

# PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

### THE HANSARD

Tuesday, 7<sup>th</sup> June 2022

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM THE PARLIAMENT OF ZIMBABWE

**Hon. Speaker:** I can see the Member for Ruaraka making his way into the House.

Hon. Members, I wish to introduce to you a delegation consisting of Members of the African Parliamentarian Network Against Corruption (APNAC)-Zimbabwe Chapter, from the Parliament of Zimbabwe, who are seated in the Speaker's Row.

The delegation comprises the following:

- |                                      |   |                                      |
|--------------------------------------|---|--------------------------------------|
| 1. The Hon. Temba Peter Mliswa, MP   | - | Chairperson/Leader of the Delegation |
| 2. The Hon. Shadrack Mataranyika, MP | - | Vice Chairperson                     |
| 3. The Hon. Pauline Mpariwa, MP      | - | Member                               |
| 4. The Hon. Madzimore Willias, MP    | - | Member                               |
| 5. The Hon. Saruwaka Trevor, MP      | - | Member                               |
| 6. The Hon. Colleta Mutambisi, MP    | - | Member                               |
| 7. The Hon. Precious M. Chinhamo, MP | - | Member                               |
| 8. Mr. Tapiwa Chiremba               | - | Committee Clerk                      |
| 9. Ms. Angeline Gutu                 | - | Committee Clerk                      |
| 10. Ms. Beverly Chinyama             | - | Monitoring and Evaluation Officer    |

*(Applause)*

Hon. Members, the delegation is in the country on a benchmarking visit, specifically to share experiences with their counterpart, APNAC-Kenya Chapter, ably led by Hon. Shakir Shabbir with a view to exchanging views, sharing information, lessons and best practices in the fight against corruption.

Hon. Members, on my own behalf and that of the National Assembly, I welcome them to Parliament and wish them fruitful engagements during the course of their stay in the country.

I thank you, Hon. Members.

**MESSAGE****DECISION OF THE SENATE ON THE NATIONAL ASSEMBLY  
AMENDMENTS TO THE COFFEE BILL**

**Hon. Speaker:** Hon. Members, Standing Order 41 (4) requires the Speaker to report to the House any Message received from the Senate. In this regard, I wish to report to the House that on 2<sup>nd</sup> June 2022, I received a Message from the Senate regarding its rejection of all amendments made by the National Assembly to the Coffee Bill (Senate Bill No.22 of 2020).

Hon. Members, the Message reads, and I quote:

“The Senate, on Wednesday, 18<sup>th</sup> May 2022, considered a Motion for Consideration of the National Assembly Amendments to the Coffee Bill (Senate Bill No. 22 of 2020) and rejected the National Assembly amendments”.

Hon. Members, you will recall that, there were two Bills proposing to legislate on regulation, development and promotion of the coffee industry. These are the Coffee Bill (National Assembly Bill No.17 of 2021) sponsored by the Leader of the Majority and the Coffee Bill (Senate Bill No.22 of 2020) which originated in the Senate, having been sponsored by the Senate Majority Leader.

To expedite the bicameral consideration of the proposed legislation, the Leader of the Majority Party in the National Assembly stood down his Bill in favour of the Senate Bill. It was however agreed that part of the provisions in the version of the Bill sponsored by the Leader of the Majority Party in the National Assembly be incorporated in the Senate Bill as amendments at Committee Stage. That, Hon. Members, indeed took place when the Bill was considered at Committee of the whole House. Thereafter the Bill was read a Third Time on 13<sup>th</sup> April 2022 and the Schedule of the National Assembly’s amendments referred to the Senate in keeping with the requirements of the Standing Orders.

Hon. Members, it is the particular Schedule of the National Assembly’s amendments that the Senate has rejected. This decision of the Senate essentially implies that the Coffee Bill (Senate Bill No. 22 of 2020) now stands referred to the mediation process contemplated under Article 112 of the Constitution.

Hon. Members, in his Message to the National Assembly, the Rt. Hon. Speaker of the Senate also conveys that he has appointed the following Senators to the Mediation Committee on the Bill in accordance with the provisions of Article 113 of the Constitution:

1. Sen. Njeru Ndwiga, EGH, MP;
2. Sen. Enoch Wambua, MP;
3. Sen. Naomi Waqo, MP;
4. Sen. (Dr.) Isaac Mwaura, CBS, MP; and
5. Sen. (Dr.) Ochilo Ayacko, EGH, MP.

Hon. Members, having consulted the Leadership of the Majority and Minority Parties in the National Assembly, I hereby appoint the following Members to represent the National Assembly in the Mediation Committee to consider the said Bill, if at all there will be time to do so:

1. The Hon. Silas Tiren, CBS, MP;
2. The Hon. Cecily Mbarire, MGH, MP
3. The Hon. Gabriel Kago, MP;
4. The Hon. Martin Peters Owino, MP; and,
5. The Hon. Joseph Kalasinga Wekesa, MP.

Hon. Members, the Committee is expected to speedily embark on the process of attempting to develop a mediated version of the Bill in accordance with the provisions of Article 113 of the Constitution, the busy political schedules of most Members ahead of the general elections on 9<sup>th</sup> August notwithstanding. Nevertheless, I urge the Committee to find time to consider the Bill and submit a report to both Houses.

I thank you, Hon. Members.

### PAPERS LAID

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

African Union (AU) Convention on Cross-Border Cooperation (Niamey Convention) and its explanatory Memorandum.

The Legal Notice No.92 of 2022 relating to the Public Service Commission (County Appeals) Procedures Regulations of 2022.

The Treaty for the Establishment of the African Medicines Agency (AMA) and its explanatory Memorandum.

The Ethics and Anti-Corruption Commission First-Quarterly Report for the Year ended 2022, covering the period from 1<sup>st</sup> January 2022 to 31<sup>st</sup> March 2022.

The Report of the Auditor-General and financial statements in respect of the Sports Kenya for the Year ended 30<sup>th</sup> June 2020 and the certificates therein.

The National Government guarantee on borrowing by issuance of Infrastructure Bond by the Laikipia County Government.

The draft Salaries and Remuneration Commission, Remuneration and Benefits of State and other Public Officers Regulations of 2022.

The Report of the Auditor-General and financial statement in respect of the COVID-19 Emergency Response Fund for the Year ended 30<sup>th</sup> June 2021 and the certificate, therein.

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairman of the Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to lay the following Paper on the table of the House today:

Report of the Budget and Appropriations Committee on its consideration of Supplementary Estimates II for the Financial Year 2021/2022.

I, thank you, Hon. Speaker.

**Hon. Speaker:** There are some other Papers to be tabled. Yes, Hon. Gladwell Tungo?

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Speaker.

I beg to lay the following Paper on the table of the House:

Report of the Departmental Committee on Energy on its consideration of a Public Petition No. 005/2022 by the Consumer Federation of Kenya regarding operations of the Open Tender System for the importation of fuel products.

Thank you, Hon. Speaker.

**Hon. Speaker:** There was another Report that I had approved. Where is that Schedule?

Congratulations Chair of Departmental Committee on Transport, Public Works and Housing for being the first one to bring an Exit Report.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Speaker.

**Hon. Speaker:** Chairs of other Committees, you are encouraged to borrow a leaf from Hon. Pkosing. It also means that your secretariats have gone to bed. Hon. T.J Kajwang' representing the Departmental Committee on Justice and Legal Affairs. We need an Exit Report by tomorrow!

*(Laughter)*

The Departmental Committee on Transport, Public Works and Housing has done very well. Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Speaker. You definitely know what this Committee has been doing. It is one of the most effective Committees.

**Hon. Speaker:** Indeed, it is!

*(An Hon. Member walked into the Chamber)*

I can see another Chairman who is not even paying attention. I do not even think he has prepared an Exit Report.

*(Laughter)*

**Hon. David Pkosing** (Pokot South, JP): He was a Mayor. Maybe, he has not learnt the rules of the House.

Hon. Speaker, I beg to lay the following Paper on the table of the House today, Tuesday, 7<sup>th</sup> June 2022, Exit Report of the Departmental Committee on Transport, Public Works and Housing for the 12<sup>th</sup> Parliament, 2017 to 2022.

I thank you Hon. Speaker, and for appreciating my Committee. It will be in record that my Committee was the first to table an Exit Report, and will stay on record forever.

Thank you.

**Hon. Speaker:** Chair of Committee on National Government Constituencies Development Fund (NG-CDF). It is indicated that the Chair is....

*(Hon. Ayub Angatia rose to leave the Chamber)*

Hon. Savula, please, if you could stay on a bit. I know you may wish to disappear but, please... Hon. Members, let us just develop a way of sitting in the House for about an hour. I know it is a difficult time, especially for those who may be under threat in the villages. However, tell them to please allow you to sit here for the last week.

*(Laughter)*

You will be with them for a long time, and if they decide to retain you, you will be with them forever. So, just stay here. You are safer here.

Chair of National Government Constituencies Development Fund(NG-CDF), we need your Exit Report. The Chairperson, Parliamentary Caucus of Business and Economy is another one that has also done very well because they have an Exit Report. Who is the Chairperson? Is it Hon. Jude Njomo?

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*(An. Hon. Member speaks off-record)*

**Hon. Speaker:** He is not present but they have prepared a very good Exit Report. Let us have Hon. Zuleikha Hassan take the Floor on behalf of the Departmental Committee on Justice and Legal Affairs.

**Hon. (Ms.) Zuleikha Hassan** (Kwale CWR, ODM): Thank you, Hon. Speaker.

I beg to lay the following Paper on the table of the House:

Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the Supreme Court (Amendment) Bill (National Assembly Bill No.15 of 2022).

*(An Hon. Member walked into the Chamber)*

**An Hon. Member:** On a point of order, Hon. Speaker.

**Hon. Speaker:** No, please. Let us not bother with anybody entering the Chamber. Even if somebody wears whatever decoration, let them be. This is the last week of the 12<sup>th</sup> Parliament.

*(Loud consultations)*

**Hon. Speaker:** Next Order.

*(Loud Consultations)*

## NOTICE OF MOTION

### THE APPROPRIATION BILL

**Hon. Speaker:** The Chairperson, Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker.

I beg to give Notice of the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Supplementary Estimates II for the Financial Year 2021/2022, laid on the Table of the House on Tuesday, 7<sup>th</sup> June 2022, and pursuant to the provisions of Article 223 of the Constitution and Standing Order No.243:

- (i) approves Kshs27,257,307,265 for Financial Year 2021/2022 spent under Article 223 of the Constitution, and as contained in the attached Schedule III;
- (ii) approves an increment of the total expenditure for Financial Year 2021/2022 by Kshs70,847,524,597 being Current Estimates of Kshs65,012,661,186 and Capital Estimates of Kshs5,861,863,411 in respect of Votes as contained in the attached Schedule; and,
- (iii) resolves that the attached Schedule forms the basis for introduction of the Second Supplementary Appropriation Bill, 2022.

I, thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, for the convenience of the House, and having noticed that there are a number of you who do not have the capacity to sit for more than ten minutes, let me re-

arrange the Business so that we are able to make certain decisions which the Constitution demands from us, and which we can only do so when we have a certain threshold of Members.

*(Laughter)*

I have been reliably informed by the clerks that we now quorate. I, therefore, wish to re-arrange the Business so that we go to Orders No.10,11 and 12 respectively.

Next Order.

## **BILL**

### CONSIDERATION OF REPORT AND THIRD READING

#### THE FINANCE BILL

**Hon. Speaker:** Order Members! We are now dealing with business appearing as Order No.10, which is putting the Question and Third Reading of the Finance Bill.

*(Question put and agreed to)*

**Hon. Speaker:** Hon. Waihenya, is your card working?

**Hon. Isaac Ndirangu** (Roysambu, JP): Thank you, Hon. Speaker. I beg to move that the Finance Bill (National Assembly Bill No. 22 of 2022) be now read a Third Time. I now wish to invite Hon Wangwe to second.

**Hon Speaker:** Hon Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Speaker, I do second.

*(Question proposed)*

*(Question put and agreed to)*

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

## **BILL**

### *Second Reading*

#### THE TRAFFIC (AMENDMENT) BILL

*(Hon. Kassait Kamket on 2.6.2022)*

*(Debate concluded on 2.6.2022)*

*(Question put and agreed to)*

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

### MOTION

#### CONSIDERATION OF REPORT ON AMENDMENTS TO THE STANDING ORDERS

**Hon. Speaker:** This is a very tempting period, Hon. Amin. However, the information I have is that you have no reason to worry.

Hon. Members, as you may recall, last week you had a six-hour marathon session considering the Standing Orders for the next Parliament. I am informed that the Chairperson, who is the Deputy Speaker and the Leader of the Majority Party have consulted and the Leader of the Majority Party has dropped his proposal for recommitment.

*(Proposed amendment by Hon. Amos Kimunya withdrawn)*

*(Question put and agreed to)*

*(Hon. William Kisang walked out of the Chamber)*

Hon. Kisang, I can see that you are through with your Afternoon Sitting. At least, you can now tell the villagers that you have made Standing Orders for the next Parliament where I believe you intend to be an active Member.

Proceed Leader of the Majority Party.

### PROCEDURAL MOTIONS

#### APPROVAL OF EXTENSION OF SITTING TIME

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to move:

THAT, pursuant to the provisions of Standing Order 30(3)(a), this House orders that, should the time appointed for adjournment of the House be reached before conclusion of business appearing under Order No. 19 on today's Order Paper, the Sitting of the House shall stand extended until the conclusion of the said business.

Hon Speaker, as Members are aware, we are living in very difficult times, we only have tomorrow and the day after tomorrow to conclude the business of the 12<sup>th</sup> Parliament. It will be good if we could clear as much pending business that we believe is critical for this House and can be done.

As I move this Motion on extension of sitting, I want to recognise that last week, the House sat up to midnight. It was commendable to see Members dedicated and transacting Business for the nation until that late. I want to commend the Member for Kikuyu, Member for Garissa Township, Hon. Kandie, Member for Endebess and few others. I am sure even today, they will be here up to midnight.

**Hon. Speaker:** I doubt that Hon. Kandie was there.

**Hon. Amos Kimunya** (Kipipiri, JP): He was here for some time, and then he was here in spirit.

*(Laughter)*

It is so heartwarming to see Members stay this long, especially as we come to the tail-end of this Parliament. When we get to the Public Investments Committee (PIC) Report under Order No.18, it will be good to ensure that we recognise the good work that has been done by the PIC. That Report should be discussed by this House before we go home.

I do not want to belabour the point. This is a straightforward request to Members. If we finish everything, we will go home on Thursday. We will not have to think of extending the sittings to next week to be in tandem with our sister House. We can then go on campaigns.

I beg to move and ask Hon. Kimani Ichung'wah, Member for Kikuyu, who stood in this House and was there in the last sitting, to repeat that magic by seconding this Motion.

**Hon. Speaker:** Let us have Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Speaker, I beg to second the Procedural Motion. I commend the Leader of the Majority Party because even from London, he watched the important business that we transacted up to midnight.

*(Hon. Moses Lessonet consulted loudly)*

**Hon. Speaker:** Member for Eldama Ravine. Hon Members, this is just to draw your attention to the existence of a Supplementary Order Paper. The Order that the Hon. Leader of the Majority Party referred to is now Order No.19.

*(Question proposed)*

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

**Hon. Speaker:** You know, when the Motion for amendment of the Standing Orders was being considered, the Member for Endebess was not present.

*(Laughter)*

I am sure that there were some amendments which were effected to Standing Order No.95.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): I was present in the Committee.

**Hon. Speaker:** In the Committee, yes.

*(Question put and agreed to)*

Hon. Members, before we move to the next Motion, this is just to announce that I have also permitted the Chairman of the Public Accounts Committee (PAC), Hon. Wandayi, that should he be ready with the 2019/2020 National Government Accounts Report to the Auditor-General on the National Government Expenditure and Accounts, he will be at liberty to table it and give notice. Hon. Wandayi has indicated that before the House adjourns *sine die*, it should have concluded consideration of that Report. Therefore, at whatever time.

Next Order.

**Hon. Speaker:** Hon. Kamket, do you have a point of order?

**Hon. Kassait Kamket** (Tiaty, KANU): Yes, Hon. Speaker. I need your clarification for the interest of this House. Last week, this House approved, among others, His Excellency Michael Rotich Sialai as Kenya's High Commissioner to Namibia. While he is my very good friend and I have no problem with him sitting here, could it be that his appointment was revoked? What am I seeing? Am I seeing double? This is His Excellency the President's representative to Namibia. He is still here doing some small jobs.

*(Laughter)*

**Hon. Speaker:** Hon. Kamket, surely, that is not a point of order. Mr. Sialai has a contract with us which extends up to 31<sup>st</sup> July. So, notwithstanding any other engagements, he is still at liberty to continue serving this House. We are much happier and richer that way.

**Hon. Member:** ... *(Spoke off-record)*

**Hon. Speaker:** Correct. Next order.

#### REDUCTION OF PUBLICATION PERIOD FOR A SPECIFIED BILL

**Hon. Speaker:** Let us have the Chair of the Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of Standing Order No.120, this House resolves to reduce the publication period of the Appropriation Bill (National Assembly Bill No.31 of 2022) from seven days to four days.

As clearly alluded to by the Leader of the Majority Party, we might be here for the next two or three days. If we go by the seven days, it may be practically impossible for us to conclude the Budget. Basically, this is the Budget for the 2022/2023 Financial Year for the next Government. We also want to release Members to go and campaign.

With that, I beg to move and request Hon. Wangwe to second.

**Hon. Speaker:** Let us have the Majority Whip.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I beg to second.

*(Question proposed)*

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

**Hon. Speaker:** It is the desire of the House that I put the Question, which I hereby do.

*(Question put and agreed to)*

### BILLS

#### *First Reading*

#### THE APPROPRIATION BILL

*(Order for First Reading read – Read the First Time – Ordered to be read the Second Time today by leave of the House)*

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*Second Reading*

## THE APPROPRIATION BILL

**Hon. Speaker:** For avoidance of doubt so that some Members do not raise any issues, this is a Money Bill. It can proceed to all the stages. It does not require leave of the House. Before we move to that, let us have the Chair of the Budget and Appropriations Committee.

*(Several Hon. Members consulted with the Speaker)*

Hon. Members, after consultations, I wish to announce that business appearing on the Order Paper as Order No.14 will be stayed - that is the Appropriation Bill (National Assembly Bill No.31 of 2022) - in the Second Reading and in the Committee of the whole House, to enable the House to debate the Special Motion appearing as Order No.16 on Variation of Public Debt Ceiling.

Under business appearing as Order No.15, which is the Committee of the whole House, there will be no consideration of the National Assembly Standing Orders. The proposal for recommittal from the Leader of the Majority Party has been withdrawn. There will be no consideration of the Finance Bill since the proposal for recommittal has also been withdrawn. Therefore, Orders Nos.15(i) and (v) in the Committee of the whole House will not be part of the business to be considered by the Committee of the whole House.

There will be consideration of business appearing as Order No.15(iv) on the Traffic (Amendment) Bill in the Committee of the whole House with leave of the House. The Mover, Hon. Kamket, only has one small amendment. He proposes to move it since we just voted for the Bill in the Second Reading today, but debate was concluded last week. It will be considered in the Committee of the whole House, but with leave of the House.

**COMMUNICATION FROM THE CHAIR****CONSIDERATION OF PROPOSED AMENDMENTS  
TO THE TRAFFIC (AMENDMENT BILL)**

Before the House proceeds to that business, if and when it does during the consideration of various Bills in Committee of the whole House, I have received amendments proposed by Nominated Member, Hon. Godfrey Osotsi, to delete Clause 3 of the Traffic (Amendment) Bill (National Assembly Bill No. 60 of 2021) and substitute the Clause with a different provision. The proposed amendment seeks to repeal and replace Section 16 of Cap.403 to, among other things, require that all vehicles on Kenyan roads that have been operated for a period exceeding four years from the date of manufacture be subjected to an annual inspection by the National Transport and Safety Authority (NTSA). This shall include emissions testing in accordance with the standard prescribed by the Kenya Bureau of Standards (KEBS) with a view to establishing the levels of carbon monoxide and hydrocarbons emissions. The amendment also seeks to levy a fee on Kenyans for purposes of licensing under this part.

