP): Thank you, Hon. Temporary Deputy Chairlady.

Hon. Temporary Deputy Chairlady, I also stand to oppose this amendment for the same reasons that my colleagues have advanced. I fought so hard for the Equalisation Fund to be part of our Constitution in the 10th Parliament. This Bill will enable us realise that objective, but the independence of the board members will enable us to achieve the target. Other parts of Kenya which are marginalised are put at par with the rest of the nation. The independence is critical.

I oppose that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You oppose the proposed amendment. Let me have the last one, the Member for Kitui Central.

Hon. Makali Mulu (Kitui Central, WDM – K): Thank you, Hon. Temporary Deputy Chairlady.

I am tempted to request the Chair to retain it the way it is. The argument that has been forwarded makes a lot of sense. Marginalised areas are also in the urban settings. For instance, if you go to Nairobi's outskirts like Kibera and Mathare, those guys there are marginalised. We would rather allow the four to be nominated on the basis of their expertise and professional competence.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, you are opposing?

Hon. Makali Mulu (Kitui Central, WDM – K): I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us now hear Hon. David ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Chairlady. The reason we have such funds and boards is because the Government wants to give the private sector a chance to bring their expertise into the management of Government resources. So, when we have more of Government membership in the board, it should just remain as a department of the Government instead of having it as a Semi-Autonomous Government Agency (SAGA) which, of course, is not autonomous.

So, I oppose.

(Hon. Joseph Limo stood in his place)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, I am putting the Question...

Hon. Joseph Limo (Kipkelion East, JP): No, let me say something.

Hon. Temporary Deputy Chairlady, put it very clear so that the Question should be, one, on the matter of introducing the Principal Secretary in charge of ASAL, which is different.

Two, you put a Question which relates to the reduction of the number of members who are representing the people of Kenya and who are not in the Ministry. That way, it will be very clear such that when you are putting the Question no confusion whatsoever would arise.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair you are trying to explain further. That is what you would have said when you were moving, but the Members understood. That is why they were debating. You are trying to say further and I am directing to avoid the situation that we had. Members will take a vote, but you are clever enough because you stole your way in to explain further.

Hon. Chair, part (f) is taken care of. Hon. Members will take a vote on this one.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Move the last one, Hon. Chair, that is, (g).

Hon. Joseph Limo (Kipkelion East, JP): I am not very sure, Hon. Temporary Deputy Chairlady, whether the one you have just put the Question on is the one in which we were reducing the numbers, or what was it?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair is moving. What is out of order the Member for Emurua Dikirr?

Hon. Kipyegon Ngeno (Emurua Dikirr, KANU): Hon. Temporary Deputy Chairlady, there is a question he posed which is very important and relevant. He had asked you to put Question after Question so that we know which one has fallen and which one has gone through. When you lump them up, he wonders whether all of them have fallen.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair understands what he is doing. Chair, I hope you understand because it is your amendment. We moved from (a), (b), (c), (d), (e), (f) and now we are in (g). Move your proposed amendment to (g). Members, you know the procedures. Even the Chair can decide to recommit any clause that he wants. Let him get some guidance from the clerk.

(Hon. Joseph Limo consulted with the Clerk-at-the-Table)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The process of passing Bills is a very important part of law-making. The Chair is consulting. Let him consult so that he can do the right thing. The Chair is still consulting with the Members and the clerk. As Members are aware, we make decisions in the House by taking a vote. It could either be an “aye” or a “nay”. It is important that even as the Chair moves his proposed amendment, it should not have a negative effect and should satisfy his Committee. Are you a Member of the Committee? You are advising and consulting with the Chair. Chair, you are on record. The proposed amendment you moved was not on the Order Paper. Chair, can you clarify? Give him the microphone.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, let me explain the position. There are two amendments. One is to reduce the four persons in the Bill to three. The second one is to introduce the Principal Secretary in charge of arid and semi-arid lands. I propose that you put the Questions separately because Members have a problem with the reduction of the number of persons appointed by the Cabinet Secretary from four to three. Therefore, they will reject it and it will remain four. However, on the introduction of the PS...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Is the amendment not in the Order Paper?

Hon. Joseph Limo (Kipkelion East, JP): The one on the Order Paper was moved as (f). That was done and the Members rejected it. They rejected the amendment to reduce the number from four to three. What remains is for me to move for the introduction of the Principal Secretary for ASALs which Members do not seem to have a problem with.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The amendment to reduce the number from four to three was negated. We can put the Question for (ea). Chair, are you okay with that? Members, do you understand? Chair, can you be on record for Members to understand? When I put the Question, Members will take a vote. Chair, can you explain? We negated the amendment to reduce the number of persons from four to three.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move a further amendment:

THAT, Clause 7 of the Bill be amended –

(a) in sub-clause (1) –

(vii) by inserting the following new paragraph immediately after paragraph

(f)-

“(fa) the Principal Secretary in the Ministry for the time be responsible for matters relating to arid and semi-arid areas or a person designated in writing by the Principal Secretary;”

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, it is after paragraph (e) not (f).

Hon. Joseph Limo (Kipkelion East, JP): After paragraph (e).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): This is so that it becomes (ea).

Hon. Joseph Limo (Kipkelion East, JP): Yes. We name it (ea).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is not on the Order Paper, is it? Members, allow me to propose the Question. Let us have Hon. Baya.

Hon. Owen Baya (Kilifi North, ODM): Before you propose the Question, the principle needs to be upheld. The principle is that we would not like to have more Government officials than other people. If the Chairman introduces a fifth Cabinet Secretary, it means that we shall have five Cabinet Secretaries and four others who are appointed. That means there are more Government representations in the same way as it is in...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Baya, you are now debating on the amendment. When I propose the Question, it becomes the property of the House. You can then debate on that as a matter of procedure.

(Question of the amendment proposed)

Let us have Hon. Kangogo and then we come to Hon. Baya.

Hon. Kangogo Bowen (Marakwet East, JP): Thank you, Hon. Temporary Deputy Chairlady. I support the amendment by the Chair of the Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Say that again.

Hon. Kangogo Bowen (Marakwet East, JP): I support the amendment by the Hon. Chair of the Committee because it will be difficult to operationalise this without the PS. In most cases, and in many SAGAs, the Principal Secretary is always an automatic member. I am happy the two

Questions are separated because Members do not have a problem with the Principal Secretary. We had a problem with the reduction of the number of persons appointed from four to three. I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Baya. At least now you have the Floor.

Hon. Owen Baya (Kilifi North, ODM): I would like you to get my argument. One, we are looking at a situation which departs from the norm right now. This matter is dealt with a lot at the Treasury. This Fund has never moved because of the Treasury. If we want to make it top heavy in terms of PSs, it will still come back to the same thing unless we are saying that we will increase the number such that we have five PSs and five members from the marginalised communities. This is so that at the end of the day, we do not end up with the current situation. I have no problem with adding the PS for ASALs but I would also like to see a situation where we have enough people from marginalised areas, unless the PS for ASALs will appoint somebody to represent him from an ASAL area.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear from the Member for Emurua Dikirr before I go to Chachu Ganya.

Hon. Kipyegon Ngeno (Emurua Dikirr, KANU): Hon. Temporary Deputy Chairlady, there is a serious misunderstanding among the Members. Marginalised areas have been clearly stated by the Committee on Revenue Allocation (CRA). It is not a question of whether you are represented or not. I come from a marginalised area. We are dealing with roads. It deals with water and health. The reason why we are adding PSs or whoever is so that each and every department or ministry which this Equalisation Fund will help is represented and those functions are properly implemented.

That is the major reason. It is not about the numbers and all that.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Are you supporting or not?

Hon. Kipyegon Ngeno (Emurua Dikirr, KANU): I support.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): You support the proposed amendment on the Equalisation Fund Bill.

Hon Chachu Ganya, you may proceed.

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairlady, I oppose this amendment on the same principle that we do not want this Board to be heavy-laden with government officials. We want independence.