Hon. Members, my perusal of the amendment proposed by the Nominated Member is that, while the amendment may look noble as it is aimed at protecting the environment, it has far-reaching effects as the capacity of the NTSA to carry out this inspection annually has not been established. In addition, with respect to the amendment on imposing a fee on members of the

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public, the proposal has a money Bill effects as defined under Article 114 of the Constitution as it will entail levying fees on Kenyans for purposes of licensing. In this regard, and in keeping with the provisions of Article 114(2) of the Constitution, which provides that on money Bill Motions, the House may proceed only in accordance with the recommendation of the relevant Committee after taking into account the views of the Cabinet Secretary responsible for finance.

I regret that I will not permit the proposed amendments to be considered by the House. Further, Standing Order No.133(5) prohibits amendments to Bills that unreasonably or unduly expand the scope of the Bill, taking into account the need for public participation as contemplated under Article 118 of the Constitution. Clearly, the proposals by Hon. Osotsi could expand the scope of the Bill to such an extent that the need for public participation would not be lost.

Hon. Members, for these reasons, I regret that I have disallowed the proposed amendments by Hon. Godfrey Osotsi and order that the amendments by the Member, as contained in the Order Paper, will not be proceeded with.

The House is accordingly guided.

Hon. Members, to allow for proper and logical flow of this finance-related matters, before we hear from the Chairperson of the Budget and Appropriations Committee on his proposals in the Appropriation Bill, it is fair that we know he has capacity to finance his entire budget. So, we will go to business appearing as Special Motion in Order No.16.

### SPECIAL MOTION

#### APPROVAL OF VARIATION TO PUBLIC DEBT CEILING

Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I beg to move:

THAT, pursuant to the provisions of Section 50(2) of the Public Finance Management Act, 2012, this House approves the Public Finance Management (National Government) (Amendment) Regulations, 2022 published as Legal Notice No.89 of 26<sup>th</sup> May 2022, thus approving the amendment made to the Public Finance Management (National Government) Regulations, 2015 (Principal Regulations) in Regulation 26(1), by deleting Paragraph (c) and substituting therefor the following paragraph-

“(c) pursuant to the provisions of Section 50(2) of the Act, the public debt shall not exceed ten trillion shillings.”

Hon. Speaker, as Members will recall, when the Cabinet Secretary for the National Treasury and Planning appeared before this House to highlight the Estimates and financing proposals for the Financial Year 2022/2023, he alluded to the fact that he would be making a proposal to this House. In the first instance, this was to change the manner of computation of debts or debt limits to be capped at 55 per cent of the Gross Domestic Product (GDP). Thereafter, the draft was tabled in the House and given to the Committee on Delegated Legislation. Consultations commenced as per Section 5 of the Statutory Instruments Act, which requires any regulatory-making authority to consult in instances where the proposed regulation may have an indirect effect on business among other reasons.

As the consultations were going on, it became very clear that the proposed formula of 55 per cent of the GDP at net present value terms made it much complicated, hence we needed a situation where people could relate and state our debt limit, rather than being pegged on the net

present value of rates determined by different players. Without this standardisation, the Committee suggested we go with what is known.

Right now, we know the debt limit is Kshs9 trillion. So, we should look at what we need to do in the very interim to accommodate our financing requirements and issues at hand. We need to set out a limit that will accommodate the budget and issues in this transitional phase. Then, in a year or two years' time, the incoming Government, whoever they will be, will look at their programmes and financing needs. So, they can come to this very House to propose their issues.

This is a very interim measure we are proposing today. As we were looking at the Budget Policy Statement (BPS), Members will remember it became very clear the proposed Estimates therein, were going to over-shoot the Kshs9 trillion set ceiling by some figure. Even a shilling is overshooting, but the figure was between Kshs200 billion and Kshs400 billion. I think it has since shifted. I am sure the Chairman of Budget and Appropriations Committee will give us the exact figures.

Realistically, we are in a situation where we cannot do a budget for this country. Unless, we adjust the financing limitations we put on ourselves. We have just passed the Finance Bill in this House. I believe the taxation measures proposed were to raise an extra Kshs57 billion, over and above what was collected last year. This House has also looked at some of those measures and said they hurt the common man. They are increasing the pain of the ordinary Kenyan. Some of them have been reduced with the effect of reducing the projection of Kshs57 billion to Kshs32 billion.

We already know what we can get from taxation and collection from our tax revenues. The balance can only be financed realistically through borrowing. Hence, we know whatever happens, we must increase our budget. The alternative would be to look at the total budget and slash it across the board by Kshs600 billion. What will this do to the incoming administration that will be voted in by Kenyans in August 2022? This means that this House has passed a budget that is unrealistic and cannot finance the operations by Kshs600 billion. You can only vary the budget by 10 per cent. This means, at best, if they bring a supplementary budget, it will increase by something close to Kshs150 billion. We will have emasculated them by Kshs400 billion!

The most important thing to remember is that we are in a very unique situation. We are doing a budget for an administration that is out there making its plans, but we must provide, at least, for the very basics. There are salaries and pensions to be paid, debt to be re-paid and the Consolidated Fund Services to be maintained. All these things have to be budgeted by this House. In addition, there is the ongoing development programme. If they get stuck, we will be in trouble. So, this is a very unique situation we are in, but it is not unique to Kenya only. This is because since the onset of COVID, we started seeing most countries getting into this situation, where capacity to raise revenue was constrained. The demand for extra expenditures was enhanced and nobody wants to think of debts. The original dilemma of taxes versus debts was now expanded to this other trilemma we are having of expanded spending.

I know people have been talking about debt as if it is evil. It only becomes evil if you use it for the wrong reasons. For example, if you take your mortgage to buy a house and end up buying a car or a flat and use the balance to get a car. This is bad and cannot be excused. However, if you take your mortgage to buy a house, you are better off than the person who decided that because they hate debt, they will start accumulating a pile of stones every month until they have enough stones to build a house.

We have seen this happen with people who fear debt. They buy a truck load of stones, sand, cement and a few iron sheets, but by the time they start constructing the house, the cement is

already expired. Then, 20 years down the line, they start constructing the house. While the smart one goes to the bank, give their payslips and state they expect to be working in the next 10 or 20 years. They can leverage on their cash flow in the future to take debt, buy a house and enjoy its benefits forever. It is the same thing with countries. We have taken into account that the Standard Gauge Railway (SGR) will be there for 100 years. The debt taken on it cannot be paid for in the next five years. It will be paid by five generations of Kenyans over the next 100 years when the SGR will be used. We should, therefore, not be worried about debt for as long as we can look at where this debt is applied.

In this House, I believe we have reports that have been submitted in terms of what the debt has been used for. The latest I tabled here was in March this year. Members may also want to look at the said reports and ask if we have used our debts as planned. The Chair of Public Accounts Committee (PAC) will also be telling us what we have done. We have borrowed Kshs9 trillion. If we have Kshs9 trillion of assets to show, then we are good to go! In this case, we have over Kshs13 trillion of assets to show. This means that we have leveraged because we have borrowed Kshs9 trillion, created assets worth Kshs13 trillion and are Kshs4 trillion better-off on a simplistic basis. I want to debunk the myth that borrowing is bad.

The International Monetary Fund (IMF) used to be one of the advocates of tightening up of borrowing, that is, not beyond 60 per cent. Some economists like Mr. Michael Blanchard, a retired IMF economist, is now the biggest advocate of companies or countries to borrow as long as the rate of borrowing is less than the projected growth. It is, therefore, a growth-adjusted interest rate. If your interest rate is lower than your growth rate, then you are encouraged to borrow and crank up your economy to grow at a faster rate than it is costing you to invest in it. It is the same thing with us here; the only reason we encourage Members of Parliament to borrow is because the mortgage rate is lower than the inflation rate. It, therefore, makes sense to borrow today and have a house than trying to save all your money or even use the crude ways of accumulation of stones to ever build a house. The ideal situation, really, would not be talking about the absolute figure of an extra Kshs1 million. It would be a percentage of the Gross Domestic Product, hence we should look at this as an interim measure.

There will be an election and a new administration will come in on 9<sup>th</sup> August, 2022. When they come to this august House, I encourage them to have a rate-based cap, that is, as per GDP percentage or something else. This is so that as your GDP increases, so should your capacity to borrow, as you borrow, so should your GDP increase too. We are, therefore, not limited. I imagine if Hon. T.J. Kajwang' is told that he can only borrow Kshs5 million regardless of his earning capacity, you are basically ignoring the earning capacity of that person and putting everyone at par. If you, however, say that you can borrow up to a certain percentage, which is what SACCOs do, one can only borrow based on one's shares. The more shares you have, the more capacity you have to borrow. Basically, that should be it. This is a topic I love and from where I sit, I encourage people and companies to borrow.

Typically, we expect every company to only use 30 per cent of its initial capital as a lever to borrow another 70 per cent. If you want to invest Kshs10 million in a business, you only need to raise Kshs3 million. There is a Kshs7 million that you can get out there, but at a certain rate. When you make profit of Kshs1 million, you will be doing so, but having been produced by the Kshs3 million and not by the Kshs10 million! Of the Kshs10 million, Kshs7 million does not belong to you and you paid interest on it. However, your only contribution is... If you have Kshs3 million, invest it in a business worth Kshs10 million and make Kshs1 million in profit. That is not 10 per cent. It is actually Kshs1 million out of Kshs3 million. It is, therefore, quite a good business.

If you, however, did not borrow, but just stuck to your Kshs3 million in your small kiosk, you will never get far. I will be happy to give some lessons on that off-line, especially since we do not know what will happen after elections. I will be happy to offer consultations to those who may not make it back to the august House. We will be around with a few Members who are here. The reason they are here today is because they are confident that they are coming back. Those who are not confident are panicking out there. We pray to God that those who are here can make it back, so that we can continue with this discussion for the common good of this country.

I do not want to go through a lot of that, but urge this House that we take this... It is not an uphill task. Rather, it is something that we have to do out of necessity to save the budget for this year and to save the generations to come. It will ensure that the new administration gets a budget that it can implement as it figures out how its manifesto fits into what we have as opposed to constricting its work with only 50 per cent of the budget. That will be punishing Kenyans!

With those remarks, I ask that we amend to create that room for the purpose of processing our budget. With that proviso, come next year or at some point in future, the new administration will rationalise what it needs in the future with the new House.

I beg to move and ask Hon. Kamket, the Chair of the Committee on Delegated Legislation to second.

**Hon. Speaker:** Hon. Kamket

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Speaker, I beg to second. The Committee on Delegated Legislation is properly seized of this matter. The position as addressed by the Leader of the Majority Party is a compromised one. As he has ably put it, we find ourselves at a very unique position in terms of the budget implementation. After a lot of consultations, it became necessary that we move away from the position of removing the ceiling to have it based on a figure instead of a percentage of the GDP, which was being proposed as world-based practice in the current economic dispensation of the world. Hon. Members were, however, a bit uncomfortable with the ceiling based on the ratio of the GDP because there were conflicting figures on the actual size. It, therefore, became necessary that instead of basing it on an unknown figure of the GDP, we just put an open limit that everybody can see that the debt ceiling should not exceed Kshs10 trillion. As a Committee, we thought that was the best way to go.

I beg to second.

*(Question proposed)*

**Hon. Speaker:** Member for Kikuyu, Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. I rise to oppose this particular Motion. I understand what the Leader of Majority Party is saying. I know where the Chair of the Budget and Appropriations Committee sits in this. The issue of public debt is not an issue that we ought to be justifying and appeasing ourselves. It is a burden we are laying on the shoulders of Kenyans. I heard His Excellency the President on Madaraka Day saying that debt is simply us utilising other people's money. This is not money we are getting as a grant or a gift from other people. It is other nations' taxpayers that are giving us money to invest in productive sectors of our economy and at the end of the day, use our taxpayers' money to repay. Therefore, as we lay more burden on Kenyans, as one of their representatives, I am obliged to object to the raising of the debt ceiling. It tells you that the Cabinet Secretary in charge of the National Treasury today is a man who clearly has no understanding of what he is doing.

Hon. Kamket has just told you that initially they had brought us a percentage. If you look at the percentage they are giving us now, as much as it is on the net present value (NPV) terms of our GDP, at 55 percent, however much you try to cook the GDP on the NPV terms, we will still be below the Kshs9 trillion debt that we have today. Therefore, this slight or huge variation to Kshs10 trillion will be a burden to the Kenyan people. More importantly, it is outside what this House has approved in our Medium-Term Debt Strategy Paper. I have chaired the Budget and Appropriations Committee, and so I speak from a point of knowledge. We demanded from the National Treasury that every year, before you tell us how much you are borrowing, earmark for us the specific projects that you intend to utilise that public debt on. There have been resolutions in this House to that effect.

Today we are increasing our debt to Kshs10 trillion and we cannot earmark projects where this money will go into. Even the Appropriations Bill we will be discussing today, if you look at the Estimates that are there, there is nothing specific on what projects will be financed using public debt. In the course of today, as I look at the Order Paper, we are bound to discuss the Supplementary Estimates II. I see the Chairman of the Budget and Appropriations Committee winking at me because he knows I know what I am talking about. The reason we are doing Supplementary Estimates II is because we spend out of the budget. I take note of what the Leader of Majority Party was saying that we are spending in very good things that are for the benefit of the country. Know that when you spend on things that are out of the budget cycle, you will end up borrowing! The Cabinet Secretary in charge of the National Treasury has a very high aptitude, but he cannot stand up to his President and tell him that sprucing up public parks in a country when people are dying out of hunger is not a priority!

Budgeting is about priorities. How much money have we spent sprucing up Uhuru Park? How much money are we spending to spruce up Uhuru Gardens? I do not know why they are all called Uhuru. In fact, I would dare propose that one of these fine days we should rename Uhuru Gardens to Freedom Gardens. I am not saying this because I have anything against somebody, but I have a problem when we spend money on non-priority areas and more so use public debts to do it. His Excellency the President must shy away from telling the people of Kenya things that are not true on national holidays. He claimed that the Nairobi Expressway has not used a coin of our taxpayers' money. I know, for a fact, that the Nairobi Expressway has gobbled not less than Kshs20 billions of taxpayers' money! It is, therefore, wrong for the President to purport that the Expressway, which Kenyans are now paying for and paying to companies that we cannot tell who owns, has not used a coin of our taxpayers' money. Look at the CR12 of the company that is managing the Expressway. It is a company registered in Dubai as a single shareholder. I have seen it! The Chinese on that CR12 are mere proxies. These are issues that if we, as a Parliament, are shy of discussing and sit here today and approve a debt ceiling of Kshs10 trillion, then we will be as good as killing Kenyans with a burden they cannot bear.

It is okay to borrow and I have said it before. I heard the Leader of Majority Party saying if you have the capacity to take up a mortgage of Kshs5 million and you are able to pay, well, go ahead. Today this, country is not able to repay its own debt. Our Consolidated Funds Services (CFS) in the National Treasury will tell you that this January, they had to borrow from the domestic market to finance our public debt. Indeed, that is a danger that we are living in. We are dealing with a regime with people who have no aptitude to think about the ordinary Kenyan who is suffering. It is a burden that we are laying on the Kenyan people. How I wish we were more innovative in terms of expanding our tax base by simply expanding our bottom. I do not know why they get jittery when we talk about bottom-up. Bottom-up simply means that we expand our tax

base at the bottom of the economic pyramid so that we get more taxpayers into the tax net. We must also reform the Kenya Revenue Authority (KRA). If you speak to the Director-General, Mr. Mburu of KRA, he will tell you that for the last three years, he has been unable to recruit new staff. We gave them money in the 2019/2020 Budget, but that money was removed in the Supplementary Estimate I after I left the seat of the Chair of Budget and Appropriations Committee. The KRA today is an institution that we must restructure and renew, so that even part of the money they are collecting from taxpayers is done as a percentage of what they collect.

We must recapitalise or empower KRA in terms of the amount of money they get and maybe probably give them about five per cent of the revenues they collect. That will encourage them to pay their staff better, recruit more people and collect more money from the taxpayers. There are many people in this country who do not pay taxes. What we are confronted with today is a regime that is more intent on killing businesses than encouraging taxpayers. Today, if you go to Naivasha, a thriving business, Keroche Breweries, which was being run by the lady called Tabitha Karanja, is closed down simply because of her political affiliations! That has rendered close to 3,000 taxpayers jobless! You go to Thika, the factory that was run by Humphrey Kariuki that employed close to 5,000 people has been shut down! I want to say, as I conclude, because I see time is over, that we must empower KRA to collect more revenue. We must rebuild our economy from the bottom to up. I rise to vehemently oppose the increment of the variation of this public debt ceiling because it will be a further burden to Kenyans.

I beg to oppose.

**Hon. Speaker:** Hon. Wandayi

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Speaker, for this opportunity to comment on this very important subject on public debt. Before I proceed, I wonder why Hon. Ichung'wah is so emotional. Unlike him, I refuse to be emotional. Hon. Speaker, let me proceed. Protect me from Hon. Baya.

I have the advantage of having been the Chairperson of the Public Accounts Committee. This is a matter that we have pronounced ourselves on. The last report we tabled, which was the 2018/2019 Report, was adopted last week. I have two issues. First, is the matter of the record of public debt. This is an issue that we keep haggling around on. If I may just remind the House, our Report recommended that we amend Section 64(2) of the Public Finance Management Act to make it obligatory for the National Treasury to prepare, publish and publicise an up-to-date National Debt Register during every quarter of the financial year. This is because we have had conflicting stories of how much the public debt is at any given moment. That is an issue that needs to be addressed.

Second, is the matter of borrowing. Because of the time it takes to process Bills, our Committee's amendment has not been passed even as we prepare to adjourn. We had proposed an amendment to Section 50 of the Public Finance Management Act to make it mandatory for the Executive or the National Treasury to come before this House any time they want to commit the country to a debt burden of Kshs1 billion and above, so that this House gives the final seal of approval for any debt agreement entered into by the Kenyan Government and donors and lenders. We hope that in the fullness of time, even for those of us who might be lucky to come back in the next Parliament, this amendment will go through, so that we do not leave this matter of committing the public to borrowing exclusively in the hands of the Executive or the National Treasury. This House should play an oversight role right from the outset.

Having said that, I agree with Hon. Ichung'wah on one account that debt *per se* is not a bad thing. That was elaborated at length by the Leader of the Majority Party a while ago. The most

important thing is to what use we put the debt. There are conflicting schools of thought as to whether the money we continue to borrow in this country has been put to good use or not. That is a debate which can go on forever. The most important thing at this defining moment is that we must prepare ground for the next administration to transact the business of governance without any hindrance.

Therefore, in my view, I see us being in a catch-22 situation. We are damned if we do and damned if we do not. The next administration will need fiscal space to transact the business of governance in terms of providing essential services, and, indeed, all services, to the public and to meet their obligations. Therefore, in as much as it is fashionable and populist to be tempted to oppose this proposal, I refuse to go in that direction in the sense that as a responsible House, even as we seek answers as to where public debt has been put to in the past, we must be responsible enough to allow the next administration to operate effectively.

Therefore, I will support this Motion on condition that the next administration demonstrates that it will use this debt in a responsible manner that will add value to the public. That is the most important thing. Sitting back and saying that because this money has been misused in the past, let us now refuse to allow borrowing to continue hence put the next administration into serious jeopardy will not be responsible of us.

Therefore, let us approve this Motion as we caution the present administration and the incoming one that they must utilise public debt in a responsible manner that adds value to Kenyans.

I support the Motion.