In the 11th Parliament, the only time we wanted to access this money - they wanted to pay pending bills and loans for Arid and Semi-Arid Lands (ASAL) areas - we had to fight so hard to stop that. That is what will happen, once this board is heavily-laden by Principal Secretaries. We do not want that.

I strongly oppose.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Very well, let us have the Member for Mogotio.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Chairlady. I realise that the Chair has been trying to get representation of the marginalised areas through the Principal Secretary. The National Treasury can adequately represent the Principal Secretary who needs to be introduced again so that they can appoint others. Introducing another Principal

Secretary to appoint another board member from marginalised areas will not add any value. In this case, let us just stick to one Principal Secretary or one particular Ministry to appoint the four and not fragment so that they can appoint others.

I do not think that the Chair will be affected if we still say that the National Treasury can appoint that fourth person. This is so that we do not have additional heavy-laden board with principal secretaries.

Hon. Temporary Deputy Chairlady, I oppose the amendment.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): You oppose. Let us have the Member for Alego-Usonga. For us to make a decision, we need to hear the debate.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Temporary Deputy Chairlady. I do not think that Members really understand why these principal secretaries are sitting in these boards. When it comes to implementation of programs under the Equalisation Fund, it is these principal secretaries who are going to implement. For example, if it roads, the Principal Secretary for Roads will be there. If it is health, the principal secretary for Health will be there and, the same with water. If you do not include them in the board, how are you going to do these projects?

Two, I fear the manner in which this debate is going on. It is like this law...

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Hon. Samuel Atandi, there is an intervention by Hon. Ole Sankok.

Hon. David ole Sankok (Nominated JP): Thank you, Madam Temporary Deputy Chairlady. The Member cannot misinform the House that principal secretaries are supposed to sit in the board because of implementation of projects. The board is supposed to be a decision and policy making organ but not an implementing organ. The principal secretaries can sit in their offices and implement but the decision and policy making organ, which is the board, should be left independent.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Very well. The Member Alego-Usonga, are you supporting or not?

Hon. Samuel Atandi (Alego-Usonga, ODM): I am supporting. I was saying that we are taking a dangerous route in the way we are looking at this law. It appears to me that this law is being made for people who claim to be marginalised whereas everyone is marginalised in this country. If you come to Nyanza, we are marginalised. We are not going to make this law for people who come from North-Eastern and who think that what they want to see is what should be done in this law.

The amendments that are being introduced are important for effecting the operations of this Fund. If we do not check, we are going to have a fund that we will not be implementable.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Okay. Just make your point.

Hon. Samuel Atandi (Alego-Usonga, ODM): I support the amendment and I am pleading with my colleagues from North-Eastern - those who think that they are marginalise- to understand this law is for Kenyans not for their region.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Let us have the last comment from the Member for Samburu East.

Hon. Jackson Lekumontare (Samburu East, KANU): Hon. Temporary Deputy Chairlady, we do not need all these officers in this board. This is just like any other board and our usual practice is that when an issue that concerns roads arises, then the money will be channeled to that Ministry to implement. We do not need them in the board.

I oppose.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): The Member for Mandera West, you may proceed.

Hon. Yussuf Adan (Mandera West, EFP): Hon. Temporary Deputy Chairlady, I also follow suit. We do not want where the whole board is run like a government department. The issue is not because this concerns North-Eastern, as my colleague says. There is nothing North-Eastern about this. Hon. Tuitoek is from Turkana and yet he is opposing. What we are refusing is to have many government officers to the detriment of the representatives of the people.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Members, allow me to put the question because everyone wants to have a word on this having heard the debate and the explanation from the Chair.

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

Chair, just move the other amendment; we must move faster now.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move that clause 8 of the Bill be amended in paragraph (c) by — (a) inserting the following new sub-paragraph immediately after sub-paragraph (iv) — “(v) engineering;”(b) renumbering the existing sub-paragraph (v) as (vi). Clause 8 talks about qualifications and we are introducing engineering as part of the qualification which was not included. That is all we are doing.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Chair, are you checking on the Order Paper? Is what you are moving on the Order Paper? We are moving to Clause 7 (b). Please state the clause.

Hon. Joseph Limo (Kipkelion East, JP): Clause 8 talks about qualifications to be appointed.

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): We are still at Clause 7 (b). Do not go to Clause 8.

Hon. Joseph Limo (Kipkelion East, JP): All right. I think we have overstayed in Clause 7 until I did not realise that there was a Clause 7 (b).

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended —

(b) in sub-clause (4) by deleting the word “ten” appearing immediately after the word “exceeding” and substituting therefor the words “one hundred” under paragraph (d).

These are fines which are provided for in case a member of the board has been found to have violated this Act. The fine was Ksh10,000 which we are saying is too lenient. We are introducing Ksh100,000 as the fine.

(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 7 as amended agreed to)

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): That was good business on clause 7; Members are doing a very good job.

The Chairman of the Departmental Committee on Finance and National Planning, please get organised.

Members, please join me in welcoming visitors to the Parliament Chambers in the Public Gallery. These are students from Kibauni Secondary School, Mwala Constituency, Machakos County; and Kerotet Girls High School, Soi Constituency, Uasin Gishu County, and Ngungugu Primary School from Gatanga Constituency, Murang'a County. They are welcome to observe and follow the proceedings of the House.

Hon. Kamket, please be on record on Clause 7 because you had a proposed amendment.

Hon. Kassait Kamket (Tiaty, KANU): Hon. Temporary Deputy Chairlady, as I said earlier on, my amendments have been overtaken by events.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You had said that earlier on.

(Proposed amendment by Hon. Kassait Kamket withdrawn)

Next Clause.

Clause 8

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by the Chair.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

Clause 8 of the Bill be amended in paragraph (c) by —

(a) inserting the following new sub-paragraph immediately after sub-paragraph (iv)—

“(v) engineering;”

(b) re-numbering the existing sub-paragraph (v) as (vi).

Under (a), we propose to introduce engineering as part of the qualification to be appointed as a chairperson of the Board. It was not included on the original list. We propose that it is introduced immediately after the word “accounting” under (v).

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me have Hon. Bowen Kangogo, the Member for Marakwet East.

Hon. Kangogo Bowen (Marakwet East, JP): Thank you Hon. Temporary Deputy Chairlady. I oppose the amendment. Why would we want only an engineer to be a chair of a board? I oppose because...

Hon. Joseph Limo (Kipkelion East, JP): Point of information, Hon. Temporary Deputy Chairlady.

Hon. Kangogo Bowen (Marakwet East, JP): Let me execute my point.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman, you moved the amendment. You cannot have your cake and eat it. Let the Member contribute then you will have time to make a clarification.

Hon. Kangogo, please, proceed.

Hon. Kangogo Bowen (Marakwet East, JP): He has some information. Let him inform me, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): He should just follow the right procedure.

Hon. Chairman, you do you want to inform the Member?

Hon. Joseph Limo (Kipkelion East, JP): Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay, Hon. Kangogo, do you want to be informed by the Chairman?

Hon. Kangogo Bowen (Marakwet East, JP): Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): He has accepted.

Hon. Joseph Limo (Kipkelion East, JP): Thank you very much, Hon. Kangogo for accepting to be informed. It is good for me to explain the provisions of the amendment so that Hon. Members do not get wrong information.

Clause 8 of the Bill proposes that the person qualified to be the Chair of the Board has to have the following qualifications: economic development and planning, finance, law, accounting and social sciences. We are introducing engineering to be part of the qualifications. It is an addition to what is listed in the Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kangogo, finish your contribution.

Hon. Kangogo Bowen (Marakwet East, JP): Hon. Temporary Deputy Chairlady, with the information from the Chair, I support the amendment. It is just an additional qualification for the Chair of the Board as part of the other qualifications provided for in the Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Member for Mathare, you have the Floor.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Deputy Chairlady. I rise to oppose the amendment. There are very many other qualifications. Why do we not have an architect or a pilot? The general trend has been – I am speaking as a lawyer – we have been told that lawyers always legislate to include that a lawyer must be a chair or head of an organisation. We must discourage equally other professions being legislated into positions. We should just have said that somebody to be a Master’s Degree holder.