**Hon. Speaker:** I am surprised that at the tail-end of the 12<sup>th</sup> Parliament, the Member for Kitutu Chache North does not... I thought you went electronic. You do not just put it there. You also press the button. I would just like to inform Hon. Jimmy Angwenyi that the Standing Orders, which we have just approved, have actually established a committee of this House to deal exclusively with the matter of national debt and privatisation. Those of you who will be in the 13<sup>th</sup> Parliament should look forward to that committee.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Hon. Speaker, I hope I am a Member of that committee.

**Hon. Speaker:** Somebody suggests that you should be retiring. That is what the Member for Endebess is suggesting.

*(Laughter)*

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): *Shemeji.*

**Hon. Speaker:** I need to inform the Member for Endebess that Hon. Jimmy Angwenyi, the indomitable lifelong Member for Kitutu Chache North, has no intentions of retiring.

Proceed, Hon. Angwenyi.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Okay. I am very young, just as he says, because all my systems work. All my systems.

*(Laughter)*

That is how you determine whether you are lost or not.

Hon. Speaker, I support this Motion. Where is Ichung'wah? I would like to educate him on what he did not learn. Some of the countries which have moved from Third World to First World have had to use debts to develop. I can mention three or four. One of them is Hong Kong. The

others are Singapore and South Korea, which borrowed money from Kenya in 1971. The fourth one is China.

In the last 30 years, because of using borrowed money, China has developed into the second-largest economy in the world. We want to be a top economy in Africa. To do that, we need to borrow money and invest properly in things like manufacturing such as what was launched yesterday.

A few years ago, I attended a World Trade Organisation (WTO) meeting in Hong Kong. In the morning when I went for breakfast, I would see a lot of people, but between 8.00 a.m. and 6.00 p.m. in the evening, I saw nobody even on the roads. I asked our Consular, "What is happening and where have the people gone?" He told me: "I will take you around." He took me to a factory which was manufacturing candles and said it has 2,000 employees. They had an order of Kshs30 million from Kenya for candles yet we can manufacture them here. He said the candles are manufactured from crude oil from Saudi Arabia which is closer to Kenya than Hong Kong.

He also took me to another factory where they manufacture clothes. He said the factory has 5,000 workers and they had an order of Kshs50 million from Kenya. Part of that order was for *mitumba* or used clothes which the factory buys and sells to Kenya. The clothing factory gets their cotton from Senegal in West Africa, which is closer to Kenya than Hong Kong. So, if we can spend our money well in manufacturing... Someone is disturbing me.

This House should insist that whatever we are seeking in debt must be applied to specific projects. If it is manufacturing, then it is specifically for that. That way, this country will move from third world to first world.

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

I was going to close, but I cannot after his interjection. When we raised the money from Kshs6 trillion to Kshs9 trillion, he was the Chairman of the Budget and Appropriations Committee. Together with my Chairman, Hon. Limo, a very nice man, who I understand was rigged out and that was very bad, Hon. Ichung'wah spearheaded the increase from Kshs6 trillion to Kshs9 trillion. He is now opposing only one trillion. I cannot understand him.

Hon. Speaker, with those few remarks, I beg to support.

*(Laughter)*

**Hon. Speaker:** Well, let us hear the Member for Alego-Usonga.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Speaker, for giving me an opportunity to contribute to this Motion on the variation of debt ceiling. I support it, but as I do so, I am cognisant of the fact that there are many questions on how we procure and utilise our public debt.

I support this Motion because recently, I raised a Question with the National Treasury on what percentage of public debt has been spent in my constituency for the last 10 years. The answer I got was that the Government had spent about Kshs150 million on construction of an administration block in Siaya Institute of Technology which is domiciled in my constituency. I asked myself, the public debt is Kshs9 trillion and my constituency consisting of about 400,000 people had only benefited from Kshs150 million. This means I need to fight for my people to benefit from this debt.

Therefore, I want this debt to be increased and about Kshs500 billion must be spent in my constituency for my people. We cannot complain about public debt when my people have not seen its benefit. So, we are going to borrow more and more until my people benefit from public debt. It is not as high as possible. We cannot say it is high until my people benefit from it.

I urge Hon. Ichung'wah that if he thinks public debt is high, it is only high in his constituency and not in mine. Let us support this Motion because the incoming Government will need resources in order to run the country. Most importantly, this Parliament is failing. The way we audit or monitor the budget is not the way it should happen. I think it is being run through Executive fiat. If this House is serious, then we can find a way of monitoring the budget and ensuring that money is spent appropriately.

I urge this House in future to reject the issue of Article 223 of the Constitution used to spend money after the budget. This is not right, but for now, let us support this Motion. I support it and urge the incoming President, Hon. Raila Amollo Odinga, to ensure that part of this debt is used in Alego-Usonga.

**Hon. Speaker:** Hon. Atandi, you are aware that the Controller of Budget makes quarterly reports on budget implementation. A lot of these reports are always tabled here by the Leader of the Majority Party. I always ask departmental committees to look at the reports so that they can monitor and raise a red flag at the appropriate time. So, as you say this towards the tail-end of the 12<sup>th</sup> Parliament, you are saying you have failed. The reports from the Controller of Budget are here and they indicate how the budget is being implemented.

It is a constitutional obligation of the office holder to table those reports. I have noticed many committees either because of work... Perhaps, now that we approved the new Standing Orders, we needed to set up another committee for budget implementation monitoring. I think it will be better if departmental committees regularly looked at those reports, then called those people to come and explain what they are doing with the money appropriated to them.

Member for Endebess.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. Listening to my friend, Hon. Atandi, I thought he was an accountant, but he has spoken like a layman.

**Hon. Members:** He is an economist.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Having listened to the Leader of the Majority Party and the old man of the House, there are things which are not logical. In as much as we are trying to justify borrowing, we should borrow what we can repay. If we are unable to repay, this will cause some distress to ourselves and those on whose behalf we are borrowing. By raising the ceiling to Kshs10 trillion, we are causing much more distress to *mwananchi*. This means there will be increased taxation for people to meet these obligations and the country to repay the debt. I do not support this variation to Kshs10 trillion. In 2005, our debt stood at Kshs700 billion. Today, in the Year 2022, we are talking of a debt close to Kshs8 trillion which is more than what we inherited in 2005. Are we really borrowing responsibly? Hon. Kimunya tried to explain so hard, and I was straining to understand what he was saying. When you want to borrow from a bank or any institution, for example, you should have the capacity to repay and not just to borrow. He gave an example that you, Members, are borrowing in the form of a mortgage which is cheaper compared to building a house. If you, however, take mortgage to buy a house and you are left with some money which you can use to buy a car with, and you do not have the capacity to repay, then it will be distressful. You will be causing problems to yourself. Where will you get the money to repay the mortgage?

Looking at the programmes that people are coming up with, for example our presidential candidates, one of them promised to be paying citizens Kshs6, 000 monthly. When you borrow to pay people Kshs6,000 monthly, how will you repay it? You are giving people Kshs6,000 for consumption and not as capital investment.

*(Loud consultations)*

Some Members are shouting for the sake of it. Your constituents are even looking at you and wondering how you are going to borrow Kshs6,000 and give it to them to consume. How do you repay?

**An. Hon. Member:** And you are banning *mitumba*.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Yes, and you are banning *mitumba* which would have cost the same person the same amount. How do you claim not to want it?

Hon. Speaker, some of the issues that we are trying to advance in terms of raising the debt variation ceiling from Kshs9 to Kshs10 trillion should not happen. We are going to put Kenyans into more hardship and create more problems. Yesterday, I heard of a company that manufactures Fresh Fri cooking oil, called Pwani Oil Company, which is closing down because of some challenges.

**An. Hon. Member:** Because of State capture.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Yes, because of State capture. It is a situation where we have resources being captured by a few people. We want a situation where there is widening of the taxation base, so that everybody can feel good.

With those few remarks, I oppose.

**Hon. Speaker:** Member for Kitui Rural.

**Hon. David Mboni** (Kitui Rural, CCU): Thank you, Hon. Speaker. I rise to support this Motion to vary the public debt from Kshs9 to Kshs10 trillion. Debt is not a bad thing as long as it is utilised in productive sectors with high social economic impacts. If well utilised, it will increase the economic growth and income and reduce poverty. The country should be able to service its debts. If it is not able to, there is no need to borrow.

In 2021, the World Bank carried out a study on the state of world debts which showed that all the developed countries have over 100 per cent debts to Gross Domestic Product ratio. An example is Japan whose debt to GDP ratio is 257 per cent and yet they are surviving. Our neighbour, Sudan, is at 210 per cent of the GDP. Greece is at 207 per cent of the GDP although they sometimes experience challenges in servicing their loans. The USA, which is a super power, is at 133 per cent of debt to GDP ratio. In Kenya, we are at 70 per cent, but we are complaining. I do not think we should complain. We should even increase our debt, but make sure it is well utilised. At the moment, the budget of this country is facing a financial gap which we need to fill. Each one of us has a project in his constituency or county which needs to be financed. The money we are collecting in tax revenue is only servicing debts which is about Kshs900 billion and paying for re-current expenditure, which is about Kshs700 billion. We, therefore, need to borrow to finance our budget.

The incoming administration needs to do several things to reduce debt. First, we need to live within our means. We may not require to borrow. Secondly, we need to modernise our tax collecting system and expand our tax base. We have three sectors which are manufacturing, information communication and technology (ICT), finance and insurance, which contribute 17 per cent of our GDP and 53 per cent of tax revenue. These sectors are overtaxed! The country needs

to bring other sectors into the tax bracket, so that they are not overtaxed. I was looking at the Excise Duty on beer and spirits...

*(A phone rang)*

**Hon. Speaker:** Order, Members! Whose phone is it?

*(Loud consultations)*

**Hon. Speaker:** Proceed, Hon. Mwalika.

**Hon. David Mboni** (Kitui Rural, CCU): The Excise Duty on beer and spirits is going down, which confirms a larvae curve. It is a curve which shows that there is a point at which if you increase tax, the tax levy starts going down. We, therefore, need to look at other sectors in order to increase our tax base and raise revenue. If we reduce revenue, people are going to have a high disposal income which in turn will lead to high consumption. When people consume, they pay Pay as You Earn (PAYE) thus increasing revenue.

The country needs to move into borrowing more concessionary loans which are cheaper and retire commercial loans which are very expensive. Those ones strangle our economy. We also need to pursue fiscal consultation and reduce wastage in the public sector, so that we can have more money to finance our budget and projects.

Lastly, we need to address the issue of corruption. A lot of money is being wasted and lost through corruption.

With those few remarks, I support.

**Hon. Speaker:** Chair of Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker. I support this Motion. Thank you for your wisdom to re-arrange the Order Paper in order for us to dispense with this issue of debt ceiling.

The Budget of 2022/2023 has a deficit of about Kshs846 billion whereas we have a leg room of only about Kshs200 billion. I want to make it clear that the alteration of this debt ceiling is not affecting this financial year or this Government. This financial year is fully funded and it includes the debts that we have borrowed and the leg room that we currently have.

Governments operate in perpetuity. We are doing this for the next Government. We are doing this for the Budget of 2022/2023 Financial Year as a stop gap measure. As a country, we need to have a discourse on the issue of having an absolute figure where we say that our debt is a particular figure, and discuss whether we need to put it as an anchor figure to the Gross Domestic Product (GDP). In a layman's comparison, if you have a salary of Kshs10,000, maybe you can borrow up to Kshs7,000. But if your salary increases to Kshs20,000, you may have the latitude of borrowing up to Ksh15,000. When we grow our wealth in terms of the GDP, then it means we also need to have more leg room for borrowing.

Hon. Speaker, as I support, I wish to point out a few issues that the next administration may need to focus on. This current administration has focused on infrastructural developments, which can be seen everywhere. We have the super highways, express highways, electricity connections and all that. We now need to focus on the software and make sure that we have more industries, more people being employed and create more jobs for our youths. That is the challenge we have for our next Government.

My good friend the Chairman *emeritus*, who in a very unlikely event that his team wins, might find himself in the National Treasury. If in that unlikely event he finds himself in there without the alteration of this debt ceiling to Kshs10 trillion, then there will be no Budget. We are not doing it for this administration: we are doing it for posterity, perpetuity, with open arms and giving the other administration time, maybe a year, for the regime to bring a sustainable way on how we need to address our debts.

Altering the debt ceiling may not be a popular decision now, but it is the right thing. We cannot fund the next Budget if we do not alter the debt ceiling. There are some who will be very emotional here. Some will say all manner of things but the truth is that we cannot fund the next Budget without altering the debt ceiling.

The Cabinet Secretary in the coming Government needs to be prudent. We will need to have total disclosure. If they are borrowing for infrastructural development, it has to be specific! Sometimes, they borrow for infrastructural development and then it is put in the general budgetary support. These are some of the things that need to be worked on in the next administration.

I want to correct what my good friend Hon. Kimani Ichung'wah has said; that we are not supporting the Kenya Revenue Authority (KRA). We are supporting KRA. If he cares to check on our Estimates, he will see that we have given them an extra Kshs1 billion so that they can employ more staff and enhance their operations.

Hon. Speaker, with those few remarks, I beg to support.

**Hon. Speaker:** Member for Kilifi North.

**Hon. Owen Baya** (Kilifi North, ODM): Thank you, Hon. Speaker. I would like to oppose this debt ceiling review. We have seen the Leader of Majority really struggling. For the first time, I have realised that our friend, the Leader of the Majority Party, is actually not just an economist, but a *pseudo* economist because he has really struggled to explain things that do not make sense. One of the things I want to tell you is that transparency in investment is key in debt management. If you are not transparent about the things that you are investing in, then you are not borrowing wisely. If you are not borrowing wisely, you should not be allowed to borrow. That is what we are saying. We should not allow you to borrow if you cannot invest transparently the money that you are borrowing. That is one of the principles in debt management and borrowing. If you do not invest transparently, do not borrow.

We know that there is no transparency in most of the projects that have been done in this country. The Auditor-General has questioned and put grey areas in the amounts borrowed versus the things that have been done from borrowing. Today, this Parliament will review the debt ceiling to Kshs10 trillion. What assurances do we have that there will be transparency in the investments that will be made out of the borrowing that we are making?

Secondly, this country has been on the penchant of supply driven developments instead of demand driven developments. I heard the Cabinet Secretary (CS) for Infrastructure saying that when they went to China, some Chinese guys told them that they could build for us an expressway like theirs. The Chinese guys showed them pictures. The CS called the President and told him there are some guys who could build an expressway and he accepted it. Was there a demand for that expressway or it was because there was a supply for the expressway? Many of these projects are supply driven. Chinese come here and tell cabinet secretaries that they can do certain projects and that this country would make a certain amounts of money, and people accept. We have a road in Mombasa that it is being built at Kshs1 billion a kilometre; a road that leads to nowhere: a Kshs1 billion a kilometre because a Chinese came and said that they can build this road using this mechanism and the Government agreed to it. That is what I am talking about; transparency in

investments on the billions that we are borrowing. We cannot continue to be supply driven in terms of development instead of being in a demand driven trajectory that is required in a developing country.

I saw one of the presidential candidates launching his manifesto yesterday. He said that one of the things they will do when they come into the Government is debt restructuring. He said that they will request the World Bank to restructure the debt. They are saying that we are in the red zone and we require debt restructuring. Here we are saying we cannot do the next Budget in this country without borrowing. This means there is a problem. Why are we not allowing the next Government to come to this Parliament and request for that money so that they are able to do their budget? Everybody in this country is saying that there is a problem with debt, but here we are going on a different trajectory and saying we want to allow them to do another Kshs10 trillion.

Hon. Speaker, I want to oppose that and say it is not healthy for this country. This country is going the Sri Lanka way. We have heard of the oil factory in Kilifi closing down because of lack of dollars. Dollars have been scarce in this country. What does that tell us about the economy? Where is this economy going? We are mismanaging this economy. The Leader of Majority Party was once the Minister for Finance and he did well then. Now he has been brainwashed by this Government that he cannot use that knowledge to manage this economy better than he did at that time because he cannot tell the President this is the wrong way to go. Then, he could do it because it was Kibaki. He cannot handle the current President and he says yes to everything; including borrowing in a way that it is not acceptable in this country.

Hon. Speaker, I want to oppose this and urge Members to oppose this and teach these people a lesson that you cannot take this Parliament for granted.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Speaker, thank you very much. We would be burying our heads in the sand if we say that we do not have a debt problem in this country. Truth be told! We have a big debt problem in this country. That is why I want to cling on a Freudian slip made by the Leader of Majority Party this afternoon. Psychologists tell us that you can slip and say what you are thinking without wanting to say it. The Leader of the Majority Party has told us that we are just about to swallow a very bitter pill. That is the truth. It was a Freudian slip. He corrected it but that was in his mind and it is the truth. This is a country that is at the height of its borrowing. During COVID, it was borrowing Kshs2.5 billion every day; thus adding to the debt bill that we have in this country. So, we have to just agree when it is the right time to stop digging the hole. This is because the English tell us that when you find yourself in a hole, you have to decide to first stop digging and then you can start climbing out of that hole. What has been said is true. It is also true that borrowing is not the problem. Borrowing has never been the problem. The style with which Kenya is borrowing is the problem and is unique. The examples that we are being given here do not apply. No one borrows the way Kenya borrows and no one utilises borrowed money in the manner in which Kenya has been utilising borrowed money.

Before saying why I oppose this, I would like to first exonerate the Chairman *emeritus*. I am a member of the Justice and Legal Affairs Committee and I have friends in the Committee on Delegated Legislation.

**Hon. Justus Kizito** (Shinyalu, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is the issue, Hon. Kizito? Member for Shinyalu, what is your problem?

**Hon. Justus Kizito** (Shinyalu, ODM): Thank you, Hon. Speaker. Before I say my point of order, I wanted to first of all apologize because of my phone. I left it on and I regret that. Looking at the House, the matter at hand and also how people are debating and the repetition that is going on, I am standing up under Standing Order No. 95 to request the Mover to reply. Thank you. Will I be in order?

**Hon. Speaker:** Let the Member for Dagoretti South complete his contribution. It is up to you, Members. Indeed, it is your decision. Let him finish.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Speaker, while I agree that the Member for Shinyalu has the right to call for end of debate at any point, I have to remind him that this is probably the most important business that this House will be undertaking before we close *sine die*, and the fact that even tomorrow in the headlines, you can be sure they will be reading that this House has actually lifted the borrowing cap for this country to Kshs10 trillion and un-procedurally so.

Hon. Speaker, allow me to just prosecute my points and then we can handle the matter that has been raised by the Member for Shinyalu. Before I ceded the Floor, I was saying that before I say why I am opposing this, I would like to exonerate the Chairman *emeritus* of the Budget and Appropriations because a few things have been said here which are not true. It could not be further from the truth that the Chairman *emeritus* was party to raising the debt ceiling to Kshs9 trillion. I remember very well that, as a Member of the Justice and Legal Affairs Committee, I had consultations with friends who are from the Committee on Delegated Legislation. I remember at the point when we were talking about raising the debt ceiling, the Chair *emeritus* of the Budget and Appropriations Committee actually spoke at a tripartite meeting of the Departmental Committee on Finance and National Planning, Committee on Delegated Legislation and the Budget and Appropriations Committee, where he said that this decision cannot be a unilateral decision by one committee. He was even proposing that if we have to raise the debt ceiling, we can only raise it to around Kshs7.5 trillion. But that was not the issue. The issue is that we keep digging ourselves deeper into a hole. We were here when we were debating the Budget Policy Statement and I was among the people who rose here and said that the deficit margin that we have been left with is only Kshs426 billion. At that point, they were seeking an amendment to raise it to Kshs800 billion. At that point, if we had made the right decision, we would not be finding ourselves in the problems that we find ourselves of not being able to finance the budget this year.