I oppose the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Mogotio.

Hon. Daniel Tuitoek (Mogotio, JP): Hon. Temporary Deputy Chairlady, there is a problem. Clause 8 (c) says that one must have knowledge and experience of not less than 10 years in economic development and planning, finance, law and accounting. Surely, one person cannot have all these qualifications.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It provides for “or”. It is either of the listed qualifications. Hon. Chairman, be clear enough when you move an amendment so that we do not keep coming to you.

Yes, the Member for Mogotio.

Hon. Daniel Tuitoek (Mogotio, JP): If it is “or”, I have no problem.

I support.

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

(Clause 8 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman, move Clause 9.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I thought that before we move to Clause 9, there is another amendment. Clause 8 has (b) on re-numbering the existing subparagraphs. We should re-number them as (v) as (vi) because we have introduced another qualification.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman, you moved Clause 8(a).

Hon. Joseph Limo (Kipkelion East, JP): There is Clause 8 (b), which is to renumber the existing sub-paragraph (v) as (vi).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Renumbering is for the Clerks-at-the-Table. It has already been accommodated because it is just re-numbering. It is taken care of.

Hon. Baya, you have the Floor.

Hon. Owen Baya (Kilifi North, ODM): Hon. Temporary Deputy Chairlady, the Chair requires to change 8(c) for record purposes. Clause 8(c) says: “Has knowledge and experience of not less than ten years in”. We need to make the necessary adjustments so that it is either or one of those. The law here does not provide for that. I hope you see that.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is (c). When you come to (v) there is the word “or”. Have you seen that?

Hon. Owen Baya (Kilifi North, ODM): Accounting or...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is (iv).

Hon. Owen Baya (Kilifi North, ODM): Where can you find someone who has knowledge and experience in economic development and planning, finance, law and accounting then or?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is one of those.

Hon. Owen Baya (Kilifi North, ODM): I do not know whether it is possible to find a person with all those qualifications.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have already passed it. Hon. Baya, if there is anything you need to hold with the Chair, you can recommit it. You can do that yourself at the right time. That is the procedure of the House, Hon. Baya. Anything you think we passed in a certain Clause, as a matter of procedure, you can re-commit it. Consult with the Chair.

Let us move to Clause 9.

Clause 9

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman, please, move your amendment on Clause 9.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move that Clause 9 of the Bill be amended by deleting Clause 9 and substituting therefor the following new clause—

“9. The Chairperson and members of the Board shall hold office for a term of three years and shall be eligible for reappointment for one further and final term of three years.”

The Bill has provided that the chairperson and members of the board shall hold office for a term of six years. We propose that it be amended to three years and shall be eligible for reappointment. It is not good to provide for a continuous appointment of six years. That is to provide checks on performance. We can check if one has performed or not.

(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)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Before we move to the next Clause, Hon. Members, please, join me in welcoming visitors seated in the Speaker's Gallery. They are pupils from St. Hannah Primary School from Westlands Constituency, Nairobi County. They are welcome.

Next Clause.

Clause 10

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 10 of the Bill be amended by inserting the words "and approve" immediately after the word "consider" under paragraph (b).

This is for the purpose of introducing the word "approve" as part of the responsibilities of the Board as also indicated under Clause 25. The rationale for this is to allow the Board to include approval of projects as part of its functions.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, if you look at Clause 10 on the Order Paper... I am sorry. I am reading a different Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. It is important. The Leader of the Majority Party is very keen but he is looking at a different Bill.

Yes, Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady. This is very important. We support it because they will consider projects and approve them. It will be a semi-autonomous Government agency. We need to give it autonomy by not considering only but by approving projects. Once they have approved, the work of the ministries is to implement.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Bondo.

Hon. Gideon Ochanda (Bondo, ODM): Hon. Temporary Deputy Chairlady, mine is on the next but I support the amendment. I only have a problem with the next clause.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The last one is the Member for Wundanyi.

Hon. Danson Mwashako (Wundanyi, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I rise to support. The biggest challenge we have had with the implementation of projects is that we have not been able to get a board to discuss particularly approvals. We run public participation but when it comes to approval of projects, it becomes a problem. So, I support.

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

(Clause 10 as amended agreed to)

(Clauses 11,12,13,14 and 15 agreed to)

Clause 16

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in Clause 16 by deleting sub clause (2) and substituting therefor the following new sub clause—

“(2) The Chief Executive Officer shall hold office for a term of three years and shall be eligible for re-appointment for one further and final term of three years.”

This is on the term of the Chief Executive Officer. The Bill provides for five years and eligible for another term of five years but we are proposing that in line with *Mwongozo* guidelines which provide that Chief Executive Officers be appointed for three years, we amend it to three years and eligible for reappointment of the last and final term of three years.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is straightforward. The Member for Bondo, you have the Floor.

Hon. Gideon Ochanda (Bondo, ODM): Hon. Temporary Deputy Chairlady, just a matter of caution. In Clause 9, we had indicated that the Chair will serve for three years subject to renewal. Here, we are also talking about the CEO serving for three years subject to renewal and all of them might be serving the same term and may be coming in at the same time. As a matter of caution, we need to check on this. I am just trying to caution the Chair.

*(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 16 as amended agreed to)

(Clauses 17, 18 and 19 agreed to)

Clause 20

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 20 of the Bill be amended –

(a) in sub clause (1) by deleting the word “ward” and substituting therefor the word “Constituency”;

We are proposing to delete the word “ward” and substituting therefor the word “Constituency”. That is the import of (a)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, do you want us to move one by one?

Hon. Members: No!

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Move others. If any Member has an issue, we will revisit.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 20 of the Bill be amended –

(b) in sub clause (2) by deleting paragraph (g);

(c) by deleting the word “three” and substituting therefor the word “two” appearing immediately after the words “shall be” under sub clause (7);

In (b), we are proposing to remove the requirement that an officer representing county government be introduced because once we have removed the word “ward” and we have put “constituency”, then we do not see any need of bringing counties into this because this Bill itself is not concerning counties.

In (c) we are deleting “two” and replacing it with...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You are deleting “three”, Chair.

Hon. Joseph Limo (Kipkelion East, JP): It was proposing two women nominated and we are replacing it with the word... I think there is some mix-up here because the intention was to have representation of...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, if you check on the original Bill, we are talking of the term of office of members of local committees which shall be renewable and shall expire upon appointment of new local committee.

Hon. Joseph Limo (Kipkelion East, JP): Let me check this one. The intention was not to reduce but to increase. What is captured by the Order Paper is not in tandem with what we wanted. Let me take a minute to check.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us give the Chair a minute to check.

Hon. Joseph Limo (Kipkelion East, JP): It is captured the other way round. The Bill is talking about two persons nominated by the relevant constituency office and we were proposing that instead of... One was representing youth, one representing people with disabilities and one representing women. Two women nominated in accordance with subsection... It looks like I should just drop this one because it is not in line with what we intended to do.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, can I give you some direction? We are on Clause 20(c) which is in your Bill as sub-clause seven.

You are deleting the word “three” and substituting it with “two”. In the main Bill, it says: “the term of office of members of Local Committees shall be three years”. We are taking it as if this is what you are trying to redo. Please revisit Clause 20(c) of your original Bill.

Let us hear the Hon. Leader of the Majority Party before the Chair gets his way.

Please, help the Chair.

Hon. Aden Duale (Garissa Township, JP): Let me help the Chair. The Chair is right now because he wants to drop that amendment. In Clause 20(c) he is saying: “Two women nominated in accordance with sub-section three. One of whom shall be a youth at the date of appointment”. So, this idea of him reducing from three to two is not even in the Bill. So, I agree with him that we just deal with (a) and (b).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, we are dealing with the numbering of Clause 20(c) in the Order Paper. I think this is also confusing Members. Then, the Bill is dealing with sub-clause seven. I do not know. The Chair needs to clarify. Chair, where are you? It is for the sake of Members.