I listened very carefully to the Leader of the Majority Party and he was saying that he has some lessons that he can give us in our free time. I do pray that some of the lessons that the Leader of the Majority Party would give this House is how the Kibaki Government was able to fully finance its budget without having to unnecessarily borrow. The truth of the matter is that when we borrow, we are not getting free money. When we borrow, we are actually borrowing from the future. When we steal borrowed money, we are actually stealing from the future. We cannot account for the money that we have been borrowing. We are getting into contracts that we cannot account for and that we cannot make public. This House has been asking for the contracts to be presented to it so that it is able to interrogate them even as we are going into the budget cycle. If we knew what we owe and what the terms are with the SGR contract; and if we knew what we borrowed for the expressway and what the terms of that contract are, this House would be better informed to make these decisions because this is the budget-making House.

The cycle of debt is such that debt given at a time of boom can actually push an economy. But what normally happens is that a country can get excited with borrowing especially if they are able to borrow easily. What happens is that this boom ends up being a heavy yoke on the neck of

that country, and that is where we are headed because we were borrowing prudently in the Kibaki Government. We had a semblance of sensible borrowing in the first term of the Jubilee Government. But by the time we were getting into the second term of the Jubilee Government, our borrowing had actually gone haywire. That money that we are borrowing in such a manner is actually a debt that we are putting on the future of this country. Economic cycles have proved that any economic boom driven by debt is normally followed by a very major slump and the slump here is going to be informed by many issues, some of which are beyond this country's ability. We have an economic downturn globally. We have the effects of COVID. Now if this slump finds us in a big debt problem, actually we will end up shutting down this country and, in fact mortgaging, it to our lenders who will now be demanding for money that we do not have because our budget cannot even finance the repayments of the loans that we have borrowed so far. So, if our budget cannot finance what we have borrowed, we are now borrowing to pay the people who we had borrowed from earlier. We are borrowing from Peter to pay Paul; which now ends up giving us a problem even when we come to our development budget. That is because if we are repaying debts to the tune of over Kshs1 trillion, then where do we find money to go into development?

Finally, I would like to say that when we were talking about the Medium Term Debt Strategy, this issue came up. Today, we cannot afford to push the cart further down the road. Let us say no to the increase of the debt ceiling. Let us stop digging the hole. Let us start climbing up from the hole that we have so that we can only consume that which we have in terms of our resources and we stop consuming that which we have not made, thinking that it is free money being given to us while we know it is not a grant. It is actually a loan that we have to pay. If Kenya did not borrow even an extra shilling today, we would pay the debts we have up to the year 2099 meaning that generations after us will have to pay dearly for the mistakes that we might end up making today.

I oppose vehemently to the rising of the debt ceiling in this country.

**Hon. Speaker:** Be looking at the light here. The yellow one tells you that you have 60 seconds. The red one tells you that you have 30 seconds and so, you organise your contribution that way. Now the Member for Shinyalu did rise in his place and claimed that the Mover be called upon to reply.

**Hon. Members:** Yes.

**Hon. Speaker:** Let me put the Question to make that decision.

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

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. This is a very important Motion. I am very happy because Members have ventilated and put on record some of the sentiments which I do not doubt that the administration which will come will follow them.

For the record, it is important to internalise one thing. There is an issue that has been raised which I want to address; transparency on debts. We have a budget deficit of Kshs846 billion this year, which is part of Budget support. If you move back 10 years times 10, it is about Kshs8 trillion that has gone towards Budget support. However, that is for the Public Accounts Committee (PAC) to interrogate for us. Like I said, I want to assure you that we are coming up with a stop-gap measure. It is important for purposes of moving forward. I believe that this House will facilitate the next administration, which will come in on 9<sup>th</sup> August 2022, whoever that will be, to take over an economy and then he will sort out the rest.

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I beg to reply.

**An Hon. Member:** Put the Question.

**Hon. Speaker:** Hon. Members, from the Clerks-at-the-Table, the House still has the requisite Quorum.

*(Question put and agreed to)*

We will now go back to Order No. 14.

## BILL

### *Second Reading*

#### THE APPROPRIATION BILL

**Hon. Speaker:** Chairman of Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I really thank you for your wisdom. First of all, you have dispensed with the Special Motion on Variation of Public Debt Ceiling. All the issues that we will discuss in the Budget will be within the set debt ceiling.

Hon. Speaker, I beg to move that the Appropriation Bill, (National Assembly Bill No. 31 of 2022), be now read a Second time.

This is an issue that we dealt with, when I brought the Motion on the Budget. We discussed, at length, the figures and all the issues that were captured in the Budget Estimates for the 2022/2023 Financial Year that were submitted to this House on 7<sup>th</sup> April in adherence to the requirements of Article 221 of the Constitution.

The revenue and expenditure proposals have come during a transition period where a big shift is expected in policy, goals and programmes of the Government. It is worth noting that the policies which are mentioned or outlined in this Budget are still anchored in the Medium-Term Three which will end in June this year. Further, the Government still prioritises the Big Four Agenda, especially the Universal Health Coverage (UHC), which we hope that the subsequent Governments will build on. My critical review of the Budget is that the country is still struggling economically. We are still facing the shocks from the COVID-19 pandemic and the ongoing Russia and Ukraine conflict. The growth in the economy worldwide is also not promising. The domestic economy performance was better last year at a rate of 7.5 per cent. However, we are still faced uncertainties. We continue to receive unfavourable weather conditions. Most parts of the country are affected by low crop production.

I also wish to draw the attention of this House to some of the issues that may have adverse effects on our economy. The fiscal fronts show that there is a good performance in the current financial year. Most of the revenues have performed above the targets in the third quarter of the 2021/2022 Financial Year.

I also want to associate this with the primary intervention by the Government. It undertook to ease up the COVID-19 related restrictions which eventually led to the recovery of the economic sectors. The total projected revenue is Kshs2,480,000,000,000, which is 17 per cent of the Gross Domestic Product (GDP). It is an appealing projection given that there are no specific proposals which are aimed at enhancing revenue collection. The medium-term revenue targets are unlikely to be achieved, considering that this is an election year.

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Hon. Speaker, the Finance Bill which was tabled in this House proposing amendments to the various statutory taxes to raise an extra Kshs50 billion was not realistic. Some of them were rejected by this House. Most of the proposals touched on basic consumer goods which affect the common *mwananchi* directly. That is the reason Parliament, in its wisdom, rejected some of those recommendations. As a country, we need to come up with a reliable and effective mechanism of raising revenue. Further, there is a worrying trend in the projected ministerial Appropriations-in-Aid (A-in-A). Statistics show that there is a significant drop over years of targeted A-in-A compared to the actual amount that is collected. Most of these missed targets are as a result of fees charged by public universities. They are unable to collect revenue as projected. This is due to shortage in enrolment out of competition with the private universities. As a House, we need to re-think the policy on university placement. These are some of the reasons that we have to revise the Budget in the meantime as supplementary appropriation.

The debt issue which we have just processed is a threat to this country. It is something that we, as a country, need to have a discourse on. The fiscal deficit increases our borrowing appetite. 26 per cent of the proposed expenditure of Kshs3.3 trillion goes to the Consolidated Fund services which consist mostly of interest payment. Given the rising cost of dollar, payment will continue to strain our economy.

Let me say something on the critical Budget expenditure in this Budget. The education sector continues to draw the largest proportion of the Budget which is 25 or 26 per cent. This is commendable, since it is one of the sectors that stimulate the growth of our economy by fighting ignorance and poverty. The additional allocation to the education sector is also enhancing the Competency Based Curriculum (CBC) preparedness, recruitment of additional teachers, construction of additional classrooms and related infrastructure.

Hon. Speaker, in this budget, we have also provided funds for the Independent Elections and Boundaries Commission (IEBC). We know that we have an election on the 9<sup>th</sup> of August. However, we need budgetary support. There have been complains in the past and I am happy that we have sufficiently funded the IEBC in readiness for the next general election.

May I also draw the attention of this House to an amendment in the Committee of the whole House which is related to catering for the petroleum price stabilisation, such that we cushion our citizens from the effects of the rising fuel. In this regard, there is an additional Kshs15.36 B that has been proposed. This will be enhanced through the Petroleum Development Levy. However, these interventions are short term. We cannot continue subsidising the fuel prices. There has to be an exit strategy on how we are going to deal with this issue of petroleum.

Hon. Speaker, I beg to move and request Hon. Wangwe, the Majority Whip, to second.

**Hon. Speaker:** Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you Hon. Speaker.

I rise to second the Appropriations Bill 2022/2023 as well discussed by the Chairman. This is a Bill that is concluding the Budget cycle for the financial year 2022/2023 and for which we would wish to see that the Budget cycle is complete on time as we had scheduled to go for our *sine die* recess from Thursday, God willing, unless the House decides otherwise.

Hon. Speaker, what comes out of the Budget of 2022/2023 is that most of the sectors have been addressed in this Budget, especially the issue of allocation of the 25.2 percent that has gone to the Education sector. Hon. Speaker, if you want to make Kenya move forward, you must give knowledge to its citizen. I appreciate the current President of the Republic of Kenya His Excellency Uhuru Kenyatta. He thought it wise to allocate the 25.2 per cent of the Budget for the infrastructure of schools, employment of teachers as well as capitation. I also appreciate what he has allocated

to agriculture. Although not sufficient, agriculture grows as a result of subsidies. I appreciate that the consideration of a small amount that is in the Budget which has gone into the fertilizer subsidy. I thank the CS National Treasury for living within the confines of the Budget Policy Statement (BPS) in the earlier statements that he gave to this House.

I thank all my colleagues for taking their time on this Bill, especially the Budget and Appropriations Committee, which worked over the weekend. While most of us were at home in our various constituencies looking after issues to do with our campaigns which are ongoing, they took their time to be in Nairobi and consider this Report so that we can discuss it now and vote on it. I beg that my colleagues appreciate and vote for it so that we can complete this cycle and allow the next Government to take its position.

But that, notwithstanding Hon. Speaker, there are very many issues to do with healthcare. The figures have been captured to support the health sector in this Budget.

I thank you and second.

*(Question proposed)*

**Hon. Speaker:** Let us have Hon. Kajwang’

**Hon. T.J. Kajwang’** (Ruaraka, ODM): Thank you Hon. Speaker. I intended to speak on the variation of the public debt but now that you have asked me to put my voice, this will be my signing-off my term and waiting if, God willing, that I may join this House again. I was just listening as Hon. Kiarie was speaking with a lot of emotions. I guessed his bottom was itching because he propagates the principle of Bottom-Up.

Hon. Speaker, I support this Bill because it is the means by which this Government will function. It is the Appropriations Bill which is the instrument to enable access public funds. It has come too late. A lot of things have come too late this year. For example, the Ministry took too long to file the statements with us, and the whole circle took too long to begin. So, in normal circumstances, we would have dispensed of with this Bill. But, now that it is coming at this point, I support it. I am yet to look at the votes. So, when it comes to the Committee of the whole House, I will want to see some of the things that the Ruaraka people have been promised. I want to see if they have been allotted in their exact positions the way they are. Otherwise, Hon. Atandi said something which I thought was said in jest, but it is a very important thing. That Kenya is not equal. There are other people who are feeling the public debt. They taste public debt more than others. So, according to Hon. Atandi, he also wants his people to taste this thing called public debt and savour it if it is bitter or not.

I think I also want to savour this Appropriations Bill. Every time they elect a Member to come here and speak on the Floor of this House. But they have never tasted something coming from the Appropriations Bill. So, the time will come when we will go to the Committee of the whole House and I will look at it to see what Ruaraka has for it. Otherwise, I support it.

**Hon. Speaker:** Let us have the Member for Bamachoge Borabu.

**Hon. (Prof.) Zadoc Ogutu** (Bomachoge Borabu, Independent): Thank you, Hon. Speaker. I also take this opportunity to support the Appropriations Bill on two grounds.

Looking at some of the items that have benefitted in this Bill, I want to zero in on the State Department for University Education and Research. This is one sector in education that has suffered for the period that I have been in this House. Our universities are on their knees at the moment. I would wish to assume that the Appropriations Bill to some extent will address some of the issues that are facing our universities. Our desire as a Committee – and I am a Member of the

Departmental Committee of Education and Research - is that the allocations per unit should be raised so that the university collection in terms of what flows from the National Treasury can be increased. The universities will then address some of the major challenges they have, with some having to do with statutory deductions and infrastructure.

I also support this Bill on the grounds that I have a number of issues in my constituency and many other constituencies and that, for the first time, we are getting good support from the Government for infrastructural development. Those projects need to be refinanced and the Appropriation Bill has addressed some of those issues.

I support this Bill.

**Hon. Speaker:** I do not see any other Member desirous of contributing to debate on this Appropriation Bill, 2022/2023. In the circumstances, I have no option but to call upon the Mover to reply.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker. I thank the Members who have contributed to this very important Bill.

We call upon the next administration to make sure that they have prudence in utilisation of public resources. I also beseech Parliament to be on the lookout and be the people's watchman and make sure that the funds they appropriate are properly utilised through the various agencies.

Hon. Speaker, I beg to reply.

**Hon. Speaker:** The next step would have been to put the Question on it but it looks like there is a challenge. We will skip that bit.

*(Putting of the Question deferred)*

Let me reorganise business further so that instead of going to Order No.15, we go to the Business appearing as Order No.17, if the Chairman of the Budget and Appropriations Committee is ready.

## MOTION

### CONSIDERATION OF THE SECOND SUPPLEMENTARY ESTIMATES FOR THE FINANCIAL YEAR 2021/2022

**Hon Speaker:** Chairman of Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Supplementary Estimates II for the Financial Year 2021/2022, laid on the Table of the House on Tuesday, 7<sup>th</sup> June 2022 and, pursuant to the provisions of Article 223 of the Constitution and Standing Order 243-

- (i) approves an increment of the total expenditure for Financial Year 2021/2022 by Kshs70,847,524,597 being Current Estimates of Kshs65,012,661,186 and Capital Estimates of Kshs5,861,863,411 in respect of the Votes as contained in the attached Schedule I;
- (ii) approves Kshs27,257,307,265 for Financial Year 2021/2022 spent under Article 223 of the Constitution and as contained in the attached Schedule II; and,

(iii) resolves that the attached Schedules form the basis for the introduction of the Second Supplementary Appropriation Bill, 2022.

### SCHEDULE I

<u>VOTE CODE</u>	<u>VOTE/PROGRAMME CODES &amp; TITLE</u>	<u>FINAL SUPPLEMENTARY II BUDGET ESTIMATES FY 2021/22</u>		
		<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
1011	<b>Executive Office of the President</b>	<b>3,525,873,881</b>	<b>928,890,557</b>	<b>4,454,764,438</b>
	0702000 Cabinet Affairs	84,884,646	-	<b>84,884,646</b>
	0703000 Government Advisory Services	63,819,000	(71,109,443)	<b>(7,290,443)</b>
	0704000 State House Affairs	3,306,902,252	-	<b>3,306,902,252</b>
	0734000 Deputy President Services	70,267,983	-	<b>70,267,983</b>
	0745000 Nairobi Metropolitan Services	-	1,000,000,000	<b>1,000,000,000</b>
1021	<b>State Department for Interior and Citizen Services</b>	<b>(255,000,000)</b>	<b>200,000,000</b>	<b>(55,000,000)</b>
	0601000 Policing Services	(485,000,000)	-	<b>(485,000,000)</b>
	0603000 Government Printing Services	-	-	-
	0605000 Migration & Citizen Services Management	31,000,000	200,000,000	<b>231,000,000</b>
	0625000 Road Safety	100,000,000	-	<b>100,000,000</b>
	0626000 Population Management Services	(100,000,000)	-	<b>(100,000,000)</b>
	0629000 General Administration and Support Services	199,000,000	-	<b>199,000,000</b>
	0630000 Policy Coordination Services	-	-	-
1023	<b>State Department for Correctional Services</b>	<b>(800,000,000)</b>	-	<b>(800,000,000)</b>

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<u>VOTE CODE</u>	<u>VOTE/PROGRAMME CODES &amp; TITLE</u>	<u>FINAL SUPPLEMENTARY II BUDGET ESTIMATES FY 2021/22</u>		
		<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
	0623000 General Administration, Planning and Support Services	-	-	-
	0627000 Prison Services	(800,000,000)	-	<b>(800,000,000)</b>
	0628000 Probation & After Care Services	-	-	-
	<b>State Department for Devolution</b>	<b>600,000,000</b>	-	<b>600,000,000</b>
1032	0712000 Devolution Services	613,348,672	-	<b>613,348,672</b>
	0732000 General Administration, Planning and Support Services	(13,348,672)	-	<b>(13,348,672)</b>
	0713000 Special Initiatives	-	-	-
1035	<b>State Department for Development of the ASAL</b>	-	<b>(232,000,000)</b>	<b>(232,000,000)</b>
	0733000 Accelerated ASAL Development	-	(232,000,000)	<b>(232,000,000)</b>
	<b>Ministry of Defence</b>	<b>1,760,000,000</b>	-	<b>1,760,000,000</b>
1041	0801000 Defence	1,800,000,000	-	<b>1,800,000,000</b>
	0802000 Civil Aid	-	-	-
	0803000 General Administration, Planning and Support Services	(40,000,000)	-	<b>(40,000,000)</b>
	0805000 National Space Management	-	-	-
	<b>Ministry of Foreign Affairs</b>	<b>999,470,555</b>	-	<b>999,470,555</b>
1052	0714000 General Administration Planning and Support Services	16,800,000	-	<b>16,800,000</b>
	0715000 Foreign Relation and Diplomacy	982,670,555	-	<b>982,670,555</b>

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<u>VOTE CODE</u>	<u>VOTE/PROGRAMME CODES &amp; TITLE</u>	<u>FINAL SUPPLEMENTARY II BUDGET ESTIMATES FY 2021/22</u>		
		<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
	0741000 Economic and Commercial Diplomacy	-	-	-
	0742000 Foreign Policy Research, Capacity Development and Technical Cooperation	-	-	-
	<b>State Department for Vocational and Technical Training</b>	<b>47,970,156</b>	-	<b>47,970,156</b>
1064	0505000 Technical Vocational Education and Training	53,770,156	-	<b>53,770,156</b>
	0507000 Youth Training and Development	-	-	-
	0508000 General Administration, Planning and Support Services	(5,800,000)	-	<b>(5,800,000)</b>
	<b>State Department for University Education</b>	<b>1,405,692,309</b>	<b>32,598,600</b>	<b>1,438,290,909</b>
1065	0504000 University Education	1,329,060,309	32,598,600	<b>1,361,658,909</b>
	0506000 Research, Science, Technology and Innovation	73,132,000	-	<b>73,132,000</b>
	0508000 General Administration, Planning and Support Services	3,500,000	-	<b>3,500,000</b>
	<b>State Department for Early Learning &amp; Basic Education</b>	<b>94,227,000</b>	<b>1,457,022,388</b>	<b>1,551,249,388</b>
1066	0501000 Primary Education	12,600,000	1,365,022,388	<b>1,377,622,388</b>
	0502000 Secondary Education	-	92,000,000	<b>92,000,000</b>
	0503000 Quality Assurance and Standards	-	-	-

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		<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
	0508000 General Administration, Planning and Support Services	81,627,000	-	<b>81,627,000</b>
1068	<b>State Department for Post Training and Skills Development</b>	-	-	-
	0508000 General Administration, Planning and Support Services	(4,546,813)	-	<b>(4,546,813)</b>
	0512000 Work Place Readiness Services	5,302,898	-	<b>5,302,898</b>
	0513000 Post Training Information Management	(756,085)	-	<b>(756,085)</b>
1069	<b>State Department for Implementation of Curriculum Reforms</b>	-	-	-
	0514000 Coordination of the Curriculum Reform Implementation	-	-	-
1071	<b>The National Treasury</b>	<b>(978,500,000)</b>	<b>2,386,830,906</b>	<b>1,408,330,906</b>
	0203000 Rail Transport	-	10,381,493,477	<b>10,381,493,477</b>
	0204000 Marine Transport	-	(2,240,000,000)	<b>(2,240,000,000)</b>
	0717000 General Administration Planning and Support Services	1,116,464,418	-	<b>1,116,464,418</b>
	0718000 Public Financial Management	(2,109,854,787)	(5,314,662,571)	<b>(7,424,517,358)</b>
	0719000 Economic and Financial Policy Formulation and Management	12,912,646	(440,000,000)	<b>(427,087,354)</b>
	0720000 Market Competition	-	-	-
	0740000 Government Clearing services	1,977,723	-	<b>1,977,723</b>