Hon. Joseph Limo (Kipkelion East, JP): You are right. There is some confusion in terms of the Order Paper and the Bill. I want to retain what we had proposed because I have actually clarified that what we intended to do is to reduce the number of years. If you look at sub-clause seven, the term of office of the members of a Local Committee had been indicated as three. We were proposing to reduce it to two years so that it is easier to review their term within two years if they do not perform. You know two years is reasonable enough instead of three. Three years for Local Committees is a bit too long. So, we are proposing to reduce it to two years.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, on record, is not on the issue of the women that is in (c). It is good for you to be on record that the reduction is not on women. We are on the sub-clause on the term of office. Am I right?

(Hon. Joseph Limo nodded in the affirmative)

*(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 20 as amended agreed to)

Clause 21

Hon. Joseph Limo (Kipkelion East, JP): I beg to move:

THAT, Clause 21 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub clause—

(1) A person may present a petition to the Board for the dissolution of a Local Committee setting out the alleged facts constituting one or more of the following grounds for dissolution—

(a) serious violation of the Constitution or any other law including a contravention of Chapter Six;

(b) gross misconduct, whether in performance of the members' or office holders' functions or otherwise;

(c) incompetence; or

(d) any other cause as may be deemed justifiable.

This clause concerns dissolution of local committees and it is indicating the procedure for dissolution of the committees. We are doing the amendment so that we remove bankruptcy as a ground for dissolution of a local committee. It is because the committee is not a legal... It is not a person as a whole. Bankruptcy is on the basis of individuals. You remove an individual from the committee. You cannot use that to dissolve the whole committee if one person is bankrupt. So, we are amending that so that it does not provide that the whole committee is removed if it is bankrupt. It cannot be bankrupt as a whole.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is a procedure. Hon. Members, with that straightforward explanation of the import, I will propose the Question.

(Question of the amendment proposed)

The Member for Emurua Dikirr, you have the Floor.

Hon. Kipyegon Ngeno (Emurua Dikirr, KANU): Thank you, Hon. Temporary Deputy Chairlady. I only hope that the Chairman, in the qualifications for the appointment to these committees fall in tandem with the disqualifications. That is so that we do not just say somebody will be disqualified if A, B, C, and D happens yet it was not in the qualifications to these committees. I do not know if the provision of qualifications to be a member of these committees agrees with the disqualifications.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman, there is that concern.

Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): This man should not run the House as if we are in Emurua Dikirr village. I saw him running his own Building Bridges Initiative (BBI).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): He is an Hon. Member. He is not a man!

Hon. Aden Duale (Garissa Township, JP): He has to speak through the Chair. I saw him having his BBI with some voters. You are now in the Chamber. There are rules here. You see, he is just talking to the Chair as if he is in the village. You talk through the Chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is true. Do not address the Chair of the Departmental Committee on Finance and National Planning, Hon. Limo, without speaking through me.

Hon. Limo, I hope you are listening. Hon. Member, just put our point across very fast. The Chair is listening.

Hon. Kipyegon Ngeno (Emurua Dikirr, KANU): I did. This is the reason why I said, I want to make it through you. I can see the Chair still consulting and doing some few reviews. I hope he is listening to me.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): He is listening. Hon. Limo, I hope you are listening. He does not need to look at your eyes.

Hon. Kipyegon Ngeno (Emurua Dikirr, KANU): I was saying, when you look at the amendment in this clause, the removal of the members of the committee from a position is based on A, B, C, and D. I was saying I hope the qualifications for a person to be a member of that committee has the same prerequisite qualifications. That is so that we do not just disqualify somebody.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Limo, just a comment on that before I put the Question.

Hon. Joseph Limo (Kipkelion East, JP): What happens is that the requirements to be appointed to the Local Committee are left out to be covered by regulations. It is not in this Bill. However, bankruptcy looks like it is standard but it is not. That is why we are amending and saying that it should not be a requirement to dissolve a committee. You can act on an individual himself, as a person.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party, do you want to make a comment on this? Do you want to help the Chair?

Hon. Aden Duale (Garissa Township, JP): These pastoralists are too many until they confuse the Chair. What the Chair is saying is that he has removed bankruptcy as one of the conditions for removing a member of a Local Committee on the basis that this committee is not legal. So, the element of bankruptcy does not arise. He has given that as the reason. So, I think we agree with the Chair on the rest.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Baya, you have the Floor.

Hon. Owen Baya (Kilifi North, ODM): I have a problem understanding this. It says a person may present a petition to the Board for the dissolution of a Local Committee. That is the dissolution of a board, not one person. It is the dissolution of the whole committee. Now, if bankruptcy is one of those elements, how do you determine bankruptcy for a whole board? I think it is important we make it clear.

So, I support the amendment of the Chair. You cannot determine bankruptcy of a whole board and say that it is bankrupt.

Hon. Temporary Deputy Chairlady, I would like to ask the Leader of the Majority Party to read Clause 21 very clearly. It says: "A person may present a petition for the dissolution of a local Committee." Note the word "Dissolution".

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Dissolution.

Hon. Owen Baya (Kilifi North, ODM): Yes. How do you dissolve the whole committee because one member is bankrupt? Or how do you dissolve a whole committee because you have adjudged the whole board to be bankrupt?

Hon. Aden Duale (Garissa Township, JP): What is the procedure? Hon. Owen Baya is just reading the Bill. We are not dealing with what is in the Bill. We are dealing with the amendment by the Chairperson of the Committee. So, it is not in the Bill. That is what is before us, Hon. Owen Baya. Please, get the amendment. What you are reading is in the Bill. The amendment...

Hon. Owen Baya (Kilifi North, ODM): Read the amendment.

Hon. Aden Duale (Garissa Township, JP): I will read it for you. The amendment says a person may present a petition to the board for the dissolution of a local committee, setting out the alleged facts constituting one or more of the following grounds for dissolution: Serious violation of the Constitution.

(Hon. Owen Baya interjected)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Owen Baya, you have made your point. Let the Leader of the Majority Party also make his point.

Hon. Aden Duale (Garissa Township, JP): You know, my friend, you have a long way to become a Leader of the Majority Party! So, listen to me.

(Laughter)

You have many years. You have to serve for two to three terms.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party, just carry on with your contribution.

Hon. Aden Duale (Garissa Township, JP): Let me just finish. I am sorry, the good friend of mine. He is saying either – and we are dealing with individuals – one, two or three members of the board because the board is a corporate entity. Removal is individual just like the way a petition is brought to remove a commissioner.

(Hon. Owen Baya spoke off record)

No! Let me finish. Hon. Temporary Deputy Chairlady, if you allow me to finish...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let the Leader of the Majority Party make his points of argument and then, I will also give a chance to the Chairperson to clarify his amendment.

Hon. Aden Duale (Garissa Township, JP): Let me give an example. Today, a petition can come to remove the commissioners of the Independent Electoral and Boundaries Commission (IEBC). But there is no petition that can remove the Commission. Okay? You only remove individuals. For you to remove the Commission as a corporate body, you must amend the Constitution. So, what we are dealing with here are the individual members of the board.

The Chairperson has agreed with everything. He has only removed “bankruptcy” and he has done that with only one reason. That for bankruptcy to be allowed in this amendment, it has to be a legal individual committee. What do you call it? I am not a lawyer. It has to be something legal. This is a committee which has just been formed to look after that. So, bankruptcy is what he is removing.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, ODM): I agree with the Leader of the Majority Party.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With that information from the Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, ODM): I respect him very much.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes.

Hon. Owen Baya (Kilifi North, ODM): I would like him to read that amendment. Otherwise, this would be committing a gross violation of... A person may present a petition to the board for the dissolution of a local committee. That is dissolution. Bankruptcy is one of the reasons of dissolving a committee. I would like you to look at what it says. It says to dissolve a committee, not to remove one member. So, the whole of the section needs to be recommitted. Otherwise, there is a problem. How do you dissolve a committee because of the bankruptcy of one person?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Owen Baya, as we are dealing with the proposed amendment, bankruptcy was in the original Bill if I may give this direction. Bankruptcy is in the original Bill and that is what the Chairperson is trying to do. I will give him time to make his contribution. What the Chairperson is trying to do is to delete "bankruptcy." Let me give the Chairperson a chance to clarify.