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1072	<b>State Department for Planning</b>	<b>7,500,000</b>	-	<b>7,500,000</b>
	0706000 Economic Policy and National Planning	1,777,564	-	<b>1,777,564</b>
	0707000 National Statistical Information Services	-	-	-
	0708000 Public Investment Management Monitoring and Evaluation Services	(770,718)	-	<b>(770,718)</b>
	0709000 General Administration Planning and Support Services	6,493,154	-	<b>6,493,154</b>
1081	<b>Ministry of Health</b>	<b>877,569,230</b>	<b>(4,650,105,729)</b>	<b>(3,772,536,499)</b>
	0401000 Preventive, Promotive & Reproductive Health	78,640,660	(4,061,780,050)	<b>(3,983,139,390)</b>
	0402000 National Referral & Specialized Services	812,717,552	50,430,770	<b>863,148,322</b>
	0403000 Health Research and Development	-	100,000,000	<b>100,000,000</b>
	0404000 General Administration, Planning & Support Services	188,787,953	-	<b>188,787,953</b>
	0405000 Health Policy, Standards and Regulations	(202,576,935)	(738,756,449)	<b>(941,333,384)</b>
1091	<b>State Department of Infrastructure</b>	<b>(450,000,000)</b>	<b>27,152,000,000</b>	<b>26,702,000,000</b>
	0202000 Road Transport	(450,000,000)	27,152,000,000	<b>26,702,000,000</b>
1092	<b>State Department of Transport</b>	-	-	-
	0201000 General Administration, Planning and Support Services	-	-	-
	0204000 Marine Transport	-	-	-
	0205000 Air Transport	-	-	-

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	0216000 Road Safety	-	-	-
1093	<b>State Department for Shipping and Maritime</b>	-	(80,000,000)	(80,000,000)
	0220000 Shipping and Maritime Affairs	-	(80,000,000)	(80,000,000)
1094	<b>State Department for Housing and Urban Development</b>	<b>230,351,630</b>	<b>(2,550,000,000)</b>	<b>(2,319,648,370)</b>
	0102000 Housing Development and Human Settlement	(42,100,000)	(2,750,000,000)	(2,792,100,000)
	0105000 Urban and Metropolitan Development	269,075,821	200,000,000	<b>469,075,821</b>
	0106000 General Administration Planning and Support Services	3,375,809	-	<b>3,375,809</b>
1095	<b>State Department for Public Works</b>	<b>(31,900,000)</b>	-	<b>(31,900,000)</b>
	0103000 Government Buildings	(13,180,285)	(1,920,370)	<b>(15,100,655)</b>
	0104000 Coastline Infrastructure and Pedestrian Access	-	1,920,370	<b>1,920,370</b>
	0106000 General Administration Planning and Support Services	(10,719,715)	-	<b>(10,719,715)</b>
	0218000 Regulation and Development of the Construction Industry	(8,000,000)	-	<b>(8,000,000)</b>
1108	<b>Ministry of Environment and Forestry</b>	<b>(25,000,000)</b>	<b>(75,000,000)</b>	<b>(100,000,000)</b>
	1002000 Environment Management and Protection	40,000,000	-	<b>40,000,000</b>
	1010000 General Administration, Planning and Support Services	-	-	-

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	1012000 Meteorological Services	(65,000,000)	-	<b>(65,000,000)</b>
	1018000 Forests and Water Towers Conservation	-	(75,000,000)	<b>(75,000,000)</b>
	<b>Ministry of Water, Sanitation and Irrigation</b>	<b>(29,653,052)</b>	<b>(3,755,500,000)</b>	<b>(3,785,153,052)</b>
	1001000 General Administration, Planning and Support Services	(12,355,545)	-	<b>(12,355,545)</b>
	1004000 Water Resources Management	-	-	-
1109	1017000 Water and Sewerage Infrastructure Development	(17,297,507)	(3,645,500,000)	<b>(3,662,797,507)</b>
	1014000 Irrigation and Land Reclamation	-	-	-
	1015000 Water Storage and Flood Control	-	(200,000,000)	<b>(200,000,000)</b>
	1022000 Water Harvesting and Storage for Irrigation	-	90,000,000	<b>90,000,000</b>
1112	<b>Ministry of Lands and Physical Planning</b>	<b>51,200,000</b>	<b>238,000,000</b>	<b>289,200,000</b>
	0101000 Land Policy and Planning	51,200,000	238,000,000	<b>289,200,000</b>
	<b>State Department for Information Communication and Technology &amp; Innovation</b>	-	<b>(1,500,000,000)</b>	<b>(1,500,000,000)</b>
1122	0207000 General Administration Planning and Support Services	440,612	-	<b>440,612</b>
	0210000 ICT Infrastructure Development	1,490,388	(1,500,000,000)	<b>(1,498,509,612)</b>
	0217000 E-Government Services	(1,931,000)	-	<b>(1,931,000)</b>
1123	<b>State Department for Broadcasting &amp; Telecommunications</b>	-	-	-

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	0207000 General Administration Planning and Support Services	-	-	-
	0208000 Information and Communication Services	-	-	-
	0209000 Mass Media Skills Development	-	-	-
	0221000 Film Development Services Programme	-	-	-
1132	<b>State Department for Sports</b>	<b>5,500,000</b>	-	<b>5,500,000</b>
	0901000 Sports	5,500,000	-	<b>5,500,000</b>
	<b>State Department for Culture and Heritage</b>	<b>44,200,000</b>	-	<b>44,200,000</b>
1134	0902000 Culture / Heritage	-	-	-
	0903000 The Arts	-	-	-
	0904000 Library Services	44,200,000	-	<b>44,200,000</b>
	0905000 General Administration, Planning and Support Services	-	-	-
	<b>Ministry of Energy</b>	<b>(50,000,000)</b>	<b>(8,347,000,000)</b>	<b>(8,397,000,000)</b>
1152	0211000 General Administration Planning and Support Services	(2,973,000)	-	<b>(2,973,000)</b>
	0212000 Power Generation	(15,000,000)	-	<b>(15,000,000)</b>
	0213000 Power Transmission and Distribution	(18,027,000)	(8,481,000,000)	<b>(8,499,027,000)</b>
	0214000 Alternative Energy Technologies	(14,000,000)	134,000,000	<b>120,000,000</b>
1162	<b>State Department for Livestock</b>	<b>(51,900,000)</b>	<b>(60,100,000)</b>	<b>(112,000,000)</b>

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		<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
	0112000 Livestock Resources Management and Development	(51,900,000)	(60,100,000)	<b>(112,000,000)</b>
	<b>State Department for Fisheries, Aquaculture &amp; the Blue Economy</b>	<b>(13,200,000)</b>	<b>170,000,000</b>	<b>156,800,000</b>
1166	0111000 Fisheries Development and Management	(11,681,211)	(80,000,000)	<b>(91,681,211)</b>
	0117000 General Administration, Planning and Support Services	(1,518,789)	-	<b>(1,518,789)</b>
	0118000 Development and Coordination of the Blue Economy	-	250,000,000	<b>250,000,000</b>
	<b>State Department for Crop Development &amp; Agricultural Research</b>	<b>(21,900,000)</b>	<b>(5,076,943,800)</b>	<b>(5,098,843,800)</b>
1169	0107000 General Administration Planning and Support Services	33,000,000	393,203,560	<b>426,203,560</b>
	0108000 Crop Development and Management	(49,900,000)	(5,217,147,360)	<b>(5,267,047,360)</b>
	0109000 Agribusiness and Information Management	(2,000,000)	(228,000,000)	<b>(230,000,000)</b>
	0120000 Agricultural Research & Development	(3,000,000)	(25,000,000)	<b>(28,000,000)</b>
1173	<b>State Department for Cooperatives</b>	<b>201,955,567</b>	<b>58,110,151</b>	<b>260,065,718</b>
	0304000 Cooperative Development and Management	201,955,567	58,110,151	<b>260,065,718</b>
1174	<b>State Department for Trade and Enterprise Development</b>	<b>52,500,000</b>	<b>(80,000,000)</b>	<b>(27,500,000)</b>

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	0307000 Trade Development and Promotion	52,500,000	(80,000,000)	(27,500,000)
	<b>State Department for Industrialization</b>	<b>28,000,000</b>	<b>140,000,000</b>	<b>168,000,000</b>
1175	0301000 General Administration Planning and Support Services	20,000,000	-	20,000,000
	0302000 Industrial Development and Investments	8,000,000	164,917,000	172,917,000
	0303000 Standards and Business Incubation	-	(24,917,000)	(24,917,000)
	<b>State Department for Labour</b>	<b>63,335,000</b>	<b>(63,335,000)</b>	<b>-</b>
1184	0910000 General Administration Planning and Support Services	5,900,000	-	5,900,000
	0906000 Promotion of the Best Labour Practice	400,000	-	400,000
	0907000 Manpower Development, Employment and Productivity Management	57,035,000	(63,335,000)	(6,300,000)
	<b>State Department for Social Protection, Senior Citizen Affairs &amp; Special Programs</b>	<b>1,040,000,000</b>	<b>473,700,000</b>	<b>1,513,700,000</b>
1185	0908000 Social Development and Children Services	(12,904,464)	150,000,000	137,095,536
	0909000 National Social Safety Net	1,050,000,000	323,700,000	1,373,700,000
	0914000 General Administration, Planning and Support Services	2,904,464	-	2,904,464
1194	<b>State Department for Petroleum and Mining</b>	<b>49,292,440,886</b>	<b>-</b>	<b>49,292,440,886</b>

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	0215000 Exploration and Distribution of Oil and Gas	49,309,440,886	-	<b>49,309,440,886</b>
	1007000 General Administration Planning and Support Services	(17,000,000)	-	<b>(17,000,000)</b>
	1009000 Mineral Resources Management	-	(5,928,894)	<b>(5,928,894)</b>
	1021000 Geological Surveys and Geoinformation Management	-	5,928,894	<b>5,928,894</b>
	<b>State Department for Tourism</b>	<b>678,889,000</b>	-	<b>678,889,000</b>
1202	0306000 Tourism Development and Promotion	678,889,000	-	<b>678,889,000</b>
	<b>State Department for Wildlife</b>	<b>1,790,000,000</b>	-	<b>1,790,000,000</b>
1203	1019000 Wildlife Conservation and Management	1,790,000,000	-	<b>1,790,000,000</b>
	<b>State Department for Gender</b>	<b>6,023,200</b>	<b>5,521,800</b>	<b>11,545,000</b>
	0911000 Community Development	-	-	-
1212	0912000 Gender Empowerment	-	5,521,800	<b>5,521,800</b>
	0913000 General Administration, Planning and Support Services	6,023,200	-	<b>6,023,200</b>
	<b>State Department for Public Service</b>	<b>7,000,000</b>	<b>100,100,000</b>	<b>107,100,000</b>
1213	0710000 Public Service Transformation	1,000,000	100,100,000	<b>101,100,000</b>
	0709000 General Administration Planning and Support Services	6,000,000	-	<b>6,000,000</b>

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	0747000 National Youth Service	-	-	-
1214	<b>State Department for Youth Affairs</b>	<b>(13,000,000)</b>	<b>(1,333,683,462)</b>	<b>(1,346,683,462)</b>
	0711000 Youth Empowerment	(13,000,000)	(1,333,683,462)	<b>(1,346,683,462)</b>
1221	<b>State Department for East African Community</b>	<b>19,429,278</b>	-	<b>19,429,278</b>
	0305000 East African Affairs and Regional Integration	19,429,278	-	<b>19,429,278</b>
1222	<b>State Department for Regional &amp; Northern Corridor Development</b>	<b>50,000,000</b>	<b>503,000,000</b>	<b>553,000,000</b>
	1013000 Integrated Regional Development	50,000,000	503,000,000	<b>553,000,000</b>
1252	<b>State Law Office and Department of Justice</b>	<b>40,000,000</b>	<b>6,500,000</b>	<b>46,500,000</b>
	0606000 Legal Services	16,000,000	-	<b>16,000,000</b>
	0607000 Governance, Legal Training and Constitutional Affairs	-	6,500,000	<b>6,500,000</b>
	0609000 General Administration, Planning and Support Services	24,000,000	-	<b>24,000,000</b>
1271	<b>Ethics and Anti-Corruption Commission</b>	<b>260,000,000</b>	-	<b>260,000,000</b>
	0611000 Ethics and Anti-Corruption	<b>260,000,000</b>	-	<b>260,000,000</b>
1281	<b>National Intelligence Service</b>	<b>1,300,000,000</b>	-	<b>1,300,000,000</b>
	0804000 National Security Intelligence	1,300,000,000	-	<b>1,300,000,000</b>
1291	<b>Office of the Director of Public Prosecutions</b>	-	-	-
	0612000 Public Prosecution Services	-	-	-

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1311	<b>Office of the Registrar of Political Parties</b>	969,000,000	-	969,000,000
	0614000 Registration, Regulation and Funding of Political Parties	969,000,000	-	969,000,000
1321	<b>Witness Protection Agency</b>	(20,000,000)	-	(20,000,000)
	0615000 Witness Protection	(20,000,000)	-	(20,000,000)
2011	<b>Kenya National Commission on Human Rights</b>	(9,000,000)	-	(9,000,000)
	0616000 Protection and Promotion of Human Rights	(9,000,000)	-	(9,000,000)
2021	<b>National Land Commission</b>	(7,000,000)	-	(7,000,000)
	0116000 Land Administration and Management	(7,000,000)	-	(7,000,000)
2031	<b>Independent Electoral and Boundaries Commission</b>	-	-	-
	0617000 Management of Electoral Processes	-	-	-
	0618000 Delimitation of Electoral Boundaries	-	-	-
2061	<b>The Commission on Revenue Allocation</b>	(19,589,554)	-	(19,589,554)
	0737000 Inter-Governmental Transfers and Financial Matters	(19,589,554)	-	(19,589,554)
2071	<b>Public Service Commission</b>	-	-	-
	0725000 General Administration, Planning and Support Services	-	-	-

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	0726000 Human Resource Management and Development	-	-	-
	0727000 Governance and National Values	-	-	-
	0744000 Performance and Productivity Management	-	-	-
2081	<b>Salaries and Remuneration Commission</b>	-	-	-
	0728000 Salaries and Remuneration Management	-	-	-
2091	<b>Teachers Service Commission</b>	<b>2,221,286,774</b>	-	<b>2,221,286,774</b>
	0509000 Teacher Resource Management	2,088,286,774	-	<b>2,088,286,774</b>
	0510000 Governance and Standards	-	-	-
	0511000 General Administration, Planning and Support Services	133,000,000	-	<b>133,000,000</b>
2101	<b>National Police Service Commission</b>	-	-	-
	0620000 National Police Service Human Resource Management	-	-	-
2111	<b>Auditor General</b>	<b>41,000,000</b>	<b>(194,000,000)</b>	<b>(153,000,000)</b>
	0729000 Audit Services	41,000,000	(194,000,000)	<b>(153,000,000)</b>
2121	<b>Office of the Controller of Budget</b>	<b>(6,500,000)</b>	-	<b>(6,500,000)</b>
	0730000 Control and Management of Public Finances	(6,500,000)	-	<b>(6,500,000)</b>
2131	<b>Commission on Administrative Justice</b>	<b>(10,000,000)</b>	-	<b>(10,000,000)</b>

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		<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
	0731000 Promotion of Administrative Justice	(10,000,000)	-	<b>(10,000,000)</b>
2141	<b>National Gender and Equality Commission</b>	-	<b>7,257,000</b>	<b>7,257,000</b>
	0621000 Promotion of Gender Equality and Freedom from Discrimination	-	7,257,000	<b>7,257,000</b>
2151	<b>Independent Policing Oversight Authority</b>	<b>(14,410,674)</b>	-	<b>(14,410,674)</b>
	0622000 Policing Oversight Services	(14,410,674)	-	<b>(14,410,674)</b>
-	<b><u>Sub-Total: Executive</u></b>	<b><u>64,903,861,186</u></b>	<b><u>5,861,863,411</u></b>	<b><u>70,765,724,597</u></b>
1261	<b>The Judiciary</b>	<b>122,000,000</b>	-	<b>122,000,000</b>
	0610000 Dispensation of Justice	122,000,000	-	<b>122,000,000</b>
2051	<b>Judicial Service Commission</b>	<b>(13,200,000)</b>	-	<b>(13,200,000)</b>
	0619000 General Administration, Planning and Support Services	(13,200,000)	-	<b>(13,200,000)</b>
-	<b><u>Sub-Total: Judiciary</u></b>	<b><u>108,800,000</u></b>	<b><u>-</u></b>	<b><u>108,800,000</u></b>
2041	<b>Parliamentary Service Commission</b>	-	-	-
	0722000 Senate Affairs	-	-	-
2042	<b>National Assembly</b>	-	-	-
	0721000 National Legislation, Representation and Oversight	-	-	-
2043	<b>Parliamentary Joint Services</b>	-	-	-
	0723000 General Administration, Planning and Support Services	-	-	-

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<u>VOTE CODE</u>	<u>VOTE/PROGRAMME CODES &amp; TITLE</u>	<u>FINAL SUPPLEMENTARY II BUDGET ESTIMATES FY 2021/22</u>		
		<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
	0746000 Legislative Training Research & Knowledge Management	-	-	-
	<b><u>Sub-Total: Parliament</u></b>	<b><u>-</u></b>	<b><u>-</u></b>	<b><u>-</u></b>
-	<b><u>TOTAL</u></b>	<b><u>65,012,661,186</u></b>	<b><u>5,861,863,411</u></b>	<b><u>70,874,524,597</u></b>

## SCHEDULE II

### SUMMARY OF THE APPROVALS GRANTED UNDER ARTICLE 223 OF THE CONSTITUTION IN THE FY 2021/2022 SUPPLEMENTARY ESTIMATES NO.2

<b>Vote and Programme Details</b>	<b>National Treasury Approval Dates</b>	<b>Amount Disbursed/ Payment</b>	<b>Disbursement Dates</b>	<b>Remarks/Purpose</b>
<b>1021 State Department for Interior and Citizen Services</b>		<b>260,000,000</b>		
<b>0629000 General Administration and Support Services</b>	<b>4/25/2022</b>	<b>260,000,000</b>		
2211300 Other Operating Expenses		260,000,000		<b>Funds were granted to cater for the State Burial of the third President of Republic of Kenya</b>
<b>1032 State Department for Devolution</b>		<b>200,000,000</b>		

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<b>Vote and Programme Details</b>	<b>National Treasury Approval Dates</b>	<b>Amount Disbursed/ Payment</b>	<b>Disbursement Dates</b>	<b>Remarks/Purpose</b>
<b>0712000 Devolution Services</b>	<b>13/05/2022</b>	<b>200,000,000</b>	<b>13/05/2022</b>	<b>Provision for the Africities. Ksh200million funded by exchequer and Ksh.400million funded through AIA</b>
2210801 Catering services		80,000,000		
2210600 Rental of Produced ASSETS				
2211311 Contracted Technical services		120,000,000		
<b>1071 The National Treasury</b>		<b>1,000,000,000</b>		
<b>0203000 Rail Transport</b>	<b>25/03/2022</b>	<b>1,000,000,000</b>		<b>Naivasha Inland Container depot-Longonot station</b>
2630201Capital grants		1,000,000,000		
<b>1091 State Department for Infrastructure</b>	<b>-</b>	<b>8,650,000,000</b>		
<b>0202000 Road Transport</b>	<b>31/03/2022&amp;16/5/2022</b>	<b>8,650,000,000</b>	<b>6/3/2022&amp;2/6/2022</b>	<b>Funds for completion of ongoing roads construction</b>
2630201Capital grants		8,650,000,000		<b>Funds for completion of ongoing roads construction &amp; Ksh. 650 million for the Compensation of Kenya Railways Retirees</b>
<b>1169 State Department for Crop Development &amp; Agricultural Research</b>		<b>1,000,000,000</b>		

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<b>Vote and Programme Details</b>	<b>National Treasury Approval Dates</b>	<b>Amount Disbursed/ Payment</b>	<b>Disbursement Dates</b>	<b>Remarks/Purpose</b>
<b>0108000 Crop Development and Management</b>	<b>4/4/2022</b>	<b>1,000,000,000</b>	<b>5/5/2022</b>	<b>Provision to cater for the fertilizer subsidy</b>
2630201 Capital grants		1,000,000,000		
<b>1185 State Dpt for Social Protection, Senior Citizens Affairs &amp; Special Programs</b>		<b>337,866,379</b>		
<b>0909000 National Social Safety Net</b>	<b>14/4/2022</b>	<b>337,866,379</b>		<b>Relief food interventions to mitigate the effects of drought</b>
2211307 Transport Costs and Charges				
2211399 Other Operating Expenses				
2640201 Emergency Relief		337,866,379		
<b>1194 Ministry of Petroleum and Mining</b>	<b>-</b>	<b>15,809,440,886</b>		
<b>0215000 Exploration and Distribution of Oil and Gas</b>	<b>13/04/2022 &amp; 24/03/2022 &amp; 25/5/2022</b>	<b>15,809,440,886</b>	<b>13/04/2022 &amp; 24/03/2022 &amp; 25/5/2022</b>	<b>Funds to cater for fuel price stabilization</b>
2520202 Oil Market Price Stabilization		7,539,440,886		
2520203 Refund to Petroleum Development Fund (PDL)		8,270,000,000		
<b>GRAND TOTAL</b>		<b>27,257,307,265</b>		

Hon. Speaker, I thank your good Office and that of the Clerk for facilitating. When we received this second Supplementary Estimates Bill, I sought your guidance as to how we were going to process it owing to the shortage of time that we had. You directed that the Budget and Appropriations Committee in consultation with the various Chairs of the Departmental Committees we work together to expedite the process. I am happy, Hon. Speaker, that we gave enough time to the Chairs of the various Departmental Committees which were affected by the Supplementary Budget II, who appeared before us, some through memoranda and others in person. We were able to process in a very short time the Supplementary Budget II.

The major issues that are captured in the Supplementary Budget II are granted under Article 223 of the Constitution and also seek approval for reallocation and additional expenditure relating majorly to fuel stabilisation, enhanced security surveillance, drought mitigation expenditure and to accommodate for adjustment in projects financed by development partners.

The Supplementary Estimates II has been prepared at a time when the country is facing various challenges such as drought, rising cost of basic commodities, election related uncertainties and high fuel prices, among others. Hon. Speaker, based on your Communication, we were able to process it within a very short time. Without wasting a lot of time, I want to highlight a few of the salient issues that we found in the Supplementary Estimates II.

In processing the Supplementary Estimates II, the Committee held three meetings including a consultative one with the National Treasury. Further, the Committee received submissions from Departmental Committees that were processed. The outcome of these deliberations informed the various recommendations which are contained in this Report. If approved by this House, the recommendations will form the basis for the passage of the second Supplementary Appropriation Bill, 2021/2022.

With regard to the non-financial recommendations: arising from the aforementioned consultative engagement, the Committee recommends:

In the subsequent notification of expenditure under Article 223 of the Constitution, the National Treasury should provide detailed explanatory notices in actual programmes financed and justification informing each approval. They should include, project name, the background informing the request for the resource and the rationale for their approval. The one we received was not very clear.

With regard to the reallocation and additional allocation, that from the Financial Year 2022/20223, the National Treasury shall ensure that all request for reallocation and addition allocation do not exceed the 10 per cent threshold per programme as outlined in Section 43(2)(a) of the Public Finance Management Act and attendant regulations.

By the end of December 2022, the National Treasury should review and update the framework for implementation of the donor funded programmes and align them to the budget cycle to enhance absorption of donor funded development expenditure in line with the Busan Partnership for Effective Development Cooperation of 2021. Hon. Speaker, in the attached report, there are a lot of deductions in relation to the donor funded programmes and the common answer was that there was low absorption. That is something that needs to be addressed urgently.

In line with the Public Finance Management Act and related regulations, the National Treasury should develop and fully enforce guidelines to deter the continued spiralling of pending bills and report to the House on the progress by the end of December 2022. These guidelines should include commitments without budgetary provisions and that the pending bills at the close of any financial year should not be higher than those that were there at the commencement. We have seen

a trend where each year we have been piling the pending bills. At some point, if not addressed, they might become a national crisis.

The Committee also noted that under Article 223, a sum of Kshs27,257,307,265 was spent under Article 223 of the Constitution as outlined in the Schedule that we have attached. Also, the disbursement did not commensurate with the Article - there were some funds that were indicated under Article 223, but were not released to the entities. The additional Kshs70,847,524,597, as contained in Schedules I, II and III, forms the basis of the Second Supplementary Bill of 2022.

With that, I beg to move. As I move, I thank your Office, the Office of the Clerk, my entire Budget and Appropriations Committee and the Chairs of various Departmental Committees who were able to process the Supplementary Estimates II despite the short notice. I move and request Hon. Nyamita, MP for Uriri, to second. I thank you, Hon. Speaker.

**Hon. Speaker:** Member for Uriri, Hon. Mark Nyamita. Is your card working? Yes, I can see it now.

**Hon. Mark Nyamita** (Uriri, ODM): Thank you, Hon. Speaker. Let me also take this opportunity to thank the colleagues we have served with in the Budget and Appropriations Committee for the last five years, especially on this last Supplementary Estimates II. They have put the country first, and not their constituencies. It was not easy. You know how we are struggling to get even a quorum in this House. Members took their time from the constituencies to be there so that we were able to deliberate on this. I also thank the Chairs of the various Committees who found time to have quick meetings and submit to us their Reports on the Supplementary II for the last Financial Year.

We already had our last Committee meeting. I am sure you will see in our Exit Report the amount of work the Committee has done over the last five years. I am sure my able Chair will table it tomorrow. Indeed, as we go into these elections, we go very proud that we have done justice to this country in the capacity that we served in the Budget and Appropriations Committee. I want to also thank the House that we put our political differences aside to ensure that the country runs smoothly. On occasions where we have had different opinions, we have found ways to support this Government. As we wait for the fifth Government, hopefully under Raila Amollo Odinga, we will continue to give him that support should God grant us an opportunity to come back to this House.

Without further ado, I second.

*(Question proposed)*

**Hon. Speaker:** Member for Kigumo, Hon. Wangari, do you want to contribute to this?

**Hon. (Ms.) Wangari Mwaniki** (Kigumo, JP): Thank you, Hon. Speaker. I rise to support the Report on the Supplementary Estimates II that the Chair of our Budget and Appropriations Committee has just tabled. I also want to join my colleagues who have thanked your Office for the support that the Budget and Appropriations Committee has continued to receive in its very demanding task of overseeing the National Treasury on the area of budget appropriation.

We as Members have gone through and sat with the National Treasury on most of the issues regarding Supplementary Estimates. A lot of them were adjustments for projects that needed to be prioritized and supported for completion. You have heard that some of the speakers who rose to speak on the early Appropriation Bill saying that the National Treasury has this time really reached out to ensure that there is what we can call an equal distribution of resources to ensure they reach all parts of this country. In many of the constituencies, Members who were in this House can attest to very many projects in areas of infrastructure and education that would otherwise have been left

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without being completed. This Bill is coming in to ensure those projects are completed on time, and that they do not attract penalties that would otherwise be loaded on by contractors for non-payment.

You remember the area of Universal Health Care (UHC) has been very dear to the Jubilee administration, particularly His Excellency the President. A lot has gone into this area to ensure that hospitals in slum areas come up. You have seen what has happened in Nairobi. Many Level Two and Three hospitals have been completed to ensure that there is less overloading on referral hospitals like Kenyatta National Hospital (KNH). Most of the issues the Supplementary Bill seeks to address are areas that are so critical to our country and infrastructure support upon which we believe the incoming Government, which we so hopeful will be headed by Baba the Fifth, is going to build on the infrastructural development that the current administration has done most of what this Supplementary Bill seeks to conclude.

Hon. Speaker, I support with those words and say that I was happy when I heard a lot of the remarks that came from the Floor when we were looking at the Appropriation Bill. Members were openly saying that they have felt the work of our Committee and the way we have interfaced with the National Treasury to ensure projects across the country, in almost every constituency, are being considered for budgetary support. I am very happy with the leadership of our Chairman. He is very consultative. We are happy with the guidance that your Office has continued to give us, the Clerk, and all Members of the Budget and Appropriations Committee who have burned the midnight oil. We have sat here in this Parliament with the National Treasury until very late hours to ensure all Supplementary Estimates are properly evaluated and that the oversight role that this Parliament, through the Budget and Appropriations Committee, continues to give and ensure it is properly discharged.

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

**Hon. Speaker:** The Vice-Chair, Hon. Shinali.

**Hon. Benard Shinali** (Ikolomani, JP): Thank you very much, Hon. Speaker. I appreciate your giving me this chance to add my voice to the Report. First of all, I want to thank members of the Budget and Appropriations Committee who have taken time of their busy schedules to come and work on these Estimates, following your directions.

These are hard times. Our country is facing many challenges as a result of the Russia-Ukraine War. Drought has also made the lives of average and middle class Kenyans difficult. The Bill seeks to provide Ksh70.87 billion to cushion the rising cost of life in terms of fuel subsidy. It also provides Ksh10 billion to make sure that targeted infrastructure projects do not stall.

The Report is within the law. They are below the 10 per cent required in law. It is my wish that the Treasury observes the law or the law is changed such that before funds are spent under Article 223 of the Constitution, a request is brought here for approval. If Article 223 of the Constitution is not observed, it can be misused. You find that Article 223 of the Constitution is used to spend money on new projects yet it is supposed to be used for unforeseen expenditures like the rise in fuel prices which affects prices of other products. I thank members of departmental committees who made sure that their reports are timely for us to deliberate on this Bill.

With those remarks, Hon. Speaker, I thank you for giving me this opportunity. I support.

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

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I rise to support the Report of the Committee and thank it for working on it. It is really difficult to raise quorum of a committee

at this time of the year in this season. They have been able to sit down and look at this request, which has come so late in the day, and bring it for regularisation.

The quantum may not be much or varied in terms of use. I am glad that the Government has seriously taken the sentiments of this House in terms of ameliorating the suffering of Kenyans on fuel prices. We cannot control the situation in Ukraine. The situation has given oil-producing countries the excuse to recoup what they lost at the height of the COVID-19 pandemic. I like looking at fuel prices wherever I go. Last time I was with you in Uganda. Much as people were thinking that fuel prices are lower there, we found that it was Ksh149 when ours was at Ksh143 per litre. The price in the UK is over Ksh250 per litre. You can hear the complaints they have over gas prices. All of that has to do with the Ukraine situation and the fact that the UK does not have a subsidy programme. Kenyans are lucky that this House is able to provide this funding to continue subsidising fuel prices.

I am surprised most of the Members whose constituencies are affected by drought are not here. Everyone has been talking of the need to allocate money to drought mitigation. Part of this funding is for that. I hope they will read in the papers tomorrow that money has been provided for them, so that they can go to their constituencies to say that Parliament has provided money for drought mitigation. Obviously, extra security is required for elections.

By and large, this is a straightforward request by the Treasury. At least it has come at the beginning of June and not at the very end of the financial year like last year. If we are lucky to come back to this House, one of the things we should look at is providing timelines within which requests should not be ratified. Much as the law provides for the opportunity, it is not good order to tell people it is *a fait accompli*. It would be better if we approve the first Supplementary Estimates incorporating not only what has been spent but also what is foreseen to be spent. The process should not only be reactive. Probably things have changed. We hope we will take back the Treasury to where it used to foresee things and be more proactive than reactive. I would not be surprised, if we had more time, to see Supplementary Estimates III. These are some of the things we hope to cure in the long term.

This is a fair request and I support the re-allocations. We are also aware that obviously the donor funded projects have not moved as they should have done. It is the same with the road projects. It gets frightening when you go and see a road that was moving very fast and all of a sudden, the contractor is slowing down. It costs more in the longer term. It costs more in terms of the delayed benefits to the public. I hope that we have done this. The contractors will be sorted out and they can now move so that between now and the next rainy period, when we have the cold season - at least, when it is not wet. They will be able to move most of the earth works and repairs and even create more employment between now and election time. This is so that people are busy not just campaigning, but also earning something from the construction work with the funds now being released to the contractors.

However, most importantly because this administration is about to come to an end in August, we saw what happened in 2017 especially at the county level when the first batch of governors were replaced by a new set. By the guise of verification of the pending bills, some of those people who supplied in 2013 and before have never been paid up to date in some of the counties. Another group is about to be changed.

I hope that before they exit, with this funding, people will have been paid their debts so that we do not end up with a new cycle of suppliers who will be told that they cannot be paid because their governor who contracted them has now been replaced. Hence they should wait for a special audit and all that and they will not be paid until 2027. The fact that we have so many

pending bills is how we are cutting down on money supply. People have supplied. People went to the bank and tender-financed loans were given. They bought goods and they supplied to the counties. They have not been paid. Of course the banks have had to recall their loans. People auctioned whatever they had, they paid and hence when you hear the cries of people that there is no money and that money is not moving around, it is partly because of the inefficiency or the unwillingness to actually liquidate some of these debts that are causing shortage of money supply out there.

This is not also limited to the county governments. That is why I said this administration is about to now come to a natural close with the end of the second term. We still have people who supplied NYS and we have been talking about those suppliers for long. The ones who supplied to NYS were subjected to audit. They have been going there and I know so many youths who have come to me and said they supplied. They have been verified and every time they are told we are waiting for the Supplementary Bill to pass. I think we have passed like three or four Supplementary Bills including this one and the people are not being paid.

I urge the CS for Treasury who has come before this House and promised that they will be paid. In fact, the President himself has come and told us they will be paid. Between now and August, those people should actually be paid so that they are not handed over to the next administration which will now say that was not their debt and the people will suffer forever. These are young Kenyans who delivered goods in good faith. The fact that there were scandals there should not punish a bona fide supplier who did things in good faith and whose services have been certified. They should actually be paid.

With all those words, I beg to support.

**Hon. Speaker:** Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I rise to support this Motion for Consideration of the Second Supplementary Estimates for the Financial Year 2021/2022. As you can see, the figures are Ksh70.8 billion which is the bridge that the CS for Treasury is seeking that we approve.

What I just want to highlight briefly is the issue of the petroleum subsidy. This has been captured very well. Hon. Speaker, if you can recall, two months ago there was a lot of outcry in terms of supply of petroleum. I am happy that the CS for Treasury together with the President have managed to arrest this situation and they are managing it in terms of paying the subsidies to the suppliers.

Hon. Speaker, you made a ruling in this House around March regarding the use of Article 223 of the Constitution that we report to this House, through the Budget and Appropriations Committee, a separate annexure on what constitutes Article 223 that would have been spent. I am happy that the Chairman of the Budget and Appropriations Committee has enforced that and when you look at the Report, the issue of Article 223 has been itemised clearly so that Members can read and make a very informed opinion about it. What I am happy about the usage of Article 223 is that going forward, through the Standing Orders which we passed here the other day, you tightened the noose.

Hon. Speaker, you will not need to make a ruling so that the details of Article 223 come. Instead, the next Chair of the Budget and Appropriations Committee will be able to enforce the Standing Orders that we passed in this House so that the CS for the National Treasury shall not have an excuse, but shall come to report to us when he already has the details of Article 223.

Out of the Ksh70 billion, Ksh27 billion has already been disbursed using Article 223 and has been properly analysed in the Report to this House. That is a good thing. Therefore, I seek that

we support it so that we complete the issues touching on drought which could not wait but the CS had to disburse the money.

On the issue of the petroleum subsidy, we did not have to wait. It had to be disbursed so that Kenyans can live within their borders comfortably. What also comes out in this Supplementary Bill is infrastructure. What has been captured in the Report is only infrastructure touching on security and not infrastructure at large. All details of infrastructure at large are implored into the main budget so that what has been spent is not infrastructure *per se*, but infrastructure supporting the security aspect of the people. Therefore, it is a good budget and I will be seeking that we fully support these supplementary estimates in totality.

Finally, Hon. Speaker, I just want to thank you. You have been very cooperative whenever you have been called upon to support the Budget and Appropriations Committee. It is a good thing and it is a pleasure that we have you as our mentor, our Speaker and a person who could guide the Committee to move forward.

With those few remarks, I beg to support.

**Hon. Speaker:** Member for Mwingi North.

**Hon. Paul Nzengu** (Mwingi North, WDM-K): Hon. Speaker, thank you for giving me this opportunity to add my voice to this Motion. At the outset, I stand to support the Report from the Budget and Appropriations Committee on this Supplementary Budget. However, I want to identify that there are challenges that come with supplementary budgets at this hour or time of the year. We face challenges even to understand what the ministerial departments want to do with the monies because there was no room to have a one on one meeting with them and so we just asked our secretariat to call the heads of those ministries to try and understand exactly how some of the monies were going to be spent, especially where huge amounts of money were involved and there was no justification whether the money was going to pay for pending bills or it was going to pay for new projects.

However, one of the most important thing that is being funded under this budget is stabilisation of the fuel prices. As one of my colleagues has said, when you go out of this country, you realise that the price per litre of, for example, petrol is way above Ksh200 and Kenyans are lucky that, indeed, our Parliament and Government have been able to cushion them from the market forces that determine the prices of fuel. It is very important for Kenyans to know that as Members of Parliament, we are concerned about their welfare. The increase in the price of petroleum products will automatically lead to increase in prices of processed goods which will really push Kenyans to another level, even when they are already suffering.

I support this Motion.

**Hon. Speaker:** Hon. Members, I thought we were getting to the end of the debate. I can see that the Member for Masinga wants to contribute suddenly, after listening to others. Proceed, Hon. Mwalyo.

**Hon. Joshua Mwalyo** (Masinga, WDM-K): Thank you, Hon. Speaker. I want to add my voice to this Motion because I came late. I said that before we closed Parliament, I needed to register my voice in the House. I thank you very much for giving me the opportunity to do so.

*(Laughter)*

I deal with a few people who have been asking when the Supplementary Budget will be brought in the House. There are so many pending bills in the ministries and State Departments that need to be cleared. Some of the questions will be answered by passing this Supplementary Budget.

People will be paid even before 30<sup>th</sup> June which is the close of the financial year of the Government. Therefore, I thank the Budget and Appropriations Committee for bringing these Supplementary Estimates, so that we can clear some things. People are saying that they have no money in their pockets. We need to put it in the pockets of some suppliers and contractors who have supplied a lot of goods and rendered services to the Government. Therefore, it is important for them to receive what belongs to them, so that they can do their businesses.

As we do our politics, maybe some of the contractors want to sponsor me for even fuel for a day. They can also sponsor a friend, colleague, constituency mate, Member of Parliament or Member of the County Assembly (MCA). So, it is good for the country to have some kind of circulation of finances.

Hon. Speaker, I thank you for giving me this moment to contribute.

**Hon. Speaker:** I cannot understand what is happening. Member for Karachuonyo, you were around, but you did not indicate that you wanted to contribute.

*(Hon. Adipo Okuome spoke off record)*

Okay. Hon. Adipo.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Thank you, Hon. Speaker. My system was faulty. That is why I could not reach you. I wish to be among the Members who support these particular Supplementary Estimates. They touch on very important issues like fuel. This is something that the Government could not have dealt with before it occurred. It has come suddenly because of the war in Russia and Ukraine. If nothing is done about fuel, even our campaigns will be extremely expensive. Some of us may not even afford it. In addition, fuel is charged in various commodities that we have in the nation. Transportation is a very key issue that is connected with fuel. I feel that the Government should do something about it, so that the price does not skyrocket. We will control a number of issues even without going directly to their control.