Hon Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I wish Hon. Owen Baya could listen. You know he is the one who is trying to explain exactly what I was explaining. The amendment I am doing... What I am asking Hon. Owen Baya to do is to say...

(Hon. Owen Baya stood up in his place)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order, Hon. Owen Baya! Resume your sit. Members, I want you to listen to the import of the Chairperson and then from there, I will put the amendments to vote.

Yes, Hon. Chairperson.

Hon Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, what we are doing here in my amendment is exactly what Hon. Owen Baya is saying. In fact, he should be saying that he is agreeing with us because this is what we are doing. We are actually removing a requirement that a whole committee can be removed because they are bankrupt. Bankruptcy is individual. The committee is not a jurisdiction. It cannot stand alone. What we are doing is to remove bankruptcy from the requirement. We are *in tandem* with what Hon. Baya is saying.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Baya is in agreement. Now he has understood the proposed amendment. Therefore, I 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)*

(Clause 21 as amended agreed to)

Clause 22

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, please move your amendment in a manner that everyone will understand.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 22 of the Bill be amended by inserting the words “with the approval of the Board” immediately after the word “staff”.

The rationale for the amendment is that this clause provides that the local committee may hire staff as necessary. Because we wanted the Equalisation Fund to work for the people, we felt that the local committee should not be given a leeway of employing people because they can spend all the money on employment. So, the amendment is that they can hire with the approval of the Board. There is someone who will control them.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is straightforward.

(Question of the amendment proposed)

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

(Clause 22 as amended agreed to)

Clause 23

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chairperson, do you have a proposed amendment?

Hon. Joseph Limo (Kipkelion East, JP): Yes, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, clause 23 of the Bill be amended in sub-clause (2) by deleting the word “Ward” and substituting therefor the word “Constituency”
What we are doing here is to provide that the constituency shall be the administrative unit for identification of projects. We have done it elsewhere. We are making the constituency the administrative unit at the local level.

(Question of the amendment proposed)

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

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

(Clause 23 as amended agreed to)

(Clauses 24 and 25 agreed to)

Clause 26

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, please move your proposed amendment.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 26 of the Bill be amended -

(a) in paragraph (a) by deleting word “and”;

(b) in paragraph (b) by inserting the word “and” at the end;

(c) by inserting the following new paragraph immediately after paragraph (b)-

“(c) status of implementation of projects.”

The amendments we are making are to provide that there shall be submission of the status of implementation of projects in a quarterly basis to the National Assembly.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Oyoo Onyango, Member for Muhoroni.

Hon. Onyango Oyoo (Muhoroni, ODM): Sorry, Hon. Temporary Deputy Chairlady. I had wished to contribute in the previous amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. I see no interest in this.

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

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

(Clause 26 as amended agreed to)

Clause 27 agreed to

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, you have a proposed amendment to clause 28. Please move it.

Clause 28

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 28 of the Bill be amended by inserting the word “Asset” immediately after the word “and”.

This is to correct some typographical errors and provide for correct citations to the Public Procurement and Asset Disposal Act, 2015.

(Question of the amendment proposed)

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

(Clause 28 as amended agreed to)

(Clauses 29 and 30 agreed to)

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Hon. Limo, please move your proposed amendment to Clause 31.

Clause 31

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 31 of the Bill be amended by inserting the following new sub clauses immediately after sub clause (4)—

“(5) The Board shall set aside a sum not exceeding five per centum of the total allocation for the Fund to cater for the administration expenses of the Board.

(6) The Board shall ensure that a sum not exceeding five per centum of the total allocation for a project shall be utilised for the administration expenses of the project.”

The objective of this amendment is to provide a limit to how much can be spent on administration, because we have realised that there is a big problem in this country. If you do not put a cap on administrative expenses, they become very high. So, we are proposing to put a cap of 5 per cent to be spent on administration.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I can see now we are moving faster. Chair, now you look organised. Is it because the Member for Taita Taveta sat next to you?

(Question of the amendment proposed)

Yes, the Member for Mathare.

Hon. Anthony Oluoch (Mathare, ODM): Chair, I rise to support this amendment. I think it is consistent with the 5 per cent cap that we put on other Funds, and particularly benchmarking it against the CDF. But I think the amendment should go further, and Members will agree with me, so that the administrative model at the Board is decentralised to members of the constituency committees - so that you do not have a Fund where the CDFCs are operating, but you have to dig into your pocket in order to go to the constituency to ensure that the very funds that the CDF Board has disbursed are utilised. I wish there could be a way to cascade the administration funds to the constituency level so that the operations can be done there.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Kajiado North.

Hon. Joseph Manje (Kajiado North, JP): I want to oppose this and say instead of the 5 per cent, there should be a cap on the amount. That is because 5 per cent can be so much at a time.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, do not just raise your hands. Put your requests through the machine. The Member for Kinango, Hon. Tayari Stephen.

Hon. Benjamin Tayari (Kinango, ODM): Thank you. I wish to oppose this amendment. Assuming that you are talking of a Fund that is capped at about Ksh10 billion? I think the best thing we can do is what the Member for Kajiado North has stated. We put a certain amount as opposed to a percentage.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. I want to give a chance to Members who have not spoken. The Member for Baringo, the Floor is yours. She is not in. All of them have put in their requests. Member for Tiaty Constituency, you have the Floor

(Loud consultations)

Hon. Kassait Kamket (Tiaty, KANU): Hon. Chairlady, before I say something, I see the Chair is very agitated. I think he wants to inform Members so that we can make an informed decision.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. That is your comment. Hon. Chairperson, I can see you are on a request.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, thank you for listening to me. One of the key elements of legislation is that it must be progressive. It can be very difficult to put an amount, but it should be an amount not exceeding so that it leaves the other aspect of controlling the amount to be administrative. However, if Members oppose this, the Fund will now be open. It will be exposed because it does not have any cap. We are introducing a cap of a maximum of five per cent. If you oppose this one, the implication will be to go back to what is in the Bill where there is no limit. So, it is a progressive way of saying we have introduced the limit. Later on, we can also introduce a cap on how much is left to do the administration. Members, we are not saying five per cent but, rather, we are saying an amount not exceeding, just like in the CDF where we have been told the administration is an amount not exceeding 6 per cent. It can be 2 or 1 percent as long as it is not above 5 percent. So, we are introducing a maximum.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Thank you for that clarification to the Members. Hon. Chair, again, I order that when we are moving, make sure you leave no doubts to the Members because we want to move fast.

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

(Clause 31 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Limo, move your proposed amendment to Clause 32 please.

Clause 32

Hon. Joseph Limo (Kipkelion East, JP): Hon. Chairlady, I beg to move:

THAT, Clause 32 of the Bill be amended by deleting the words “At least four months before” and substituting therefor the words “Within the period of three months after.”

This Clause is about accounts and audit. What we are doing here is to harmonise the requirements for submission of accounts, at least, four months before. We are amending to three months after the end of the year to harmonise the submission of accounts to the Auditor-General with the requirements of the PFM Act and Public Audit Act. We are making it to conform with the other requirements in PFM Act and Public Audit Act to become every three months. That means every quarter.

(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 32 as amended agreed to)

(Clauses 33 and 34 agreed to)

Clause 35

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Limo, move your proposed amendment on Clause 35 please.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 35 of the Bill be amended in sub-clause (3) by deleting the words “line ministries” and substituting therefor the words “Local Committees” appearing immediately after the words “accounts of”.

We want to ensure that there is efficient distribution of funds from the Central Bank to the local committees for project implementation. The Bill proposes that the requisitions be done by the line ministries, but we are proposing that, that request should be from the local committees and not the line ministries. The line ministries can fail to requisition the funding.

(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 35 as amended agreed to)

(Clauses 36, 37 and 38 agreed to)

Clause 39

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Hon. Kassait Kamket.