Drought is another thing that happens without anybody planning for it. People do not know when there will be drought. I know that somebody may tell me that the meteorological people ought to know when it is coming. That is another issue. If they know it, they fail in their work very often. As I said, that is another issue. Drought results in the need to help various people, if they are faced with those kinds of problems. Because of that, I feel that this Budget is appropriate and useful to this nation, especially those who may be affected by drought.

Finally, this Supplementary Budget is trying to address security. It is key for anything that we are doing. Life can be very difficult without it. The Supplementary Estimates will control this and help to cushion the insecurity problems that we face. That makes me feel that this particular Supplementary Budget is very useful. It needs the support of all of us. I am one of those who support it. I congratulate the Budget and Appropriations Committee for considering these Supplementary Estimates favourably. I also extend my congratulations to the other committees whose efforts have given rise to the Supplementary Estimates that we are discussing now.

Thank you, Hon. Speaker for giving me the opportunity to add my voice to this Motion.

**Hon. Speaker:** Member for Embakasi South. *Hata wewe umeingia saa hii.*

**Hon. Julius Mawathe** (Embakasi South, WDM – K): Thank you, Hon. Speaker for giving me this opportunity to contribute. First, I want to start by saying that I support the Motion on Consideration of the Second Supplementary Estimates for the Financial Year 2021/2022. It is necessary because without the fuel subsidy, our petrol would be slightly over Ksh200 per litre.

That would in turn raise the cost of all the items that are transported by road, including diesel. The cost of some things like bread, sugar and cooking oil has already skyrocketed.

I also want to support this Motion because it supports our police officers. We look forward to have officers who are taken care of in a better way. There is also the issue of drought. There is need to mitigate it at this time that is very challenging. This Motion supports it.

Hon. Speaker, I support the Motion. Thank you.

**Hon. Speaker:** Member for Butula.

**Hon. Joseph Oyula** (Butula, ODM): I thank you, Hon. Speaker for giving me this opportunity to also add my voice to the Motion on Consideration of the Second Supplementary Estimates for the Financial Year 2021/2022. I support the Supplementary Budget, and especially in the provisions of Article 223 of the Constitution which have been analysed.

I also want to add that we amended the Standing Order that covers Article 223 of the Constitution. With that, we will have a lot of controls, when it comes to expenditure against Article 223 of the Constitution which is abused in a way. I hope that with the amendment that we approved recently, and the analysis that is required now, I believe that Article 223 of the Constitution will be controlled properly.

Therefore, I support the Motion. Thank you.

**Hon. Speaker:** There being no other Member desirous of contributing further, I call upon the Mover, Hon. Kanini to reply.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker. I thank my colleagues who have contributed to this Supplementary Budget II. As I said, when I was moving, it is now the onus of this House to ensure that the funds that we appropriate either through the main Budget or Supplementary Budget are put to good use. That one can only be checked through the relevant departmental committees. I believe that as we go to the 13<sup>th</sup> Parliament, we will ensure that we do our rightful role.

I also thank you Hon. Speaker and your office for facilitating the work of the Committee. Despite the very short notice, you processed that document and it is now here with us.

With those remarks, I beg to reply.

I thank you Hon. Speaker.

**Hon. Speaker:** Very well. Hon. Members just to alert the House, that in Committee it had been proposed that there will be consideration of the National Assembly Standing Orders in the Committee of the whole House; that has been taken out because the proposal for re-committal was withdrawn.

There was going to be item 3. Consideration of the Committee in Appropriations Bill, which Hon. Kanini Kega - I do not know whether it has been published. I remember we reduced the publication period from seven to four days.

Very well. My direction is that the Question will be put for Second Reading in the morning, tomorrow, during the morning Sitting. So, Hon. Kanini you could help us in whipping Members of your Committee to come and give us quorum for that purpose. I do not know whether you can try to do Committee in the morning. Question for Second Reading can be put and being a money Bill, you can go to the Committee without leave. This one does not require leave, so that in the event we do not have Quorum by the time you finish Committee of the whole House, we can put the Question in the afternoon.

The Finance Bill was to be considered but has been taken out. It was concluded because the request for re-committal was withdrawn. Therefore, Hon. Kanini Kega, maybe you could discuss with your people in the National Treasury to see to it whether they can publish the

Supplementary II Appropriations Bill. So, if it can possibly be read for the first time tomorrow morning or in the afternoon, reduce the publication period, First Reading, Second Reading and Committee in the hope that we can put the Question. Otherwise, there is a proposal by the House Business Committee (HBC) that we may have to suggest a Morning Sitting for Thursday.

This is because many of these Bills, if we do not put Questions, it will be unfair to many Chairs of committees who have also taken much time to process them. No. 18 is the Motion by Hon. Kamket. So, the House is now almost his and Hon. Abdullswamad with the Business appearing as Order No. 19, Public Investments Committee (PIC), in the event he shows up, unless he has deputised somebody to move the Motion on his behalf. So, Question on the Supplementary Appropriations general debate will be put in the morning.

The Hon. Abdullswamad is making his way. Talk of the devil and the devil appears. Anyhow, you are in the able hands of Hon. Patrick Mariru.

Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Speaker (Hon. Muturi) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Hon. Patrick Mariru) took the Chair]*

### THE SUPREME COURT (AMENDMENT) BILL

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order Members. We are now in the Committee of the whole House and we shall start considering the Supreme Court (Amendment) Bill, National Assembly, Bill No. 15 of 2022.

*(Clauses 3, 4, 5, 6,7,8,9,10,11,12, 13, 14, 15, 16, 17, 18, 19,  
20,21,22,23, 24, 25, 26, 27, 28, 29, 30 and 31 agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

Hon. Members, we are done with that Bill. We shall go to the next one.

## THE TRAFFIC (AMENDMENT) BILL

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, as it is indicated in the Order paper, it is with leave of the House. Leave of the House means that there being no objection by any Member, either with the sympathy of the Speaker or with the support of, at least, five other Members. I take it that we have leave of the House to proceed with the Traffic (Amendment) Bill (National Assembly Bill No.60 of 2021).

*(Clause 3 agreed to)*

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

*Clause 2*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have a proposed deletion by the Chair of the Departmental Committee on Transport, Public Works and Housing. Where is Hon. Pkosing? Leader of the Majority Party, what do you have to say on that one? Pkosing is no show.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, on behalf of the Chair of the Departmental Committee on Transport, Public Works and Housing, I beg to move:

THAT, the Bill be amended by deleting Clause 2.

This is for tidying up because this Bill attempts to define what is already defined in the Bill. It is a redundant provision in the Bill that is now being deleted.

*(Question of the amendment proposed)*

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

*(Clause 2 deleted)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with the two Bills. We shall now go to reporting. Mover of the Bill. Let us start with the Supreme Court (Amendment) Bill.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee does report to the House its consideration of the Supreme Court (Amendment) Bill (National Assembly Bill No.15 of 2022) and its approval thereof without amendments.

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us go to the Mover of the Traffic (Amendment) Bill. Yes, Hon. Kamket, proceed.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Temporary Deputy Chairman, I beg to move that the Committee does report to the House its consideration of the Traffic (Amendment) Bill (National Assembly Bill No.60 of 2021) and its approval thereof with amendments.

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Hon. Patrick Mariru) in the Chair]*

## REPORTS

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us start with the Supreme Court (Amendment) Bill.

### THE SUPREME COURT (AMENDMENT) BILL

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to report to the House that the Committee of the whole House has considered the Supreme Court (Amendment) Bill (National Assembly Bill No.15 of 2022) and approved the same without amendments.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Mover.

**Hon. Amos Kimunya** Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the House does agree with the Committee in the said Report.

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mwathi.

**Hon. Peter Mwathi** (Limuru, JP): Hon. Temporary Deputy Speaker, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall pend putting the Question on that.

*(Putting of the Question deferred)*

Let us go to the Traffic (Amendment) Bill. Chairperson.

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to report to the House that the Committee of the whole House has considered the Traffic (Amendment) Bill (National Assembly Bill No.60 of 2021) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Mover.

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

I request the Leader of the Majority Party to second the Motion of agreement with the Report of the Committee of the whole House.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to second.

I thank Hon. Kamket and his Committee on Delegated Legislation for bringing this amendment. It is a timely amendment to the National Transport Safety Authority (NTSA). I am sure it will help. I also thank this House for the support it has given this Bill in record time.

I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, we shall not put the Question on that.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Why not?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Is that Hon. Senior asking why not? I am sure now that he has been here for long enough he knows why.

*(Putting of the Question deferred)*

Next Order.

## MOTION

### ADOPTION OF REPORT ON DRAFT ELECTION- RELATED REGULATIONS

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Chairperson Committee on Delegated Legislation, Hon. Kamket.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of five sets of Draft Election-Related Regulations, laid on the Table of the House on Thursday, 2<sup>nd</sup> June 2022, and pursuant to the provisions of Section 109(3) of the Elections Act, 2011 resolves to REJECT the following-

(i) the Draft Elections (Registration of Voters) (Amendment) Regulations, 2022;

(ii) the Draft Elections (General) (Amendment) Regulations, 2022;

(iii) the Draft Elections (Voter Education) (Amendment) Regulations, 2022;

(iv) the Draft Elections (Party Nominations and Party Lists) (Amendment) Regulations, 2022; and,

(v) the Draft Elections (Technology) (Amendment) Regulations, 2022.

The Chairman of the Independent Electoral and Boundaries Commission (IEBC) forwarded a letter dated 7<sup>th</sup> April 2022, to the Clerk of the National Assembly, submitting the Regulations as read above.

The Draft Regulations were received on 11<sup>th</sup> April 2022 at the Speaker's office and tabled on 14<sup>th</sup> April 2022, being the last day preceding the long recess which ran from Friday, 15<sup>th</sup> April 2022 to Monday, 9<sup>th</sup> May 2022. They were subsequently committed to this Committee on Delegated Legislation.

Section 109 (1) of the Elections Act (No. 24 of 2011) confers on the commission powers to make Regulations for the better carrying out of the purposes and provisions of the Act. Section 109(3) of the Elections Act provides that the power to make Regulations shall be exercised only after a draft of the proposed Regulations has been approved by the National Assembly, at least,

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four months preceding a general election. The latest possible statutory timeline within which the Draft Regulations ought to have been approved was 9<sup>th</sup> April 2022, being exactly four months before the general election scheduled for 9<sup>th</sup> August 2022.

Section 15(2) of the Statutory Instruments Act of 2013 requires the Committee to make its decision within 28 sitting days or the Regulations are deemed to have been approved by operation of the law. The House was on recess from 15<sup>th</sup> April 2022 to Monday, 9<sup>th</sup> May 2022. Time stopped running during the recess hence the Committee's statutory timelines run up to 10<sup>th</sup> June 2022, when the House is to adjourn *sine die*.

Section 109(4) of the Elections Act requires the commission to publish in the Gazette, not later than 60 days before the date of a general election, the Regulations approved by the National Assembly under sub-section 3. Hence, the latest possible date the commission ought to publish the Regulations is the 10<sup>th</sup> day of June 2022—being 60 days from the date of the general election for the year 2022.

Section 15(3) of the Statutory Instruments Act provides, and I quote: “Despite the provisions of this Act or any other written law, where a time is prescribed for doing an act or taking a proceeding by the National Assembly relating to the handling of a statutory instrument, the National Assembly may by resolution extend that time by a period not exceeding 28 days.”

The summary of the Regulations the IEBC wanted to have this House to pass, one of the Regulations related to registration of voters. By the time they were bringing the Regulations, they were already out of time. The other one relates to general amendment regulations. The other ones concern voter education, party nominations' lists and change of technology. When the Committee conferred with the IEBC according to Section 16 of the Statutory Instruments Act, when the Committee made an invitation for conferment with the IEBC, the Committee received a regret letter from the IEBC for various reasons. In their regret to meet with the Committee, the IEBC cited various reasons. One was that they were already out of time, by their own admission. The other issue they raised was the budgetary constraints they had as a commission. Stuningly, an admission by the commission, that they were unable to undertake public participation on the Draft Regulations.

In determining what to do with these Regulations, the Committee examined the said Regulations in line with the Constitution, the Elections Act (No. 24 of 2011), the Statutory Instruments Act (No. 23 of 2013), the Interpretation and General Provisions Act (Cap 2), the Elections Voter Registration Regulations and all those Regulations, and observed as following: That Section 109(3) of the Elections Act provides that the power to make Regulations shall be exercised only after a draft of the proposed regulations has been approved by the National Assembly, at least four months preceding a general election and that the IEBC is to gazette the Regulations 60 days before a general election; that some of the Regulations do not conform to the Constitution and the Elections Act of 2011 and are, therefore, contrary to Section 13(a) of the Statutory Instruments Act and need to be amended; that most of the Regulations contained drafting errors, contrary to Section 13(m) of the Statutory Instruments Act.

In further observation, unlike Regulations made under other statutes, Section 109(3) of the Elections Act requires that Regulations made by the commission under that Act must be laid before the National Assembly and approved by the House before they are published in the Gazette. This calls for an affirmative resolution by the House.

In the circumstances therefor, I beg to move that this House adopts the Report of this Committee to reject the Regulations by the IEBC. I beg to move and ask my Committee Member, the Hon. Member for Roysambu to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ndirangu Waihenya.

**Hon. Isaac Ndirangu** (Roysambu, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to second the adoption of the Committee's Report by the House.

My Chairman has adequately canvassed the legal grounds for the rejection of these Draft Regulations. I therefore need not to over-emphasise or repeat the legal grounding for the rejection of these Draft Regulations. I only wish to cite the issue of voter registration and the Draft Regulations concerning voter registration. We know that the IEBC has already concluded voter registration. In fact, last week, they had opened the registers for checking by Kenyans and those who wanted to confirm whether they are still registered or whether there are anomalies, were invited. That exercise has been conducted. So, we would be out of time even if we did these rules.

Another issue that led the Committee to reject these Draft Regulations is public participation. Our Constitution enshrines the requirement of public participation for all issues that are going to affect the operations of the IEBC. So, it would be unfair for this House to go ahead and endorse Draft Regulations which Kenyans have not been sufficiently canvassed or participated or issued their memoranda. In that spirit, we wish to reject these rules. It is not that the IEBC has no existing rules. Already, the IEBC has existing legal infrastructure and a regulatory framework to sufficiently conduct free and fair elections like it has done in the last two general elections. So our Committee has decided that rather than be seen to be rushing the passage of these draft regulations, which might allow suspicion that the Commission is out to do some mischief, it is better that we reject them. That is why I am seconding this Motion that requires the House to reject the draft regulations. I beg the House to agree with the report of the Committee. I beg to second.

Thank you, Hon. Temporary Deputy Speaker.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ogotu.

**Hon. (Prof.) Zadoc Ogotu** (Bomachoge Borabu, Independent): Thank you, Hon. Temporary Deputy Speaker. I stand to support the position of the Committee on these draft regulations. It is a little bit discouraging and worrying why an institution like the IEBC, which has been in existence for some time, could decide to ignore the procedures and timing for submission of the changes that they intended to have to ensure that the 2022 elections are conducted smoothly.

The IEBC is not the only organisation that finds itself in this quagmire. We have had several government institutions, including the National Treasury, which holds a big portfolio in the running of this country, submitting documents to Committees very late. I am happy with what the Committee did. I hope that the IEBC can learn to do its work in good time in future to ensure that Kenyans are not denied best election practices.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Nassir.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I congratulate the Committee on Delegated Legislation for standing firm. That is what to do. Candidates need to choose agents up to a certain time, and the agents should not necessarily be removed from a polling station unless they commit a crime, and the police are involved. It is very important that the forms that agents sign have two columns to indicate whether they agree with the results or not. We are in a digital world. If an agent has a smartphone, let him or her take a picture of the form. It is unfortunate that these regulations will not pass, considering that the House is going on *sine die* recess.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Obo Mohamed.

**Hon. (Ms.) Ruweida Obo** (Lamu, JP): Thank you, Hon. Temporary Deputy Speaker. I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mbithi.

**Hon. Joshua Mwalyo** (Masinga, WDM-K): Hon. Temporary Deputy Speaker, thank you very much. I thank the Committee for noting the rush that the IEBC is trying to do while they had five years to prepare themselves. Some of the things which were sneaked in the last minute are normally not quite okay. They have a hidden agenda. Therefore, I support what the Committee has recommended. There are so many grey areas that needed to be addressed, especially in counting of votes. Presiding officers normally count votes in a hurry; instead of saying one, two, three, they should show a vote to everyone so that they see for whom it is marked. Preparedness is required in advance. This is not a matter of jokes. People have made a lot of investments in elections, including emotions, money and time. People also put their man-hours in supporting candidates. I support the rejection of the regulations.

Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Amin Kassim.

**Hon. Kassim Tandaza** (Matuga, ANC): Thank you. I want to speak to the report of the Public Investments Committee, which is yet to be moved.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Angwenyi.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Thank you, Hon. Temporary Deputy Speaker. You are actually maturing to become a Speaker. I beg to support the Committee Report. These are very important amendments that they want to make to the regulations. They should have been given enough time for people to digest before they approve them. So, what we should do is to reject those amendments and support the Committee, so that those people who make it to the next Parliament can now undertake to make those changes.

Thank you. I beg to support the Committee.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Maero.

**Hon. Joseph Oyula** (Butula, ODM): Thank you, Hon. Temporary Deputy Speaker. I support the rejection of these draft regulations which were submitted by the IEBC. The IEBC has enough time to go through some of these regulations, particularly those relating to technology. Kenyans have learnt so much on technology that changes can be made any time. So, the IEBC needs to start working on these changes on time to avoid any loopholes that might create problems during election time. I support the Committee for rejecting this because of the timeline.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): There seems to be no further interest to speak to this.

Hon. Kamket, you may reply.

**Hon. Kassait Kamket** (Tiaty, KANU): Thank you, Hon. Temporary Deputy Speaker. I beg to reply. Elections are very sensitive and emotive. For the Commission to leave it so late was quite erroneous on their part. I thank Members for supporting this report of the Committee, and urge that if indeed the Commission was very keen on getting these regulations, they should have brought them on time. We have had five years; and the election cycle is five years. It was quite surprising that they had to leave it up to this late.

Be that as it may, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, we shall not put the Question on that agenda item until subsequent time.

*(Putting of the Question deferred)*

Next order.

## MOTION

### REPORT ON THE FINANCIAL STATEMENTS OF STATE CORPORATIONS

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have the Chairperson of the Public Investments Committee.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Temporary Deputy Speaker. I beg to move the following Motion:

THAT, this House adopts the Twenty Fourth Report of the Public Investment Committee on its consideration of the Auditor-General's Reports on Financial Statements of State Corporations, laid on the Table of the House on Tuesday May 31, 2022.

Hon. Temporary Deputy Speaker, I am going to be as brief as I can, hoping that Members of this House will be in agreement to the issues that we have put in here and the punitive clauses that should serve as a deterrent to others who want to do anything that is for personal gain and not necessarily for the gain of the country.

Hon. Temporary Deputy Speaker, KenGen is a State-owned company that deals with the production of power. It incurred a cost of Kshs79.3 billion on the drilling of geothermal power wells. These were loans that were financed by the Export-Import Bank of China and Exim Bank of China. They were drilled between 2011 and 2015. Despite these wells being ready for use, by the time they were being audited, they had not been connected to the main power supply. What is most wanting is that we have a capacity that can reduce the cost of power in this country. We wonder why the Government and the Ministry of Energy failed to grant them approval to supply to the Kenya Power (KP), yet they approved Independent Power Producers (IPPs) at the same time. Coincidentally, the Government is right now in the process of trying to reduce the cost of power by renegotiating with these IPPs. Some of them have agreements, but some do not have them. Why would they sign up something knowing very well that they have wells that are unutilised and dormant? This is something that was captured in the Audit Report. The Ethics and Anti-Corruption Commission (EACC) needs to take action on such kinds of individuals who cost this country money.