Hon. Kassait Kamket (Tiaty, KANU): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 39 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “Cabinet Secretary” appearing immediately after the word “The” and substituting therefor the word “Board”;

(b) in sub-clause (2) by deleting the words “Cabinet Secretary” appearing immediately after the expression “sub-clause (1), the” and substituting therefor the word “Board”;

(c) in sub-clause (3) (a) by deleting the words “Cabinet Secretary” appearing immediately after the words “is to enable the” and substituting therefor the word “Board”;

(d) in sub-clause (3) (b) by deleting the words “Cabinet Secretary” appearing immediately after the words “authority of the” and substituting therefor the word “Board”.

The only reason is that we want to give the Board the power to make their regulations. If we leave it to the Cabinet Secretary, from past experience, they will always take their sweet time. Therefore, it is just a question of empowering the Board to make the regulations. The Cabinet Secretary may gazette the regulations after they have been made by the Board.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I tried to convince Hon. Kamket to drop this amendment, but now that he has moved it, I rise to oppose. Hon. Temporary Deputy Chairlady, you will help me. It is very clear in law that you cannot make a law that contradicts another one. This House is aware that Section 18 of the Public Finance Management (PFM) Act, 2020 mandates the National Treasury Cabinet Secretary to administer the Equalisation Fund. From this provision, it is clear that you cannot detach the role of the Cabinet Secretary from the administration of the Fund, including the critical role of making regulations as already provided for under Clause 39 of the Bill. The Bill belongs to him. This Bill belongs to you. In your amendment to Clause 39, you have allowed the Cabinet Secretary, who is in charge of the administrative roles, to be the one bringing regulations to the House.

Hon. Temporary Deputy Chairlady, this House cannot act in vain. Section 18 of the PFM Act is very clear. Therefore, if we allow this amendment, then somebody will go to court and say the amendment to Clause 39 is unconstitutional.

Further, Section 11 of the Statutory Instruments Act, 2013, gives power to any Cabinet Secretary to lay regulations in this House for approval. All the regulations that come to this House – even for the Kenya Civil Aviation Authority (KCAA) - must pass through the Cabinet Secretary for Transport and Infrastructure Development. Even the parastatals which are under energy must pass through the relevant Cabinet Secretary.

Hon. Temporary Deputy Chairlady, we cannot purport to make a law for a board to bring regulations to this House. I asked this Member, even if he refused to allow us to speak in the burial of the late President Moi. This man has a problem. He refused the Hon. Speaker to speak in that burial.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order, Leader of the Majority Party! You are out of order. You are making a very good contribution, but you cannot refer to Hon. Kamket as “this man”.

Hon. Aden Duale (Garissa Township, JP): We can make a fair comment because many people were wondering how come the Hon. Speaker did not speak? It is because of Hon. Kamket. He was given an opportunity and he did not call the Hon. Speaker.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, you have a point but, when you are referring to Members, please let us also remember to be honourable.

Hon. Aden Duale (Garissa Township, JP): I reject his amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I now give it to the Hon. Member for Kitui Central.

Hon. Makali Mulu (Kitui Central, WDM- K): Thank you, Hon. Temporary Deputy Chairlady. I plead with my colleague Hon. Kamket to drop this amendment. I wish he was listening. Leader of the Majority Party, please, allow Hon. Kamket to listen to what we are saying.

I plead with my colleague Hon. Kamket to drop the amendment. I am saying this because if this amendment was to be carried, you will put the board in a very awkward position in terms of relating with the Principal Secretary. It could have been better if you had said the Principal Secretary does regulations in consultation with the board. The way you have done it will make it very difficult for the regulations to be implemented. I think we should oppose this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You are opposing the amendment. Let us have the Member for Kajiado North.

Hon. Joseph Manje (Kajiado North, JP): I also oppose that. I have realised that we have given so much power to the board. We have given the board power to operate, check, approve the projects and directly get money from the Exchequer. So, if we allow them again to make regulations, it is like we are giving them autonomy. I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The proposed amendment is before the House and I can only prosecute by putting the question.

Hon. Kassait Kamket (Tiaty, KANU): *(Inaudible)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order, Hon. Kamket! You want to withdraw or you want me to put the question? I am putting the question and the House will take a vote

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

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

(Clause 39 agreed to)

(Clauses 40 and 41 agreed to)

Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment to the Schedule. Chair, you seem not to be ready.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Schedule to the Bill be amended in paragraph (1) by deleting the word “consensus” and substituting therefor the words “voting through simple majority” appearing immediately after the words “reached by” in sub paragraph (4).

Hon. Temporary Deputy Chairlady, the rationale of this amendment is to ensure that the Board makes a decision by voting through a simple majority where there is no unanimous decision. When there is a stalemate, they can vote instead of making the decisions not be carried.

(Question of the amendment proposed)

*(Question, that the word 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)*

(Schedule as amended agreed to)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, we are through with the Committee of the whole House on the Equalisation Fund Bill (National Assembly Bill No.43 of 2019). I now call upon the Mover to move reporting. Let the Chairperson consult first.

Mover, Hon. Kamket.

Hon. Kassait Kamket (Tiaty, KANU): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Equalisation Fund Bill (National Assembly Bill No.43 of 2019) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, with that and according to the directions by the Speaker, we will now move to the next Bill in the Committee of the whole House.

THE LIVESTOCK AND LIVESTOCK PRODUCTS MARKETING BOARD BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, we are in the Committee of the whole House to consider the Livestock and Livestock Products Marketing Board Bill (National Assembly Bill No.2 of 2019).

Clause 3

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson, please move your proposed amendment on Clause 3.

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:
THAT, Clause 3 of the Bill be amended in sub-clause (2) by deleting the word “is” appearing in the introductory statement and substituting therefor the words “shall be”.

This is basically to clean up the Bill to be in tandem with the drafting practice which recommends the use of the words “shall be”.

(Question of the amendment proposed)

*(Question, that the word 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)

(Clause 4 agreed to)

Clause 5

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Can we have the Chair move his amendment on Clause 5?

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:
THAT, clause 5 of the Bill be amended—
(a) by deleting paragraph (a);
(b) by deleting paragraph (h) and substituting therefore the following new paragraph

“(h) facilitate the development of skills and adoption of appropriate value addition technologies for livestock products before domestic use and export from Kenya;”

(c) by inserting the following new paragraph immediately after paragraph (h)—

(hi) collaborate with relevant agencies to develop standards and best practices in livestock production and processing;”

(d) in paragraph (m) by deleting the words “including ownership” appearing immediately after the words “livestock products”;

(e) by deleting paragraph (o);

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

“(p) support county governments to promote and improve livestock management systems for the sustainable development of the livestock industry;”

(g) in paragraph (r) by deleting the word “business” appearing immediately after the words “establishment of strategic”.

Hon. Temporary Deputy Chairlady, the rationale is that the regulation of the livestock and livestock marketing promotion industry falls within the mandate of the Cabinet Secretary, and not the Board as proposed in the Bill.

Thank you.

(Question of the amendment proposed)

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

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

(Clause 5 as amended agreed to)

Clause 6

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, please move your amendment to Clause 6?

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 6 of the Bill be amended—

(a) in sub-clause (1)—

- (i) in paragraph (f) by deleting the words “Kenya Private Sector Alliance” and substituting therefor the words “umbrella body representing private sector”;
- (ii) in paragraph (g) by deleting the words “Kenya Livestock Marketing Council” and substituting therefor the words “association representing livestock marketing interests of producers”;

- (iii) by deleting paragraph (e) and substituting therefor the following new paragraph—
 “(e) two persons having experience in livestock development;”
- (b) by inserting the following new sub-clauses immediately after sub-clause (2)—
 “(2a) A person shall qualify for appointment as the Chairperson if that person—
- (a) is a citizen of Kenya;
 - (b) has a minimum of a Bachelor’s degree; and,
 - (c) has not less than five years’ experience in the livestock sector.
- (2b) The Cabinet Secretary shall, by name and notice in the *Gazette*, appoint members nominated under subsection (1) (d), (e), (f) and (g).
- (2c) The appointment of the chairperson or members of the Board under subsection (1)(a), (d), (e), (f) and (g) shall take into account the gender, regional and other diversities of the people of Kenya.”

(c) in sub-clause (3) by inserting the expression “(g)” immediately after the words “sub-section (1) (d), (e)” appearing in the introductory statement.

Again, the use of the words “umbrella body” representing private sector will not necessitate amendment to the Act if enacted since it will apply to an umbrella body by whatever name it will be. So, we just change it to appear as “umbrella body” instead of the Kenya Private Sector Alliance.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): I wanted to comment on another one, but I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I will go to the Member for Kitui Central.

Hon. Makali Mulu (Kitui Central, JP): Thank you, Hon. Temporary Deputy Chairlady. If you look at the amendments in Clause 6, we have (a), (b) and (c) and they all do not talk about the private sector. So, I wish you could guide us whether we pick one by one or we just pass the whole clause. This is because they are not related. They are actually different amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson, be on record on Clause 6 on the proposed amendments. You have moved all the amendments together. The Members were listening.

Hon. Ali Adan (Mandera South, JP): Thank you, Hon. Temporary Deputy Chairlady. We go one by one because they are not related and we have the rationale why we are amending part 2, 3 (b) and so on and so forth.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Then move to Sub-Clause (i).

Clause 6 (1) (f)

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairperson, I beg to move:

THAT, Clause 6 of the Bill be amended—

(a) in sub-clause (1)—

(i) in paragraph (f) by deleting the words “Kenya Private Sector Alliance” and substituting therefor the words “umbrella body representing private sector”;

Hon. Temporary Deputy Chairlady, Kenya Private Sector Alliance can change in form and shape. So, when we put it like the umbrella body, that is something for prosperity.

(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)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): What about Sub-Clause (ii)? We are moving to Sub-Clause (ii).

Clause 6 (1) (g)

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairperson, I beg to move:

THAT, Clause 6 of the Bill be amended—

(a) in sub-clause (1) —

(ii) in paragraph (g) by deleting the words “Kenya Livestock Marketing Council” and substituting therefor the words “association representing livestock marketing interests of producers”.

Hon. Temporary Deputy Chairperson, Clause 6 (1) (f) speaks of the use of the word “association representing livestock marketing interests of producers”. It will not necessitate amendments to the Act if enacted since it will apply to an umbrella body by whatever name it will have. So, this is basically tied to Sub-Clause (i) as well.

(Question of amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): What about Clause 6 (a) (iii)?

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairperson, the proposed new Clause (6)(b)(2b) provides for one provision providing for appointment by the Cabinet Secretary instead of repeating it in several paragraphs. On Clause 6 (b) (2c), we are talking of the qualification of the Chairperson who has...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We are still on Sub-Clause 6 (a) (iii).

Hon. Ali Adan (Mandera South, JP): Then I am done with Clause 6 (a) (iii), Hon. Temporary Deputy Chairperson.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The one you are deleting (e) and substituting...

Clause 6 (1) (e)

Hon. Ali Adan (Mandera South, JP): I beg to move:

THAT, Clause 6 of the Bill be amended—

(a) in sub-clause (1) —

(iii) by deleting paragraph (e) and substituting therefore the following new paragraph —

“(e) two persons having experience in livestock development;”

(Question of amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, please move to Clause 6 (b).

(Clause 6 (2))

Hon. Ali Adan (Mandera South, JP): Thank you, Hon. Temporary Deputy Chairperson. I beg to move:

That Clause 6 of the Bill be amended —

(b) by inserting the following new sub-clauses immediately after Sub-Clause (2) —

“(2a) A person shall qualify for appointment as the Chairperson if that person—

(a) is a citizen of Kenya;

(b) has a minimum of a Bachelor’s degree; and

(c) has not less than five years experience in the livestock sector.

(2b) The Cabinet Secretary shall, by name and notice in the Gazette, appoint members nominated under subsection (1) (d), (e), (f) and (g).

(2c) The appointment of the chairperson or members of the Board under subsection (1)(a), (d), (e), (f) and (g) shall take into account the gender, regional and other diversities of the people of Kenya.”

(c) in Sub-Clause (3) by inserting the expression “, (g)” immediately after the words “sub-section (1) (d) (e)” appearing in the introductory statement.

Hon. Temporary Deputy Chairperson, the rationale is that the qualification for the Chairperson has not been provided for in the Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Nyaribari Chache, Hon. Richard Tong’i.

Hon. Richard Tong’i (Nyaribari Chache, JP): Hon. Temporary Deputy Chairlady, I support the amendment although we should not make it difficult for the youth to get employment opportunities just because you are looking for many years of experience. There is no industry for experience; people have to be given opportunities. All we need to do is to create an enabling environment for that person to perform. That is because until you are given an opportunity, you will never get to know your potential. We should not put many years of experience and demand for age as a requirement. I support the amendment.

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

(Clause 6 as amended agreed to)

(Clauses 7 and 8 agreed to)

Clause 9

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, please move your proposed amendment.

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 9 of the Bill be amended by inserting the expression “(g)” immediately after the words “section 6 (1) (d), (e)” appearing immediately after the words “members appointed under”.

The rationale is that the Kenya Livestock Marketing Council is also appointed.

(Question of the amendment proposed)

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

(Clause 9 as amended agreed to)

Clause 10

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:
THAT, Clause 10 of the Bill be amended—

- (a) in sub-clause (2) by deleting the word “produce” appearing immediately after the words “committees for each” and substituting therefor the words “livestock product”.
- (b) by inserting the following new sub-clause immediately after sub-clause 4—
 “(5) The Board may co-opt any person to assist it for such purposes and such period as the Board may determine, but persons so co-opted may not vote on any matter before the Board.”

The reason is that the term “livestock product” has been defined and used in the Bill and not the term “produce”. The amendment, therefore, seeks to correct this.

(Question of the amendment proposed)

*(Question, that the word 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 10 as amended agreed to)

(Clauses 11 and 12 agreed to)

Clause 13

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move: THAT, Clause 13 of the Bill be amended—

(a) in sub-clause (1)—

(i) by deleting the word “business” in paragraph (b) and substituting therefor the words “business management”.

(ii) in paragraph (b)(ii) by deleting the word “livestock” and substituting therefor the words “animal sciences”;

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

“(c) has not less than five years’ experience at a management level in the livestock sector.”

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) The Chief Executive Officer shall hold office for a term of three years renewable for one further term.”

The rationale is that the qualification requirement of a minimum of bachelor’s degree in business management will be of great value since the CEO will be involved in the day-to-day management of the affairs of the board.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. 001, we do not just put the Question when a Member wants to speak to the amendment. Let us have the Member for Kajiado North.

Hon. Joseph Manje (Kajiado North, JP): Hon. Temporary Deputy Chairlady, I thought it was included when the Clause states that the qualification should be a bachelor's degree in business. Business includes business management, business strategic planning and all that. I thought it was included in Clause 13 (1)(b)(iv).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Kakamega. Let us have the County Member of Trans Nzoia. I note that you have no card.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. I support the Chair. My colleague has talked about the issue of experience. We are very worried that our youth may be left outside.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well.

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

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

(Clause 13 as amended agreed to)

(Clauses 14, 15, 16, 17, 18, 19 and 20 agreed to)

Clause 21

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 21 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)—

“(ab) the livestock and livestock marketing products levy established under section 21A;”

The rationale is that the amendment seeks to provide for an additional source of funding for the Board, which will be Livestock and Livestock Marketing Products Levy. This is proposed under section 21A. It will foster financial sustainability of the Board to carry out its mandate.

(Question of the amendment proposed)

Hon. David ole Sankok (Nominated JP): Thank you, Madam Temporary Deputy Chairlady. I do support because we must sustain the Board which can be done by having funds, say, from the collection of the levy. We really need to market our livestock by-products. We have the fuel levy and so many other levies. It will not be bad for us to have a livestock levy so that we can also have livestock areas being high potential.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Turkana County Woman Representative, are you on request? I can see you nodding.