I would like to go the Kenya Airports Authority (KAA), which signed a very huge and ambitious plan. The whole idea was to have a new building or terminal with a capacity of 8.7 million passengers per year, and a floor with 178,000 square metres. Once completed, it was meant to have 50 international and 10 domestic check-in positions; 32 contact and 8 remote gates which had 45 stands and linking taxiways. This is something that is very noble in nature. However, the contract sum was USD64,745,354.25. The cost of contract supervision was USD8.83 million. There are clauses in this contract which are vital for Members to take note of. For instance, Clause 5 of the contract said that the contractor would bring on board a financier of the project. What happened? Anhui Construction Engineering Group Limited in joint venture with China National

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Aero-Technology International Engineering Corporation were given possession of the site through a letter dated 6<sup>th</sup> December, 2013, before a project financier had even been identified. There was also the element of Value Added Tax (VAT). One of the issues was very clear. The tender document said that the cost was meant to be inclusive of all taxes, including VAT. The letter of notification dated 16<sup>th</sup> December 2011 was clear that the contract sum of USD 653,782,814 was inclusive of all taxes. However, on the 13<sup>th</sup> of November, 2013, the management entered into a contract and an extra 16 per cent was added to it. Therefore, that is a loss to tax payers' money. This is outright theft.

Hon. Temporary Deputy Speaker. We met the Chinese companies that were involved. I say "Chinese companies" with a lot of objectivity, as not all Chinese companies are bad; some have done a sterling job.

However, when the joint venture team from Anvil Construction Engineering with China Aero Technology came to the Committee on the 2<sup>nd</sup> of March, they suggested that the idea of how the Value Added Tax (VAT) matter should be treated was an initiation not on their part, but on the part of Kenya Airports Authority (KAA). What they are saying is that this is a contract that we signed. We were aware we were signing into something that was inclusive of taxes. However, the good gentlemen at the KAA gave us a letter indicating that we add the 16 per cent VAT, and we simply obliged. It is totally theft.

A review of the project file showed that an amount of Kshs75 Million was paid to the contractors on 9<sup>th</sup> June, 2014, on a contract variation. I want to state clearly that this was for nothing else except for ground breaking, whereby they were part and parcel of the Bill of Quantities (BQs). Therefore, they went and said that amount was for ground breaking. The Kshs75 Million was nothing else except levelling out the field.

Hon. Temporary Deputy Speaker. In addition, the Auditor-General has queried this matter. In a letter referenced KAES/JKIA/658/DBCS Vol.2 dated 29<sup>th</sup> March, 2016, the management informed the contractor – kindly bear in mind the dates on which this happened, 2011, and 2013... By the time they informed the contractor that we are now terminating this agreement, it was the year 2016. I want to congratulate my Members, the Office of the Auditor-General and equally the Clerks who did this. It is this committee that actually ended up prompting, and asked whether these people had responded. Furthermore, the response came on 4<sup>th</sup> and 6<sup>th</sup> April, 2016, 16<sup>th</sup> and 27<sup>th</sup> August, and in all of them, the contractor was declaring a dispute on those particular cancellations.

Hon. Temporary Deputy Speaker, we take concern. I want Members to hear us very clearly on this. We take concern that this particular company was paid Kshs4.3 Billion. Hear me out. I am truly glad that amongst my last days as a Member of Parliament (MP), I am honoured and blessed to have been in a position to move such kind of a Report that shows the level of rot in which we are in. Kshs4,310,901,806 has already been paid to this contractor, but up to now, there has been zero work done. Kshs4,216,100,000 has been paid. This project wants to be called famous Greenfield, but history will judge it as the infamous Greenfield Project. I am glad that we have said that during our tenure, we need to put an end to these kind of matters. My hope and prayer is that the EACC will take action. I hope and believe strongly that the next Executive will be firm on this particular matter. I also hope that the current Executive will start. We have done our part as Members of Parliament. I ask Members, with a lot of humility, not to allow this level of corruption to be in this country. Our children and grandchildren will judge us on what we did. They will equally judge us on what we did not do for this country when we saw these things happening.

I would like to take this further to another state corporation, the Kenya Ports Authority (KPA). However, before that, I would like to go to the National Housing Corporation (NHC).

There is a contract that had been given to a company called Dickways, at a price of Ksh189,698,208. The project was meant to commence on 14<sup>th</sup> August, 2012, for a period of 52 weeks. This is where I congratulate the National Environment Management Authority (NEMA), which stopped this project because there was no environmental impact assessment that had been done on it. By the time this contract was suspended, the contractor had already been paid Kshs38 million. On behalf of the people of Changamwe, as I read this and speak on behalf of every other person, let it be known that the corporation failed to carry out the requisite due diligence. It did not have an environmental impact assessment, and they did not carry out a public participation exercise before commencing. Consequently, this has led to a proper dispute with the residents of Changamwe. In the recommendations, and this is what Parliament stands for:

1. The then managing director needs to be reprimanded for commencing a project before approvals.
2. The NHC, before they try to do anything in Changamwe and in any other area, the public, tenants and locals need to be made fully aware of what is going on.

This is something that was reported in the Auditor-General's report. I wish those people who are out there, trying to talk about how the SGR has done this and that, would take time to be in Parliament. I am honoured that some of the last breaths I took in the National Assembly, one of the things about which I have put my foot down is the signature I appended on the issue of the SGR loan. It was with the support of my Committee Members, the Auditor-General and the clerks whom I have diligently served with in this Committee.

The KPA and the Kenya Railways (KR), under Clause 1.4 of the Payment Arrangement Agreement, were required to enter into a long term service agreement which provided under paragraph (c) of the preamble that – hear my words – the repayment of the principal, interest and fees of the loans were to be secured *inter alia* by a long term service agreement with an aim of guaranteeing a minimum amount of trade throughout the term of the agreement to be charged and received by the operator of the project. Therefore, the KPA has no mandate in guaranteeing cargo. These are not my words. My job was only to expose what it is. My job was to go in-depth on what it is that the Auditor-General has put up. It is my job and that of the Members who are here to state that this is what we want, and this is how it is going to be.

This contract was written that in case of any shortcomings and if there is any arbitration, the arbitration would not be done in Kenya; it would be done in Beijing. I want to read out Clause 7(c), which said that “the KPA shall make good any shortfall arising either on account of failure to consign the minimum cargo as stipulated in Schedule 1, or to remit the amount of money commensurate with the volume of cargo so consigned, and shall pay to the Kenya Railways such an amount as is required to make good the shortfall within a period of 30 days following the completion of reconciliation expense”. What that basically means is that if they are unable to enforce cargo on the SGR. If Kenya, for some reason, is unable to have enough of that cargo, the KPA has to remove money and pay. This goes against even KPA's own Act. I read this with a lot of pain. When we were going through this, my colleagues were in shock. We asked what is happening to the economy of Mombasa. I say this again; if I have been blessed to do anything, I can today say that amongst the last Reports I am tabling, in our recommendations includes that the Executive has to reverse such kind of irregular contracts. We cannot allow a whole nation or a whole region to suffer because of such kind of things.

Needless to say, the KPA has so far been unable to meet these kinds of targets. The management's response is that the minimum freight volumes and turnaround times in Schedule 1 of the Take of Pay Agreements envisaged that the KPA would be required to start providing the

minimum tonnage in the year 2020. This was by the time this audit was done. Our recommendation is that the National Treasury should renegotiate the entire payment arrangement with a view to discharging the KPA from the contract. Let it be a matter for the Kenya Railways Corporation (KRC). The burdens of one should not fall on another.

We are also recommending that the EACC should investigate the signing of the payment agreement. There is nowhere throughout our investigations where we saw any approval from the mother Ministry, the Attorney-General or the Board. There are two signatures; that of the then Cabinet Secretary for Treasury, Henry Rotich, and the Managing Director, Gichiri Ndua. Let this be a lesson to other State officers who sign documents. These people will be hounded to explain how they put a whole State Corporation in jeopardy. Reports are going round that the Auditor-General was misled. We stand with the Auditor-General. My eyes have witnessed what was signed in the contracts.

Clause 17.5 of the contract must be read within the entire payment agreement. From the outset, the agreement recognises the government of Kenya as the borrower. This is what the management says. They are saying that the KPA was not included; it is not so. Both the KPA and the KRC signed and agreed to be part and parcel of the contract. We recommend that the EACC investigates how we ended up getting into such a contract. We equally need to agree that the voice speaking now is speaking on behalf of all Kenyans. This particular agreement needs to be renegotiated. We have to. The Executive has to reverse the agreement.

Another thing that is also important is that the KPA did not even have a loan arrangement. It had no copies of the preferential credit loan, which is the original SGR loan dated 11<sup>th</sup> May, 2014. They are just being told, “You are a third party and your role is simply to pay.” This is what it is.

Lastly, before I request my sister, Hon. Mishi, to second, is the Lamu Port, which is another very ambitious project. The audit report had numerous queries, right from the way the contract was conceptualised. It was impossible for us to get to the bottom of the issue because the initiator of the Lamu Port project – the one who signed the contract – is the mother Ministry. Then in the middle of the process, the KPA was given an already signed and executed contract, and they were told the amount of money they had to pay to the company that was executing the contract.

I want to state here that this particular company included the issue of the Lamu housing, including the berths and everything else. There are numerous audit queries here, however, unless we get to the genesis of how the contract started, this is a role that the next PIC will have to take with the same level of enthusiasm as we have. We have recommended that the Auditor-General should conduct a special audit on the Lamu Port matter to consolidate whatever the mother Ministry had already spent together with what the KPA had already spent. We cannot be able to judge just based on what the KPA had already done, because on the other part, the mother Ministry did something. Second is on the legality of just taking a contract and passing it over to a state corporation.

This is going to be my last normal state corporation report. I, once again, with a lot of humility, want to thank members of my Committee. I have lived with them as brothers and sisters for a good five years. I thank the Office of the Auditor-General. It has exposed me to my next challenge and my next role of serving the people of Mombasa. It has exposed me on seeing where rot is, and where the rot should be sealed. I thank Parliament and all my clerks, from Mr. Evans Owanda, Mohammed Boru and the young attachés who were always with us, as well as the researcher. I couldn't be more blessed. I was truly blessed to work with a very vibrant team which supported me and took me through a huge... I want to call this a passage into my next challenge

of what I am going to do. During those five years, I am sure that we have been able to do quite a lot. Congratulations to every one of you.

I wish to ask my sister, Hon. Mishi, to second, and maybe allow a few Members to comment.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Nassir, we wish you well. Proceed, Hon. Mishi.

**Hon. (Ms.) Mishi Mboko** (Likoni, ODM): Asante sana, Mhe. Naibu Spika wa Muda. Nataka kuafiki Ripoti hii ya Kamati ya kuangalia uwekezaji wa Umma katika utumizi wa fedha za umma. Kamati hii ni muhimu sana, kwa sababu inaangalia takriban mashirika thelathini ya Serikali. Naunga mkono ripoti hii, kwa sababu imeangazia mambo ya kimsingi sana katika utumizi wa fedha za umma, na katika uwekezaji wa mambo ya umma au ile miradi ya umma ambayo inafanyika katika takriban mashirika thelathini.

Mwenyekiti amezungumzia sana changamoto ambazo tumezikumba baada ya kupata Ripoti ya *Auditor-General*, ambayo huwa anaangazia mashirika haya thelathini katika utumizi wao wa pesa wakati wanaweka uwekezaji katika miradi au shughuli muhimu sana za kiserikali. Tunaona kwamba katika mambo ya zabuni, au kwa kiingereza mambo ya *procurement*, tunaona kwamba mashirika kadhaa yamekuwa hayatumii taratibu za kisheria katika kupeana zabuni. Hivyo basi, wamefanya nchi au Serikali kupoteza pesa nyingi zaidi, na hata pia kuweza kufanya miradi ambayo imewekezwa kuchukua muda mrefu badala ya ule muda ambao ulikuwa umefikiriwa.

Vile vile, Mhe. Naibu Spika wa Muda, katika haya mambo ya kupeana zabuni katika kutengeneza miradi, tumeona ya kwamba kuna maofisa ama wale wahusika ambao hawafanyi ile mipango mahsusi, ambayo tunaita *feasibility studies* kwa Kiingereza. Inafika wakati mradi huo unakuwa ni mgumu sana kutekelezwa na Serikali.

Vile vile, tumeona kunakuwa na tofauti katika kulipa fedha ambayo tunaita *variation* kwa Kiingereza, kwa wale ambao hawataelewa. Hii tumeona sana katika shirika la Kenya Rural Roads Authority (KeRRA), Kenya National Highways Authority (KeNHA), Kenya Urban Roads Authority (KURA), na mashirika mengine mengi katika mambo ya barabara. Hiyo ni mifano tu ambayo natoa. Tumeona ya kwamba Serikali ya Kenya inapoteza fedha nyingi sana. Hivyo basi, tumeweka mapendekezo na kusema ni hatua ngani za kisheria ambazo zitachukuliwa, haswa kwa wale wahusika wa mambo kama haya.

Vile vile, tumeona ya kwamba mashirika thelathini yetu ya Serikali hayakupata umiliki wa majengo na ardhi yao. Kwa mfano, kuna Shirika la Reli, ama *Kenya Railways*. Nyumba na ardhi zao nyingi zimechukuliwa na watu binafsi kiholela. Hiyo ni rasilimali ya Wakenya, lakini imechukuliwa kiholela.

Mhe. Abdullswamad amezungumzia kinaga ubaga kuhusu Shirika la KenGen. Wako na visima vya nguvu ya mvuke ambavyo wangetumia kwa miradi, lakini mashirika ya kibinafsi yalipatiwa zabuni ile. Hivyo basi, Kenya inapoteza fedha nyingi sana ambazo zingetumia kufanya mradi mwingine.

Pia tumeona ya kwamba kuna wakati mwingine tunapata kuwa hakuna maafisa wa hesabu, ama wale tunaita *accounting officers* kwa Kiingereza, katika mashirika mengi ya Serikali. Hivyo basi, hata wakati wanafanya ile miradi, watu ambao wanatoa maamuzi ni maofisa ambao sio wahasibu. Hata ukiangalia hesabu zao, unakuta kuwa kuna changamoto na tofauti nyingi sana. Lazima mashirika yaangaliwe na yapigwe msasa tuone utumizi wao.

Shirika la KAA lina mradi wa *Greenfield*, ambao ulileta changamoto nyingi sana. Kuna fedha nyingi zilipotea hapo. Pia, kuna yale mambo tunaita *variation*, ama tofauti nyingi ambazo

zimetokea. Kama kungefuatwa sheria vile inavyotakikana, basi suala kama hili lisingetokea kabisa.

Tumeangalia pia katika mambo yale ya *supplies*. Tunapata ya kwamba kampuni imepatiwa mradi wa kupeleka bidhaa fulani katika mashirika ama mradi wa Serikali. Katika makaratasi ama ripoti zao, wanaonyesha ya kwamba wamepeleka pengine *carton* ishirini za maji. Lakini tukichunguza kabisa, tunapata hizo *cartons* hazikufika ishirini; labda zilifika tano, ama ni hewa. Huo ni mfano tu ; tunazungumza kwa misingi ya mamilioni na mabilioni ya fedha. Unaona kama mradi haswa ni wa *supply*.

Tulizungumzia mambo ya *Kenya Medical Supplies Authority* (KEMSA) sana. Kuna kampuni ambazo zilipatiwa zabuni na hawakuwa na uwezo wa kufanya kazi kubwa kama hiyo ya kupeleka barakoa wakati tulikuwa tumepata changamoto ya Covid-19.

Ripoti hii ambayo Mhe. Abdullswamad, ambaye ni Mwenyekiti wa Kamati ya Kuwekeza Mali ya Umma amezungumzia leo, iko na mambo mengi sana. Tumeangalia maswala nyeti sana. Kuna suala la *Standard Gauge Railway* (SGR), ambalo tumezungumzia kwa kina sana. Kandarasi ya SGR inasema kuwa wakati wowote kutakapokuwa na changamoto ama matatizo, suluhu yoyote ikitaka kuzungumziwa, lazima watu wazungumzie kule Beijing. Sasa tunauliza hiyo itakuwa ni bora kwa yule Mchina ambaye tumeingia naye katika mkataba huu, ama itakuwa inatupatia sisi afueni kama taifa la Kenya? Wakati maofisa wa Serikali wanafanya mipango ya uwekezaji wa umma, lazima wafuate taratibu za kisheria. Kila kitu kina taratibu na sheria yake. Lazima tuzingatie kwa hali inayofaa ili tuweze kuhifadhi ama tuwe na *value*, ama tuwe tutafaidika na zile fedha za Mkenya ambazo anachangia kupitia ushuru. Hili litawezekana kwa kuweza kupata ile miradi, na wakati tunapata miradi tunajua kuwa Mkenya anafaidika kupitia miradi kama hiyo.

Lakini ikiwa kutakuwa na utepetevu, iwapo wengine watakuwa wanazembea katika kazi, utapata unaita shirika fulani na unauliza pengine, Je katika maamuzi kama haya, kulikuwa pengine na arafa ambazo zilichangia ya kwamba ile bodi ama wahusika wote waliweza kukubaliana na jambo hilo? Unasema haya tuliyazungumza tu hivi hivi. Ama mtu anasema *it was just verbal discussion*; yalikuwa tu ni maongezi tu ya kiusemi. Sasa unashangaa ya kwamba je maafisa kama hawa ambao wamehitimu na wako katika zile nyadhifa mbazo wamepewa, kweli wanafanya kazi kwa mijubu wa kisheria? Na je, wanafanya kazi ili taifa la Kenya liweze kufaidika na zile fedha ambazo wanaekeza katika hii miradi ya umma, ama mtu yuko pale tu kwa kujinufaisha yeye mwenyewe kibinafsi?

Vile vile, pia tunaona wakati ambapo kunapeanwa zile zabuni, unapata ile kampuni ambayo ingepewa ile zabuni haswa kulingana na zile taratibu, unapata inapatiwa hata kampuni nyingine ambayo pengine pia kwa wakati ule wa kuweka maombi ya kupata ile zabuni, hawakuwa wamepeleka maombi kama hayo. Kwa hivyo, tumeona changamoto nyingi sana na tumeona dosari nyingi sana ambazo tumetoa mapendekezo ya kuwa hatua gani ziweze kuchukuliwa. Pia iwapo tutaenda mbele kama taifa la Kenya, tumependekeza mbinu gani watu watakuwa wanatumia kwa mujibu wa kisheria ili uwekezaji wa mali za umma katika taifa letu la Kenya, ziweze kumfaidi Mkenya, na tuseme vile tunasema kwa kiingereza *to have value for the money we are using as a country*. Tuweze kusema ya kwamba fedha hizi zimetumika, na zimetumika sawa sawa.

Kwa haya mengi ama machache, namuunga mkono Mheshimiwa Abdullswamad katika Ripoti ya Kamati ya PIC. Asante Mheshimiwa Naibu Spika wa Muda

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is it, Hon. Kibiwott? You look agitated.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I rise on Standing Order 35. My Chair, Hon. Abdullswamad, has just put it very clearly that this is a very important report. It is a report that needs the attention of Members to discuss it so that we make important input. However, the House has no requisite quorum to discuss this.

Thank you, Hon. Temporary Deputy Speaker.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, in the circumstances we shall order the bell to be rung for ten minutes.

*(The Quorum Bell was rung)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Members. We are done with 10 minutes, and we cannot raise the numbers. In the circumstances and the time being 7.34 p.m., this House stands adjourned until Wednesday, 8<sup>th</sup> June, 2022, at 9.30 a.m.

The House rose at 7.34 p.m.