Hon. (Ms.) Joyce Emanikor (Turkana CWR, JP): I do support.

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

(Clause 21 as amended agreed to)

(Clauses 22, 23, 24 and 25 agreed to)

Clause 26

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 26 of the Bill be amended in sub-clause (1) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) the progress made towards the marketing of livestock and livestock products;”

Basically, the current paragraph provides that reports prepared by the Board will set out the progress made towards the improvement of the livestock industry. However, this is limiting because it connotes that the report will only be made when improvements in the livestock industry are witnessed. The proposed amendments, therefore, correct this and it is fairly objective.

Thank you.

(Question of the amendment proposed)

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

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

(Clause 26 as amended agreed to)

(Clause 27, 28, 29 and 30 agreed to)

Heading to Part V

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairman, move your proposed amendment of Part V.

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the heading to Part V of the Bill be amended by deleting the words “AND SAVING”.

The amendment is related to the proposed deletion of clauses 32,33 and 34 which provide for transition and savings. The savings clauses are unnecessary since there is no livestock and livestock products marketing board in place already.

(Question of the amendment proposed)

Hon. Joseph Manje (Kajiado North, JP): This clause should not be deleted because there are some sections or departments in the Ministry of Agriculture and Livestock operating on behalf of this Board. This means that if you delete these particular clauses and there arises an obligation from the Ministry, some people will be moved in that Board and that obligation will not be properly taken care of.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, are you opposing?

Hon. Joseph Manje (Kajiado North, JP): I am opposing the proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, member for Trans Nzoia County.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): I support the Chair because he has already explained to us that the Board is not in place.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Sankok, do you want to mention something before I put the Question?

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairlady, there is a very big difference between a department and a board. Therefore, I support what the Chair has said. Hon. Manje, please, let us support it because there is a big difference between a board and a department. A department has its own regulations and policy.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): This is a House of debate.

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

(Heading to Part V as amended agreed to)

(Clause 31 agreed to)

Clause 32

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman, move your amendment.

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 32 of the Bill be deleted.

Clauses 32, 33 and 34 of the Bill provide for the transition and savings. However, they are not necessary and should be deleted since there is no livestock and livestock products board in place in this Bill.

Thank you.

(Question of the amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

(Clause 32 deleted)

Clause 33

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman.

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 33 of the Bill be deleted.

The rationale of the amendment is for similar reasons as in Clause 32 basically because of the non-existence of the Board in the Bill.

Thank you.

(Question of the amendment proposed)

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

(Clause 33 deleted)

Clause 34

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman.

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 34 of the Bill be deleted.

The reason, again, is that Clauses 32, 33 and 34 of the Bill provide for transition of savings and they are not necessary because the Board was not in existence before.

Thank you.

(Question of the amendment proposed)

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

(Clause 34 deleted)

New Clause 21A

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after clause 21—

Imposition of levy

21A. (1) The Cabinet Secretary may in consultation with the Board, by notice in the Gazette, impose a levy to be known as the livestock and livestock marketing products

levy on a producer.

(2) The Cabinet Secretary may make regulations prescribing the amount and manner of payment of the levy.

The rationale is that the levy will foster financial sustainability of the Board to carry out its mandate. It says that the Cabinet Secretary may in consultation with the Board, by notice in the Gazette, impose a levy to be known as the livestock and livestock marketing products levy. I was just refreshing the memory of Members who may not have seen the proposed amendment.

Thank you.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 29A

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 29 of the Bill be amended by inserting the following new clause immediately after clause 29—

General penalty

29A. A person convicted of an offence under this Act for which no penalty is provided shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding five hundred shillings or to both.

The rationale is that the penalty clause has not been provided for in the Bill.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

(Schedule agreed to)

Clause 2

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 2 of the Bill be amended—

(a) in the definition of “livestock” in paragraph (a) by inserting the word “donkey” immediately after the word “camel”;

(b) in the definition of “livestock infrastructure” by deleting the expression “livestock economy” and substituting therefor the expression “livestock market economy”;

This is to add “donkey” to the definition of livestock after “camel”.

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

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

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, we are through with the Committee of the whole House on the Livestock and Livestock Products Marketing Board Bill (National Assembly Bill No. 2 of 2019). I call upon the Mover to move reporting.

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Livestock and Livestock Products Marketing Board Bill (National Assembly Bill No.2 of 2019) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. (Ms.) Soipan Tuya) in the Chair]*

REPORTS

THE LIVESTOCK AND LIVESTOCK PRODUCTS MARKETING BOARD BILL

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, we are going to start with the Kenya Institute of Curriculum Development (Amendment) Bill. I now call upon the Chairperson to report to the House.

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): I beg to report that a Committee of the whole House has considered the Livestock and Livestock Products Marketing Board Bill (National Assembly Bill No. 2 of 2019) ...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I see you have swapped. I had called for the Kenya Institute of Curriculum Development (Amendment) Bill (National Assembly Bill No. 33 of 2019). You can go ahead if that is the one that is ready.

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Yes. That is the one that I just chaired. I beg to report that a Committee of the whole House has considered the Livestock and Livestock Products Marketing Board Bill (National Assembly Bill No. 2 of 2019), and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Mover to move agreement with the Report.

Hon. Major (Rtd.) Bashir S. Abdullahi (Mandera South, JP): I beg to move that that the House doth agree with the Committee in the said Report. I also request the Hon. Chair to second.

Hon. Ali Adan (Mandera South, JP): Thank you, Hon. Temporary Deputy Speaker. I second.

(Question proposed)

(Putting of the Question deferred)

THE KENYA INSTITUTE OF CURRICULUM DEVELOPMENT (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): We can move on to the Kenya Institute of Curriculum Development (Amendment) Bill. Let us have the Chairperson to report to the House.

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): I beg to report to the House that a Committee of the whole House has considered the Kenya Institute of Curriculum Development (Amendment) Bill (National Assembly Bill No. 33 of 2019), and approved the same without amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Very well. Let us have the Mover.

Hon. (Ms.) Joyce Emanikor (Turkana CW), JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. David ole Sankok to second the Motion for agreement with the Report of the Committee of the whole House.

Thank you.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, I do second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Just like the other one, we shall defer the putting of the Question until when it comes next on the Order Paper.

(Putting of the Question deferred)

We can now move to the Employment (Amendment) Bill (National Assembly Bill No. 15 of 2019). Let us have the Chairperson report to the House.

THE EMPLOYMENT (AMENDMENT) BILL

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Employment (Amendment) Bill (National Assembly Bill No. 15 of 2019) up to Clause 2 and approved the same with amendments and seek leave to sit again.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Mover to move agreement with the Report.

Hon. (Ms.) Joyce Emanikor (Turkana CWR, JP): Thank you, Hon Temporary Deputy Speaker. I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Simon King'ara to second the Motion for agreement with the Report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Simon King'ara.

Hon. Simon King'ara (Ruiru, JP): Hon. Temporary Deputy Speaker, I support and second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Once again, we shall defer the putting of the Question.

(Putting of the Question deferred)

Let us move on to the next one.

THE EQUALISATION FUND BILL

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The Chairperson, kindly report on the Equalisation Fund Bill (National Assembly Bill No. 43 of 2019).

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Equalisation Fund Bill (National Assembly Bill No. 43 of 2019) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Mover.

Hon. Kassait Kamket (Tiaty, KANU): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Joseph Limo to second the Motion for agreement with the Report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Joseph Limo, is it just your body language or you want to speak?

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I now call upon the Mover to move recommittal. Give the microphone to him.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words “subject to recommittal of Clause 7.” I also request Hon. Kassait Kamket to second the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kassait Kamket.

Hon. Kassait Kamket (Tiaty, KANU): I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Equally, we shall defer the putting of the Question until when we have it next on the Order Paper.

(Putting of the Question deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Members! Hon. Members, the time being 1.05 p.m., this House stands adjourned until today, afternoon at 2.30 p.m.

The House rose at 1.05 p.m.